

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



March 22, 1989

ALL-COUNTY INFORMATION NOTICE NO. I-23-89

FSDIN I-4-89

TO: ALL COUNTY DISTRICT ATTORNEYS
ALL TITLE IV-D AGENCIES
ALL COUNTY WELFARE DIRECTORS
ALL COUNTY FISCAL OFFICERS

SUBJECT: CHILD SUPPORT PROGRAM POLICIES - HOMELESS
ASSISTANCE CASES, ANNUAL NOTICE OF ASSIGNED
COLLECTIONS, AND THE \$50 DISREGARD PAYMENT

REFERENCE: FSD LETTERS 86-3, 86-40 and 89-5
FSD INFORMATION LETTER I-31-88
ACL 88-125

This is to provide Counties with clarification on Child/Spousal Support Program policies on the subjects of Homeless Assistance Cases, Annual Notices of Assigned Collections and Disregard in Wage Assignment Cases. For your convenience, we have enclosed pertinent updates to the Child/Spousal Support Program Policy Handbook which was issued via FSD Letter No. 86-40, dated December 10, 1986, and the draft Manual of Policies and Procedures (MPP), Division 25, Section 905.323, issued via FSDIN I-31-88/ACIN I-100-88, dated September 30, 1988.

Homeless Assistance Cases

The Homeless Assistance Program has been approved under the California Title IV-A State Plan and the funding source is non-recurring special needs (Eligibility and Assistance Standards (EAS), Division 44, Section 211). Under the Homeless Assistance Program, non-recurring special needs payments are used to provide homeless families seeking permanent housing with assistance for temporary and/or permanent shelter. Effective February 1, 1988, homeless families with apparent eligibility for AFDC which are seeking permanent housing could be paid temporary shelter assistance payments of \$30 a day; the payment for families with over 4 persons may be higher than \$30 a day. Temporary shelter payments are limited to 21 days (28 when good cause is established) for one incidence of homelessness in a consecutive 12-month period. In addition, permanent housing funds can also

be made in the form of security and utility deposits. The payments can be paid directly to the homeless or to a third party on behalf of the homeless. When non-recurring special needs payments are made, all normal Aid to Families with Dependent Children (AFDC) referral, reimbursement and distribution provisions apply. We have, therefore, enclosed an update to the Child/Spousal Support Program Policy Handbook, Chapter L, Subject 11, Special Needs Payments, which references Homeless Assistance Cases.

Annual Notice of Assigned Collections

FSD Letter 89-5, dated February 8, 1989 provided Counties with clarification concerning the requirements of the annual notice of assigned collections effective with the annual notice for State Fiscal Year 1988/89. Enclosed is an update to the Child/Spousal Support Program Policy Handbook, Chapter L, Subject 13, Annual Notice of Assigned Collections.

\$50 Disregard Payment

Action Transmittal 88-17 (attached) dated November 18, 1988, transmitted to State IV-D Agencies advance notice that changes in the Family Support Act of 1988 (HR 1720) affect distribution of child/spousal support collections by wages withheld by employers. The attached Federal Policy states that effective January 1, 1989 Title IV-D Agencies should treat absent parent support payments withheld by employers in one month and transmitted to the Title IV-D Agency in a later month as a support payment collected for the month that the wages were withheld by the employer. This clarification is the result of inconsistent treatment by State IV-D Agencies which may have disadvantaged some AFDC recipients with respect to their entitlement to the first \$50 of current support payment collected (i.e., disregard). This should not, however, significantly impact California Counties because it has been the State's policy since January 1986 (FSD Letter 86-3, dated January 17, 1986) to treat wages withheld by employers monthly, and transmitted to County IV-D Agencies quarterly, as separate "current" support payments so that the recipient would be entitled to disregard payments for each month that the wages were withheld from the absent parent's salary.

Also, the Act clarifies that the first \$50 of a child support payment received in a month which was due for a prior month, must be paid to the family if the payment was made to the collection point in the month when due.

This is consistent with present law based on the 1984 Deficit Reduction Act (DEFRA) which defined "date of collection" as the date a payment is received by the IV-D Agency or the legal entity of the State or political subdivision actually making the collection, whichever is earliest. This means that, except for support payments collected by employers through wage withholding, the "date of collection" is defined as follows:

- Intracounty collections (collections made by your County, for your County) the date of collection is the date that your County receives the money. If your County, however, has contracted with another County agency to perform the collection function (i.e., the Probation Department, County Auditor, etc.) the collection date is the date that the money is received by the contracted agency.
- Intercounty collections (support payments made by another California County for your County) the receipt date is the date that the responding County first received the payment before forwarding to the initiating County.
- Interstate collections (payments made by another State IV-D agency for your County) the receipt date is the date that the other State IV-D Agency initially collected the payment.

This provision applies to both welfare and non-welfare child/spousal support collections.

The "date of collection" definition was issued in joint FSD Letter 88-13/All-County Letter 88-125 dated December 22, 1988.

Counties are instructed to continue to apply instructions provided in FSD Letter 86-3 and ACL 88-125/FSD Letter 88-13. These clarifications also apply to current IV-A State regulations located in: MPP 42-213.2(k), MPP 43-201.3, MPP 43-203.1, MPP 44-111.47 and MPP 44-207.211(b).

If you have any questions, please contact your Child Support Operations Bureau analyst at (916) 322-6384.


 ROBERT HOREL
 Deputy Director
 Welfare Program Division

Enclosures

CHAPTER L: COLLECTION/DISTRIBUTION

1. Reimbursement of State Agency in Initial Month of Ineligibility for AFDC
2. Spousal Support
3. Treatment of Social Security and Railroad Retirement Benefits as Child Support
4. Treatment of Support Payments Received by Applicants and Recipients
 - (a) Retained Payments
 - (b) Payments Turned Over to the County
5. Ten Percent Interest on Arrears
6. Processing Undistributed Collections When Aid is Terminated
7. Distribution of Support Collections in Multiple Absent Parent Cases
8. Distribution - Multiple Court Orders
9. Application of Child Support Arrearage Collections
10. Future Payments in Non-AFDC Cases
11. Special Needs Payments/Homeless Assistance Program
12. Disregard
 - (a) Eligibility Criteria
 - (b) Direct Payments
 - (c) Transmitting Disregard Payment Information to IV-A
 - (d) Disregard Calculation in Wage Assignment
13. Annual Notice of Assigned Collections
14. Priorities for Disbursement of Support Collections
15. Excess in Cases With No Unreimbursed Assistance
16. Foster Care Trust Funds

CHAPTER L: Collection/Distribution
SUBJECT 11: Special Needs Payments/Homeless Assistance Program
REFERENCE: FSDIN I- 4-89

Under EAS Manual Section 44-211 a recipient may receive a "special needs" AFDC payment. This special needs payment is considered part of the AFDC grant and therefore would be included in the unreimbursed assistance pool. Normal distribution and referral criteria are applicable.

The Homeless Assistance Program has been approved under the State's Title IV-A plan and the assistance payment funding source is non-recurring special needs. All normal distribution and referral apply.

CHAPTER L: Collection/Distribution
SUBJECT 13: Annual Notice of Assigned Collections
REFERENCE: FSD LETTERS 85-59, 89-5

Effective October 1, 1985, the IV-D Agency must, at least annually, notify individuals who have assigned rights to support (under 45 CFR 232.11) of the amount of assigned collections made on their behalf. The notice must provide:

1. the amount of assigned collections made during the past year;
2. separation of payments collected from each obligor, in multiple absent parent cases; and,
3. the amount of support collected that was paid to the family.

Federal regulation is specific that the notice applies only to assigned collections. Therefore, should a current non-AFDC case also have an assigned arrearage balance or a reimbursement order, only those collections applied to the assignment would be reported to the complaining witness. Since non-AFDC collections are forwarded to the applicant there is no need or requirement to readvise them of the collections made, except for any portion applied to the assigned balance.

Effective with the annual notice for State Fiscal Year 1988/89 the following requirements apply:

Current AFDC Recipients:

A written notice must be sent on or before September 30 of each year to all current AFDC recipients (i.e., AFDC recipients receiving grant payments as of the day the annual notices are prepared) who have assigned rights to support under 45 CFR 232.11 including those cases where no collections were made. Notices must also be sent in cases where there is an agreement for voluntary support. If there is neither a support order nor an agreement for voluntary support, Counties are not required to send a notice.

Former AFDC Recipients:

A written notice must be sent on or before September 30 of each year to former AFDC recipients that continue receiving Title IV-D services, and for whom an assigned collection was made. Unlike current AFDC recipients, former recipients need only be sent a notice if an assigned support payment was actually collected during the year and only if they continue to receive IV-D non-AFDC services. Per Federal policy instructions, these cases need not be sent a notice of zero collection. Former recipients who are no longer receiving IV-D services as of the date of the notice need not be sent the annual notice whether or not an assigned collection was made during the year.

In all cases requiring a notice the following information must be provided:

- The total amount of assigned support collected or zero, if applicable, during the prior fiscal year.
- The total amount of support collected that was paid to the family or zero, if applicable, during the prior fiscal year (i.e., pass-on, excess and/or disregard payments).
- In multiple absent parent cases, the notice must separately list payments or zero, if applicable, collected from each absent parent.

Counties may provide the affected custodial parents with the total amount of support recovered or zero, if applicable, during the past fiscal year which was applied to recover aid paid to the AFDC family (i.e., recoupment).

The information needed to prepare the annual notice may be obtained from the CS 278L, Child and Spousal Support Case History and List of Authorizations available in the IV-D Distribution Unit.

The above requirements represent the mandatory minimum requirements for the annual notice of collection of assigned support. If the workload is less burdensome, Counties may elect to send the required information on the notice to all AFDC and former AFDC recipients rather than tracking those specific cases described above.



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF CHILD SUPPORT ENFORCEMENT
Office of the Director, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

LEGISLATION

ACTION TRANSMITTAL
OCSE-AT-88-17
November 18, 1988

TO: STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT PLANS UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS

SUBJECT: Family Support Act of 1988 - Provisions regarding the \$50 Disregard Payment, Establishment of Paternity Until the Child's 18th Birthday, and 90 Percent Federal Financial Participation for Laboratory Costs in Establishing Paternity.

BACKGROUND: On October 13, 1988, the President signed into law the Family Support Act of 1988 (Pub. L. 100-485) which makes several changes that affect the Child Support Enforcement program under title IV-D of the Social Security Act (the Act). We are issuing this action transmittal to notify States that three changes to Federal law under title IV-D either have retroactive effect or have an imminent upcoming effective date. Proposed regulations implementing these statutory changes are under development and will be published for comment, but the statute is effective as of the dates noted below.

CONTENTS: \$50 Disregard Payment. Section 2640 of the Deficit Reduction Act (Pub. L. 98-369) amended section 457(b)(1) of the Act to require States to pay the first \$50 of such amounts collected periodically which represent the monthly support obligation to the AFDC family. The statute also amended section 402(a)(8)(A)(vi) of the Act to require States to disregard "the first \$50 of any child support payments received in such month" when determining AFDC eligibility and the amount of the AFDC payment. These changes resulted in AFDC families having up to \$50 of additional disposable income each month.

Section 102 of the Family Support Act of 1988, effective January 1, 1989, amended sections 402(a)(8)(A)(vi) and 457(b)(1) of the Act to clarify that the first \$50 received in a month

which was due for a prior month must be paid to the family if the payment was made by the absent parent in the month when due. Under the new law, the AFDC family may not be denied the \$50 disregard payment when the absent parent pays support on-time but there is a delay in transmitting the payment from the point of collection to the agency responsible for distribution. This is consistent with regulations published in the Federal Register on June 9, 1988 (see OCSE-AT-88-11 dated July 1, 1988). The Family Support Act of 1988 also makes significant changes to the Act affecting requirements for wage withholding. Immediate wage withholding is required in new orders, issued or modified on or after November 1, 1990, and other changes are made which will ensure wage withholding applies in a majority of cases in the future. We believe that under the new law the \$50 disregard also applies in any case in which an absent parent's child support payment is irrevocably withheld from his or her wages in the month in which the payment was due. In other words, if an employer withholds child support in the month the support was due and subsequently pays that support to the IV-D agency in a later month, the \$50 disregard must be credited for the period during which the withholding actually occurred. States may be required to notify employers in existing wage withholding cases of the requirement that they identify the date of the income withholding after January 1, 1989.

Establishment of Paternity Until a Child's 18th Birthday. Pub. L. 98-378, the Child Support Enforcement Amendments of 1984, added section 466(a)(5) of the Act to require States to have in effect and have implemented laws and procedures for the establishment of paternity for any child at any time prior to the child's 18th birthday.

Section 111 of the Family Support Act of 1988, effective October 13, 1988, amended section 466(a)(5) of the Act to clarify that, effective August 16, 1984, the date the Child Support Enforcement Amendments were signed into law, the requirement to have in effect laws and have implemented procedures to establish the paternity of any child at any time prior to the child's 18th birthday applies to: (1) any child for whom paternity

has not yet been established; and (2) any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was in effect in the State.

90 Percent FFP for Laboratory Costs to Establish Paternity. Prior to the enactment of the Family Support Act of 1988, section 455(a) (1) of the Act made Federal Financial Participation (FFP) available at the 68 percent rate for the cost of establishing paternity, including costs for laboratory testing.

Section 112 of the Family Support Act of 1988, effective October 1, 1988, amended section 455(a)(1) of the Act to make FFP available at the 90 percent rate for the costs of laboratory testing related to the establishment of paternity.

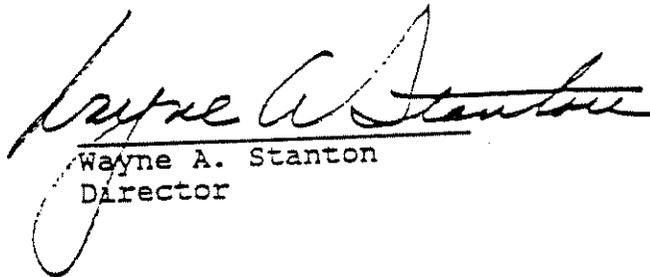
ATTACHMENT:

Copies of section 102, relevant portions of section 111, and section 112 of the Family Support Act of 1988.

EFFECTIVE
DATES:

January 1, 1989 for the \$50 disregard payment. August 16, 1984 for the establishment of paternity prior to the child's 18th birthday. October 1, 1988 for 90 percent FFP for laboratory testing related to establishing paternity.

INQUIRIES TO: OCSE Regional Representatives.



Wayne A. Stanton
Director

SEC. 102. DEREGARD APPLICABLE TO TIMELY CHILD SUPPORT PAYMENTS.

(a) **IN GENERAL.**—Section 402(a)(8)(A)(vi) of the Social Security Act is amended by striking “of any child support payments received in such month” and inserting in lieu thereof “of any child support payments for such month received in that month, and the first \$50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due.”

(b) **CONFORMING AMENDMENT.**—Section 457(b)(1) of such Act is amended by striking “the first \$50 of such amounts as are collected periodically which represent monthly support payments” and inserting in lieu thereof “of such amounts as are collected periodically which represent monthly support payments, the first \$50 of any payments for a month received in that month, and the first \$50 of payments for each prior month received in that month which were made by the absent parent in the month when due.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall become effective on the first day of the first calendar quarter which begins after the date of the enactment of this Act.

SEC. 111. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.

(e) **REQUIREMENT TO PERMIT PATERNITY ESTABLISHMENT FOR CHILD UNDER 18.**—Section 466(a)(5)(A) of such Act (as so designated by subsection (b) of this section) is amended—

(1) by inserting “(i)” before “(A)”; and

(2) by inserting at the end the following new clause:

“(i) As of August 16, 1984, the requirement of clause (i) shall also apply to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.”

(f) **EFFECTIVE DATE; IMPLEMENTATION.**—(1) The amendments made by subsection (e) shall become effective on the date of the enactment of this Act.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) **INCREASED PAYMENTS TO STATES.**—Section 455(a)(1) of the Social Security Act is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof “, and”; and

(3) by adding at the end the following new subparagraph:

“(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to laboratory costs incurred on or after October 1, 1988

68, HV 54 6 8

GINERMAN'S
S S C S
SERVICES