

DEPARTMENT OF BENEFIT PAYMENTS



August 8, 1974

ALL-COUNTY LETTER NO. 74-157

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Eligibility for Homemaker-Chore Services
(Guerard, et al. v. Jenkins, et al., Civil S74-366)

REFERENCE:

Yesterday this Department and the Department of Health sent a telegram informing all counties of the contents of the temporary restraining order issued in the subject lawsuit. It read as follows:

"This is to advise you of a temporary restraining order that was issued August 6, 1974, by the U. S. District Court, E.D. California, which applies to Maria Guerard and the class of persons in California who meet all of the following conditions: (a) received in December 1973, a payment for attendant care or homemaker-chore services; (b) did not receive a payment for their other basic needs; and (c) whose attendant care or homemaker-chore services special needs grants have been terminated or reduced, because they had a spouse with income, because of the application of EAS sections 46-300 et seq. A copy of the order is being mailed to each county.

"The order temporarily prohibits the use of EAS 46-300 et seq. for determining the eligibility of such individuals. You are instructed to apply EAS 44-131 and 43-109.31 as in effect in June 1973, for all above described individuals who make a request for an eligibility redetermination and for purposes of determining the amount of such persons attendant care or homemaker-chore services.

OBSOLETE

Superseded by ACL #77-15

Issued 317-77

ALL COUNTY WELFARE DIRECTORS

Page Two

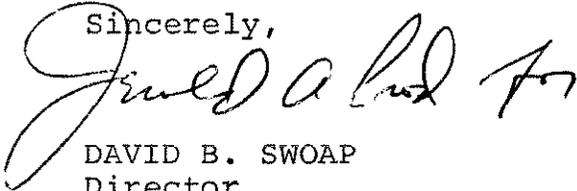
August 8, 1974

"This order is effective immediately. No retroactive payments shall, however, be made prior to date of request for redetermination and in no case prior to August 6, 1974. A hearing on whether a preliminary injunction should issue will be held in late October 1974, and you will be advised of the results of that hearing.

"Any persons who, because of this order, are also eligible for Medi-Cal, shall be issued emergency cards until you receive notification otherwise from the department(s)."

Enclosed you will find your copy of that court order.

Sincerely,



DAVID B. SWOAP
Director

JEROLD PROD
CHIEF DEPUTY DIRECTOR

Enclosure

TELETYPE

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... ..

1 VICTORIA J. DE COFF
RALPH SANTIAGO ABASCAL
2 JAY-ALLEN EISEN
San Francisco Neighborhood
3 Legal Assistance Foundation
1095 Market Street, Suite 302
4 San Francisco, California 94103
Telephone: [415] 626-3811

5 PHILIP NEUMARK
6 Senior Citizens' Office of
California Rural Legal
7 Assistance
942 Market Street, Suite 606
8 San Francisco, California 94102
Telephone: [415] 989-3966

9 ROBERT VALENCIA
10 KATHY SUE KROHN
Berkeley Neighborhood
11 Legal Services
1810 Sixth Street
12 Berkeley, California 94710
Telephone: [415] 841-9274

13 Attorneys for Plaintiffs

14
15 IN THE UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA

17 MARIA GUERARD, an individual, on behalf)
of herself and all similarly situated persons;)
18 CALIFORNIA LEGISLATIVE COUNCIL FOR)
OLDER AMERICANS, an unincorporated)
association; EDWARD L. PEET, as Chairman,)
19 California Legislative Council for Older Ameri-)
cans; DISABLED AND BLIND ACTION COM-)
20 MITTEE OF CALIFORNIA, an unincorporated)
association; EDWARD ROBERTS, as Chairman,)
21 Disabled and Blind Action Committee of California,)

22 Plaintiffs,)

23 vs.)

24 JAMES JENKINS, as Secretary of Health and)
Welfare Agency, State of California; DAVID B.)
25 SWOAP, as Director, Department of Benefit)
Payments, State of California; WILLIAM MAYER,)
26 M.D., as Director, Department of Health, State)
of California,)

27 Defendants.)
28)

ORIGINAL
FILED

AUG 6 - 1974

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY _____
DEPUTY CLERK

No. Civ. S 74-366

TEMPORARY
RESTRAINING ORDER
AND STIPULATION

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1 the defendants or their agents, eligibility for special need
2 attendant care or homemaker-chore services grants and for
3 determining the amounts of such grants, the regulations set
4 forth in the Manual of Policies and Procedures Eligibility and
5 Assistance Standards sections 44-131 and 43-109.31 as in effect
6 in June, 1973.

7 3. As used above in sections 1. and 2. of this paragraph,
8 the term "member of the class" means any person in California:
9 (a) who would have received or did receive in December, 1973, a
10 payment for attendant care or homemaker-chore services special
11 needs under the California state plan approved under title I,
12 X or XIV of the Social Security Act, in accordance with the terms
13 and conditions of such plan relating to eligibility for and amount
14 of such payment payable thereunder which were in effect for the
15 month of June 1973; (b) who did not receive payment for their
16 basic needs; and (c) whose attendant care or homemaker-chore
17 special needs grants have been terminated or reduced because they
18 have a spouse with income, pursuant to application of State
19 Department of Benefit Payment Manual of Policies and Procedures
20 Eligibility and Assistance Standards sections 46-300 et. seq.

21 4. IT IS FURTHER ORDERED upon stipulation by the parties
22 herein that this temporary restraining order shall expire on
23 October 22, 1974, at 5:00 p.m.

24 5. IT IS FURTHER ORDERED that no bond will be required of
25 the plaintiffs in this matter at this time.

26 6. IT IS FURTHER ORDERED that a copy of this order, the
27 verified complaint, the exhibits and affidavits, the memorandum
28 of points and authorities in support thereof and all other
29 papers filed herein, be served upon the defendants on or before
30 August 9, 1974.

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1 Upon consideration of the verified complaint filed herein,
2 the exhibits and affidavits of the plaintiffs on file with
3 this Court, and the Memorandum of Points and Authorities, and it
4 appearing that the defendants and their agents will continue
5 to apply the regulations set forth in State Department of
6 Benefit Payments Manual of Policies and Procedures Eligibility
7 and Assistance Standards sections 46-300 et. seq. to the
8 plaintiffs and the class they represent, thereby depriving them
9 of essential special need grant payments and categorical
10 Medi-Cal benefits and by so doing cause immediate and irreparable
11 injury to their health:

12 NOW, THEREFORE, IT IS HEREBY ORDERED that defendants JAMES
13 JENKINS, DAVID B. SWOAP and WILLIAM MAYER, M.D., their agents
14 and employees, and all persons acting in concert with them, and
15 each of them, be and they are hereby:

16 1. temporarily restrained, so long as the State of California
17 accepts reimbursement under title XIX, 42 U.S.C. sections 1396
18 et. seq. from the United States Department of Health, Education
19 and Welfare, from applying, for the purpose of determining
20 plaintiff Guerard's and any other member of the class as defined
21 in 3. below who makes an affirmative request of the defendants or
22 their agents, eligibility for special need attendant care or
23 homemaker-chore services grants and for determining the amounts of
24 such grants, the regulations set forth in State Department of
25 Benefit Payments Manual of Policies and Procedures Eligibility
26 and Assistance Standards sections 46-300 et. seq.

27 2. temporarily restrained, so long as the State of California
28 accepts reimbursement under title XIX, 42 U.S.C. sections 1396
29 et. seq. from the United States Department of Health, Education
30 and Welfare, from failing or refusing to apply, for the purpose
31 of determining plaintiff Guerard's and any other member of the
32 class as defined in 3. below who makes an affirmative request of

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Dated this 6 day of August, 1974, at Sacramento,
California.

PHILIP C. WILKINS
UNITED STATES DISTRICT JUDGE

STIPULATION

IT IS HEREBY STIPULATED by and between the parties in the
above captioned matter pursuant to Rule 65(b) of the Federal
Rules of Civil Procedure that the temporary restraining order
issued in this matter on August 6, 1974, shall remain in effect
and shall not expire until 5:00 p.m., October 22, 1974.

August 6, 1974 by

ESJ
EVELLE J. YOUNGER
by Derry L. Knight
Deputy Attorney General
Attorney for Defendants

August 6, 1974 by

PS
PHILIP NEUMARK

PS
VICTORIA J. De GOFF
Attorneys for Plaintiffs

Approved:

August 6, 1974

PHILIP C. WILKINS
UNITED STATES DISTRICT JUDGE