

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814
(916) 322-2214



August 28, 1984

ALL-COUNTY LETTER NO. 84-93

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: COLLINS v. WOODS, COURT OF APPEALS DECISION, COLLECTION
OF NONWILLFUL OVERPAYMENTS.

REFERENCE: EAS 44-350.11

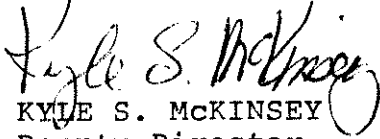
The First District Court of Appeal of the State of California on July 20, 1984 issued a decision in the case of Collins v. Woods. The decision concerns the Omnibus Budget Reconciliation Act of 1981 (OBRA) rules for collection of nonwillful overpayments which occurred between October 1, 1981 and April 1, 1982. The Court partially overturned the ruling of the Superior Court of Humboldt County which was in the Department's favor.

EAS 44-350.11 did two things regarding nonwillful overpayments for which the adjustment period had not expired prior to April 2, 1982. First, it extended the six month statute of limitations indefinitely by using the new overpayment recoupment rules. Secondly, it directed that all collections would now use the new rules to determine the amount recoupable rather than the prior rules. The Court of Appeal found that extending the time for collection of unexpired overpayment cases was permissible. However, the Court further held that changing the recoupment rule to the new rule was not permissible. In other words, recouping the money at the 90 or 95 percent of grant level for those cases in which the nonwillful overpayment occurred before April 1, 1982 has been held to be impermissible. We could change the recoupment period, but not the method of recoupment where the new method was sometimes less lenient than the old.

The case will now go back to the Superior Court in Humboldt County for implementation.

You are now ordered to suspend all collection efforts on nonwillful overpayments made prior to April 2, 1982. This should be accomplished as soon as possible. The effected cases must all be flagged in any manner you find efficient.

We will keep you informed of the status of this case and any further developments.

A handwritten signature in black ink, appearing to read "Kyle S. McKinsey". The signature is written in a cursive style with a large, looping initial "K".

KYLE S. MCKINSEY
Deputy Director
Welfare Program Operations

cc: CWDA

Notice of Action

If you have questions or want more information about this action, please contact your worker.

Case Name :
Case Number :
Worker :
Phone :
Date :

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken

___ We are changing your aid from \$ _____ to \$ _____.

___ We must stop your aid.

New legislation and a recent court order now require us to count Income Tax, Social Security, and Disability Insurance as part of your income. This is true even though your employer subtracts them from your paycheck. As a result your aid payments may drop or stop.

Computation of: Financial Eligibility
 Aid Payment

_____ for _____ persons _____
Special Needs (specify) _____ + _____

Net Non-exempt Income _____ - _____
Child/Spousal Support Collected by the County
(for eligibility computation only) - _____
Total Grant = _____
Overpayment Adjustment (see page _____) - _____
Aid Payment = _____

Net Nonexempt Income Computation

Total Earned Income _____

~~Inc. Tax, Soc. Sec. and Disab. Ins.~~ - _____

Standard Work Expense Disregard - _____

Dependent Care Expense Disregard - _____

Disregard: \$30 - _____

Subtotal = _____

Disregard: 1/3 of Subtotal - _____

Other Countable Income: _____ + _____

Court Ordered Child/Spousal Support Paid - _____

● Net Nonexempt Income = _____

● Net Nonexempt Income Total (columns 1 + 2 + 3) = _____

Name	Name	Name
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) EAS 44-113.211

Medi-Cal: California Administrative Code Title 22, Section(s) _____

Child Support. The District Attorney can help you locate an absent parent, legally establish your child's paternity, and collect child support. To obtain these services, or to continue them if aid is discontinued, you must contact the District Attorney's office.

Family Planning Services. Information is available from the County Welfare Department on request.

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

Your Right to Appeal This Action

If you are dissatisfied with the action described on the other side, or any other county action, you may request a state hearing before a Hearing Officer of the State Department of Social Services. This hearing will be conducted in an informal manner to assure that everyone present is able to speak freely. Your county or adoption worker can help you request a hearing. If you decide to request a hearing you must do so WITHIN 90 DAYS OF THE MAILING DATE OF THIS NOTICE.

FOOD STAMPS AND CASH AID†: If this action stops or reduces your food stamps or cash aid and you ask for a hearing before the effective date of the action, your benefits may continue unchanged under certain circumstances until the hearing or until you receive your hearing decision. Food Stamps will not continue past the end of your current certification period.

Authorized Representative

You can represent yourself at the state hearing. You can also be represented by a friend, attorney or any other person, but you are expected to arrange for the representative yourself. You can get help in locating free legal assistance by calling the toll-free number of Public Inquiry and Response.

How to Request a State Hearing

The best way to request a hearing is to fill in and send this entire notice to

**Office of the Chief Referee
State Department of Social Services
744 P Street, Mail Station 6-100
Sacramento, CA 95814**

You may also request a hearing by calling the toll-free number of Public Inquiry and Response.

Public Inquiry and Response (Public Information)

Toll-Free Number: (800) 952-5253*

For the Deaf Only TDD (800) 952-8349*

*You may have to dial "1" first.

The State Public Inquiry and Response Unit can provide you with further information about your hearing rights or files or other welfare-related matters. Assistance is also available in some languages other than English, including Spanish. You may phone, write or come in.

Public Inquiry and Response
State Department of Social Services
744 P Street, Mail Station 16-23
Sacramento, CA 95814

Request for a State Hearing

Name	Phone number
Address	City State Zip Code

I am requesting a state hearing because of an action by the welfare department of _____ county related to my family's: Cash Aid Food Stamps Medi-Cal Adoption Assistance Program Payments

Reasons for my request:

I speak a language other than English and need an interpreter for my hearing. (The state will provide the interpreter at no cost to you.)

Language _____ Dialect _____

†If you request a state hearing and your benefits continue unchanged, the county can recover as an overpayment the cash aid and value of food stamps the hearing decision finds you were not eligible for. If you remain eligible to receive cash aid after the hearing, and you have no other income or resources, your grant will be reduced by 10% each month until the full amount of such overpayment is collected. If you do have other income or available property, the amount your grant will be reduced each month will be greater.

Check here if you want your benefits reduced or discontinued now, as described in this Notice of Action.

Cash Aid Food Stamps

If you checked the box(es) and the hearing decision is in your favor, any lost benefits will be made up.

Signature _____ Date _____

The information you provide on this form is needed to process your request for a hearing, and processing may be delayed if your request is incomplete. A case file will be set up by the Chief Referee. You have a right to examine the materials that make up the file and may do so by contacting Public Inquiry and Response. Any information you provide may be shared with the county welfare department, with the U.S. Department of Health and Human Services, or the U.S. Department of Agriculture, Authority W&IC 10950.

NA Back 3 (Cash Aid/FS)

Notificación de Acción

Si tiene preguntas o desea más información respecto a esta acción, por favor comuníquese con su trabajador(a).

Nombre del caso : _____
 Número del caso : _____
 Trabajador(a) : _____
 Teléfono : _____
 Fecha : _____

Descripción de la acción, cantidad, razón(es), comentarios. A partir de _____, se tomará la siguiente acción:

- ___ Estamos cambiando su asistencia de \$ _____ a \$ _____.
- ___ Tenemos que terminar su asistencia.

Nueva legislación y una orden reciente de la corte nos requiere que contemos los Impuestos Sobre los Ingresos, Seguro Social y Seguro Contra Incapacidad como parte de sus ingresos. Esto aplica aun cuando su empleador los reste de su cheque de pago. Como resultado, su pago de ayuda puede ser reducido o terminado.

Cálculo de: Elegibilidad económica
 Pago de asistencia

_____ para _____ personas _____
 Necesidades especiales (especifique) _____ + _____
 Ingreso neto no exento _____
 Sostenimiento a hijos/esposo(a) recaudado por el condado (sólo para el cálculo de elegibilidad) _____
 Total de la subvención = _____
 Ajuste del pago excesivo (véase la página _____) _____
 Pago de asistencia = _____

Cálculo del ingreso neto no exento

Ingreso total ganado _____
~~Impuesto sobre ingresos, seguro social, y seguro de incapacidad~~ _____
 Deducción ordinaria por gastos de trabajo _____
 Deducción por gastos de cuidado de personas a su cargo _____
 Deducción: \$30 _____
 Subtotal = _____

Deducción: 1/3 del subtotal _____
 Otros ingresos contables: _____ + _____
 _____ + _____
 Sostenimiento a hijos/ esposo(a) pagado por orden de la corte _____
 ● Ingreso neto no exento _____
 ● Total del ingreso neto no exento (columnas 1+2+3) _____

Nombre	Nombre	Nombre

Reglamentos. Esta acción se requiere por los reglamentos estatales, los cuales están disponibles para revisión en el departamento de bienestar del condado: Manual de Prácticas y Procedimientos (MPP), Sección(es) 44-113.211 de los Criterios de Elegibilidad y Asistencia (EAS)

Medi-Cal: Código Administrativo de California, Título 22, Sección(es) _____

Sostenimiento a Hijos. El Fiscal del Distrito puede ayudarle a localizar a un padre/madre ausente, establecer legalmente la paternidad de su hijo(a), y cobrar sostenimiento a hijos. Para obtener estos servicios, o para que continúen si se descontinúa la asistencia, debe comunicarse con la oficina del Fiscal del Distrito.

Servicios de Planificación Familiar. Hay información disponible en el Departamento de Bienestar del Condado, si la pide.

Audencias con el Estado. Si no está satisfecho con esta acción, es posible que su ayuda continúe sin cambio alguno si pide una Audiencia con el Estado antes de la fecha efectiva de la acción. Lea el reverso, el cual contiene información importante respecto a su derecho a apelar esta acción.