

DEPARTMENT OF BENEFIT PAYMENTS

October 9, 1974



ALL-COUNTY LETTER NO. 74-202

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WAITS v. SWOAP - RETROACTIVITY

REFERENCE:

On August 16, 1974 you were advised that as a result of the California Supreme Court's decision in Waits v. Swoap it will be necessary to provide for redetermination of eligibility and grant amounts for AFDC recipient children living with nonneedy caretaker relatives who were adversely affected by EAS § 44-115.611 since October 1, 1971. The purpose of this letter is to outline the procedure by which these redeterminations will be made.

In order to fully and fairly advise the affected nonneedy caretaker relatives of their opportunity to seek a redetermination of AFDC eligibility or prior grant amounts, we have developed a two-part notice procedure:

1. Notices to current recipients. On December 1, 1974 a notice will be enclosed with all Medi-Cal ID cards sent to current Medi-Cal beneficiaries. Attachment 1 is a copy of the text of the stuffer-notice which will be sent with the ID cards. The stuffer-notice will also contain a Spanish translation of this text. As you will note, the stuffer-notice will request the affected nonneedy caretaker relatives to apply to the county welfare department for a redetermination of AFDC eligibility or prior grant amounts by January 31, 1975. Presumably, these relatives will contact county welfare departments by telephone, by mail and in person. Attachment 2 is a

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suggested form for recording all necessary case-identifying information when an applicant for redetermination contacts you. If the applicant is unable to provide any or all of the information specified on this form, you should make the required redetermination based upon the best information available to you.

Once you have obtained the available case-identifying information, you should determine whether the applicant had any monies withheld from him due to the application of EAS § 44-115.611 since October 1, 1971. Such determinations shall be made and refunds provided to all eligible applicants who seek redeterminations on or before January 31, 1975. Based upon the fact that an affected individual applies for a redetermination, it must be assumed that there was no voluntary contribution of housing and utilities to AFDC recipient children from their nonneedy caretaker relative. Therefore, any necessary refunds shall be made without regard to whether the nonneedy caretaker relative intended to contribute to the needs of the children in his care during the period in question. The refund shall include all monies withheld from an AFDC grant pursuant to EAS § 44-115.611 and all monies which the applicant would have received if this regulation section had not been applied. Any refund necessitated by these instructions should be paid as soon as possible by supplemental warrant.

2. Notices to former recipients. The Department is in the process of identifying all former AFDC-FG and MNO recipients and the last address at which these recipients received Medi-Cal ID cards. We will be mailing a computer-prepared notice to all recipients so identified. We anticipate that this will occur in January or February, 1975. Attachment 3 is a copy of the English version of the text which will be included in this notice. Also included in the notice will be all case-identifying information available to the Department. Applicants for redetermination will be asked to return the notice which they receive to the county from which they last received aid by June 30, 1975. When applications for redeterminations are received, they should be processed in the same way as applications from current recipients (described above).

The Department does not have the ability to address computer-prepared notices to persons who last received aid in non-EDP counties. Therefore, it will be necessary for these counties to address and send the notices which the Department will have prepared. We anticipate that the computer-prepared

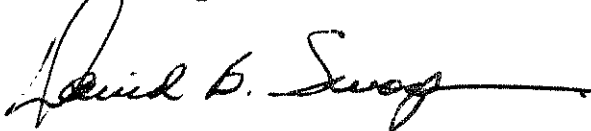
notices will be forwarded to all non-EDP counties for addressing in early January, 1975.

The Waits decision also applies to some individuals who received reduced grants pursuant to EAS § 44-115.621. Thus, to the extent that EAS § 44-115.621 refers to EAS § 44-115.611 it will be necessary to make requested redeterminations for individuals adversely affected by that regulation. Specifically, a minor mother living with her parents who applied for or received AFDC for herself and her children may be eligible for a refund if in-kind income deductions were made on the basis of presumed contributions from the minor mother's parents to her children. Requests for redeterminations received from minor mother applicants should be processed in the same manner as those received from other individuals affected by the Waits case.

As you will note, the notices to be sent require that applications for redetermination be made to the county in which the applicant last received aid. If an applicant indicates that he had previously received aid from another county, you should forward all available case-identifying information to that county. Such information should be forwarded on a form substantially similar to Attachment 2. Upon receipt of information from another county you should determine the applicant's eligibility for a redetermination and provide any appropriate refund to cover the time period for which he was receiving or eligible to receive AFDC from your county. If you receive information from another county, you should make the required redetermination and provide the appropriate refund without regard to whether the applicable claiming period has past.

We are hopeful that these instructions will answer any questions you might have regarding the means by which we will retroactively implement the Waits case. However, if you have any additional questions regarding the procedure described herein, you should contact the AFDC Program Operations Bureau at (916) 445-4458.

Sincerely,



DAVID B. SWOAP
Director

cc: CWDA

Attachments