

## DEPARTMENT OF BENEFIT PAYMENTS



June 17, 1974

ALL-COUNTY LETTER NO. 74-109

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: CWRO v. BRIAN

REFERENCE:

New regulations have been filed which revise EAS § 44-115 to provide that an unborn child is to be treated as any other person for purposes of computing aid, and no reduction shall be made for in-kind income attributable to needs of the unborn child which are supplied by the mother's body. An advance copy of these regulations is attached.

The regulations have been adopted on an emergency basis to comply with a Writ of Mandate issued by the Supreme Court of the State of California in CWRO v. BRIAN which invalidated EAS § 44-115.95. Effective June 1, 1974 an unborn child shall be treated the same as a born child for purposes of eligibility and grant computation. Supplemental aid payments shall be made as soon as administratively feasible retroactive to June 1, 1974.

The opinion of the Supreme Court and these regulations do not in any way prohibit application of other in-kind income regulations in appropriate AFDC cases which include unborn children.

Appropriate regulation revisions will be issued shortly to manual holders.

Sincerely,

Handwritten signature of David B. Swoap in cursive.

DAVID B. SWOAP  
Director

Attachment

cc: CWDA

GEN 654 (2/74)

**OBSOLETE**

Superseded by

AC L #77-15

Issued

3-17-77

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

44-115 EVALUATION OF INCOME IN KIND

44-115

AFDC  
APSB

When a need item is earned or is contributed in kind, the income value placed upon such earnings, contributions, etc., is the amount included for the item in the standard of assistance for the aid programs involved (see Determination of Need chapter), subject to the limitations set forth in .1 through .9 below.

An unborn child is to be treated as any other person for purposes of computing aid, and no reduction shall be made for in kind income attributable to needs of the unborn child which are supplied by the mother's body.

44-115 EVALUATION OF INCOME IN KIND (Continued)

44-115

AFDC

.62 Minor Residing with Parent(s)

.621 When the FBU consists of a minor parent and her children residing with her parent(s), in-kind values for housing, utilities, food and clothing for the minor parent shall be deducted as in-kind income, provided that her parent(s) are providing all or some of these needs. Additional in-kind deductions shall be made for other children in accordance with Section 44-115.61.

The following section is to be repealed effective immediately upon filing with the Secretary of State:

44-115.95 Unborn Child Included in the FBU

DO NOT WRITE IN THIS SPACE