

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



July 21, 1988

ALL COUNTY LETTER NO. 88-87

TO: All County Welfare Directors

SUBJECT: Implementation of the Shaw v. McMahon Appeal Court Order

REFERENCE: ALL COUNTY INFORMATION NOTICE 1-10-88
ALL COUNTY LETTER 85-67

The purpose of this letter is to transmit instructions for implementation of the Appeal Court decision in the Shaw v. McMahon court case.

THE COURT RULING:

On December 31, 1987, the State Court of Appeal ruled that the state would be correct in excluding from Shaw those cases in which the principal wage earner would meet the federal definition for unemployed parent except for the receipt of the lump sum. In its ruling, the Court found that since the federal lump-sum rule is applicable whenever the applicant or recipient is entitled to AFDC-U under the federal law, it follows that the parent qualifying under the federal standards must fall within the lump-sum rule.

In accordance with this decision and with the lower court's ruling that the definition of unemployed parent covers single parent and two parent FG assistance units, the same standard, i.e., connection to the labor force, must be applied to both AFDC-U and FG cases.

IMPLEMENTATION:

Counties are instructed to implement the decision effective August 1, 1988. The following instructions are to be applied to all new requests for Shaw benefits.

1. Exclusion of federal AFDC-FG/U cases in which the principal wage earner meets the federal definition of unemployed parent

All assistance units requesting Shaw benefits, including incapacitated two parent and single parent AFDC-FG assistance units, must first be evaluated to determine if the principal wage earner meets the federal standard for unemployed parent (see Eligibility Determination Procedures on page 3). Assistance units requesting Shaw benefits whose principal earner meets the federal standard for unemployed parent are ineligible for State-only U benefits and are, therefore, ineligible for Shaw.

2. Current Cases

Current Shaw cases are not to be discontinued, except by recipient request, for the purposes of complying with these instructions.

However, counties are instructed to continue to flag current Shaw cases for the purposes of establishing possible overpayments.

3. Elimination of Automatic Shaw

All cases must now be evaluated for a connection with the labor force as a condition of eligibility for Shaw benefits. Shaw benefits are no longer automatic.

4. Notice Requirements

At the time of discontinuance from federal AFDC, the county is to inform the assistance unit of the availability of Shaw benefits and of the conditions under which a Reduced Income Supplemental Payment (RISP) may be available. Current notice requirements regarding the length of the lump sum period of ineligibility (POI) and the conditions under which benefits may be available, should their circumstances change, remain in effect.

5. Notices of Action

Notice of action message language will follow under separate cover.

PROCEDURES:

1. Shaw Application Procedure

Assistance units must now request Shaw benefits.

Assistance units that request Shaw benefits prior to discontinuance and are determined to be eligible are to be suspended in the payment month. Such cases may be eligible for a RISP payment in the suspense month. (See example #1.)

Assistance units which fail to request Shaw benefits prior to discontinuance will be subject to normal restoration requirements. Since such assistance units will experience a break in aid, the case will not be eligible for a RISP. (See example #5.)

2. Eligibility Determination Procedure

The county must review all cases in which application is made for Shaw benefit to establish the principal wage earner in accordance with the definition at EAS 41-440.1.

The county will next determine whether the principal wage earner meets the federal standard for unemployed parent as specified at EAS 41-440.4. The courts have ruled that single parent and two parent incapacitated cases are not precluded from being aided based on unemployment. The federal standard for determining principal wage earner shall be applied to single parent and incapacitated cases in accordance with EAS 41-440.1(a)(1) and 41-440.1(c). All other eligibility conditions for State-only-U shall apply.

Those cases in which the principal wage earner meets the federal definition for unemployed parent shall be denied.

3. Return to Federal AFDC-U

All AFDC-U cases aided under Shaw must apply for redetermination of federal eligibility prior to being granted federal AFDC-U. (See EAS 40-181.215 and 40-125.9.)

4. Identification of Overpayment

All current and previous Shaw cases in which the principal earner met the federal definition of unemployed parent at the time that the Shaw benefits were initially received shall be assessed an overpayment in the amount of the Shaw benefit received.

The county is to identify Shaw overpayments based on a review of the case file. If the case file does not contain sufficient information to make a determination that the recipient would have met the federal definition of unemployed parent, the county may assume that the necessary connection to the labor force did not exist and no overpayment occurred.

5. Overpayment Recoupment

If, based upon a review of the case file, a Shaw overpayment is determined to exist, the County is to:

- (a) Review the case to determine if the case is eligible for a retroactive payment under the Rutan v. McMahon court order (June 1, 1983 to August 26, 1986).
- (b) If the case is eligible for retroactive payment under Rutan for any month for which Shaw benefits were received, the Rutan payment is to be deducted from the Shaw benefits paid for that month and any remainder will be counted as an overpayment.
- (c) If the case is not eligible for a retroactive payment under Rutan for that month or if there is a remainder, the Shaw benefits received are to be counted as an overpayment and the case flagged for possible future collection.

Should you have any questions or need additional information, please contact Ms. Susan Wyckoff of the AFDC Policy Development Bureau at (916) 324-2003.



for ROBERT A. HOREL
Deputy Director

Attachment