

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, California 95814
Telephone: (916) 445-2077



June 4, 1976

ALL-COUNTY LETTER NO. 76-80

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: ELIGIBILITY AND ASSISTANCE STANDARDS - DIVISION 50

REFERENCE:

The attached emergency regulations are the first part of the new Division 50 of the Eligibility and Assistance Standards (EAS) Manual. This new division of the manual is titled "Special Instructions to Counties". It will contain instructions to counties on how to implement retroactive eligibility and grant redeterminations pursuant to court orders. We believe that a new manual division is necessary for special instructions which have limited duration. Hopefully, these instructions in the regulations will assist counties in administering short-term programs, such as retroactive eligibility and grant redeterminations caused by court orders.

Attached in regulation form are the instructions previously sent to you concerning the cases of Waits v. Swoap (All-County Letter No. 74-202), Cooper v. Obledo (All-County Letter No. 75-197), and Smock v. Carleson (All-County Letter No. 76-38). The adoption of these instructions as regulations is not meant to change any of the requirements or procedures outlined in the previously issued All-County Letters, except with respect to time periods for requesting eligibility and grant redeterminations. The provisions of the prior All-County Letters have been modified to reflect the fact that the specific time periods for requesting redeterminations were intended to encourage individuals to file as soon as possible, and not to limit any individual's eligibility for a redetermination. The instructions in the attached regulations concerning time periods for requesting redetermination reflect the advice previously given by the Department to counties on this question.

ALL COUNTY WELFARE DIRECTORS

Page Two

If other court orders should require specific procedures, you will receive them in the form of additions to Division 50 of the EAS Manual. By amending or repealing the contents of Division 50, we can give you a readily available listing of all current court orders being implemented by the state and/or the counties.

We hope that the addition of Division 50 to the EAS Manual is one step toward reducing the number of All-County Letters issued by this Department. We welcome your comments concerning this addition to the manual and its effects. Also, we would appreciate any suggestions concerning the inclusion of All-County Letter instructions in the regulations. Please address any comments or suggestions you may have to:

Department of Benefit Payments
Office of Regulations Development
744 "P" Street
Sacramento, California 95814

Sincerely,


MARION WOODS
Director

Attachment

cc: CWD

FACE SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11421.1)

RECEIVED FOR FILING
JUN 1 - 1976
Office of Administrative Hearings

ENDORSED
ALABAMA FILING
OFFICE OF THE
JUN 1 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: May 3, 1976
By: *Marion J. Wade*
Director
(Title)

ENDORSED
FILED
In the office of the Secretary of State
of the State of California
MAY 11 1976
APR 40 of 1976 P.M.
MARGIE FONG LU, 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.

- Adopt: Sections 50-001
50-002
50-003

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The following facts constitute the emergency:

1. On October 9, 1974, counties were advised of the methods for redetermining eligibility and grant levels for individuals adversely affected by regulations invalidated in the case of Waits v. Swoap. This advice to counties contained dates by which affected individuals were requested to apply for redeterminations. These dates were established for administrative convenience and were not intended to affect any individual's eligibility for a redetermination.
2. On September 18, 1975, counties were advised of the methods for redetermining eligibility and grant levels for individuals adversely affected by regulations invalidated in the case of Cooper v. Obledo. This advice to counties contained a date by which affected individuals were requested to apply for redeterminations. This date was established for administrative convenience and was not intended to affect any individual's eligibility for a redetermination.
3. On February 23, 1976, counties were advised of the methods for redetermining eligibility and grant levels for individuals adversely affected by regulations invalidated in the case of Smock v. Carleson. Subsequently, counties were advised that notices requesting affected individuals to apply for a redetermination would be sent out with Medi-Cal Identification Cards on May 1, 1976. Therefore, individuals will begin requesting redeterminations by county welfare departments in May, 1976.
4. In order to insure that all individuals who are entitled to redeterminations of eligibility and grant levels as a result of Waits v. Swoap, Cooper v. Obledo, and Smock v. Carleson, are allowed to file applications and that such applications are processed, it is necessary to adopt regulations on an emergency basis to become effective upon filing with the Secretary of State.

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50-001 WAITS V. SMOAP

50-001

On August 16, 1974 you were advised that as a result of the California Supreme Court's decision in Waits v. SMOAP it will be necessary to provide for redetermination of eligibility and grant amounts for AFDC recipient children living with nonneedy caretaker relatives who were adversely affected by EAS Section 44-115.611 since October 1, 1971.

In order to fully and fairly advise the affected nonneedy caretaker relatives of their opportunity to seek a redetermination of AFDC eligibility or prior grant amounts, we have developed a two-part notice procedure:

1. Notices to current recipients. On December 1, 1974 a notice was enclosed with all Medi-Cal ID cards sent to current Medi-Cal beneficiaries. Attachment 1 is a copy of the text of the stuffer-notice which was sent with the ID cards. The stuffer-notice also contained a Spanish translation of this text. The stuffer-notice requested the affected nonneedy caretaker relatives to apply to the county welfare department for a redetermination of AFDC eligibility or prior grant amounts by January 31, 1975. This date was not intended to limit the potential eligibility of persons who applied after January 31, 1975. Therefore, you should continue to redetermine eligibility and grant amounts and to provide refunds to individuals so long as you have sufficient records to do so. Presumably, these relatives will contact county welfare departments by telephone, by mail and in person. Attachment 2 is a suggested form for recording all necessary case-identifying information when an applicant for redetermination contacts you. If the applicant is unable to provide any or all of the information specified on this form, you should make the required redetermination based upon the best information available to you.

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50-001 WAITS V. SVOAP (Continued)

50-001

Once you have obtained the available case-identifying information, you should determine whether the applicant had any monies withheld from him due to the application of EAS § 44-115.611 since October 1, 1971. Such determinations shall be made and refunds provided to all eligible applicants who seek redeterminations.

Based upon the fact that an affected individual applies for a redetermination, it must be assumed that there was no voluntary contribution of housing and utilities to AFDC recipient children from their nonneedy caretaker relative. Therefore, any necessary refunds shall be made without regard to whether the nonneedy caretaker relative intended to contribute to the needs of the children in his care during the period in question. The refund shall include all monies withheld from an AFDC grant pursuant to EAS § 44-115.611 and all monies which the applicant would have received if this regulation section had not been applied. Any refund necessitated by these instructions should be paid as soon as possible by supplemental warrant.

2. Notices to former recipients. The Department identified all former AFDC-FG and MNO recipients and the last address at which these recipients received Medi-Cal ID cards. We have mailed a computer-prepared notice to all recipients so identified. Attachment 3 is a copy of the English version of the text which was included in this notice. Also included in the notice was all case-identifying information available to the Department. Applicants for redetermination were asked to return the notice which they received to the county from which they last received aid by June 30, 1975. This date was not intended to limit the potential eligibility of persons who applied after June 30, 1975. Therefore, you should continue to redetermine eligibility and grant amounts and to provide refunds to individuals as long as you have sufficient records to do so. When applications for redeterminations are received, they should be processed in the same way as applications from current recipients (described above).

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50-001 WAITS V. SWOAP (Continued)

50-001

The Waits decision also applies to some individuals who received reduced grants pursuant to EAS § 44-115.621. Thus, to the extent that EAS § 44-115.621 refers to EAS § 44-115.611 it will be necessary to make requested redeterminations for individuals adversely affected by that regulation. Specifically, a minor mother living with her parents who applied for or received AFDC for herself and her children may be eligible for a refund if in-kind income deductions were made on the basis of presumed contributions from the minor mother's parents to her children. Requests for redeterminations received from minor mother applicants should be processed in the same manner as those received from other individuals affected by the Waits case.

As you will note, the notices / which were sent require that applications for redetermination be made to the county in which the applicant last received aid. If an applicant indicates that he had previously received aid from another county, you should forward all available case-identifying information to that county. Such information should be forwarded on a form substantially similar to Attachment 2. Upon receipt of information from another county you should determine the applicant's eligibility for a redetermination and provide any appropriate refund to cover the time period for which he was receiving or eligible to receive AFDC from your county. If you receive information from another county, you should make the required redetermination and provide the appropriate refund without regard to whether the applicable claiming period has past.

We are hopeful that these instructions will answer any questions you might have regarding the means by which we will retroactively implement the Waits case. However, if you have any additional questions regarding the procedure described herein, you should contact the AFDC Program Operations Bureau at (916) 445-4458.

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50-001 WAITS V. SLOAP (Continued)

50-001

ATTACHMENT 1

IMPORTANT NOTICE
READ THIS CAREFULLY. YOU MAY BE ELIGIBLE
FOR BACK PAYMENTS FROM THE WELFARE DEPARTMENT.

You may be entitled to a refund of money from the welfare department if you applied for, are receiving, or have received Aid to Families with Dependent Children (AFDC) payments on behalf of a child or children who are related to you and living with you. In order to be eligible for a refund, you must: 1) meet the conditions described in the questions below, and 2) contact your eligibility worker or the county welfare department by January 31, 1975. If your answer to any of these questions is no, you are probably not eligible for a refund.

IMPORTANT: IF YOU ARE A RELATIVE OF A CHILD, OTHER THAN YOUR OWN, WHO IS RECEIVING AFDC, ANSWER ONLY QUESTIONS 1-5. IF YOU ARE A MINOR PARENT, ANSWER ONLY QUESTIONS 6-8.

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For your convenience,
use this space to
mark your answers.
Yes No

NONNEEDY RELATIVE

- 1. Have you ever applied for or received AFDC on behalf of any children since October 1971? Yes No
- 2. Are these children related to you but not your own? Yes No
- 3. Were these children living with you at the time you applied for or received AFDC? Yes No
- 4. Were you excluded from the AFDC Grant because you are or were a nonneedy relative? Yes No
- 5. Did you receive a reduced grant on behalf of children in your care because you shared housing and utilities with them? Yes No

MINOR-MOTHER

- 6. Are you or were you a minor mother who is living or has lived with your parents? Yes No
- 7. Are you receiving or did you receive AFDC on behalf of any of your children since October 1971 while you were living with your parents? Yes No
- 8. Are you receiving or have you ever received a reduced grant on behalf of your children because they shared housing and utilities with your parents? Yes No

If you think you are eligible for a refund, you should contact your eligibility worker or the county welfare department immediately. You should also contact the county welfare department if you have any questions about whether you are eligible for a refund.

50-001 WAITE V. SMOAP (Continued)

50-001

ATTACHMENT 2

NONNEEDY CARETAKER RELATIVE
APPLICATION FOR REFUND

1. Relative's Full Name: _____

2. Current Address: _____

3. Eligibility Worker Name: _____

4. Children Who Received AFDC:

Name	Social Security Number	Birthdate
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Names of Parents of These Children: _____

6. Case Number: _____

7. Period During Which AFDC Was Received On Behalf Of The Children
Listed Above: _____

8. Other County or Counties From Which AFDC Was Paid: _____

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50-00; WAITS V. SWOAP (Continued)

50-0

ATTACHMENT 3

IMPORTANT NOTICE
READ THIS CAREFULLY. YOU MAY BE ELIGIBLE
FOR BACK PAYMENTS FROM THE WELFARE DEPARTMENT.

You may be entitled to a refund of money from the welfare department if you applied for or received Aid to Families with Dependent Children (AFDC) payments on behalf of a child or children, not your own, but living with you. In order to be eligible for this refund, you must meet all the following conditions:

1. You must have applied for or received AFDC on behalf of a child or children in your care since October, 1971;
2. You must not yourself have been included in the AFDC grant;
3. You must have received a reduced grant on behalf of the child or children in your care or been found ineligible for AFDC because of housing and utilities shared with the child or children.

If you are or were a minor parent living with your parents while receiving AFDC for your children, you also may be eligible for a refund. However, this refund is not applicable to payments received on behalf of children in foster care.

In order to be eligible for a refund, return this notice in person or by mail to the county welfare department from which you last received aid by June 30, 1975.

Should you require any assistance in making your claim, immediately contact your local county welfare department.

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50-002 COOPER V. OBLEDO

50-002

On July 28, 1975, the Sacramento County Superior Court issued a judgment in the case of Cooper v. Obledo. This case involves the retroactivity of the California Supreme Court's decisions in Cooper v. Swoap (see All-County Letter No. 74-199) and CWRO v. Brian (see All-County Letter No. 74-109), and the validity of the tables used to evaluate in-kind income (EAS Section 44-115.8). The Court has ruled that it is necessary to reetermine AFDC eligibility and grant amounts for families adversely affected by the regulations invalidated in Cooper v. Swoap and CWRO v. Brian. In addition, the Court has held that the in-kind income tables are invalid to the extent that they establish arbitrary income values for some need items. Therefore, it is also necessary to retroactively redetermine eligibility and grant amounts for families adversely affected by the in-kind income tables. The purpose of this letter is to describe the procedure by which the necessary redeterminations will be made.

In order to comply with the Cooper judgment, it is necessary for the Department of Benefit Payments and county welfare departments to take certain actions. The Department is required to amend the current regulation regarding in-kind income tables and to notify persons who may be eligible for redeterminations by: 1) issuing press releases; 2) including a "stuffer" with all Medi-Cal I.D. cards sent on October 1, 1975; and 3) requesting that notices be posted in county welfare departments, EDD offices, county general hospitals, and major social service agencies. Under the judgment, it is necessary for county welfare departments to: 1) review every case record during annual redeterminations of AFDC eligibility to

determine whether recipient(s) may be eligible for retroactive aid; 2) identify eligible applicants and recipients who apply for retroactive aid; 3) redetermine eligibility and grant amounts for individuals who respond to the notices, and for affected recipients identified at annual redetermination; 4) distribute posters supplied by this Department to county general hospitals and major local social service agencies; and 5) keep a record of the number of individuals who are found eligible for retroactive aid and the amount of retroactive aid provided to those individuals. Each of these county responsibilities will be explained more fully below.

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50-002 COOPER V. OBLEDO (Continued)

50-002

I. Annual Redetermination Review

The Cooper judgment requires that counties review each AFDC case at the time of annual redetermination to determine whether the recipients were affected by the invalid regulations. This review will cover all cases for which an annual redetermination is made between October 1, 1975 and September 30, 1976. As a part of the redetermination process, the county shall establish procedures to identify individuals who are or may be entitled to a refund of prior grant deductions made pursuant to the now invalid regulations. In order to determine whether an individual is or may be entitled to a refund, you should review the records of each case being redetermined from October 1, 1971 to the time of redetermination. Individuals who are or may be entitled to a refund can be described as follows:

- A. Persons who received a reduced AFDC grant as a result of former EAS § 44-115.8 (repealed in Manual Letter No. 40, dated February 27, 1975). That regulation provided for a reduction in the AFDC grant when the AFDC family shared housing and utility expenses with a recipient of adult aid (OAS, ATD, AB, APSB, SSI/SSP, EVH). Former EAS § 44-115.8 was effective October 1, 1971, and you were advised in All-County Letter No. 74-199 to cease applying that regulation effective October 1, 1974. These dates should be of assistance to you in identifying individuals who are now entitled to a refund. Any AFDC grant reductions based on former EAS § 44-115.8 made on or after October 1, 1974 should have been refunded pursuant to All-County Letter No. 74-199.
- B. Persons who received a reduced AFDC grant as a result of former EAS § 44-115.95 (repealed in Manual Letter No. 12, dated June 25, 1974). That regulation provided for a reduction in the AFDC grant on the basis of the reduced need of unborn children. Former EAS § 44-115.95 was adopted on August 16, 1972, and you were advised in All-County Letter No. 74-109 to cease applying that regulation effective June 1, 1974. These dates are provided for your convenience. Any AFDC grant reductions based on former EAS § 44-115.95 made on or after June 1, 1974 should have been refunded pursuant to All-County Letter No. 74-109.

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- C. Persons whose AFDC grants were reduced as a result of the application of the in-kind income tables, former EAS Section 44-115.9 (currently numbered EAS Section 44-115.8). These are persons whose need for housing, utilities, food or clothing was met by earnings or contributions in-kind. Former EAS Section 44-115.9 was effective October 1, 1971. The section was renumbered to EAS Section 44-115.8 effective February 21, 1975 (Manual Letter No. 40, dated February 27, 1975). EAS Section 44-115.8 has been amended to conform to the Cooper judgment.

If at the time of annual redetermination you identify persons who fall within any of these three classes, you must proceed to determine the amount of any retroactive aid to which they may be entitled.

II. Applicants for Retroactive Aid

This Department has attempted to inform individuals affected by the Cooper judgment of their right to a redetermination of eligibility and grant amounts. Many of the AFDC applicants or recipients who are or may be entitled to retroactive aid became aware of the Cooper case through press announcements, Medi-Cal I.D. card stuffers, or notices posted in various locations in each county. Attachment 2 hereto is the English and Spanish texts of the stuffer which was included with Medi-Cal I.D. cards mailed to all current Medi-Cal beneficiaries on October 1, 1975. As you will note, this stuffer requested individuals who believed that they were entitled to a refund to contact county welfare departments by March 31, 1976. This date was not intended to limit the potential eligibility of persons who applied after March 31, 1976. Therefore, you should continue to redetermine eligibility and grant amounts and to provide refunds to individuals as long as you have sufficient records to do so. Presumably, these individuals will contact county welfare departments by telephone, by mail, and in person. When you are contacted regarding a refund, you should secure all information necessary to identify the records pertaining to the individual requesting the refund. In securing the information necessary to process claims for retroactive aid, you should be aware that the individuals who respond to the press releases, posters, etc., may not be current AFDC recipients. Also, some individuals will be seeking a redetermination of their AFDC eligibility based on the Cooper case. Such individuals may never have been AFDC recipients. If any individual is unable to provide you with

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IMPORTANT NOTICE FOR AFDC RECIPIENTS

You may be entitled to additional welfare funds for prior months extending as far back as October, 1971, if the following applies to you:

1. You applied for or received AFDC any time between October 1, 1971, and February 28, 1974; and
2. You were living with, but not married to, the other parent of your AFDC child.

If you think you may be eligible for these back payments, complete the form below and mail it, or bring it in person to the county welfare department by December 31, 1976.

If you received AFDC from another county between October 1, 1971, and February 28, 1974, you should send or bring in person this application to that county.

If you need any help in completing the application form, or if you have any questions about the back payments, you should contact the local county welfare department.

ADVISO IMPORTANTE - A LOS RECIPIENTES DE ASISTENCIA A FAMILIAS CON NIÑOS DEPENDIENTES (AFDC)

Puede que sea elegible a fondos adicionales del bienestar social (welfare) por los meses anteriores desde octubre de 1971 si lo siguiente aplica a Ud.

1. Ud. solicitó o recibió AFDC en cualquier momento entre el 1 de octubre de 1971 y el 28 de febrero de 1974; y
2. Ud. vivió con, pero no estuvo casado con, el padre o la madre del hijo que recibió AFDC.

Si Ud. cree que puede ser elegible para estos pagos retroactivos, complete el formulario abajo y envíelo, o tráigalo si mismo al departamento de bienestar social del condado para o antes del 31 de diciembre de 1976.

Si Ud. recibió AFDC de otro condado entre el 1 de octubre de 1971 y el 28 de febrero de 1974, Ud. debe enviar por correo o entregarla si mismo esta solicitud a ese condado.

Si necesita ayuda para completar la solicitud, o si tiene cualquier pregunta tocante a los pagos retroactivos, Ud. debe ponerse en contacto con el departamento de bienestar social del condado.

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APPLICATION

1. Name (Nombre):		2. State Number (Número del estado):
3. Address (Dirección):		4. Telephone Number (Número de teléfono):
5. Eligibility Worker Name (Nombre de trabajador(a) de elegibilidad):		
6. Children's Names (Nombres de los niños):		
7. Name of Child's Other Parent Living with You (Nombre del padre o de la madre que vivió con Ud.):		

Signed (Firmado)

Date (Fecha):

There are no state mandated local costs in these regulations because these regulation changes are made to comply with court decisions.

Approved:



MARION J. WOODS, Director
Department of Benefit Payments

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