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**RETROACTIVE BENEFITS  
ELIGIBILITY AND PAYMENT STANDARDS**

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.1 Background

These regulations cover the retroactive payment and underpayment relief that must be implemented again. The first phase of the implementation, called Miller I, was from February 11, 1988 to July 19, 1991. The second phase, called Miller II, began on July 19, 1991, the date of the amended judgment. Below is an overview of the case, including the major implementation changes in Miller II from Miller I.

- .11 Court of appeal decision: In October of 1983, the Court of Appeal, Fourth Appellate District, invalidated Manual of Policies and Procedures (MPP) 30-463.233c (renumber MPP 30-763.233c) in Miller v. Woods, 148 Cal.App.3d 862. It ruled that otherwise eligible In-Home Supportive Services (IHSS) recipients were eligible for protective supervision when it was provided by their housemates. It ordered the State Department of Social Services (SDSS) to grant prospective and retroactive relief to the class.
- .12 Initial county welfare department (CWD) case review: On May 1, 1984, SDSS repealed MPP 30-763.233c and adopted MPP 30-763.6, which required CWDs to review their existing IHSS cases and to start paying for protective supervision provided by housemates.
- .13 Miller I judgment: On February 11, 1988, the San Diego Superior Court approved a final judgment. SDSS was required to notify potential class members and process claims for back payments to applicants, recipients, and their providers, who had been denied them under the invalidated regulation. There were two kinds of payments: retroactive payments from April 1979 through April 1984, and underpayments from May 1984 on.
- .14 Miller I implementation: In September 1988, SDSS adopted regulations (MPP 50-018) and started implementing the judgment. Implementation problems occurred, including the failure to send individual notices to some potential class members, returned notices, delays in sending notices, and insufficient notice of the right to claim underpayments.
- .15 Miller I judgment: To correct the implementation problems in Miller I, the Superior Court ordered SDSS to notify potential class members again and process claims for back payments. On July 19, 1991, it approved a final judgment which required certain implementation changes from the first judgment.
- .16 Miller II implementation changes: The Miller II regulations are generally similar to the Miller I regulations. There are several important changes based on the implementation problems in Miller I and the court's 1991 amended judgment in Miller II:

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- (a) Individual notices: SDSS should send individual notices to all providers who lived at the same address as the recipient from January 1, 1980 through November 1988, including health and community care facilities, if necessary. (MPP 50-018.211)
- (b) Updating and re mailing returned individual notices: SDSS should update addresses on all individual notices returned as undeliverable until May 9, 1993, and re mail any updated. The same deadline, based on the initial eight-month claiming period stipulated in MPP 50-018.22, shall apply.
- (c) Reopening late claims: SDSS should reopen and CWDs must process all claims denied solely because they were filed late and issue notices with claim forms to the claimants. (MPP 50-018.47)
- (d) Retroactive payments: All recipients and non-spouse housemate providers who filed a late claim in Miller I and were denied solely for late filing should have their claim reopened by SDSS and processed by CWDs for possible Miller II retroactive payments, for the period from April 1979 through April 1984; these individuals need not file another claim for retroactive payments under Miller II. (MPP 50-018.47) Any other recipients and non-spouse housemates who provided protective supervision for any time between April 1979 and April 1984, and did not file a Miller I claim, are eligible to file a claim for retroactive payments in Miller II. (MPP 50-018.411 and .412) Spouse recipients and providers may file a claim for the limited period from April 1979 to July 1981 in Miller II (MPP 50-018.331), and any claim after July 1981 will be denied under Miller v. Woods and referred to the Welfare Rights Organization (WRO) v. McMahon case. (MPP 50-018.491(a))
- (e) Underpayments: All non-spouse recipients and providers are eligible to file a claim for underpayments for the period from May 1984 through August 1985. (MPP 50-018.332, .413, and .49) Spouse recipients and providers may not file an underpayment claim in Miller II, and any claim for underpayments will be denied under Miller v. Woods and referred to the WRO v. McMahon case. (MPP 50-018.491(a))
- (f) Eight-month claim period: The claim period in Miller II should be eight months from the beginning of the mailing of individual notices with the last day to file claims September 30, 1993. This date should apply to remailings as well. (MPP 50-018.22)

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**HANDBOOK CONTINUES**

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- (g) Adverse information notices: CWDs may not deny claims solely because case records or other information contradicts information provided by the claimant on the Standard Claim Form or Supplemental Claim Form. They should send a "Notice of Action for Adverse Information", with a copy of relevant information from the case record or other source attached, and give the claimant 45 days to provide additional information. (MPP 50-018.446, 50-018.463, 50-018.521(a), .522(a), .523(a), and 50-018.633)
  
- (h) Forms: The forms have been changed to reflect the modifications required to implement Miller II, including the use of separate sets of the Standard Claim Form and Supplemental Claim Form for provider claimants and recipient claimants.
  - (1) Use of Supplemental Claim Form: The CWDs should issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial. The information from the Supplemental Claim Form, completed as instructed by the county, will be used to examine the claimant's contention that the claimed recipient applied for and/or was denied IHSS during the retroactive claim period, as well as to determine the claimed recipient's income and resource eligibility for IHSS during the period claimed. (MPP 50-018.44 and .452)
  
  - (2) If a Miller II claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant should have 45 days from the date of the Notice of Action to complete and mail the postmarked document to the CWD. (MPP 50-018.315 and .432)
  
- (i) Notice of Action: For each claim received, the CWD should issue a final Notice of Action for retroactive payments and/or underpayments, which is to contain information specified in MPP 50-018.631(a) through (h).
  
- (j) Monthly CMIPS reports: CMIPS should provide monthly reports on the status of each Miller I claim reopened as a result of being denied due to receipt by the CWD after the end of the Miller I claim period. The reports should contain information specified in MPP 50-018.73.

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- (k) Related implementation of WRO v. McMahon: CWDs should be implementing relief in WRO v. McMahon at the same time as Miller II. WRO grants spouse recipients and providers back payments for protective supervision and transportation: retroactive payments from July 1, 1983 through September 10, 1984 and underpayments from October 1, 1984 through September 30, 1985. CWDs should treat some Miller II claims for payments under WRO when they extend beyond Miller II claim period for spouses. CWDs should insert a WRO claim form to accompany the Notice of Action for those who are not eligible to receive retroactive payments and/or who apply for underpayments under Miller II, because they are spouse providers. (MPP 50-018.491)

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.2 Notification of Potential Claimants

.21 In order to notify potential claimants, the Department shall:

- .211 Send an Explanatory Flyer in English and Spanish, and a Provider Standard Claim Form in English with instructions how to obtain the Spanish version, to all past and present IHSS providers contained on the IHSS Payroll System, from January 1, 1980 to November 30, 1988, who at any time during this period lived at the same address as the recipient. The Department will utilize the services of the Franchise Tax Board and Department of General Services to determine and mail to the most current mailing address available for providers identified in this manner.
- .212 Provide each CWD with sufficient quantities of Standard Claim Forms, Supplemental Claim Forms, Explanatory Flyers, and 17" x 22" posters modeled after the Explanatory Flyers in both English and Spanish.
- (a) For Miller II, there shall be a Provider Standard Claim Form, an Applicant/Recipient Standard Claim Form, a Provider Supplemental Claim Form, and an Applicant/Recipient Supplemental Claim Form.
- (b) In Section 50-018 the terms "Standard Claim Form" and "Supplemental Claim Form" shall apply to both the provider and the applicant/recipient versions of these forms, unless otherwise noted.
- (c) In terms of notifying potential claimants as contained in Section 50-018.211, the claim form mailed to providers shall be the Provider Standard Claim Form.

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- .213 Provide those interested organizations and groups listed in Appendix A-1 through A-9 of the final judgment referred to in Section 50-018.11 with copies of the Standard Claim Forms, the Explanatory Flyers, and the posters, with a request to display the posters in a prominent location and to distribute the Explanatory Flyers and Standard Claim Forms on request throughout the claim period.
- .214 Provide the Federal Social Security Administration offices in California with copies of the posters, in English and Spanish, and request the agency to display the posters throughout the claim period in prominent locations where there is public access.
- .22 The claim period identified in this section shall be the eight-month period from February 1, 1993 through September 30, 1993.
- .23 In order to notify potential claimants, the CWDs shall:
  - .231 Place throughout the claim period the posters described in Section 50-018.212 in a prominent location in each local office having contact with the public.
  - .232 Provide the Explanatory Flyer and Standard Claim Form to any person inquiring about eligibility for retroactive payments and/or underpayments for MILLER v. WOODS.
- .24 SDSS shall reopen specific Miller I cases from the first implementation that were denied solely for the reason that the claim was received after the end of the claim period. These reopened cases will be processed by CWDs as Miller II applications. A determination will be made pursuant to Section 50-018 as to the claimant's eligibility for both retroactive payments and underpayments. Reporting requirements for these reopened cases are contained in Section 50-018.73.
  - .241 The time period for reopened Miller I cases denied because the claim was received after the end of the Miller I claim period extends from March 10, 1989 through September 30, 1993.
- .3 Application for Retroactive Payments and Underpayments
  - .31 Claimant Responsibilities
    - .311 The claimant shall cooperate in obtaining all information necessary to process the claim. Failure to provide the needed information shall result in the denial of the claim or of that portion of the claim for which the information is necessary.

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- .312 All claims for retroactive payments and underpayments shall be filed on a Miller v. Woods claim form with the CWD in which the claimant currently resides.
  - .313 The claimant shall complete the claim form, sign the form under penalty of perjury, obtain the signature of a witness under penalty of perjury and mail or deliver the completed claim form to the CWD.
  - .314 The claim form shall be completed as stipulated in Sections 50-018.431 and .443, and hand-delivered or mailed to the CWD and postmarked by September 30, 1993. Claims hand-delivered or mailed and postmarked after this date shall be denied.
  - .315 If the claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant shall have 45 days from the date of the Notice of Action to complete and hand-deliver or mail the document to the CWD. Whenever the claimant must return a document or documents to the CWD within 45 days, the following shall apply:
    - (a) If mailed, the document(s) shall be postmarked by the last day of the 45-day period.
    - (b) If hand-delivered, the document(s) shall be delivered to the CWD no later than the close of business on the last day of the 45-day period.
    - (c) If required document(s) is not hand-delivered or mailed and postmarked within the time limits stated in Section 50-018.315, denial of the claim, or that portion of the claim for which the information is needed, shall result.
  - .316 Unless otherwise specified, all references to "days" in regard to time limits shall be construed as "calendar" days.
- .32 CWD Responsibilities - Filing Date/Time Limits
- (a) The CWD shall date stamp the claim form when received. The CWD shall retain all claim forms and envelopes of any claims received for the Miller v. Woods lawsuit.
  - (b) The date of filing shall be the date postmarked on the envelope.
  - (c) If the claim is filed in person at the CWD, the date of filing shall be the date received in the CWD office, and the date stamped on the claim.

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- (d) If the filing date cannot be determined pursuant to Section 50-018.32(b) or (c), the filing date shall be the date the claim was signed.
- (e) If the claim must be forwarded to another county for processing because the services were either provided or received in the second county, the first county's filing date shall apply.
- (f) If the date of filing on the Standard Claim Form is after September 30, 1993, the claim shall be denied.
- (g) If a Supplemental Claim Form, as described in Section 50-018.441, must be sent to the claimant, the filing date shall not change. The filing date shall remain the same as that date which was determined in accordance with Sections 50-018.32, (b), (c), or (d).
- (h) If the CWD receiving the claim determines that services were received or provided while the recipient/applicant lived in another county for all or part of the claim period, the CWD shall:
  - (1) Send a copy of the claim to each affected county. The CWD shall also send a Notice of Action to the claimant within 10 calendar days of the filing date explaining that the correct CWD shall process the claim for the period of time in which the services were provided/received in the other county.
  - (2) As noted in Section 50-018.32(e), the filing date for the claim shall be that date which is determined by the first receiving CWD.
- (i) If the claim is a reopened Miller I claim to be processed for consideration of retroactive payments, the filing date shall be the date the claim was originally filed under Miller I. The filing date for a claim for underpayments shall be the date determined by the postmark on the returned claim for underpayments, or as otherwise stipulated in Section 50-018.32.
- (j) The CWD shall determine eligibility/ineligibility and compute the retroactive payments and underpayments due within 45 days of the filing date. The CWD shall input this information into the Case Management, Information and Payrolling System (CMIPS) so that interest can be computed on approved cases and the computation returned to the CWD.
  - (1) The CMIPS shall compute the total retroactive payment and/or underpayment amount due, with and without interest, and return the computation on a form developed by SDSS to the appropriate CWD within five working days from the date of CWD input.

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- (k) Within 10 working days of receiving the computation from CMIPS, the CWD shall issue a Notice of Action to the claimant which contains the information specified in Section 50-018.631, and, if applicable, Sections 50-018.634 and .635. If approved, payment is authorized the same day as the Notice of Action is authorized.
- (l) CWDs receiving claims forwarded from another county shall process the claim, determine eligibility, compute retroactive payments and/or underpayments, compute interest, issue the necessary Notice of Action, and input the necessary information into CMIPS within 45 days of receipt from the original county.
- (m) In situations where completion of the claims process is delayed due to circumstances beyond control of the CWD, the reason(s) for the delay(s) shall be documented in the affected claimant's case file.
- (n) Unless otherwise specified, all references to "days" for these time limits shall be construed as "calendar" days.

.33 Retroactive Payment and Underpayment Time Periods

.331 Eligibility for retroactive payments shall be limited to the following periods:

- (a) April 1, 1979 through April 30, 1984 for claims in which the housemate was a nonspouse provider; and,
- (b) April 1, 1979 through July 31, 1981 for claims in which the housemate was a spouse provider.

.332 Claims in which the period claimed is beyond the retroactive time period specified in Section 50-018.331(a) shall be processed as underpayments only for the period May 1, 1984 through August 31, 1985.

.4 Claim Processing

.41 Conditions for Class Membership

.411 IHSS housemate provider claimants may be eligible to receive retroactive payments and/or underpayments in Miller II. Housemate provider claimants who are potentially eligible to receive retroactive payments and/or underpayments are persons who:

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- (a) Lived with an individual meeting the conditions of Sections 50-018.413(a) and (b) and either (d) or (e) and provided protective supervision to that individual during the applicable retroactive payment and/or underpayment period specified in Section 50-018.33; and,
  - (b) Were not compensated for providing protective supervision services for the month(s) claimed and the recipient received less than the severely impaired or non-severely impaired statutory maximum applicable at the time.
- .412 Spouse provider claimants may be eligible to receive retroactive payments only and are not entitled to underpayments in Miller II. Spouse provider claimants who are potentially eligible to receive retroactive payments are persons who:
- (a) Were legally married to an individual meeting all applicable conditions stated in Section 50-018.413, and provided protective supervision to that individual during the applicable retroactive payment period specified in Section 50-018.331(b); or,
  - (b) Were considered to be a member of a married couple as defined for the purposes of SSI/SSP eligibility in 20 CFR 416.1806, lived with an individual meeting all applicable conditions stated in Section 50-018.413, and provided protective supervision services during the applicable retroactive payment and/or underpayment period specified in Section 50-018.331(b); and
  - (c) Were not compensated for providing protective supervision services for the month(s) claimed and the recipient received less than the severely impaired or the non-severely impaired statutory maximum applicable at the time.
- .413 IHSS recipient/applicant claimants potentially eligible to receive retroactive payments and/or underpayments are persons who:
- (a) Were California residents, aged, blind, or disabled during the applicable retroactive and/or underpayment period specified in Section 50-018.33 and met the eligibility conditions of MPP 30-755; and,
  - (b) Were nonself-directing, confused, mentally impaired, or mentally ill, and may have been hurt or injured if left alone, thus meeting the general conditions for requiring the service of protective supervision; and,

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- (c) Paid the housemate provider during the applicable retroactive payment and/or underpayment period for the service of protective supervision, and either,
- (d) Received IHSS benefits, but were denied protective supervision services during the applicable retroactive payment and/or underpayment period solely because the provider was a housemate or a spouse, and the amount of benefits was less than the severely impaired or nonseverely impaired maximum, as applicable at the time; or,
- (e) Applied for IHSS services during the applicable retroactive payment and/or underpayment period and were denied protective supervision solely because the provider was a housemate or a spouse.

.42 Review of Class Membership Questions

.421 The CWD shall review the responses to the class membership qualifying questions in Part I, Section 2 of the Provider Standard Claim Form.

- (a) If the claimant answered "no" to questions 2A, 2B, 2C, or 2D, the CWD shall issue a Notice of Action denying the claim. The notice shall explain why the claimant is not a Miller v. Woods class member.
- (b) If the claimant answered "yes" to questions 2A, 2B, 2C, and 2D but answered "no" to both questions in 2F, that is, the person whom the claimant stated received protective supervision neither received nor was denied IHSS benefits, the CWD shall deny the claim and issue a Notice of Action. The notice shall explain that the claimant is not a Miller v. Woods class member because he/she did not prove the claimed recipient applied for or was denied IHSS during the claimed retroactive or underpayment period.
- (c) If the claimant answered "yes" to 2A, 2B, 2C, 2D, 2E, or 2F and the CWD has information available which contradicts the claimant's contention of class membership, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of Notice of Action to provide additional information if available.
- (d) If the claimant answered "unknown" to either part of question 2F, the CWD shall issue a Notice of Action and a Miller v. Woods Provider Supplemental Claim Form to the claimant. The claimant shall have 45 days from the date of the Notice of Action to complete the form and return it to the CWD.



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- (a) If the claim is still not complete because the claimant did not provide all the requested information, the CWD shall deny the claim.

.434 Failure on the part of the claimant to respond within the 45-day period shall result in denial of the claim.

.44 Supplemental Claim Form

- (a) The CWD shall issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial of IHSS eligibility. The purpose of the Supplemental Claim Form shall be to:
  - (1) request information from the claimant regarding the claimed recipient's applying for and being denied IHSS during the retroactive payment period; and (2) determine whether the person claimed to have received protective supervision services met or would have met the income/resource eligibility requirements for IHSS services during the period claimed. The CWD shall include a Notice of Action with the Supplemental Claim Form stating that completion of the form is necessary in order to further determine eligibility for retroactive payments and underpayments and that the claimant must return the completed form to the CWD within 45 days.
- (a) If the CWD has no case record of an IHSS application and denial for the claimed recipient during the retroactive payment period(s) being claimed, the Notice of Action accompanying the Supplemental Claim Form shall request the claimant to complete all parts of the Supplemental Claim Form, based on the criteria in Section 50-018.443.
- (b) If the CWD has a case record showing the claimed recipient had applied for and was denied IHSS for the retroactive payment period(s) being claimed, but the CWD cannot determine from the case record whether the claimed recipient met IHSS income/resource eligibility criteria, the Notice of Action accompanying the Supplemental Claim Form shall request the claimant to complete Parts I, III, and IV of the Supplemental Claim Form, relating to income/resource eligibility for IHSS, based on the criteria in Section 50-018.443.
- (c) If the CWD has lost or destroyed its records or did not maintain adequate records during the claimed period, the CWD shall send the Supplemental Claim Form requesting completion of all parts of the form based on the criteria in Section 50-018.443.

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- (b) Upon receipt the CWD shall date stamp the submitted Supplemental Claim Form following the provisions of Section 50-018.32(a).
  
- (c) The CWD shall review the submitted Supplemental Claim Form to ensure that all required questions are answered, all required information is provided, and that the form is signed and dated by both the claimant and by a verifying witness. For the purposes of this determination, the Supplemental Claim Form shall be considered complete when the required sections specified in Section 50-018.441 are completed and:
  - (a) The following information requested in Part I, Section 1 is provided: name and address of the person for whom it is claimed provided/received protective supervision services during the months claimed.
  - (b) For the Provider Supplemental Claim Form, Part I, Section 2, the name and current or last known address of the person for whom it is claimed received protective supervision services during the months claimed, is completed.
  - (c) If Part II is applicable, Sections 1 and 2 requesting information and documentation related to an IHSS application and/or denial for the person for whom it is claimed received protective supervision services during the months claimed, is completed.
  - (d) Part III, Sections 1, 2, and 3 relating to the (1) receipt of Supplemental Security Income/State Supplemental Program (SSI/SSP) benefits; (2) average gross monthly income from all sources; and (3) the amount of average monthly liquid resources in excess of \$1500 for a single person, and \$2250 for a married person, are provided for the claimed recipient during the years for which hours are claimed.
  - (e) Part IV of the Provider or Recipient Supplemental Claim Form is signed and dated by the claimant.
  - (f) Part IV, Section 2 of the Provider or Recipient Supplemental Claim Form is signed by a verifying witness, and dated, with his/her address and relationship to claimant completed.
  - (g) Part IV, Section 3 of the Applicant/Recipient Supplemental Claim Form is signed by the person completing the claim form, with address and relationship to the applicant/recipient completed.

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- (d) If the CWD determines that the Supplemental Claim Form is incomplete based on the criteria in Section 50-018.443, the CWD shall send a Notice of Action requesting the missing information and attach to the Notice a copy of the original Supplemental Claim Form submitted. The Notice of Action shall specify the section number of the form which is in need of completion and shall state that the claimant has 45 days from the date of the Notice of Action to submit the completed form or the claim will be denied.
  
- (a) Upon receipt of the information requested in Section 50-018.444, the CWD shall review the submitted information to determine whether the Supplemental Claim Form is now complete in accordance with Section 50-018.443. If complete, the CWD shall continue processing the claim. If the Supplemental Claim Form is still not complete, the CWD shall deny the claim.
  
- (e) If the completed Supplemental Claim Form is not received from the claimant within the 45-day limit, the CWD shall deny the claim in accordance with Section 50-018.314.
  
- (f) Information submitted by the claimant on the Supplemental Claim Form shall be presumed to be true as long as the form has been signed and dated by both the claimant and a witness, unless the CWD has information which contradicts information supplied by the claimant. If the CWD has such information available and the CWD determines that information indicates the claimed recipient of protective supervision services would not have been eligible for IHSS, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.

.45 Existing Case File and Information Requirement

- .451 The CWD shall determine if there is an existing case file with which to match claim information for determining eligibility.
  
- .452 In accordance with Section 50-018.44, if the CWD cannot locate a case file for the IHSS recipient/applicant for whom it is claimed protective supervision services were provided without IHSS compensation, or if the CWD cannot determine eligibility from the existing case file for the months claimed, the CWD shall send a Supplemental Claim Form to the claimant.
  
- .453 All information received and/or obtained in relation to the Miller v. Woods court case, and all forms generated as a result of the court case, shall be retained by the CWD in a Miller case file. These documents shall include, but not be limited to:

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- (a) Completed Standard Claim Form and any subsequent resubmittals;
- (b) Completed Supplemental Claim Form, if applicable, and any subsequent resubmittals and any documents submitted by the claimant in responding to the Supplemental Claim Form;
- (c) Completed Eligibility Determination Worksheets, including documentation of retroactive payments and prejudgment interest calculations as well as underpayment calculations;
- (d) A copy of any Notices of Action sent to the claimant;
- (e) A copy of any correspondence with other CWDs in relation to the claim;
- (f) All CMIPS documents; and,
- (g) A copy of all other documents used in the determination of eligibility and computation of payments.

.454 The CWD shall not require the claimant to provide information other than that requested on the Standard Claim Form and, if needed, Supplemental Claim Form. However, the claimant shall be offered an opportunity, in the form of a Notice of Action for Adverse Information, to submit additional information that might rebut a possible denial based on CWD records. The CWD shall consider any additional information submitted by the claimant to support his/her claim.

.46 Presumptive Need For and Provision of Protective Supervision

.461 If other information available to the CWD including, but not limited to, previous or current IHSS casefiles, does not rebut the presumption of need for protective supervision, the person claiming to have needed protective supervision is presumed to have needed protective supervision for the months claimed during the applicable retroactive payment and/or underpayment period if:

- (a) A need for protective supervision was assessed at any time, in which case the need shall be from that time forward; or,
- (b) The needed protective supervision is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness contained on the Standard Claim Form. The CWD shall consider any other documentation submitted by the claimant to support the presumption of need for protective supervision.

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.462 The person claiming to have needed protective supervision is presumed to have received protective supervision services for the months claimed during the applicable retroactive payment and underpayment periods if the delivery of such services is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness, contained on the Standard Claim Form, and other information available to the CWD, including, but not limited to, previous or current IHSS casefiles, does not rebut the presumption of delivery of protective supervision services.

- (a) The CWD shall presume that any protective supervision services provided and claimed were not provided voluntarily.

.463 If information available to the CWD rebuts the presumption of either the need for or the delivery of protective supervision services during any of the months claimed during the applicable retroactive payment and underpayment period, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.

.464 If the CWD IHSS recordkeeping system shows no record of the claimed recipient ever applying for or being denied IHSS for the period being claimed, the CWD shall issue a Notice of Action requesting the claimant to complete an attached Supplemental Claim Form in accordance with Section 50-018.44. The claimant shall have 45 days from the date of the Notice of Action to submit the completed Supplemental Claim Form.

- (a) If the claimant does not submit the Supplemental Claim Form within the 45-day period, the claim shall be denied.
- (b) If the claimant submits the Supplemental Claim Form, and it is complete based on the criteria in Section 50-018.443, the CWD shall proceed to Section 50-018.532.
- (c) If the submitted Supplemental Claim Form is incomplete based on the criteria in Section 50-018.443, the CWD shall follow instructions in Section 50-018.444(a).
- (d) If the CWD determines that information supplied by the claimant verifies that the claimed recipient did in fact apply for and was denied IHSS during the retroactive payment period being claimed, the CWD shall continue to process the claim to determine eligibility for payments.



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- .483 Except as specified in Section 50-018.47, Miller I claimants who make a claim in Miller II for retroactive payments and prejudgment interest shall have their claim for such payments denied.
- .484 Miller I claimants making a claim under the provisions of Miller II for underpayments shall receive an eligibility determination for underpayments.
- .49 Eligibility for Underpayments
- .491 Miller II spouse providers shall not be eligible for underpayments. Spouse provider eligibility for Miller II retroactive payments extends only through July 31, 1981.
- (a) Spouse providers making a claim for underpayments in Miller II shall have their underpayment claim denied, with a Notice of Action stating the reason for the denial. Such providers may be eligible for retroactive payments or underpayments under Welfare Rights Organization (WRO) v. McMahon, and will receive a WRO Standard Claim Form with their Miller II denial NOA.
- .492 Miller II nonspouse provider and applicant/recipient claims shall be eligible for underpayment consideration only if their eligibility for Miller II retroactive payments extended through the end of the retroactive payment claim period, April 30, 1984.
- (a) Nonspouse providers and applicant/recipient claimants shall have their Miller II claim for underpayments denied if their eligibility for retroactive payments does not extend through the end of the Miller II retroactive payment claim period, April 30, 1984. Their Miller II claim for underpayments shall be denied with a Notice of Action stating the reason for the denial.

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- (b) Eligibility for underpayments in Miller II results from IHSS cases or Miller II cases carried through the effective date of the corrected housemate regulations, MPP 30-763.6, effective May 1, 1984. Potentially eligible cases are those that were not corrected as of the effective date of the revised regulations. Claims for underpayments in which there was not an active case requiring updating to reflect the housemate regulations shall be denied, with the exception of approved Miller II claimants whose eligibility extends through the end of the retroactive claim period.

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.5 Use of County Worksheet to Document Findings and Calculate Payments Due

.51 The CWD shall use the Miller v. Woods Retroactive Payment Eligibility Determination Worksheets to document all determinations made on each claim submitted. Information from the Standard Claim Form, and the Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.

.511 The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, if available, at the top of Part I of the worksheet.

.512 The CWD shall determine the claimed recipient's eligibility for class membership by reviewing the claimant's response on Part I, Section 2 of the Standard Claim Form, and shall document these findings on step #1 of the worksheet.

(a) If the claimant answered "yes" to questions 2A, 2B, 2C, and 2D, of the Standard Claim Form, the CWD shall proceed to step #2 of the worksheet.

(b) If the claimant answered "no" to any of the above questions, the CWD shall issue a denial Notice of Action explaining that the claimed recipient is not a Miller II class member.

.513 The CWD shall determine if the claimed recipient applied for or was denied IHSS during the retroactive claim period, by reviewing the claimant's response on Part I, Section 2, question 2F, of the Standard Claim Form, and shall document this finding on step #2 of the worksheet.

(a) If the claimant answered "yes" to the first part of question 2F of the Standard Claim Form, the CWD shall proceed to step #3 of the worksheet.

(b) If the claimant answered "no" to the first part of question 2F of the Standard Claim Form, the CWD shall issue a denial Notice of Action.

(c) If the claimant answered "unknown" to either part of question 2F of the Standard Claim Form, the CWD shall send a Supplemental Claim Form to the claimant.

.514 The CWD shall determine if there is any record of an IHSS approval or denial, and shall document this finding on step #3 of the worksheet.

(a) If there is a record of approval or denial the CWD shall:

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- (2) proceed to step #9 of the worksheet if there is a record of denial for IHSS.
  - (b) If there is no IHSS case record, the CWD shall send the claimant a Supplemental Claim Form.
- .52 In determining eligibility for those claims in which the CWD has verified by case record that the claimed recipient of protective supervision services was authorized IHSS during the month(s) claimed, the CWD shall do the following, using the Retroactive Payment Eligibility Determination Worksheet, Part I, steps #4 through #8:
- .521 Determine whether the case record indicates that protective supervision services were denied during the month(s) claimed for a reason other than because a spouse/housemate was providing the service, and check the appropriate response on step #4 of the worksheet.
    - (a) If, for any month(s) claimed, the case record indicates that the denial was based on a reason other than the provision of protective supervision by the spouse/housemate, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the information which indicates the reason for denial of protective supervision. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available. The CWD shall process the claim for any remaining month(s) of eligibility, pending receipt of a response from the claimant.
  - .522 Determine whether any information exists outside the case record which indicates that protective supervision services were denied during the month(s) claimed for any reason other than the provision of protective supervision by the spouse/housemate, and check the appropriate response on step #5 of the worksheet. Information outside the case record may consist of, but not be limited to, the CWD's knowledge of the IHSS recipient's placement in a state hospital or other type of out-of-home care during the month(s) claimed.
    - (a) If, for any month(s) claimed, information exists outside the case record, as described in Section 50-018.522, the CWD shall document the reason in the space provided on the worksheet, issue a Notice of Action for Adverse Information, and attach a copy of the information, which indicates the reason for denial of protective supervision. The claimant shall have 45 days from the date of the Notice of Action to provide additional information, if available. The CWD shall process the claim for any remaining month(s) of eligibility, pending the receipt of a response from the claimant.

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- .523 Determine from the case record whether the IHSS recipient was authorized the statutory maximum payment, as described in Section 50-018.58, during any eligible month(s) claimed. Check the appropriate response on step #6 of the worksheet.
- (a) For any eligible month(s) claimed in which the IHSS recipient was authorized the statutory maximum payment, the CWD shall issue a Notice of Action of Adverse Information and attach a copy of the relevant information from the case record. The claimant shall have 45 days from the date of the Notice of Action to provide additional information regarding their level of authorized hours, if available.
  - (b) The CWD shall proceed to Section 50-018.54 and determine if there are any remaining month(s) in which the case was not authorized the statutory maximum.
- .524 Determine from the case record or Part I, Section 4 of the Standard Claim Form, the relationship between the claimed provider and recipient. Check the appropriate response on step #7 of the worksheet.
- .525 Determine from the case record whether the claimed IHSS recipient was severely impaired (SI) or nonseverely impaired (NSI) and check the appropriate response on step #8 of the worksheet.
- .53 In determining eligibility for those claims in which the claimed recipient of protective supervision was denied IHSS during the month(s) claimed, the CWD shall complete step #9 of the Retroactive Payment Eligibility Determination Worksheet, locate the record of denial, and follow the procedures in Sections 50-018.521 and .522. The CWD shall proceed to Section 50-018.55 for instructions to complete the calculation of net payments on Miller II claims in which an IHSS case had been denied and the Miller II claimant is determined eligible for payments.
- .531 If the CWD is unable to determine from the record the reason for denial of IHSS during either the entire or partial period claimed, the CWD shall issue a Notice of Action and a Supplemental Claim Form to the claimant to establish whether the claimed recipient received protective supervision would have met the income/resource eligibility requirements for IHSS. The claimant shall have 45 days from the date of the Notice of Action to complete the Supplemental Claim Form and return it to the CWD, or the claim shall be denied.

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.532 Upon the CWD's receipt of the completed Supplemental Claim Form, for denied IHSS cases, the CWD shall check the appropriate responses on Part I, steps #10 through #12 of the worksheet. The CWD shall proceed to Section 50-018.55 if:

- (a) The claimant's responses on Part III, Sections 2 and 3, of the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed.
- (b) If the claimant's responses on Part III, Sections 2 and 3, of the form indicate that the IHSS income/resource eligibility requirements would not have been met during the period claimed, the CWD shall deny the claim for those period(s) of ineligibility, document the reason for denial, and then proceed to Section 50-018.55 for any remaining period(s) of eligibility.
- (c) If the claimant's responses on Part III, Sections 2 and 3 of the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed, but the CWD obtains information which contradicts that supplied by the claimant, the CWD shall issue a Notice of Action For Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information, if available.

.533 If the claimant fails to return the completed Supplemental Claim Form to the CWD within 45 days from the date of the Notice of Action, the CWD shall deny those months in which the IHSS eligibility could not be established. If there are any remaining months of potential eligibility, the CWD shall determine eligibility and shall proceed, as applicable, to Section 50-018.55.

.54 Calculating the Actual Retroactive Payments and Underpayments -IHSS Case Record For Period Being Claimed

.541 Parts II and III of the Standard Claim Form and information from the case record, if available, shall be used to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determinative Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments if the claimant is found eligible.

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.542 For each claim in which IHSS eligibility during the applicable retroactive payment and/or underpayment periods has been established by the findings in the case record, the CWD shall use Part II of the appropriate worksheet to calculate and document the payments due for each month as follows:

- (a) Each month and year claimed during the retroactive payment and/or underpayment period shall be listed in Column 1.
- (b) A determination of whether the claimant is "class eligible," as provided on Part I, step #1, shall be entered for each eligible month in Column 2.
- (c) The number of hours claimed, as entered on Parts II and III of the Standard Claim Form, shall be entered in Column 3.
- (d) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
- (e) The amount of payment the IHSS recipient was originally authorized during the applicable retroactive and/or underpayment period shall be entered by the CWD, from review of the case record, in Column 5.
- (f) The applicable statutory maximum as specified in Section 50-018.58, shall be entered by CMIPS in Column 6.
  - (1) If the case record indicates that the IHSS recipient was severely impaired, CMIPS shall calculate payments using the applicable severely impaired maximums. If the case record indicates that the IHSS recipient was nonseverely impaired, CMIPS shall calculate payments using the applicable nonseverely impaired maximums. The CWD shall enter the appropriate impairment level in Column 7.
- (g) The applicable statutory maximum, as specified in Section 50-018.58 minus the amount originally authorized and entered in Column 5 shall be calculated by CMIPS in Column 8.
- (h) Total retroactive payments and/or underpayments due shall be calculated by CMIPS in Column 9 as follows:

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- (1) For those claims in which it has been established by the case record that the person who is claimed to have received protective supervision services was an IHSS recipient, the total retroactive payments and/or underpayments due shall be the lesser of either of the following:
  - (A) The difference between the applicable statutory maximum, as specified in Section 50-018.58 and the amount originally authorized, as entered in Column 5, or;
  - (B) The amount claimed, as entered in Column 4.
- (2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest. CMIPS shall calculate the amount of prejudgment interest due, based on the amount of retroactive payments in Column 9.
- (3) Underpayments due shall not be subject to prejudgment interest.

.543 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.

.55 Calculating the Actual Net Retroactive Payments and/or Underpayments -Denied and No Record Cases

.551 Parts II and III of the Standard Claim Form, and the case record and Supplemental Claim Form, if available, shall be utilized to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determination Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments if the claimant is found eligible.

.552 For each claim in which the CWD has either located a record of IHSS denial or the CWD has been unable to locate a case record and eligibility for IHSS has been established by the responses on the Supplemental Claim Form, the CWD shall use Part II of the appropriate worksheet to calculate and document the payments due as follows for each month claimed:

- (a) Each month and year claimed during the retroactive payment and/or underpayment claim period shall be listed in Column 1.
- (b) A determination of whether the claimant is class eligible, as indicated on Part I, step #1, shall be entered for each eligible month in Column 2.

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- (c) The number of hours claimed, as provided on Parts II and III of the Standard Claim Form, shall be entered in Column 3.
  - (d) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
  - (e) The applicable nonseverely impaired statutory maximum, as specified in Section 50-018.58 shall be calculated by CMIPS in Column 6.
    - (1) The CWD shall use the applicable nonseverely impaired statutory maximum to calculate payments due for all eligible cases in which: the CWD has no record of denial or the case record could not be located; eligibility has been established through the Supplemental Claim Form; and, available evidence does not clearly show recipient need at the severely impaired level. The CWD shall enter the appropriate impairment level in Column 7.
  - (f) The total retroactive payments and/or underpayments due, which shall be the amount claimed, as specified in Section 50-018.542(d), (the amount claimed for any month does not exceed the applicable nonseverely impaired statutory maximum during the month claimed) shall be calculated by CMIPS in Column 9.
    - (1) The total payments due shall be limited to the applicable nonseverely impaired statutory maximum amount during the month claimed.
    - (2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest.
    - (3) Underpayments due shall not be subject to prejudgment interest.
- .553 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.

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- .56 The CWD shall use the Miller v. Woods Underpayment Eligibility Determination Worksheet to document all determinations for underpayment claims which were determined eligible for retroactive payments under Miller I or Miller II. Information from the Standard Claim Form, Retroactive Payment Eligibility Determination Worksheet, and Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.
- (a) The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, at the top of Part I.
  - (b) The CWD shall determine whether the claimant is a spouse by reviewing Part I, Section 4 of the Standard Claim Form.
    - (1) If the claimant is a spouse, the CWD shall document this on Part I, step #1 of the worksheet, and shall deny the claim for underpayments. The CWD shall refer the claimant to WRO and include a WRO Standard Claim Form with the Miller II denial Notice of Action.
    - (2) If the claimant is not a spouse, the CWD shall proceed to step #2 of the worksheet.
  - (c) The CWD shall determine the claimed recipient's eligibility for class membership by reviewing the claimant's response on Part I, Section 2, of the Standard Claim Form, and shall document these findings on step #2 of the worksheet.
    - (1) If the claimant answered "no" to questions 2A, B, C, or D of the Standard Claim Form, the CWD shall issue a denial Notice of Action.
    - (2) If the claimant answered "yes" to all of the above questions, the CWD shall proceed to step #3 of the worksheet.
  - (d) The CWD shall review the Standard Claim Form, Part I, Section 2, question 2F to determine if the claimed recipient applied for and/or was denied IHSS during the claim period.
    - (1) If the claimant answered "no" to the first part of question 2F, the CWD shall issue a denial Notice of Action.
    - (2) If the claimant answered "yes" to the first part of question 2F, the CWD shall proceed to step #4 of the worksheet.

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- (e) The CWD shall determine if the claimant filed a claim under Miller I by reviewing the case record or CMIPS.
  - (1) If the CWD determines the claimant did file a claim under Miller I, the CWD shall proceed to step #5 of the worksheet.
  - (2) If the CWD determines the claimant did not file a claim under Miller I, the CWD shall proceed to step #7 of the worksheet.
  
- (f) If the claimant filed a claim under Miller I as documented in step #4 of the worksheet, the CWD shall determine if the claim was denied by reviewing the case record or CMIPS.
  - (1) If the Miller I claim was denied, the CWD shall deny the Miller II underpayment claim.
  - (2) If the Miller I claim was not denied, the CWD shall proceed to step #6 of the worksheet.
  
- (g) If the claimant filed a claim under Miller I as documented in step #4 of the worksheet, the CWD shall determine if the Miller I claim was approved through the end of the retroactive payment period by reviewing the case record or CMIPS.
  - (1) If the Miller I claim was approved through the end of the retroactive payment period, the CWD shall proceed to step #9 of the worksheet.
  - (2) If the Miller I claim was not approved through the end of the retroactive payment period, the CWD shall deny the Miller II underpayment claim.
  
- (h) If the CWD determines the claimant did not file a claim under Miller I, the CWD shall determine if the claimant is eligible for retroactive payments by reviewing the Retroactive Payment Eligibility Determination Worksheet.
  - (1) If the claimant is not eligible for retroactive payments under Miller II, the CWD shall deny the claim for underpayments.
  - (2) If the claimant is eligible for retroactive payments under Miller II, the CWD shall determine if the claimant is eligible for retroactive payments through the end of the retroactive payment period, April 30, 1984.

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- (1) If the claimant is not eligible for retroactive payments through the retroactive period, April 30, 1984, the CWD shall document this on step #8 of the worksheet and deny the claim for underpayments.
  - (2) If the claimant is eligible for retroactive payments through the end of the retroactive payment period of April 30, 1984, the CWD shall document this on step #8 of the worksheet, and proceed to step #9 of the worksheet.
- (i) The CWD shall determine if there is an IHSS case record for the claimant and check the appropriate response on step #9 of the worksheet.
- (1) If the CWD determines there is no IHSS case record, the CWD shall compute underpayments at NSI maximums and proceed to Part II of the worksheet.
  - (2) If the CWD determines there is an IHSS case record, the CWD shall check the appropriate response on step #10 of the worksheet, and calculate underpayments at the appropriate maximums, taking into account payment of previously authorized IHSS services.

**.57** Calculating the Actual Underpayments - Claims With and Without an IHSS Case Record

- .571** The CWD shall use Section 50-018.54 to calculate underpayments for claims with an IHSS case record, which are otherwise eligible to receive underpayments.
- .572** The CWD shall use Section 50-018.55 to calculate underpayments for claims with no IHSS case record, which are otherwise eligible to receive underpayments.

**.58** IHSS Statutory Maximum During Retroactive Payment and Underpayment Periods

Effective Date	NSI	SI
7/1/78 --- 6/30/79	\$431	\$621
7/1/79 --- 6/30/80	\$460	\$664
7/1/80 --- 6/30/81	\$532	\$767
7/1/81 --- 6/30/82	\$581	\$838
7/1/82 --- 6/30/83	\$581	\$838
7/1/83 --- 6/30/84	\$604	\$872
7/1/84 --- 6/30/85	\$638	\$921
7/1/85 --- 8/31/86	\$674	\$974

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.6 General Provisions

.61 Share of cost

.611 The CWD shall not consider any recipient share of cost when computing the amount of retroactive payments and/or underpayments due.

.62 Prejudgment Interest

.621 Prejudgment interest for retroactive payments only shall be calculated at the following rates:

(a) Seven percent for the period April 1, 1979 through December 31, 1982; and,

(b) Ten percent for the period January 1, 1983 through April 30, 1984.

.622 The interest shall be computed on the amount of the monthly payment up through the last day of the month following the month in which payment is authorized.

.63 Notices of Action

.631 For each claim received for retroactive payments and/or underpayments, the CWD shall issue a final Notice of Action. The Notice of Action shall contain the following information:

(a) The month(s) determined eligible and/or ineligible for retroactive payments and/or underpayments. The reason(s) for any months determined ineligible shall be clearly stated;

(b) The amount of retroactive payments due for each month, which shall be shown with and without interest;

(c) The amount of retroactive payments and interest due for each year, if payments are claimed for more than one year;

(d) The total retroactive payments due and the total amount of interest due;

(e) The combined amount of retroactive payments and interest due;

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- (f) The amount of underpayments due for each month, for each year, if payments are claimed for more than one year, and the total underpayment due;
  - (g) A statement regarding withholding taxes;
  - (h) A statement regarding the claimant's right to a State Hearing on Miller v. Woods determinations made by the CWD and information on how to request such hearings.
- .632 Each Notice of Action issued due to the claimant's failure to complete either the Standard Claim Form or Supplemental Claim Form in its entirety shall specify those sections of the form in need of completion.
- .633 Each Notice of Action issued as a result of the CWD having contradictory information shall include a copy of the information and shall advise the claimant that he/she has 45 days from the date of the Notice of Action to provide additional information, if applicable.
- (a) If the claimant does not respond within 45 days and provide information to rebut the CWD's contradictory information, the CWD shall issue a final Notice of Action denying the claim for the months of ineligibility.
- .634 For each claim denied, the Notice of Action shall clearly state the reason(s) for denial for each period claimed.
- .635 For each approved claim in which the claimant is currently an IHSS recipient, the Notice of Action shall advise the claimant that the payment received as a result of his/her Miller v. Woods claim may adversely affect his/her IHSS, SSI eligibility or other aid program eligibility and tax liability.
- .64 State Hearings
- .641 The right to a state hearing on any Miller v. Woods claim shall be granted only to Miller v. Woods claimants or their authorized representatives.
- .65 Treatment of Lump Sum Payments in the IHSS Program
- .651 It shall be the responsibility of the CWD to determine if the lump sum Miller v. Woods payments affect or do not affect the continued eligibility of all Miller v. Woods claimants who are currently IHSS recipients.

<b>50-018</b>	<b><u>MILLER II v. WOODS</u></b>	<b>50-018</b>
	(Continued)	

.652 Miller v. Woods payments shall be disregarded for IHSS financial eligibility determinations for the month of receipt and the following month. Any remaining balance from the Miller v. Woods payments shall be counted as a resource in the second month following the month of receipt.

.7 Monitoring CWD Compliance

.71 County Statistical Reports

.711 Beginning February 1, 1993 and continuing until an eligibility determination has been made on each claim received, the SDSS shall compile a monthly report on retroactive payment claims and a separate monthly report on underpayment claims. The reports shall contain the following information:

- (a) The number of claims received;
- (b) The number of claims denied;
- (c) The number of claims approved;
- (d) The number of claims pending; and,
- (e) The amount of payments approved.

.72 Final Report

.721 SDSS shall obtain from the CMIPS a final report, by county, that includes the following:

- (a) The number of claimants paid;
- (b) The total amount of retroactive payments paid;
- (c) The number of underpayments paid; and,
- (d) The total amount of underpayments paid.

**50-018**     **MILLER II v. WOODS** **50-018**  
(Continued)

.73 Beginning with the end of the first month of the claim period, CMIPS will provide a report on the status of each Miller I claim reopened as a result of being denied due to being received by the CWD after the end of the Miller I claim period.

.731 The report shall include, by county, a listing of each reopened claim to include name of recipient, name of claimant, case number, provider number, and NOAs issued to date.

.732 This listing shall be continued until each claim on the listing has been approved or denied.

.733 A final report on the status of these reopened Miller I claims shall be made, to include, by county and statewide: number of Miller I claims reopened, number of approvals, number of denials, total dollar amount retroactive payments, total dollar amount of prejudgment interest, the total of retroactive payments and prejudgment interest, and the total amount of underpayments authorized.

.74 Case Reviews

.741 Based on the quarterly reports, SDSS shall determine the fifteen (15) counties having the largest number of claims over the eight-month period.

.75 CWD Cooperation

.751 Each CWD shall cooperate with SDSS in providing information deemed necessary to monitor county compliance with the provisions of Section 50-018 and the Miller II final judgment.

.8 Appendix - Forms

.81 The following forms are to be used to process Miller v. Woods claims:

- (a) Poster - 2042 (Eng/Sp) (11/92)
- (b) Explanatory Flyer - 2031 (Eng/Sp) (11/92)
- (c) Provider Standard Claim Form - 2000 (Eng/Sp) (11/92)
- (d) Provider Supplemental Claim Form - 2001 (Eng/Sp) (11/92)

<b>50-18</b>	<b><u>MILLER II v. WOODS</u></b> (Continued)	<b>50-018</b>
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- (e) Provider Retroactive Eligibility Determination Worksheet - 2003 (Eng/Sp) (11/92)
- (f) Provider Underpayment Eligibility Determination Worksheet - 2002 (Eng/Sp) (11/92)
- (g) Applicant/Recipient Standard Claim Form - 2028 (Eng/Sp) (11/92)
- (h) Applicant/Recipient Supplemental Claim Form - 2029 (Eng/Sp) (11/92)
- (i) Applicant/Recipient Eligibility Determination Retroactive Worksheet - 2027 (Eng/Sp) (11/92)
- (j) Applicant/Recipient Underpayment Eligibility Determination Worksheet - 2030 (Eng/Sp) (11/92)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, Case No. 472068; 20 CFR 416.1806; and Sections 10950, 12300, 12300.2, 12304, and 12304.5, Welfare and Institutions Code.

<b>50-19</b>	<b>WRL v. WOODS RETROACTIVE COURT CASE</b>	<b>50-019</b>
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Repealed by Manual Letter No. EAS-95-06, effective 7/9/95.

<b>50-20</b>	<b>SALLIS v. MCMAHON RETROACTIVE COURT CASE</b>	<b>50-020</b>
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Repealed by Manual Letter No. EAS-95-06, effective 7/9/95.

<b>50-21</b>	<b><u>CRARY V. McMAHON</u> RETROACTIVE COURT ORDER</b>	<b>50-021</b>
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.1 Background

The Crary v. McMahon lawsuit challenged the California Department of Social Services' (CDSS) policy of not paying Aid to Families with Dependent Children (AFDC) recipients participating in the Greater Avenues for Independence (GAIN) Program for transportation costs the participants incurred to travel to and from their GAIN activities in accordance with the Manual of Policies and Procedures (MPP) Section 42-750.4. On August 3, 1990, the Sacramento County Superior Court issued a Court Order Granting Peremptory Writ of Mandate. Under the terms of the Court Order, CDSS and county welfare departments must restore to affected persons all supportive services moneys unlawfully withheld because of transportation expense limitations.

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**HANDBOOK ENDS HERE**

**50-021**     **CRARY V. McMAHON RETROACTIVE COURT ORDER** **50-021**  
(Continued)

.2     Definitions

For the purpose of these regulations:

- (a) "ABCDM 228" means the Applicant's Authorization for Release of Information Form ABCDM 228 (10/78) which is used to obtain documentation when the claimant does not have the necessary information or is unable to provide such information.
- (b) "Claim period" means the time in which a person may file a claim for corrective underpayment. The claim period shall be at least 90 days starting July 1, 1992 and ending midnight September 30, 1992.
- (c) "Class members" means those individuals who drove a vehicle to and from their GAIN activities and asked to be reimbursed for the costs but:
  - (1) Were paid a flat rate for travel expenses to get to and from their GAIN activities no matter how many miles they drove;

or

  - (2) Were paid the rate of public transportation even though the public transportation took two hours or more to get to and from their GAIN activity. The two hours included transfers but did not include the time to take children to school or child care;

or

  - (3) Were paid a mileage rate less than what county employees were reimbursed for the use of privately owned vehicles used for county business.
- (d) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
- (e) "GEN 1172" means the Statistical Report Form GEN 1172 (3/91) Court Case: Crary v. McMahon which is to be used to gather data regarding the claims filed and paid under this Court Order.
- (f) "NOA" means a notice of action (NOA) that is considered to be adequate within the meaning of Section 22-021. A claimant is considered to be informed of the outcome of a claim when the claimant is provided with a NOA.

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- (g) "Responsible county" means the GAIN Office that took an action on which the claimant's claim is based.
- (h) "Retroactive benefits" means the corrective underpayment of funds inappropriately withheld.
- (i) "Retroactive period" means the period from December 1, 1986 through March 31, 1991.
- (j) "Temp GAIN 64" means the Crary v. McMahan Notice [Informing Card] Temp GAIN 64 (7/92) which is the document mailed with the Medi-Cal cards to current medically needy only (MNO) recipients to inform potentially affected persons of possible corrective underpayments for transportation costs.
- (k) "Temp GAIN 65" means the Crary v. McMahan [Informing Poster] Temp GAIN 65 (7/92) which is the document used to notify former and current GAIN participants of possible corrective underpayments for transportation costs.
- (l) "Temp GAIN 66" means the Crary v. McMahan Claim Form Temp GAIN 66 (7/92) which is the document used to file a claim for this Court Order.

.3 Informing of Possible Retroactive Benefits

.31 SDSS Responsibilities

SDSS shall:

- .311 Include Temp GAIN 64 with the Medi-Cal cards issued for the month of July 1992 to MNO cases. Temp GAIN 64 shall be printed in English on one side with bullets in the five standard languages on the other.
  - (a) The English version shall inform potentially eligible persons of possible retroactive benefits for travel expenses incurred by GAIN participants who drove a car to and from their GAIN activities and requested payment of such costs.
  - (b) The bullets shall state (as translated): "GAIN may owe you money if you drove a car to and from your GAIN activity. Call your GAIN worker or 1-800-XXXX to get more facts."

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- .312    Print Temp GAIN 65 and 66 in English and Spanish with bullets in Vietnamese, Laotian, Chinese and Cambodian.
  - .313    Provide counties with a:
    - (a)     Reproducible copy of the Temp GAIN 66.
    - (b)     Supply of Temp GAIN 65.
  - .314    Provide counties with reproducible copies of NOAs in English and the five standard languages.
  - .315    Mail copies of Temp GAIN 65 to legal aid and welfare rights organizations of plaintiffs' choice.
  - .316    Provide public service announcements and news releases to the media two weeks before the beginning of the claim period and two weeks before the end of the claim period.
- .32    Responsible Counties
- Del Norte, El Dorado, Fresno, Glenn, Imperial, Kern, Lake, Lassen, Madera, Mendocino, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, San Benito, San Bernardino, San Diego, San Francisco, Santa Clara, Santa Cruz, Shasta, Siskiyou, Sonoma, Stanislaus, Tehama, Trinity, Ventura, Yolo and Yuba.
- Kings and Tuolumne Counties are exempt from implementation since they have already met the requirements of the Court Order.
- .33    County Responsibilities
- .331    Counties shall, either:
    - (a)     Within the first 60 days of claim period, identify all former and current GAIN participants within the retroactive period whose transportation expenses were incorrectly limited, calculate the corrective underpayment and issue a NOA (M50-021A Rev. 7/92) [see Section 50-021.53]; or



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.412 Provide additional information, documentation or clarification upon request from county to verify Temp GAIN 66 information as specified in Section 50-021.55.

.413 Submit Temp GAIN 66 to the responsible county.

(a) The Temp GAIN 66 shall be submitted on or before the end of claim period. If mailed, postmark must be no later than September 30, 1992.

(b) Claimant shall be permitted to resubmit a previously denied claim during the claim period.

.42 County Responsibilities

Counties shall:

(a) If able, identify all former and current GAIN participants who are class members, calculate any corrective underpayment and issue a NOA within 60 days as specified in Section 50-021.53.

(a) The mileage rate to be used for such a calculation shall be the rate paid to county employees using a private vehicle to accomplish county business during the retroactive period.

(b) If a claimant submits a Temp GAIN 66, stamp with the date received.

(a) Retain envelopes that are postmarked after September 30, 1992.

(b) If the date cannot be determined by either postmark or date stamp, the date the claimant signed the Temp GAIN 66 shall be used to determine when the claim was received.

(c) If the Temp GAIN 66 is postmarked after claim period, issue a NOA (M50-021B Rev. 7/92) within 60 days denying claim.

(d) Attempt to locate claimant's case record named on the Temp GAIN 66.

(e) Maintain all documents until the end of claim period and retain all records which contain documentation relative to this Court Order for three years after the final legal claim has been submitted for federal reimbursement.

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(Continued)

- (a) Records included are those used to determine eligibility for the class (including denials) and those used to determine the amount of retroactive benefits.
- (b) Records which are pertinent to the Court Order shall include, but are not limited to, case records, payment records, assistance claims and reimbursement claims.
- (f) Review Temp GAIN 66 to determine the responsible county.
  - (a) Process the Temp GAIN 66 within 60 days when the receiving county is the responsible county.
  - (b) If a county who receives a Temp GAIN 66 determines that it is not the responsible county, the receiving county shall issue a NOA (M50-021B Rev. 7/92) denying the claim and forward the Temp GAIN 66 to the responsible county within 15 working days from the date the Temp GAIN 66 was received.
    - (1) The receiving county shall inform the claimant in the NOA that the Temp GAIN 66 has been forwarded to the responsible county for processing.
    - (2) The date the Temp GAIN 66 is submitted to the receiving county shall be the date of the claim.
  - (c) If the responsible county cannot be determined, the receiving county shall issue a NOA (M50-021B Rev. 7/92) denying the claim and telling the claimant to resubmit the Temp GAIN 66 to the responsible county within the claim period. The NOA shall also inform claimant of his/her right to a hearing.

.5 Claim Processing

Upon receipt of Temp GAIN 66, the responsible county shall determine whether the claimant is a class member and take appropriate action within 60 days of when the completed claim is received. The county shall:

- .51 Complete processing the Temp GAIN 66, to the extent possible, without requiring claimant to come in person to the county.
- .52 Review each Temp GAIN 66 received for completeness.
  - .521 Temp GAIN 66 shall be considered complete when the following questions are completed:

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- (a) Qualifying class member questions:
  - (1) Were you in the GAIN Program?
  - (2) Did you drive a car to and from your GAIN activities?
- (b) County of residence during retroactive period.
- (c) Claimant's case name used during retroactive period.
- (d) Claimant's social security number.
- (e) Claimant's signature.
- (f) Claimant's date of birth.

.522 The following information shall be provided on the Temp GAIN 66 to the extent possible:

- (a) The three "Yes, No and Don't Know" questions.
- (b) The approximate date(s) claimant was in the GAIN Program.
- (c) Claimant's telephone number.
- (d) Claimant's current address.

.53 If claimant is a class member:

Issue a NOA (M50-021A Rev. 7/92) within 60 days from receipt of claim explaining why the claim was approved, when payment can be expected and the formula used to arrive at the corrective underpayment.

.531 If a county has the capability to include the warrant with the NOA, the county shall do so.

.54 If claimant is not a class member:

Issue a NOA (M50-021B Rev. 7/92) within 60 days from receipt of claim explaining why the claimant is not a class member and claimant's right to file for a hearing if he/she does not agree with the county's decision.

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- .55 Request additional information needed to complete processing Temp GAIN 66. If Temp GAIN 66 is inconsistent with case record or needs clarification, county shall first attempt to resolve issue(s) by telephone.
- .551 Issue a NOA (M50-021C Rev. 7/92) within 30 days after receipt of Temp GAIN 66 requesting the documentation, additional information or clarification if unable to resolve problem(s) by telephone.
- (a) Claimant shall have 30 days from the date of the NOA to respond to the request for additional information.
  - (b) If the response is not received within the 30 days, the claim shall be denied.
- .552 Request documentation if such is in the claimant's possession and necessary to support the claim.
- (a) If claimant does not have the documentation, request that the claimant sign ABCDM 228, or the county equivalent form, to allow the county to obtain documentation on behalf of the claimant.
  - (b) If claimant is unable to provide the requested documentation, a declaration signed under penalty of perjury affirming the information shall be accepted in lieu of the documentation, unless there is conflicting evidence in the case record or information known to the county.
- .553 Complete processing the claim within 30 days after receiving the additional information.
- (a) If the additional information establishes eligibility, issue a NOA (M50-021A Rev. 7/92) explaining why the claim was approved, when payment can be expected and the formula used to arrive at the corrective underpayment.
  - (b) If the additional information does not establish eligibility, issue a NOA (M50-021B Rev. 7/92) explaining why the claim was denied and the claimant's right to a hearing if the claimant does not agree with the decision.
- .554 Issue a NOA (M50-021B Rev. 7/92) if the claimant fails to provide documentation in his/her possession or sign the ABCDM 228 or a document of self-certification in support of the claim.

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(Continued)

.56 Process the first claim and deny any subsequent claims related to this Court Order or any other court order or settlement if more than one claim is filed for the same action.

.6 Computation of Corrective Payments

.61 In the AFDC Program, a corrective underpayment is not to be considered as income or a resource for AFDC grant calculation in the month received and the following month.

.62 For the Food Stamp Program, a retroactive corrective payment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC [MPP Section 63-501.3(o) and Section 63-502.2(j)].

.63 Counties shall offset any corrective payment against outstanding recoupable overpayments as specified in MPP Section 42-751.4.

.631 For claimants no longer on aid, the responsible county shall offset the retroactive payment for supportive services against overpayments as specified in MPP Section 42-751.41.

.632 Counties shall use a Temp GAIN 83 (Agreement to Balance GAIN Supportive Services Corrective Payment Against AFDC/Child Care Overpayment [7/93]) to request an agreement to balance retroactive corrective supportive service payments against outstanding AFDC and/or child care overpayments.

.64 County shall ensure that a corrective underpayment for this Court Order is not considered a part of the AFDC grant calculations even when reported on the monthly reporting document.

.65 Computation of Interest. Counties shall:

.651 Pay interest on corrective payments to class members who are no longer on aid.

.652 Compute said interest and issue payment and issue a NOA M50-021A2 (Crary Retroactive Interest Payment [Rev. 8/93]). The payment period shall end September 30, 1993.

.653 Compute the amount of interest at the rate of seven (7) percent per year on the principal amount.

.654 Multiply the total corrective payment by the appropriate interest factor set forth in Handbook Section 50-021.655.

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- (a) To determine the appropriate interest rate multiplier factor, a county shall first determine the last month the class member received a transportation supportive service payment (Retroactive Benefit Month) and the month the class member was paid the corrective payment (Retroactive Payment Month). Where the two dates meet on the "Interest Chart for Crary Retroactive Corrective Payments" shall be the multiplying factor to be used to determine how much interest is to be paid the class member.

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- (b) EXAMPLE: As a result of the Crary Court Order, the county owes Sue \$200.00 reflecting payment for transportation expenses for three months ending December 1987. The county paid Sue \$200.00 in September 1992. The retroactive benefit month is January 1988, and the retroactive payment month is August 1992. In September 1993, the county computes the interest to be paid to Sue, who is no longer on aid, at the rate of 7 percent per year on the \$200.00 principal amount.

Retroactive Benefit Month--Jan. 1988	(Interest = .3267 factor)
Retroactive Payment Month--Sept. 1992	
Payment Paid Sept. 1992	\$200.00
Interest Percentage Factor X	.3267
Interest Paid September 1993:	=\$ 65.34

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**HANDBOOK CONTINUES**

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.655     Interest Chart for Crary Retroactive Benefit Payments

Retroactive Benefit Month	Retroactive Payment Month				
	July-92	Aug-92	Sep-92	Oct-92	Nov-92
Dec-86	.3908	.3967	.4025	.4083	.4142
Jan-87	.3850	.3908	.3967	.4025	.4083
Feb-87	.3792	.3850	.3908	.3967	.4025
Mar-87	.3733	.3792	.3850	.3908	.3967
Apr-87	.3675	.3733	.3792	.3850	.3908
May-87	.3617	.3675	.3733	.3792	.3850
Jun-87	.3558	.3617	.3675	.3733	.3792
Jul-87	.3500	.3558	.3617	.3675	.3733
Aug-87	.3442	.3500	.3558	.3617	.3675
Sep-87	.3383	.3442	.3500	.3558	.3617
Oct-87	.3325	.3383	.3442	.3500	.3558
Nov-87	.3267	.3325	.3383	.3442	.3500
Dec-87	.3208	.3267	.3325	.3383	.3442

**HANDBOOK CONTINUES**

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<b>50-021 (Cont.)</b>	<b>RETROACTIVE BENEFITS ELIGIBILITY AND PAYMENT STANDARDS</b>	<b>Regulations</b>
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Retroactive Benefit Month	Retroactive Payment Month				
	July-92	Aug-92	Sep-92	Oct-92	Nov-92
Jan-88	.3150	.3208	.3267	.3325	.3383
Feb-88	.3092	.3150	.3208	.3267	.3325
Mar-88	.3033	.3092	.3150	.3208	.3267
Apr-88	.2975	.3033	.3092	.3150	.3208
May-88	.2917	.2975	.3033	.3092	.3150
Jun-88	.2858	.2917	.2975	.3033	.3092
Jul-88	.2800	.2858	.2917	.2975	.3033
Aug-88	.2742	.2800	.2858	.2917	.2975
Sep-88	.2683	.2742	.2800	.2858	.2917
Oct-88	.2625	.2683	.2742	.2800	.2858
Nov-88	.2567	.2625	.2683	.2742	.2800
Dec-88	.2508	.2567	.2625	.2683	.2742

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Retroactive Benefit Month	Retroactive Payment Month				
	July-92	Aug-92	Sep-92	Oct-92	Nov-92
Jan-89	.2450	.2508	.2567	.2625	.2683
Feb-89	.2392	.2450	.2508	.2567	.2625
Mar-89	.2333	.2392	.2450	.2508	.2567
Apr-89	.2275	.2333	.2392	.2450	.2508
May-89	.2217	.2275	.2333	.2392	.2450
Jun-89	.2158	.2217	.2275	.2333	.2392
Jul-89	.2100	.2158	.2217	.2275	.2333
Aug-89	.2042	.2100	.2158	.2217	.2275
Sep-89	.1983	.2042	.2100	.2158	.2217
Oct-89	.1925	.1983	.2042	.2100	.2158
Nov-89	.1867	.1925	.1983	.2042	.2100
Dec-89	.1808	.1867	.1925	.1983	.2042

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Retroactive Benefit Month	Retroactive Payment Month				
	July-92	Aug-92	Sep-92	Oct-92	Nov-92
Jan-90	.1750	.1808	.1867	.1925	.1983
Feb-90	.1692	.1750	.1808	.1867	.1925
Mar-90	.1633	.1692	.1750	.1808	.1867
Apr-90	.1575	.1633	.1692	.1750	.1808
May-90	.1517	.1575	.1633	.1692	.1750
Jun-90	.1458	.1517	.1575	.1633	.1692
July-90	.1400	.1458	.1517	.1575	.1633
Aug-90	.1342	.1400	.1458	.1517	.1575
Sep-90	.1283	.1342	.1400	.1458	.1517
Oct-90	.1225	.1283	.1342	.1400	.1458
Nov-90	.1167	.1225	.1283	.1342	.1400
Dec-90	.1108	.1167	.1225	.1283	.1342
Jan-91	.1050	.1108	.1167	.1225	.1283
Feb-91	.0992	.1050	.1108	.1167	.1225
Mar-91	.0933	.0992	.1050	.1108	.1167
Apr-91	.0875	.0933	.0992	.1050	.1108

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(Continued)

.7     Statistical Reporting

- .71     Counties shall submit the GEN 1172 no later than March 1, 1993 to the Statistical Services Bureau.
- .72     Report shall include the number of:
  - .721     Temp GAIN 66s counties mailed or handed to potentially eligible persons.
  - .722     Temp GAIN 66s received by counties as a claim.
  - .723     Cases identified by a county as receiving transportation supportive services and mailed a Temp GAIN 66.
  - .724     GAIN participants identified by a county as class members and issued a warrant correcting the underpayment.
  - .725     Claims (Temp GAIN 66) approved.
  - .726     Claims (Temp GAIN 66) denied because:
    - (a)     Temp GAIN 66 was submitted after the claim period.
    - (b)     Temp GAIN 66 was incomplete and county was unable to get the information needed from claimant to complete claim.
    - (c)     Claimant was not a member of the class.
    - (d)     County receiving the Temp GAIN 66 was not the responsible county. Receiving county forwarded Temp GAIN 66 to the responsible county.
    - (e)     County receiving the Temp GAIN 66 was not the responsible county. Receiving county could not determine the responsible county.
    - (f)     Other denials.
  - .727     Total benefits paid.



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- (b) "Class member" means any current or former GAIN Program participant who:
  - (1) Had their supportive services approved, denied, changed or terminated;  
and
  - (2) Did not receive an adequate written notice telling them why;  
and/or
  - (3) Was not told of their right to a state hearing if they did not agree with the county's action.
  
- (c) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
  
- (d) "GAIN 50" means the GAIN Hearing Rights Form GAIN 50 (6/92) which is used to explain to people their rights to a hearing if they do not agree with the action taken by a county.
  
- (e) "GEN 1172" means the Statistical Report Form GEN 1172 (3/91) Court Case: Windley v. McMahan used to gather data regarding the request to review case records resulting from this lawsuit.
  
- (f) "NOA" means a notice of action (NOA) that meets the adequacy requirements of Section 22-022. A requester is considered to be informed of the outcome of a request to have his/her case file reviewed when he/she is provided a NOA.
  
- (g) "Receiving county" means the county which the TEMP GAIN 77 is mailed to or given to for processing. The receiving county may or may not be the responsible county.
  
- (h) "Responsible county" means the county that denied, reduced or terminated supportive services and did not provide adequate written notice explaining the reason for such an action.
  
- (i) "Retroactive period" means the period of time between October 12, 1986 to April 1, 1991 for all counties except Los Angeles County. The retroactive period for Los Angeles County shall be from October 12, 1986 through November 30, 1992.
  
- (j) "Request period" means the time period in which a person may file a request to have their case file reviewed which is from August 1, 1992 through October 30, 1992 in all counties except Los Angeles County. The request period for Los Angeles County will be from August 1, 1992 through January 31, 1993.

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- (k) "TEMP GAIN 58" means the GAIN Supportive Services Overpayment Notice Form TEMP GAIN 58 (9/92) which is used to explain to a person his/her responsibilities for payment of overpayments.
- (l) "TEMP GAIN 63" means the Windley v. McMahan Notice [Informing Card] TEMP GAIN 63 (7/92) mailed with the Medi-Cal card to current Aid to Families with Dependent Children (AFDC) and medically-needy-only (MNO) recipients.
- (m) "TEMP GAIN 76" means the Windley v. McMahan [Informing Poster] TEMP GAIN 76 (8/92) used to notify former and current GAIN Program participants of the Windley settlement.
- (n) "TEMP GAIN 77" means the Windley v. McMahan Review Request Form TEMP GAIN 77 (7/92) provided by counties to potentially eligible persons to use to request to have their case files reviewed.

.3 Informing of Case Review

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TEMP GAIN 63 shall be mailed to all current AFDC and MNO Medi-Cal recipients. TEMP GAIN 76 shall be provided to all colleges, universities, community colleges, child care resource/referral agencies, and legal aid and welfare rights organizations. TEMP GAIN 76 shall be placed in all county welfare offices, GAIN offices and Food Stamp outlets. The TEMP GAIN 77 shall be provided by counties to any person upon request.

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.31 SDSS Responsibilities

SDSS shall:

- .311 Include TEMP GAIN 63 with the Medi-Cal card issued to current AFDC and MNO recipients the month of August 1992.
  - (a) The TEMP GAIN 63 shall be printed in English on one side with bullets in the five standard languages on the other.
- .312 Provide counties with a reproducible copy of TEMP GAIN 77 in English and Spanish with bullets in Vietnamese, Laotian, Chinese and Cambodian.

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- .313 Provide counties with a supply of the TEMP GAIN 76 in English and Spanish with bullets in Vietnamese, Laotian, Chinese and Cambodian.
  - (a) Instructions shall request counties to display the TEMP GAIN 76 from August 1, 1992 through October 30, 1992.
- .314 Provide counties with reproducible copies of NOA messages in English and the five standard languages.
- .315 Mail copies of the TEMP GAIN 76 to legal aid and welfare rights organizations of the plaintiffs' choice.
- .316 Make available \$30,000 for a summary of the court settlement to be published in newspapers or other media of plaintiffs' choice.
  - (a) Announcements and/or news releases shall be provided to the media two weeks before the beginning of the request period and two weeks before end of the period.

.32 County Responsibilities

Counties shall:

- .321 Give or mail a TEMP GAIN 77 to anyone upon request.
  - (a) A TEMP GAIN 77 shall be mailed within seven (7) working days after receipt of verbal or written request.
  - (b) If the request is received the last week of the request period, the county shall advise the requester of the final filing date.
- .322 Place TEMP GAIN 76 in conspicuous locations in all welfare offices, GAIN offices and Food Stamp outlets.
- .323 Issue TEMP GAIN 76 to:
  - (a) All child care resources and referral agencies requesting that the TEMP GAIN 76 be displayed in conspicuous locations.



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.413     Provide to counties additional information, documentation or clarification of the TEMP GAIN 77 upon request.

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- (a)     Examples of types of information or clarification that may be requested or reasons for a request: person's name if different while in GAIN; illegible handwriting; wrong social security number; missing social security number; no county listed.

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.42     County Responsibilities

Counties shall:

- (a)     Stamp the TEMP GAIN 77 with the date it is received.
- (b)     Retain envelopes that are postmarked after October 30, 1992 for all counties except Los Angeles County. Los Angeles County shall retain all envelopes that are postmarked after January 31, 1993 [see Section 50-022.412].
  - (a)     If the date cannot be determined by either postmark or date stamp, use the date the requester signed the TEMP GAIN 77.
- (c)     Issue a NOA (M50-022N Rev. 7/92) within 30 days denying request if request is postmarked after request period [see Section 50-022.534].
- (d)     Maintain all records which contain documentation relative to this court order for three years after the final legal claim has been submitted for federal reimbursement.
  - (a)     Records include, but are not limited to, those used to determine eligibility for the class, including denials, and those used to determine the amount of any corrective over/underpayments.
  - (b)     Records which are pertinent to this court order may include case records, payment records, assistance claims and reimbursement claims.

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- (e) Determine the responsible county.
  - (a) Process the TEMP GAIN 77 within 60 days when the receiving county is the responsible county and the requester is a class member [see Section 50-022.54].
  - (b) Process the TEMP GAIN 77 within 30 days when the receiving county is the responsible county and the requester is not a class member [see Section 50-022.53].
  - (c) If the receiving county determines that the TEMP GAIN 77 has been submitted to the wrong county (county named on TEMP GAIN 77 is not the county which received the request), the receiving county shall issue a NOA (M50-022N Rev. 7/92) denying the request and forward the TEMP GAIN 77 to the responsible county.
    - (1) Preprint on the back of the NOA (M50-022N Rev. 7/92), or attach copy of, the GAIN 50.
    - (2) Forward the TEMP GAIN 77 to the responsible county within 15 calendar days after receipt.
    - (3) Issue a NOA (M50-022N Rev. 7/92) within 30 days. Inform the requester in the NOA that the TEMP GAIN 77 has been forwarded to the responsible county for processing.
    - (4) The date the TEMP GAIN 77 was submitted to the receiving county shall be the date of the request.
  - (d) If the receiving county cannot determine which is the responsible county (no record of the requester having been in the GAIN Program and there is no other county listed on the TEMP GAIN 77), issue a NOA (M50-022N Rev. 7/92) denying the request telling the requester to resubmit the TEMP GAIN 77 to the responsible county.
    - (1) Preprint on the back of the NOA (M50-022N Rev. 7/92), or attach copy of, the GAIN 50.

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- (2) The receiving county shall issue the denial NOA (M50-022N Rev. 7/92) within 30 working days after receipt of request [see Section 50-022.536].
- (3) Receiving county shall inform requester to resubmit the TEMP 77 within the request period or 30 calendar days from the date on the NOA, whichever is longer.

.5 Request Processing

The responsible county shall determine whether the requester is a class member and take appropriate action.

Counties shall:

- .51 Complete processing the TEMP GAIN 77, to the extent possible, without requiring the requester to come in person to the county.
- .52 Review each TEMP GAIN 77 to determine if the requester has provided the information needed in order to locate the appropriate case record [see Section 50-022.425].
  - .521 For the purpose of this determination, the TEMP GAIN 77 shall be considered complete when all of the following questions are completed:
    - (a) Qualifying class member questions.
    - (b) County of residence during retroactive period.
    - (c) Requester's case name during retroactive period.
    - (d) Requester's social security number.
    - (e) Requester's date of birth.
    - (f) Requester's signature.
  - .522 The following information shall be provided in the TEMP GAIN 77 to the extent possible:
    - (a) The approximate date(s) requester participated in the GAIN Program and the action(s) that was taken by the county(ies).

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- (b) Requester's telephone number.
- (c) Requester's current address.

.53 Requester is not a class member.

Issue a NOA (M50-022N Rev. 7/92) within 30 days of the receipt of the TEMP GAIN 77 stating the reason for the action [see Section 50-022.425(b)]. Attach or preprint a GAIN 50 which explains the individuals right to a hearing.

The reasons for denial include, but are not limited to, the following:

- (a) Requester was not in the GAIN Program during the retroactive period; or
- (b) Requester received an adequate written notice and was told of his/her right to a hearing if he/she did not agree with the county's action.
  - (a) Counties shall attach a copy of the original NOA to the denial NOA (M50-022N Rev. 7/92).
- (c) Requester did not receive supportive services during the retroactive period; or
- (d) Requester did not submit TEMP GAIN 77 within request period [see Section 50-022.412(a)]
- (e) Requester did not return NOA (M50-022M Rev. 7/92) within 30 days as requested.
- (f) Requester did not submit TEMP GAIN 77 to the responsible county and the receiving county could not determine from the TEMP GAIN 77 which county was responsible [see Section 50-022.425(d)(1)].

.54 Requester is a class member.

.541 Action taken was correct.

Within 60 days, issue appropriate NOA (M50-022B, C, D, E, F, G, H, J, K, L, or O Rev.'s 7/92) specifying the action, reason for the action and the formula used to arrive at the decision.

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- (a) Preprint on the back of each NOA, or attach a copy of, the GAIN 50.

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- (b) NOAs ending with the number "1" are for the retroactive period of October 12, 1986 through September 30, 1990.
- (c) NOAs ending with the number "2" are for the retroactive period of October 1, 1990 through April 1, 1991 for all counties except Los Angeles County. Los Angeles County will use these NOAs for its retroactive period of October 12, 1986 through November 30, 1992.

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.542 Requester was underpaid.

Within 60 days, issue a NOA (M50-022A Rev. 10/92) explaining the action, the formula used to arrive at the corrective payment and when payment can be expected [see Section 42- 751.11].

- (a) Preprint on the back of NOA (M50-022A Rev. 10/92), or attach a copy of, the GAIN 50.
- (b) If the county has the capability to include the warrant with the NOA, the county shall do so.
  - (1) For the AFDC Program, a corrective underpayment is not to be considered as income or a resource for AFDC grant calculation in the month received and the following month [see Section 44-340.6].
  - (2) For the Food Stamp Program, a corrective underpayment shall be excluded as income for all food stamp households and excluded as a resource for categorically eligible food stamp households as long as they remain eligible for AFDC [Sections 63- 501.3(o) and 63-502.2(j)].
  - (3) Interest shall not be paid on the corrective underpayment.
- (c) The county shall ensure that corrective underpayments for this court order are not considered a part of the AFDC grant calculations even when reported on the monthly reporting document.

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.543 Requester was overpaid.

Within 60 days, issue a NOA (M50-022AA Rev. 8/92) with TEMP GAIN 58 explaining the action, the formula used to arrive at the overpayment and county collection procedures [see Section 42-751.2].

- (a) Preprint on the back of NOA (M50-022AA Rev. 8/92), or attach a copy of, the GAIN 50.
- (b) County shall offset any corrective underpayment against any outstanding recoupable overpayments in accordance with Section 42-751.4.
- (c) For requesters no longer receiving AFDC benefits, counties shall offset the retroactive underpayment for supportive services against any outstanding overpayment in accordance with Section 42-751.5.

.55 Request additional information (NOA M50-022M Rev. 7/92).

.551 Conduct a thorough review of the requester's case file to search for the absence of an adequate written notice or to find evidence of the action referred to by the requester.

- (a) The county shall work with the requester to clarify the action taken by the county.

.552 Attempt to resolve issue(s) by telephone first if the TEMP GAIN 77 is inconsistent with the case record or needs clarification (e.g., name of school or vocational training site, child care provider).

.553 Within 30 days, issue a NOA (M50-022M Rev. 7/92) requesting the documentation, additional information or clarification needed to complete processing request if unable to resolve issue(s) by telephone.

- (a) Preprint on the back of the NOA (M50-022M Rev. 7/92), or attach a copy of, the GAIN 50.
- (b) Requester shall have 30 days from the date of NOA (M50-022M Rev. 7/92) to respond to the request for clarification, additional information or verification.
- (c) If response is not received within the 30 days, request for review of case file shall be denied.

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- .554     Ask the requester to supply documentation when necessary in support of the TEMP GAIN 77 if such documentation is in the requester's possession.
  - (a)     If requester does not have the documentation, ask the requester to sign an ABCDM 228, or the county's equivalent form, to allow the county to obtain documentation on behalf of the requester, or
  - (b)     Inform the requester that if he/she is unable to provide the needed documentation, a declaration signed under penalty of perjury affirming the information shall be accepted in lieu of the documentation, unless there is conflicting evidence in the case record or conflicting information known to the county.
  
- .555     Complete processing TEMP GAIN 77 within 30 days after receiving the additional information, verification, clarification or declaration signed under penalty of perjury from potentially eligible person.
  
- .56     If a TEMP GAIN 77 for a specific action is filed under this court order and a claim for the same action is filed again under a subsequent court order or settlement, only the first request will be processed for the action and any subsequent claims shall be denied.
  
- .6     Statistical Reporting
  - .61     Counties shall submit the GEN 1172 no later than April 1, 1993 to the Statistical Services Bureau.
  - .62     Report shall include the number of:
    - .621     TEMP GAIN 77s counties mailed or handed to potentially eligible persons.
    - .622     TEMP GAIN 77s received by counties to request to have case files reviewed.
    - .623     TEMP GAIN 77s approved as class members.
    - .624     TEMP GAIN 77s denied because:
      - (a)     TEMP GAIN 77 was submitted after the request period.
      - (b)     TEMP GAIN 77 was incomplete and county was unable to get the information needed from requester to complete review of case file.

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- (c) Requester was not a member of the class.
  - (d) County receiving the TEMP GAIN 77 was not the responsible county. Receiving county forwarded TEMP GAIN 77 to the responsible county.
  - (e) County receiving the TEMP GAIN 77 was not the responsible county. Receiving county could not determine the responsible county.
  - (f) Other denials.
- .625 Total corrective overpayments identified.
- (a) Total corrective overpayment amount.
- .626 Total corrective underpayments paid.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11328.2, Welfare and Institutions Code; 45 CFR 205.10; and Windley v. McMahon, Sacramento County Superior Court, Case No. 362761.