

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



April 29, 1982

ALL-COUNTY LETTER NO. 82-40

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Vaessen v. Woods - Treatment of Income Tax Refunds

REFERENCE:

This letter is to inform you of recent developments in the case of Vaessen v. Woods. This case was filed in 1979 and challenged the Department's policy of treating income tax refunds as income rather than property. The case is presently on appeal. Until recently, you have been instructed to treat income tax refunds as property pursuant to the preliminary injunction issued in 1980.

In the Department's letter to all county welfare directors dated March 25, 1982 concerning implementation of the provisions of AB 2X, you were informed that income tax refunds are to be considered as income under the lump sum income provisions (EAS 44-207.4). You were also informed that for continuing cases, these provisions would first affect the June, 1982 aid payments since this regulation was to be used when budgeting income for April that is reported in May.

On April 28, 1982, Judge John L. Cole of the Los Angeles Superior Court issued a Temporary Restraining Order in Vaessen which requires that income tax refunds be treated as property rather than income. A copy of the order is attached.

The order requires that the counties are to rescind any action in which an applicant for or recipient of AFDC had aid denied, reduced or terminated in April or will have aid denied, reduced or terminated in May because of the treatment of income tax refunds as income. Those applicants and recipients are to have their aid restored to that amount which they would have received if the income tax refund was considered as property. Pursuant to the court's order, this action is to be taken as soon as possible, but no later than May 5, 1982. Until further notice, all future applicants are to have their eligibility and aid determined with income tax refunds treated as property rather than income.

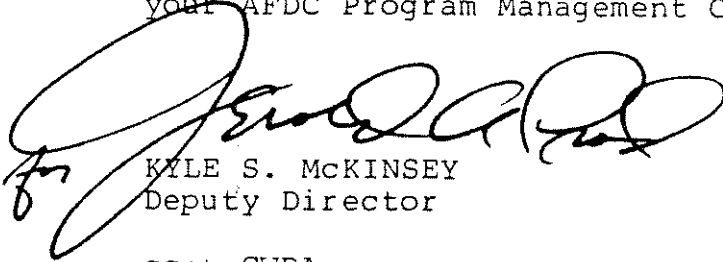
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A hearing on the plaintiffs' request for a preliminary injunction has been set for May 14, 1982. Those cases whose June grants may be affected by receipt of an income tax refund should be flagged pending the outcome of the hearing on the preliminary injunction.

If there are any questions on these instructions, please contact your AFDC Program Management Consultant, at (916) 445-4458.

A large, stylized handwritten signature in black ink, appearing to read "KYLE S. MCKINSEY". The signature is written over the typed name and title.

KYLE S. MCKINSEY
Deputy Director

cc: CWDA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JANET VAESSEN, KATHLEEN SENTIO,
PAGET FUTRELL, JIMMY JONES,
SHARON DELGADO, and
WELFARE RECIPIENTS LEAGUE,

Plaintiffs-Petitioners,

vs.

MARION J. WOODS, as Director of
the Department of Social Services,
DEPARTMENT OF SOCIAL SERVICES, an
agency of the State of California;
STATE OF CALIFORNIA, a political
entity,

Defendants-Respondents.

NO. 000563

MODIFIED ORDER TO SHOW
CAUSE RE PRELIMINARY
INJUNCTION AND TEMPORARY
RESTRAINING ORDER

On reading the points and authorities, supporting declaration, and the documents previously filed in this action, and it appearing to the satisfaction of the Court that this is a proper cause for granting an order to show cause and temporary restraining order, and that, unless a modified temporary restraining order issues, the members of the class represented by plaintiffs will suffer irreparable injury and their rights will be rendered meaningless before this matter can be heard on a noticed motion, now, therefore

IT IS HEREBY ORDERED that the above named Defendant appear before this Court in the Courtroom of Department 85 at 9:00 a.m. on May 14, 1982 and then and there to show cause, if any he has, why he, and his successors in office, agents, assigns, employees, and all

persons acting in concert with him or subject to his control and supervision, should not be enjoined during the pendency of this action from reducing or denying the AFDC benefits of all AFDC recipients and applicants by refusing to treat income tax refunds received by such AFDC recipients or applicants as property reserves instead of income.

IT IS FURTHER ORDERED that pending the hearing on the Order to Show Cause, defendant Woods, his agents, officers and employees and representatives, and all persons acting in concert or participating with him, including employees of county welfare departments, are hereby temporarily enjoined from failing to release the AFDC benefits due all AFDC recipients and applicants in April and in May, 1982, that have been, are presently or would otherwise be withheld as a result of defendant's policy of treating tax refunds received by such recipients or applicants as income instead of property reserves.

IT IS FURTHER ORDERED that defendants, their successors in office, agents, officers, employees and representatives shall effectuate this Temporary Restraining Order immediately without delay by noon, April 29, 1982, with regard to each and every one of their agents and employees, including the county welfare departments, by doing the following:

- (1) informing them of this temporary restraining order;
- (2) instructing them, pursuant to this order, to immediately rescind or withhold the mailing to all AFDC applicants

and recipients whose benefits have been or will be denied, reduced or terminated due to the policy temporarily enjoined above, notices of action which would effectuate such denials, reductions or terminations;

(3) instructing them, pursuant to this order, to provide all AFDC benefits due otherwise eligible applicants and recipients at the earliest possible moment no later than May 5, 1982, and for applicants who apply thereafter, to provide benefits due them in the ordinary course without additional delay.

(4) Notify the Court no later than noon, tomorrow, April 30, 1982, that paragraphs (1) through (3) above have been complied with and that all responsible agents and employees of the State Department of Social Services and each county have been instructed to take all necessary steps to comply with paragraph (3) above.

Service accepted by Overton.

Let the above Order issue without plaintiff filing a bond.

DATE April 29, 1982

John L. Cole
JUDGE OF THE SUPERIOR COURT