

**DEPARTMENT OF BENEFIT PAYMENTS**744 P Street  
Sacramento, CA 95818

August 15, 1974

ALL-COUNTY LETTER NO. 74-162

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Disabled and Blind Action Committee v. Jenkins

REFERENCE:

On August 6, 1974, the Third District Court of Appeal issued an Order to Show Cause and Temporary Stay Order in the case of Disabled and Blind Action Committee v. Jenkins. A copy of this order is attached for your information. The Disabled and Blind Action Committee case involves the issue of whether the Department of Health or the Department of Benefit Payments is required to disregard the income of an ineligible spouse in determining eligibility for homemaker/chore services. As you will note, the Stay Order issued by the Court of Appeal requires that pending fair hearings involving this issue be stayed and that aid paid pending be provided to fair hearing claimants.

Until further notice, you are instructed to pay aid pending fair hearing decisions to all former attendant care recipients or homemaker/chore services recipients whose benefit levels were reduced or terminated as a result of ineligible spouse income deemed to be available to them pursuant to EAS § 46-310.271. Such payments must be made without regard to whether such individuals requested fair hearings within the ten-day period provided in MPP § 22-022.4. However, the claimant must have a fair hearing request now pending in order to be entitled to relief under the Court's order.

You are required to identify all pending fair hearings which involve reduction or termination of homemaker/chore services due to ineligible spouse income and to provide assistance at the level existing immediately prior to the notice of action to the claimants in each of these cases.

**OBSOLETE**

Superseded by

OC # 77-15

Issued

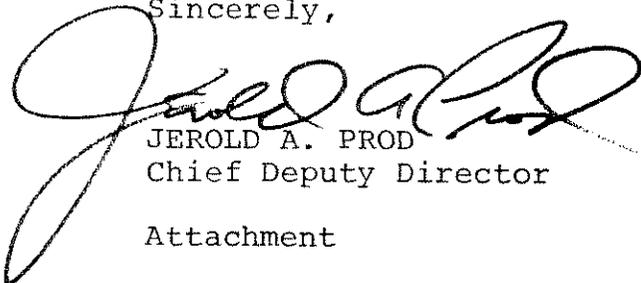
3-17-77

ALL COUNTY WELFARE DIRECTORS  
Page Two

The Court order is effective August 7, 1974 and all necessary restorations of aid paid pending should be made as of that date. The Court order does not require that any aid pending be provided retroactively prior to August 7, 1974.

You should be aware that any pending fair hearing matters, involving the above-described issue and not yet heard, will be postponed as soon as the issue can be ascertained. Thus, if a termination or reduction of homemaker/chore services as a result of ineligible spouse income is an issue in any upcoming fair hearings, extensive preparation would seem unnecessary at this time. However, you should continue to attend all fair hearings regardless of the issue involved.

Sincerely,



JEROLD A. PROD  
Chief Deputy Director

Attachment

cc: CWDA

31 1974

prod

IN THE  
Court of Appeal of the State of California  
IN AND FOR THE  
THIRD APPELLATE DISTRICT

DISABLED AND BLIND ACTION COMMITTEE

v.

3 Civil 14682

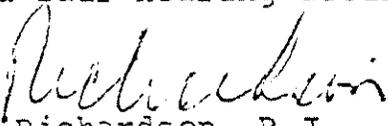
JAMES E. JENKINS

By the Court:

Let an order to show cause issue returnable before this court on Wednesday, October 16, 1974, at 9:30 A.M. The written return is to be served and filed by August 26, 1974. Petitioners' replication, if any, is to be served and filed by September 12, 1974.

It is further ordered pending further order of this court, that respondents (1) Stay further administrative fair hearing proceedings requested by petitioners Gordon and Jones, and all others similarly situated who have made or will make timely requests therefor seeking continuation of aid or services at the former level pending the issuance of the fair hearing decision; and (2) Continue such aid or services at former levels and stay reduction of aid and services benefit levels to petitioner Randash and all others similarly situated whose benefit levels were or will be reduced or terminated, and who have not been granted aid paid pending a fair hearing decision.

Dated: August 6, 1974

  
Richardson, P.J.

(Justice Paras voted to deny the stay.)

cc-Attorney General

John J. Klee, Jr., Deputy  
350 McAllister St., Room 6000  
San Francisco, Calif.

cc-Ralph Santiago Abascal, Jay-Allen Eisen,

Sharon J. Golub, Victoria J. DeGoff  
David Chavkin  
San Francisco Neighborhood Legal Assistance  
1095 Market St.  
San Francisco, Calif.

cc-Carmen Massey

Contra Costa Legal Services  
P. O. Box 1669  
Richmond, Calif.

FILED

AUG 6 - 1974

COURT OF APPEAL — THIRD DISTRICT  
WILFRIED J. KRAMER, Clerk

by  Deputy