

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



July 3, 1991

ALL COUNTY LETTER NO. 91-62

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: CEJA et al. v. CARLSON - PRELIMINARY INJUNCTION

On June 27, 1991, the Superior Court of San Mateo County issued an order granting a preliminary injunction in the case of Ceja et al. v. Carlson. The court ordered the Department to cease using the MAP differential formula in deeming income to children and family members of immigrants legalized under the Immigration Reform and Control Act of 1986 (IRCA) who are ineligible to receive AFDC benefits due to their immigration status. The only formula which may now be used is the stepparent deeming formula found in Section 44-133.63. In addition, the Department and the counties were enjoined from recouping any overpayments of AFDC benefits to children and family members of such immigrants attributable to the use of any deeming formula other than the stepparent deeming formula. Additionally, where IRCA immigrants are involved, the deeming formulas provided in All County Letter No. 85-19 (DARCES) appear to be impacted by the court order. (A copy of this order is attached.)


The injunction also included a number of mandatory provisions.

- 1) The Department and the counties were ordered to recalculate July 1991 benefits for all disqualified newly legalized immigrants using the stepparent deeming formula.
- 2) The Department was ordered to instruct counties to identify all affected AFDC cases and begin using the correct formula for deeming income for legalized immigrants no later than the payment month of August 1991.
- 3) The Department and counties were ordered to include a notice with the August 1, AFDC checks so that affected recipients may request a recalculation of their benefits for July 1991.

Following the issuance of this injunctive order, the Department filed an appeal. The appeal has the effect of staying enforcement of the mandatory provisions of the injunction. That means counties are not required at this time to implement the mandatory provisions listed above as items 1 through 3. We will inform you of the outcome of the appeal as soon as possible.

The Department has already been in the process of promulgating emergency regulations expected to be effective on August 1, 1991 (RDB# 0691-26). Because the mandatory provisions of the injunction are stayed pending appeal, Counties should proceed to take positive steps to implement the regulatory changes as soon as they become effective.

If you have any questions, please call Jim Mullany of the AFDC Policy Implementation Bureau at (916) 445-7884.


ROBERT A. HOREL
Deputy Director