

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



November 29, 1982

ALL-COUNTY LETTER NO. 82-119

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WELFARE ACTION V. WOODS
LOS ANGELES SUPERIOR COURT CASE NO. C 423219

All-County Letter No. 82-86 issued on August 26, 1982, provided policy clarification pertaining to the residence status of U.S. citizen children of undocumented aliens. You were advised that unless the custodial parent is under a final order for deportation, any inquiry as to what he/she intends to do with his/her child, if deported, is an impermissible method of determining the child's legal residence.

ACL 82-86 also required any county which has employed this practice to identify all affected cases and to take appropriate corrective measures to grant or restore aid to those individuals who would have been eligible if the disapproved procedure had not been used.

Subsequently, on September 1, 1982, you were informed of a Temporary Restraining Order issued against the Department in the case of Welfare Action v. Woods which relates to this same issue (see All-County Letter No. 82-90).

In their complaint, plaintiffs contend that the Department did not go far enough in its instructions to the counties as to the nature and scope of the corrective measures that need to be taken. The Department's position is that ACL 82-86 sufficiently instructs those few counties who may have used the disapproved procedure to grant full relief as required by state regulations.

Nonetheless, on November 8, 1982, Judge Leon Thompson of the Los Angeles Superior Court entered judgment in this case which prohibits the Department and its agents from:

- (1) Imposing residence requirements which are unrelated to bona fide elements of eligibility, including requirements and inquiries to undocumented parents of eligible children concerning their future plans for their child's residence in circumstances where such a parent is not under a final, nonappealable order of deportation.

- (2) Failing to identify and notify all applicants and recipients denied AFDC benefits on the basis of the aforesaid residence requirements from August 1, 1981 to the present, that they may now be eligible for AFDC benefits and further, for retroactive AFDC benefits and medical assistance for the period of their denial even if not currently eligible.
- (3) Retaining in the case files of the aforesaid applicants and recipients any agreements to relinquish custody, custodial documents, or other documents unrelated to bona fide elements of eligibility.

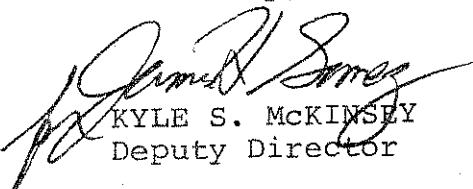
Accordingly, you are directed to comply with this court order by identifying whether the disapproved procedure has been used in your county at any time since August 1, 1981.

- (1) If not, you are requested to notify the Department in writing within 30 days that, to the best of your knowledge, no such procedure has been used in your county. Please use the attached form for your response.
- (2) If yes, you must do the following:
 - a. Immediately provide benefits to current applicants who are otherwise eligible but whose benefits were previously denied or terminated on the basis of the improper residence requirements.
 - b. No later than December 31, 1982 you are required to notify those persons whose benefits were denied or terminated on the basis of the foregoing improper residency requirement that they may now be eligible for AFDC, and may reapply. The suggested special notice is attached to this ACL.
 - c. You must issue corrective AFDC payments and other public assistance benefits including Medi-Cal, within 45 days, to all those who reapply or who seek restoration of their AFDC benefits regardless of whether they are currently eligible for aid. This would apply only to the extent that they would have been otherwise eligible for such benefits during the time period when the improper residency requirements were being used.
 - d. You must identify all case files which contain any agreements to relinquish custody, custodial agreements in the event of deportation, or other similar documents and you must expunge all such agreements from the case file. This must be accomplished at any time a party to such an agreement requests or no later than the time of the annual redetermination for current cases; or when the case data is reevaluated for reapplications and restorations.

- e. You must inform the Department no later than December 31, 1982 of the efforts you have made to comply with the terms of this court order. A response form is attached for your convenience.

Thank you for your cooperation in this matter. If you have any questions, please contact your AFDC Management Consultant at (916) 445-4458.

Sincerely,



KYLE S. MCKINSEY
Deputy Director

Attachments

cc: CWDA

IMPORTANT NOTICE

Your child's AFDC benefits were recently terminated, or your child's application was denied because you did not provide the county with a statement of your plans for your child or you stated you would take your child with you if you were to be deported from the United States.

As a result of a recent clarification of state regulations, the county welfare department may not now ask undocumented parents of U.S. citizen children to tell them of their plans for their child unless they are under a final, nonappealable order of deportation.

IF YOUR CHILD LIVES IN CALIFORNIA AND IS A U.S. CITIZEN, HE OR SHE MAY NOW BE ELIGIBLE OR MAY HAVE BEEN ELIGIBLE IN THE PAST TO RECEIVE AFDC AND OTHER PUBLIC ASSISTANCE BENEFITS.

If you wish to do so, you may immediately reapply for AFDC. If you received AFDC within the last year, your benefits can be reinstated without filing a new application but you must contact the county welfare department. You may also be entitled to receive retroactive benefits.

WELFARE ACTION V. WOODS

COUNTY RESPONSE FORM

_____ County did not employ the practice of disapproving AFDC to children of alien parents not under final order of deportation based on an inquiry as to what the parent intended to do with the child if the parent was deported.

_____ County did employ the practice of disapproving AFDC to children of alien parents not under final order of deportation based upon an inquiry as to what the parent intended to do with child if the parent was deported. We have taken the following actions to comply with the court order in Welfare Action v. Woods:
(use additional pages if necessary)

Signature _____

Date _____

Return to: California Department of Social Services
AFDC Program Operations Bureau
744 P Street, MS 16-30
Sacramento, CA 95814