

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 18, 1987

ALL COUNTY LETTER NO. 87-160

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF PUBLIC LAW 100-77, THE HOMELESS  
ASSISTANCE ACT

This letter is to provide the County Welfare Departments (CWDs) with instructions to implement provisions of Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, enacted on July 22, 1987, and the Federal regulations published in the Federal Register, Volume 52, No. 188, dated Tuesday, September 29, 1987. In addition, this letter addresses a provision contained in Public Law 99-198, the Food Security Act of 1985, relative to the treatment of third-party payments made on behalf of food stamp households. The 1985 provision was amended by the Stewart B. McKinney Homeless Assistance Act.

This letter will address only those provisions which require County implementation. Those which require no implementation other than informing the CWDs will be addressed in an All County Information Notice (ACIN) to be sent at a later date.

Beginning as soon as administratively possible but no later than February 1, 1988, the following provisions which implement Public Law 100-77 are to be implemented as specified in each respective provision. Further, affected households shall be entitled to restored benefits back to the date of application or effective date of the provisions involved, whichever occurs later.

**DEFINITION OF HOMELESS INDIVIDUAL [CFR 271.2]**

- o The new Federal regulations delete the definition of "homeless food stamp household" and replace it with the definition of "homeless individual" which means an individual who lacks a fixed and regular nighttime residence or an individual who has a primary nighttime residence that is (1) a supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter); (2) a halfway house or similar institution that provides a temporary residence for individuals intended to be institutionalized; (3) a temporary accommodation in the residence of another individual; or (4) a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (a hallway, bus station, lobby or similar places).

- o This definition is to be utilized for the expedited services provision discussed later in this letter. No other implementation efforts are required.
- o It is recommended that the CWD annotate the household's homeless status in the County use only section of both the DFA 285-A1, Application for Food Stamp-Part 1, and the DFA 285-A2, Application for Food Stamp-Part 2.

**HOUSEHOLD CONCEPT/DEFINITION [CFR 273.1(a)(2)(i)(C) and (D);  
273.10(f)(2)]**

- o These new Federal provisions allow an individual with a minor child(ren) to live with his/her sibling and be considered a separate household if the siblings purchase and prepare meals separately.
- o Three generations living together may form two separate households if the parents with a minor child(ren) purchase and prepare meals separately from the grandparents.
- o Additionally, these types of households shall be assigned a certification period that does not exceed six months.
- o Households which apply for benefits on or after the date this provision is implemented may be granted separate household status under this provision. Current participants and other persons previously denied benefits which are eligible for separate household status under this provision may be granted separate status retroactive to October 1, 1987 as appropriate. This determination shall be made upon request from the household, at recertification or when the CWD otherwise becomes aware a review is needed. Any new applications denied between January 1 and February 1, 1988, that would have otherwise been eligible under this provision, shall be flagged for restoration of benefits. Affected households are entitled to restored benefits back to the date of application or October 1, 1987, whichever occurred later.
- o When the CWD determines at application or recertification that the household meets the criteria for separate household status under these provisions, the CWD shall inform the household of the option of separate household status. If the household so elects, the CWD shall request the completion of separate DFA 285-A1s and DFA 285-A2s for each new and recertified household. When a request for separate household status is made at some time other than at application or recertification, the procedures are the same as outlined below for retroactive benefits.

- o When households request retroactive benefits as provided by these provisions, the CWD shall request completion of a DFA 285-A1 by a household potentially eligible for separate household status and provide to each of the affected households photocopies of the original DFA 285-A2. The households shall be instructed to separate information on the DFA 285-A2 for each household that would have been established had they known of these rules; date and initial the changes; and attach any proofs not previously submitted. However, if the members of a household potentially eligible for separate household status were not included in the most recent application/recertification, a separate DFA 285-A2 must also be completed.
- o The CWD shall also provide photocopies of any CA 7s submitted during the period of retroactive eligibility to each of the affected households. The households shall be instructed to separate information for each household on the CA 7s, date and initial the changes, and attach any proofs not previously submitted.
- o CWDs, as appropriate, shall separate proofs in file to the individual case files.
- o CWDs may wish to provide cross reference in each of the affected case folders.

#### **INELIGIBILITY FOR THE EARNED INCOME DEDUCTION [CFR 273.18(c)(2)(11)]**

- o This provision provides that the earned income deduction shall not be allowed with respect to that portion of earned income which the household intentionally failed to report (as proven by an administrative disqualification hearing or a court of appropriate jurisdiction).
- o This provision is to be applied beginning with first allotments issued under these new provisions but not later than February 1988 and all allotments issued for subsequent months. For example, the December 1987 income reported on the December CA 7 received in January 1988 would be used when calculating the IPV claim for February 1988.

#### **EXPEDITED SERVICES [CFR 273.2(1)(1)]**

- o This provision in the Federal regulations extends the current expedited service requirement to:
  - (1) eligible households in which all members are "homeless individuals", or
  - (2) eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

- o These two additional categories are exempt from the less than \$150 monthly gross income and \$100 resource limit criteria that is in current use.
- o This provision is effective and shall be implemented as soon as administratively possible but no later than February 1, 1988 for affected households applying for program benefits.
- o Until the DFA 285-A1 can be modified, CWDs shall obtain from the applicant the following information (which should be annotated in the County use only section) in order to determine eligibility for expedited services under these provisions:
  - (1) whether a residence is temporary or permanent.
  - (2) the household's monthly rent or mortgage and utilities.

#### DEFINITION OF "GENERAL ASSISTANCE" [CFR 271.2]

- o The new Federal regulations amend the definition of "general assistance (GA)" to include assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients. GA means cash or another form of assistance, excluding in-kind assistance, financed by State or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.
- o This provision is effective retroactive to April 1, 1987. This definition is to be utilized for the GA vendor payments provisions discussed below. No other implementation efforts are required.

#### CERTAIN PA/GA VENDOR PAYMENTS [CFR 273.9(b)(2)(i) and (c)(1)(ii)(A)]

- o Federal regulations also exclude from income PA or GA payments which are not made directly to the household, but paid to a third party on behalf of the household to pay a household expense if such PA or GA payment is for:
  - (A) medical assistance;
  - (B) child care assistance;
  - (C) energy assistance; or
  - (D) housing assistance payments made to a third party on behalf of a household residing in temporary housing, if the temporary housing unit provided for the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption.

- o The provision relative to medical, child care and energy assistance (Items A, B and C above) is effective retroactive to April 1, 1987. Affected households shall be entitled to restored benefits back to the date of application or April 1, 1987, whichever occurred later. NOTE: For QC purposes only, QC reviewers shall not identify variances resulting solely from implementation or nonimplementation of these provisions in cases with review dates between April 1, 1987 and October 31, 1987.
- o The provision relative to certain housing assistance payments (Item D above) is effective for the period beginning October 20, 1987 and ending September 30, 1989. This provision shall be implemented for new applicant households beginning as soon as administratively possible but no later than February 1, 1988 and ending September 30, 1989. For continuing cases, this provision is effective retroactive to allotments issued on or after October 20, 1987. This provision does not apply to allotments issued to any household for any month beginning before the effective period of the provision (October 20, 1987). CWDs shall convert their affected current caseload, if otherwise eligible, at recertification, when the household requests a review of its case, or when the CWD otherwise becomes aware a review is needed.

**EMERGENCY/SPECIAL PA/GA VENDOR PAYMENTS [CFR 273.9(c)(1)(iv)(B)]**

- o The Federal regulations make specific that all or part of a PA or GA grant which is diverted to a third party or to a protective payee, for purposes such as but not limited to managing a household's expenses, shall be considered income to the household and not excluded as a vendor payment, except as specified above.
- o However, any assistance financed by State or local funds which is provided over and above the normal PA or GA grant or payment would be considered emergency or special assistance and excluded as income if provided to a third party on behalf of the household.
- o When the State cannot determine whether a certain type of PA or GA vendor payment is provided for emergency or special circumstances and therefore excludable, the State shall apply to FNS for a determination. In order to request a determination from FNS, the CWD may be requested to provide an explanation of the emergency and special nature of the vendor payment, the exact type of assistance it is intended to provide, who is eligible for the assistance, how the assistance is paid, and how the vendor payments fit into the overall PA or GA scheme. In addition, a copy of the rules, ordinances or statutes which created and authorized the program must be submitted.

- o This provision is also effective retroactive to April 1, 1987; however, it reflects current policy and requires no implementation efforts.

We appreciate your cooperation in implementing these changes in such a short time frame. To assist you with the implementation, we have also attached a list of questions and answers. In addition, we will be forwarding posters and stuffer notices alerting applicants and recipients of the availability of retroactive benefits. State regulations will be processed on an emergency basis, however, until further notice, this All County Letter will remain in effect.

If you have any questions, please call the AFDC/FS Policy Implementation Bureau at (916) 322-5330.



ROBERT A. HOREL  
Deputy Director

Attachment

cc: CWDA

QUESTIONS AND ANSWERS ON  
THE HOMELESS ASSISTANCE ACT FEDERAL REGULATIONS

QUESTION 1:

How do we define temporary accommodation when someone is residing temporarily in the home of another?

ANSWER:

An individual who has a primary nighttime residence that is a temporary accommodation in the residence of another individual would meet the homeless definition if the residency is time limited (for any length of time). The CWD will need to obtain information from the individual as to his/her specific intent.

QUESTION 2:

If a GR/GA adult temporarily moves back in with his/her parents who have a minor child(ren) and the parents with a minor child(ren) are not eligible for food stamps, is the GR/GA adult eligible for food stamps?

ANSWER:

Clarification has been requested from the Food and Nutrition Service (FNS) Office. CWDs will be notified as soon as a response is received.

QUESTION 3:

Does a household have to be homeless in the sibling/three generation situation in order to have a separate household?

ANSWER:

No, they only need to meet the definition/requirement for separate household status, which includes purchasing and preparing meals separately.

QUESTION 4:

Since the separate household status for siblings and three generations provision is retroactive to October 1, 1987, how will CWDs determine restored benefit levels for each household? Who would receive the underissuance?

ANSWER

Whenever the household is entitled to lost benefits and the household's membership has changed, the CWD shall restore the lost benefits to the household containing a majority of the individuals who were household

members at the time the loss occurred. If the CWD cannot locate or determine the household which contains a majority of household members, the CWD shall restore the lost benefits to the household containing the head of the household at the time the loss occurred, per Section 63-802.17.

QUESTION 5:

If separate household status is granted to the sibling with a minor child(ren), what happens to the other sibling? Is he/she eligible for food stamps?

ANSWER:

Yes, the individual would be eligible for food stamps and would be considered a separate household if he/she purchases and prepares meals separately.

QUESTION 6:

Is the separate household status provision optional? If yes, is it a CWD or household option? If separate household status is requested, can the CWD make the change at recertification?

ANSWER:

Yes, separate household status is the household's option. The determination of separate household status shall be made upon request from the household, at recertification or when the CWD becomes aware that the household is purchasing and preparing meals separately based upon the DFA 285-A2 or other information received, whichever occurs first.

QUESTION 7:

In the case of a three generation household and the parent with a minor child(ren) requests separate status, is it treated as a new application (retrospective budgeting)? Which household is considered continuing?

ANSWER:

Refer to FSQUADS #334--"Budgeting Procedures for Merging/Splitting Households/Households Subject to Retrospective Budgeting.

QUESTION 8:

Why are certain households assigned a certification period that does not exceed six months?



## ANSWER:

This requirement is mandated by Public Law 100-77 and cannot be changed.

## QUESTION 9:

Define fraud for ineligibility of the earned income deduction. Does a person have to be convicted in court? IPV hearing? If the household signs an ADH waiver or disqualification consent agreement, is it fraud?

## ANSWER:

The statutory provision refers to willful or intentional failure to report earnings. FNS interprets willful, or intentional failure to report to be synonymous with fraudulent failure to report. This provision only applies to cases which the recipient has been found by an administrative disqualification hearing or a court of appropriate jurisdiction to have intentionally failed to report earnings, thereby limiting its application to cases of proven rather than alleged fraud. If the household signs an ADH waiver or disqualification consent agreement, they have only been accused and not proven and, therefore, the ineligibility for the earned income deduction would not be applicable.

## QUESTION 10:

A single adult temporarily resides with a relative and is purchasing and preparing meals separately. Is he/she entitled to expedited services on their own or does he/she have to be added to the relatives' household?

## ANSWER:

Clarification has been requested from the Food and Nutrition Service (FNS) Office. CWDs will be notified as soon as a response is received.

## QUESTION 11:

A GR/GA vendor payment (not over and above the normal grant) is made to a hotel without cooking or refrigeration facilities. Is the payment excluded or counted as income?

## ANSWER:

Whether the payment would be excluded or counted as income would depend on if the housing is considered temporary or not. These new provisions, for a limited time (October 20, 1987 through September 30, 1989), allow for an income exclusion for PA or GA housing assistance payments made to a third party on behalf of households residing in temporary housing facilities, if the temporary housing unit provided to the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption.