

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

October 23, 1995

ALL COUNTY LETTER NO. 95-61

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: Temporary Worker's Compensation as Earned Income in Aid to Families With Dependent Children (AFDC) and Implementation of the Sawyer v. Anderson Court Case

REFERENCES: MPP 44-101.5, MPP 63-502.142, ACLs 94-49, 95-58

BACKGROUND

The purpose of this letter is to inform the County Welfare Departments (CWDs) about a change in Federal policy, the settlement of the Sawyer v. Anderson Court Case, and to provide instructions for statewide implementation.

CHANGE IN FEDERAL POLICY

On May 27, 1994, Action Transmittal (AT) 94-12 was issued to be effective immediately. The purpose of AT 94-12 was "to reinterpret policy with respect to certain temporary disability insurance payments and Temporary Worker's Compensation (TWC) payments". AT 94-12 changed the treatment of TWC payments from unearned income to earned income which results in eligibility for applicable work incentive disregards in the AFDC Program. TWC payments referred to in this letter is also known as Temporary Disability Indemnity payments. AT 94-12 does not apply to one time settlements of permanent worker's compensation benefits or continuing payments of permanent worker's compensation benefits.

COURT CASE RETROACTIVE PERIOD

Prior to receipt of the federal policy change, the Sawyer v. Anderson court case was filed. This case challenged the California Department of Social Services' treatment of TWC payments as unearned income. The retroactive period covered by this case is January 1, 1991 through December 31, 1995. However, benefits for the period prior to July 1992 will only be paid if the receipt of AFDC and TWC payment is indicated in the case record during the time period of January 1, 1991 through June 30, 1992. If the case record no longer exists or does not indicate receipt of a TWC payment, no benefits will be granted.

CLAIM PERIOD

The claim period starts on January 1, 1996 and ends March 31, 1996. A claim form (Temp 2107) is attached.

CASE IDENTIFICATION

Potential class members will be identified using one of the following three methods:

1. Flagged Cases:

Cases flagged in accordance with All County Letter No. 94-49 are to have their grants recalculated using the appropriate earned income disregards. These flagged cases will be reimbursed no later than June 30, 1996.

2. Automated case search:

Counties that have an ability to do an automated search will screen cases for eligibility back to December 1994.

3. Posters:

A poster informing the potential claimants about the possibility of retroactive benefits will follow under separate cover on or about December 15, 1995. This poster, informing potential class members that they can make a claim, is to be displayed in county welfare district offices from January 2, 1996 through March 31, 1996.

NOTICES OF ACTION (NOA)s

NOAs are attached to this letter. Counties are to use these NOAs to approve or deny the claim, or to request additional information. If the CWD requests additional information, the claimant is to be given 30 days to return the information. If the information is not returned within the 30 days, the claim will be denied. Translations of these NOAs will follow under separate cover.

OVERPAYMENTS

Before issuing any retroactive underpayment, counties must review the case to confirm that class members do not have any existing overpayment(s). Retroactive benefits due and owing must be offset against any outstanding overpayments as required by MPP 44-340.42.

STATISTICAL REPORTING

Counties are required to complete the attached statistical report by August 15, 1996, to comply with the settlement orders.

ONGOING CASES AND NEW APPLICANTS

Ongoing cases and new applicants which receive TWC will have their TWC income treated as earned income effective January 1, 1996.

FOOD STAMPS

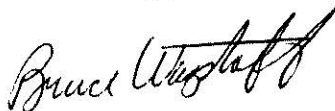
The treatment of TWC payments in the Food Stamp program has not changed. TWC payments are still considered unearned income.

FISCAL CLAIMING:

Corrective underpayments and ongoing benefits are eligible for Federal Financial Participation. Normal claiming procedures apply for these payments and standard sharing ratios will be used. No interest will be paid on retroactive benefits.

If you have any questions about the impact of this transmittal on the Food Stamp Program, please call Ms. Maria Tarango at (916) 654-1883. If you have any questions about statistical reporting, please call Mr. Levy St Mary at (916) 653-5170. If you have any questions about the court case please call Mr. Vincent Toolan at (916) 654-1808. If you have any questions regarding the policy and its impact on the AFDC Program please call Ms. Julie Lopes at (916) 654-1786.

Sincerely,



BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachment