

DEPARTMENT OF BENEFIT PAYMENTS
744 P Street, Sacramento, CA 95814



January 21, 1976

ALL-COUNTY LETTER NO. 76-12

TO: ALL COUNTY WELFARE DIRECTORS

OBSOLETE

SUBJECT:

REFERENCE:

Superseded by ACL # 77-15
Issued 3-17-77

As a result of the many inquiries from counties, we are setting forth the following information regarding the Notices of Intended Action (ABCD 239):

1. The identity of those ABCD 239 forms currently available for county use,
2. A brief description of the circumstances under which the ABCD 239 A and ABCD 239 B forms apply,
3. A proposed new ABCD 239 form (Demand Notice) which soon will be available for county use, and
4. The general regulatory and policy considerations applied when a county requests permission to amend an existing form, when a county proposes the development of a new form, or when a county seeks approval to print its own series of Notices of Intended Action.

Existing ABCD 239 Forms

ABCD 239 A (1/75) (Aid Pending)

ABCD 239 B (3/75) (No Aid Pending)

ABCD 239.1 (6/75) Increased Income (Unearned) (Decrease)

ABCD 239.2 (6/75) Decreased or Increased Income (Earned) (Decrease or Increase)

ABCD 239.3 (1/75) Increased Income (Discontinuance)

ABCD 239.4 (5/75) Stepfather (Decrease)

GEN 654 (2/75)

ABCD 239.5 (1/75) Stepfather (Discontinuance)

ABCD 239.6 (1/75) Eligible Child Left Home (Decrease)

ABCD 239.7 (1/75) Father Fully Employed (Discontinuance)

ABCD 239.8 (1/75) No Longer an Eligible Child In Home (Discontinuance)

ABCD 239.9 (1/75) Refused Suitable Employment (Discontinuance)

ABCD 239.10 (1/75) Failure to Provide Information (Discontinuance)

ABCD 239.10(X) (5/75) Failure to Provide Information (Discontinuance)

ABCD 239.10(Y) (1/75) Failure to Provide Information (Discontinuance)

ABCD 239.14 (1/75) Overpayment Adjustment (Did Not Meet Reporting Responsibility) (Decrease)

ABCD 239.15 (1/75) Overpayment Adjustment (Did Meet Reporting Responsibility) (Decrease)

ABCD 239.16 (1/75) Income Exceeds Needs (Termination)

Of the above forms, the ABCD 239 A, ABCD 239 B and the ABCD 239.10(Y) must be modified somewhat before use by the counties. On the ABCD 239 A, the provision "Although your application for assistance..." must be deleted (see attachment). On the ABCD 239 B, the provision "Although your grant is being discontinued..." must be deleted (see attachment). And the ABCD 239.10(Y) must be modified by changing the EAS Manual citation from 44-351.71 to 44-315.71 (see attachment).

We have taken steps to update the above ABCD 239s, however, the new forms will not be available for a couple of months. We will advise you when the revised forms are ready for distribution.

The ABCD 239 A and ABCD 239 B

As you know, these two forms are blank and are intended to give counties some flexibility in giving notice of a proposed county action which is not covered by the other ABCD 239 form series.

The ABCD 239 A should be used in those circumstances where the proposed county action would decrease, suspend, withhold, or terminate a recipient's assistance and no specific 239 is applicable. For example, if a county proposed to discontinue a recipient's aid because the county has obtained evidence that the claimant has been absent from the state for 30 days or longer and upon inquiry has obtained no response from the claimant for over 30 days, then the county would use the ABCD 239 A to notify the claimant of its proposed action. It would be incumbent upon the county to specify the reasons for discontinuance and specifically cite the appropriate regulatory authority. (In this case, MPP Sections 42-403.1, 42-504.2, 42-406.1 and 42-407.21 would suffice.)

The ABCD 239 B should be used where the county's proposed action would affect the claimant in the denial or granting of his application for assistance or where the county was demanding repayment for a previously established willful overpayment. In other words, the proposed action affects the claimant only in those instances where initial eligibility has or has not been granted or where the county proposes to take some action which does not affect the claimant's continuing grant level or provision of services.

New ABCD 239 Form

The ABCD 239.26 is in the process of being developed to enable counties to use a standardized form when demanding repayment for a willful overpayment. This form should be ready for distribution sometime in April 1976. During the interim, we are instructing counties to use the ABCD 239 B Form and to employ the language of Fiscal Manual Section 25-460.4 as a guide. The county should cite MPP Sections 20-021.2, 44-335.13 and 44-335.23 as authority for the demand.

Policy with Regard to Notice Forms

In Wheeler v. Montgomery, the court held that the Director of Department of Benefit Payments is responsible for insuring that all notices of proposed action conform to the procedural requirements of due process of law. The language contained in MPP Section 22-021.2 alludes to that responsibility, and this language was approved by the Wheeler court.

In light of the above, our position with regard to amending existing forms or developing new forms has been to apply a simple test to the suggestion. This test is:

Does the suggestion lend itself to a statewide application and are we convinced that the notice requirements of procedural due process are met when the form is sent to the intended recipient, the claimant?

If the suggestion passes this test, appropriate action is taken to amend the existing form or develop a new form.

When a county requests permission to print its own notice series, we apply the following test:

Do the county forms essentially comply with the notices provided by this Department and if so, is there a commitment from the county to request approval from this Department when it proposes to amend its forms or develop new ones later to complement the series?

If the county's forms meet this test and the associated commitment, approval is given by this Department.

I hope the information in this letter serves the purpose of enlightening you further on the general area of ABCD 239 forms. If you have any questions about the information cited herein, or you have any future questions concerning ABCD 239 forms in general, you may direct your inquires to Robin J. Dezember, Chief Referee, at (916) 322-2797 or ATSS 492-2797.

Sincerely,



MARION J. WOODS
Director

Attachment

cc: CWDA

**NOTICE OF INTENDED ACTION AND
RIGHT TO REQUEST A FAIR HEARING**

		State No.:
		District:
		Date:
		Case No.:

~~Although your application for assistance has been denied, you and your family may be eligible to receive family planning services if you contact the county welfare department and request these services within three months of the date of this notice.~~

Although your grant is being discontinued, you and your family may be eligible to receive family planning services if you contact the county welfare department and request these services within three months of the date of this notice.

This action is required by the following laws and/or regulations:

If you feel your grant should not be changed, please contact _____
ELIGIBILITY WORKER TELEPHONE NO.

IF YOU BELIEVE THIS ACTION IS WRONG, YOUR AID MAY CONTINUE IF YOU ASK FOR A FAIR HEARING WITHIN 10 DAYS OF THE DATE OF THIS NOTICE (SEE REVERSE).

DO NOT CUT OR TEAR - SEND THIS ENTIRE PAGE

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1. You have the right to a conference with representatives of the county welfare department to talk about this intended action. At the conference, you may speak for yourself or be represented by a lawyer, a friend or other spokesman. If you want a conference, contact your county worker within 10 days of the date of this notice.
2. Whether you request a conference or not, you also have the right to request a Fair Hearing and decision by the Director of the Department of Benefit Payments (see form below). Your request must be written and must state that you want a hearing and why you are dissatisfied. Your request for a hearing must be made within 90 days of the date of this notice.

IF YOU ASK FOR A FAIR HEARING WITHIN 10 DAYS OF THE DATE OF THIS NOTICE, YOUR AID MAY BE CONTINUED UNTIL THE FAIR HEARING DECISION HAS BEEN REACHED.

3. If the Fair Hearing decision is that the county action was correct, and it is determined that you received aid pending the Fair Hearing decision as a result of a willful failure to report facts, or because of any willfully fraudulent device, the aid pending the Fair Hearing decision is an overpayment and may be recovered from you by reducing your welfare grant or through other legal means.
4. Your county worker will help you ask for a Fair Hearing.
5. At a Fair Hearing you have the right to be represented by an attorney or any other person (a friend, relative, or other spokesman) of your choice. If you need an interpreter we will provide one for you. You may obtain free legal advice and the services of a lawyer by contacting the nearest legal services office.

6. State regulations governing Fair Hearings are available at this office of the county welfare department.

If you wish to request a fair hearing, please send this page to:

Office of the Chief Referee State Department of Benefit Payments 744 P Street Sacramento, California 95814

REQUEST FOR FAIR HEARING

I, _____ Phone _____
Name

Address

hereby request a fair hearing before the State Department of Benefit Payments from the action taken by _____

County regarding the receipt of public assistance.

The reasons for my request for a fair hearing are as follows: _____

Signed: _____

On: _____
Date

If you request a hearing, you should use the above form and send the entire page. This will assist in the processing of your case. If someone other than yourself completes and signs this request for a Fair Hearing, you must complete a written statement authorizing that _____ as your representative.

**NOTICE OF INTENDED ACTION AND
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Eligibility Worker

Telephone

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(COUNTY STAMP)

**NOTICE OF INTENDED ACTION AND
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		State No.:
		County No.:
		District:
		Date:
		Case Name:

Your AFDC grant will be terminated effective _____ because your Monthly Eligibility and Income Report (WR 7) received on _____ does not provide the information indicated on the attached form which is necessary to determine your eligibility.

If you bring in the attached form to the County Welfare Department at the above address with the circled questions fully completed and signed within five (5) days your grant may be restored.

Although your grant is being discontinued, you and your family may be eligible to receive family planning services if you contact the county welfare department and request these services within three months of the date of this notice.

COMMENTS

This action is required by the following laws and/or regulations:

Welfare Manual Sections:

- 40-105 Applicant and Recipient Responsibility
- 44-103.211 Applicant and Recipient Responsibility
- ~~44-311.71~~ Required Reporting of All Changes Affecting Eligibility and Grant Determination
- 44-315.71**

If you feel your grant should not be changed, please contact me.

Worker	Telephone Number
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**NOTICE OF INTENDED ACTION AND
RIGHT TO REQUEST A FAIR HEARING**

State No.:
County No.:
District:
Date:
Case Name:

Our records indicate that you were overpaid \$_____ for the period _____
to _____. Circumstances causing this overpayment were:

The right to demand repayment exists for "willful overpayment"; therefore, this amount is due and payable immediately. Repayment or a satisfactory plan for repayment is required within 30 days from the date of this letter. Payments should be made by check or money order to:

If payment is made by any other method, you should demand a numbered receipt on which the Social Services Department's name is printed.

Any questions you may have as to your rights and responsibilities with respect to the amount due will be discussed with you upon request. You may also be represented by a person of your own selection whenever the debt is discussed with you.

This action is required by the following laws and/or regulations:

Welfare Manual Sections:

20-021.2 Notice requirements re: Right to demand repayment.

44-335.13 Willful overpayments.

44-335.23 Method of liquidating overpayments.

If you have any questions please contact me.

WORKER	TELEPHONE NUMBER
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