

DEPARTMENT OF BENEFIT PAYMENTS

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February 23, 1976

ALL-COUNTY LETTER NO. 76-38

TO: ALL COUNTY WELFARE DIRECTORS
CHAIRMEN, BOARDS OF SUPERVISORS

SUBJECT: SMOCK v. CARLESON

REFERENCE:

On April 23, 1974 in All-County Letter No. 74-68, you were advised of the Judgment of the Alameda County Superior Court in Smock v. Carleson. At that time, you were instructed to comply with those portions of the Superior Court's Judgment which were not stayed pending appeal. The Judgment in Smock was affirmed by the First District Court of Appeal on April 15, 1975. Therefore, it is now necessary to fully comply with the Judgment by providing retroactive aid for the period October 1, 1971 through February 28, 1974. This letter is designed to outline the procedure by which this retroactive aid will be paid.

Under the portion of the Smock Judgment which was stayed pending appeal, counties are required to send notices relating to retroactive benefits to all current AFDC recipients. They are also required to display a poster in a conspicuous place and manner in the public area of each office of the county welfare department. Both the notices sent to current recipients and the posters will be printed in English and Spanish. In addition, it is necessary to review every case record during annual redetermination of AFDC eligibility to determine whether recipient(s) may be eligible for retroactive aid. Each of these requirements is explained more fully below.

I. Annual Redetermination Review

As a part of the annual redetermination process, the county must establish procedures for identifying AFDC recipient children who were living with unmarried parents during the

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period in question. These procedures should be applied in reviewing all AFDC cases for which an annual redetermination is made between May 1, 1976 and April 30, 1977.

If at the time of annual redetermination you identify any AFDC case in which recipient children were living with both unmarried parents during the period October 1, 1971 through February 28, 1974, you must proceed to determine whether the family is entitled to retroactive aid.

II. Applicants for Retroactive Aid

Attached is a copy of the notice which county welfare departments are required to send to every current AFDC recipient. You should duplicate this notice and mail a copy with the first AFDC warrant for May, 1976. As you will note, the notices which must be sent to current AFDC recipients include an application which has been designated form "Temp 1079". A sufficient supply of this form must also be available in welfare offices for distribution to persons requesting it. Although the notice requires recipients who are requesting redeterminations to return the form to the county welfare department by mail or in person, you should also process any requests for redeterminations made by telephone.

If you receive an application or a telephone request for redetermination, you must proceed to determine whether the applicant is entitled to retroactive aid. This eligibility determination and payment of any retroactive aid to which the applicant is entitled shall be made within sixty days from the date an individual applies for or requests a redetermination. An application or request for redetermination shall be treated as a current application for AFDC for purposes of notice of determination of eligibility and appeal rights.

As indicated in the attached notice, persons requesting retroactive aid must apply to each county from which they received aid during the period October 1, 1971 through February 28, 1974. If your records indicate that an applicant for retroactive aid received aid from another county during the period in question, you should so advise him and assist him in making any appropriate applications.

III. Determination of Eligibility for Retroactive Aid

Once you have identified an AFDC recipient child who lived with both unmarried parents during the period October 1, 1971 through February 28, 1974, it is necessary to determine whether that child would have been entitled to an increased grant for any


month if the second unmarried parent had been included in the FBU. In making this determination you should include the second unmarried parent in the FBU. You should then compute income to the FBU and determine the corrected grant amount pursuant to EAS § 44-315.4 for each month in question. If the corrected grant amount is greater than the grant paid for any month, then the difference should be paid to the applicant or recipient. In some cases including the second unmarried parent in the FBU will result in a corrected grant amount which is smaller than the grant paid. In those cases, you should not compute an overpayment. Further, you should not make any attempt to recoup the difference between the corrected grant amount and the grant paid for any month.

IV. Posters

The Judgment in Smock also requires county welfare departments to display posters in each of their offices. These posters will be printed by the Department of Benefit Payments and mailed to you in March or April. The posters will contain substantially the same language as the notice which is mailed to recipients. When you receive the posters, they should be displayed in the public area of each county welfare department office as soon as possible, beginning no later than May 1, 1976. They should remain on display through January 31, 1977.

If you have any questions regarding the instructions contained in this letter, you should contact the AFDC Program Operations Bureau at (916) 445-4458.

Sincerely,


MARION J. WOODS
Director

Attachment

cc: CWDA