

**DEPARTMENT OF BENEFIT PAYMENTS**

744 P Street  
Sacramento, California 95814  
Telephone: (916) 445-0633



September 17, 1976

ALL-COUNTY LETTER NO. 76-120

TO: ALL COUNTY WELFARE DIRECTORS  
ALL DISTRICT ATTORNEYS  
ALL ADMINISTRATIVE SERVICE OFFICERS  
ALL FISCAL SUPERVISORS  
ALL AUDITOR CONTROLLERS

SUBJECT: EAS 43-106.2, 43-106.3, 43-201.33, 43-203.1, 43-203.2,  
44-111.3(e) -- REMOVAL OF MANDATED DISREGARD PAYMENTS  
REFERENCE: FROM CHILD SUPPORT REGULATIONS

Attached are emergency regulations which amend the child support program by removing the disregard payment. The regulations were filed with the Secretary of State on September 17, 1976, and will be effective on October 1, 1976.

Public Law 93-647 enacted Title IV-D of the Social Security Act mandating the Child Support Enforcement Program. As an incentive for cooperation, 40 percent of the first \$50 of child support collections was paid to the AFDC family as a disregard payment and treated as exempt for purposes of the income and property limitations. The provision of the federal act which authorizes this payment expires on September 30, 1976.

State law allows for special treatment of certain child support payments during such times that federal law ceases to provide for a child support disregard. (See Welfare and Institutions Code § 11450.1 amended Stats. 1976, Ch. 827, § 1, p. \_\_\_\_\_, urgency.) Section 11450.1 also provides that the special treatment of child support payments is conditional on federal financial participation in the cost of providing for such special treatment.

We have been advised by the U.S. Department of Health, Education, and Welfare that federal financial participation in the special treatment of child support payments will not be available. Therefore, the attached emergency regulations remove all provisions authorizing disregard payments.

All child support collections received through September 30, 1976 which represent payment on the required support obligation for the

month of collection remain eligible for the disregard. Such disregarded payments will continue to be exempt from income and property limitations at the time they are paid to the AFDC family.

AFDC families will be informed of the change in federal law in an insert to be mailed with the November Medi-Cal cards. A copy of this insert will be sent to all county welfare departments prior to November 1.

It should be noted that no individual notices of action are required if the family only ceases to receive disregard payment. The Medi-Cal card insert will adequately inform families of the reason for this change. However, the Medi-Cal card insert will not suffice as adequate notice to any family whose AFDC eligibility or grant is otherwise affected. Therefore, you should send appropriate notices of action (Form ABCD 239) to all individuals or families who not only lose disregard payments, but who also will have a reduction in their normal AFDC grant or a termination of their eligibility.

#### Fiscal Instructions

The following fiscal instructions for ending the disregard payment in the Child Support Program applies to all child support collections received on or subsequent to October 1, 1976.

#### CS 278M - Child Support Form

Section B, Line 2(c). The disregard computation (Line 2(b) x 40% or \$20, whichever is less) will not be made. The Current Collection entered on Line 2(b) will be posted to Line 2(d) Collection Remaining when performing the distribution.

Section C. The disregard payment amount will be left blank.

#### GS 278L - Child Support Case History and List of Authorizations

The disregard column will be left blank.

#### CS 801 - Child Support Payroll Form for Collections and Disbursements

The disregard column will be left blank.

#### CS 800 - Summary Report of Child Support Payments

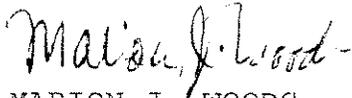
All blank lines and columns due to the ending of the disregard payment will be deleted from these forms in a future form revision.

Contact Reference:

Regulation: Child Support Bureau at 916/322-6384

Fiscal Instruction: Child Support Fiscal Section  
at 916/445-7046

Sincerely,

Handwritten signature of Marion J. Woods in cursive script.

MARION J. WOODS  
Director

Attachment

cc: CWDA

CONTINUATION SHEET  
 FOR FILING ADMINISTRATIVE REGULATION  
 WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

The following facts constitute the emergency:

1. Public Law 93-647 established a child support program which was implemented in California effective October 1, 1975.
2. This program provided for payment to the recipient of 40% of the first \$50 of child support collected in each month. This payment was known as a "disregard" and was to be paid, where appropriate, for child support collections made through September 30, 1976.
3. W&IC Section 11450.1 as amended provides for special treatment of certain child support payments during such times that federal law ceases to provide for a child support disregard. Section 11450.1 also provides that the special treatment of child support payments is conditional on federal financial participation in the cost of providing for such special treatment.
4. The Department has been advised by the U.S. Department of Health, Education, and Welfare that federal financial participation will not be available for the cost of providing for the special treatment of child support payments as provided in W&IC Section 11450.1.
5. We have been advised by the U.S. Department of Health, Education, and Welfare that the special treatment of child support payments as provided in Section 11450.1 will place the State Plan under Titles IV-A and IV-D of the Social Security Act out of conformity with federal law.
6. In order to: a) ensure that the disregard of certain child support payments terminates on September 30, 1976 as provided in federal law, b) eliminate the possibility that the special treatment of child support payments will occur on or after October 1, 1976 without federal financial participation in the cost of such treatment, and c) maintain State Plan conformity with Titles IV-A and IV-D of the Social Security Act, it is necessary for these regulations to be adopted on an emergency basis.

The regulation changes set forth above are adopted as emergency measures to become effective October 1, 1976 after filing with the Secretary of State.

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FACE SHEET  
 FOR FILING ADMINISTRATIVE REGULATIONS  
 WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

SEP 17 1976

Office of Administrative Hearings

ENDORSED

APPROVED FOR FILING  
 (Gov. Code 11380.2)

SEP 17 1976

Office of Administrative Hearings

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Department of Benefit Payments

(Agency)

Dated: September 17, 1976

By: *M. Fong*

Director

(Title)

ENDORSED  
 FILED

In the office of the Secretary of State  
 of the State of California

SEP 17 1976

APR 2:40 o'clock P.M.  
 MARCH FONG EU, Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Benefit Payments hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The implementation of the following regulations is an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare within the meaning of the provisions of Section 11421 (b) of the Government Code.

AMEND: 43-201.33  
 43-203.1  
 43-203.2  
 44-111.3 e

AMEND AND  
 RENUMBER: 43-106.2 from 43-106.3  
 43-106.3 from 43-106.2

ADOPT: 42-213.238  
 43-203.23

REPEAL: 43-203.11

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**CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY 42-213  
WHICH MAY BE RETAINED (Continued)

.238 Disregarded child support payments (40% of the first \$50) to the extent that such payments have been accumulated by a family and to the extent that such accumulations are identified by the recipient as solely resulting from disregarded child support payments.

43-106 ASSIGNMENT OF SUPPORT RIGHTS (continued) 43-106

AFDC .2 Assignment of support rights includes both spousal support (alimony) and child support,

.21 Collection of 1 <sup>spousal support</sup> is not a mandated function under Title IV-D of the Social Security Act for either AFDC or non-AFDC cases. Local IV-D agencies are required only to enforce collection of child support monies.

.22 The county may elect to collect spousal support. However, there will be no federal financial participation for costs incurred in collection, nor do the collections qualify for incentive funds.

.23 Such spousal support, if collected, is to be applied against assistance paid and reported on Summary Report form CA 800, line 8d, of the Title IV-A claim.

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CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
 WITH THE SECRETARY OF STATE**  
 (Pursuant to Government Code Section 11380.1)

43-106 ASSIGNMENT OF SUPPORT RIGHTS (Continued)

43-106

AFDC

.3 Effect of Refusal to Assign Support Rights  
child

.31 If any /support payments are received by the county,  
such payments shall be distributed pursuant to Section  
43-203.

.32 The county shall not receive any Support Enforcement Incentive  
Funds for the case.

.33 The parent or caretaker relative shall still be required  
to cooperate with the district attorney in identifying and  
locating absent parent, establishing paternity, and enforcing  
the support obligation.

.34 The receipt of aid paid pending following a timely appeal for  
a fair hearing shall not operate as an assignment of support  
rights.

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43-201 CHILD SUPPORT AND PATERNITY (Continued)

43-201

AFDC

.33 When the child support collection is distributed under Section 43-203, certain payments will be made  
to the family.

.331 (Has been deleted.)

.332 Any payment made to the family from child support collected  
in any month is considered available income.

CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

43-203 DISTRIBUTION OF CHILD SUPPORT PAYMENTS

43-203

.1 Child support collected by the designated agency for a recipient of AFDC with respect to whom an assignment pursuant to 43-106.1 is effective, shall be \_\_\_\_\_ distributed \_\_\_\_\_ as follows:

.11 (Has been repealed.)

AFDC

.12 The amount of collection \_\_\_\_\_ which represents payment on the required support obligation for the month of collection, shall be retained by the county to reimburse, in whole or in part, the aid payment for that month. Of the amount retained, the county shall reimburse the state and federal governments to the extent of their participation in the financing of the aid payment.

.13 Any amount collected that is in excess of the amount required to be distributed under \_\_\_\_\_ .12 above (and which represents payment on the required support obligation for the month of collection) shall be paid to the family up to the difference between the aid payment in the month of collection and the court ordered amount for the same month.

.131 This payment shall be made in the month following the month of collection.

.132 If the court order amount is less than such aid payment or there is no court order, no amount shall be paid to the family under this paragraph.

.14 Any amount collected that is in excess of that required to be distributed under .12 and .13 above shall be retained by the county as reimbursement for past assistance payments made to the family which have not been otherwise reimbursed.

.141 The county may apply the amount retained to any sequence of months for which it has not yet been reimbursed.

.142 The maximum amount the county may retain as reimbursement for past assistance payments is the amount of the total support obligation owed for the period(s) in which the family was on AFDC plus any payments on the required support obligation for months prior to the period in which the family was on AFDC.

.143 The county shall reimburse the state and federal governments to the extent of their participation in the financing of the aid payment.

.15 Any amounts collected which are in excess of the amounts required to be distributed under .12 through .14 above and which represent payment on a support obligation owed for periods prior to the first month in which the family received AFDC shall be paid to the family.

.151 This payment shall be made only after all past assistance payments have been reimbursed up to the maximum specified in .142.

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CONTINUATION SHEET  
FO. FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

43-203 DISTRIBUTION OF CHILD SUPPORT PAYMENTS (Continued)

43-203

AFDC

.152 This payment shall be made in the month following the month of collection.

.16 Any amounts collected which are in excess of the amounts required to be distributed under .12 through .14 above and <sup>which are</sup> not represent payment on a support obligation owed for periods prior to the first month in which the family received AFDC shall be retained by the county and applied against future months obligations if a future obligation is expected to exist.

.161 Any amounts collected on child support which represents payment on the required support obligation for future months shall be treated as if it were collected in such future months.

.162 No such amount shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned pursuant to 43-106.1 for the current month and all past months.

.163 If a future obligation does not exist or is expected not to exist, this excess is an invalid payment and shall be returned to the absent parent.

.2 Identification of Payments

Any amount paid to the family pursuant to     , .13, and .15 shall be identified as a child support payment and not as an aid payment.

.21 All child support payments made to a family under this section shall be made to the resident parent, caretaker relative or legal guardian having legal custody of or responsibility for the child for whom the support was received.

.22 (Has been deleted.)

.23 No payments shall be made to the family in AFDC-BHI cases.

Any excess which in AFDC-FG cases would be distributed to the family pursuant to .13 and .15 above, shall be placed in a trust fund for the child.

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME  
(Continued)

44-111

APSB  
AFDC

.3 Exemption of Payments from Public Sources (Continued)

AFDC

e. Forty percent of the first \$50 of a collection made by the county on the required support obligation which is distributed to the recipient by the county is exempt (PL 93-647). This section applies only to distributions of child support collected in September 1976 and prior months.

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**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

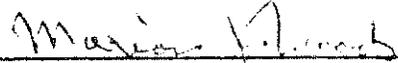
(Pursuant to Government Code Section 11320.1)

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

43-203.11

There are no increased administrative costs, program costs or support costs contained in these regulations.

Approved:

  
\_\_\_\_\_  
MARION J. WOODS, Director  
Department of Benefit Payments

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