

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, California 95814



February 18, 1975

ALL-COUNTY LETTER NO. 75-41

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: DISABLED AND BLIND ACTION COMMITTEE v. JENKINS
HOMEMAKER/CHORE SERVICES

REFERENCE:

It has come to our attention that some confusion may have resulted in implementing All-County Letter No. 75-11 and the effect of the Disabled and Blind Action Committee case on Homemaker/Chore services eligibility. The source of this confusion appears to be the similarity between the Disabled and Blind Action Committee case and the case of Guerard, et al. v. Jenkins, et al. This letter is designed to clarify the effect of the recent decision in the Disabled and Blind Action Committee case and to distinguish between that decision and the temporary restraining order in the Guerard case.

In All-County Letter No. 74-162 dated August 15, 1974, you were advised of a Temporary Stay Order which had been issued in the Disabled and Blind Action Committee case. This case involved the issue of whether the income of an ineligible spouse must be disregarded in determining eligibility for Homemaker/Chore services. The Temporary Stay Order issued by the Third District Court of Appeal in this case required that all pending fair hearings involving this issue be stayed and that aid paid pending be provided to the claimants in these fair hearings. This Temporary Stay Order was dissolved by the Court of Appeal on December 26, 1974. Therefore, in All-County Letter No. 75-11 dated January 11, 1975, you were advised that all fair hearings were again being processed and that it was appropriate to terminate any aid pending to the claimants in these fair hearings which resulted solely from the Temporary Stay Order in the Disabled and Blind Action Committee case.

The Guerard case also involved a question of the effect of an ineligible spouse's income on Homemaker/Chore services eligibility.

OBSOLETE

Superseded by ACL # 77-15

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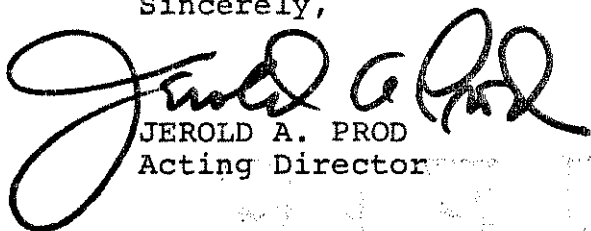
Although Guerard arose at about the same time as the Disabled and Blind Action case, it involved a slightly different group of Homemaker/Chore services recipients. In Guerard the issue was whether persons who had received Homemaker/Chore services in December, 1973 were entitled to have their eligibility determined according to regulations in effect in June, 1973. Since federal law appeared to require this result, the Department of Health adopted regulations on September 27, 1974 to clarify eligibility requirements for those persons who received Homemaker/Chore services or attendant care in December, 1973 and who did not receive payment for their other basic needs. These regulations, §§ 30-500.31211 and 30-550.31211, require that income be computed according to regulations in effect in June, 1973 for these individuals.

Neither the Disabled and Blind Action Committee case nor All-County Letter No. 75-11 affects the validity of Department of Health regulations, §§ 30-500.31211 or 30-550.31211. These regulations are still in effect. You should ensure that these regulations are applied to determine the Homemaker/Chore services eligibility and payment level for all current recipients who received attendant care or Homemaker/Chore services in December, 1973 and who did not receive a payment for their other basic needs.

In order to avoid any future problems arising out of erroneous terminations or reductions of Homemaker/Chore services or payments, you should take no further action to implement All-County Letter No. 75-11. If any action is necessary to implement the Disabled and Blind Action Committee decision in any pending fair hearing, you will be advised by the Office of the Chief Referee on a case-by-case basis. In addition, you should ensure that all actions which have been taken as a result of All-County Letter No. 75-11 are consistent with all current regulations of the Department of Benefit Payments and the Department of Health. If Homemaker/Chore services or payments have been incorrectly reduced or terminated, you should fully reimburse the affected recipient for any loss resulting from this reduction or termination.

If you have any questions concerning this matter, you should contact the Office of the Chief Counsel at (916) 445-0633.

Sincerely,


JEROLD A. PROD
Acting Director

cc: CWDA