STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
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January 10, 1984

ALL-COUNTY LETTER NO. 84-08

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: SALDIVAR v. McMAHON - UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, CASE NO. C-83-4637

REFERENCE:

THE COURT DECISION

As you were informed in All-County Information Notice I-136-83, on December 9, 1983, the U.S. District Court in San Francisco issued an Interim Order against California in the case of Saldivar v. McMahon. As a result of this decision, a timely Notice of Adverse Action must be provided to all recipients in all counties prior to reducing or terminating benefits regardless of when the Monthly Eligibility Report (CA 7) is submitted. The purpose of this letter is to transmit instructions to implement the Court's decision for the Aid to Families with Dependent Children (AFDC), Food Stamp and Refugee Programs.

AFDC/REFUGEE CASE IMPACT

Exception to Timely Notice (MPP 22-022)

The AFDC regulations which contain provisions for adequate notice only and delayed aid payment were filed with the Secretary of State on December 19, 1983 and were effective on January 1, 1984, as planned. However, as we informed you earlier, the Department and the counties are permanently enjoined by court order in Saldivar v. McMahon from implementing MPP Section 22-022(j). Therefore, the counties are to continue to provide timely and adequate notice, to be mailed at least 10 days prior to the effective date of action, in all instances where the proposed action would result in a discontinuance or reduction of aid due to a late or incomplete CA 7.

Delayed Aid Payment (MPP 44-305.22)

The regulations as filed provide permissive authority to delay the issuance of the first warrant of the payment month or period if a county's administrative response time does not permit the computation and payment of the correct grant amount when a complete CA 7 is received very late in the report month or period. The decisive point by which a completed CA 7 must be received to avoid the possibility of delay is established as the tenth day prior to the end of the report month or period.

The use of the delayed payment provision is directly linked to the ability to give adequate notice only when the complete CA 7 is received after the tenth day prior to the end of the report month or period. Since we are enjoined in Saldivar from use of adequate notice only, the ability to delay aid payment is negated. Therefore, counties are not to delay aid payment under the authority of MPP 44-305.22.

You were provided copies of Notice of Action forms NA 960X and NA 960Y as attachments to ACL 83-110. These notices are to be used for a proposed discontinuance due to failure of a recipient to submit a Monthly Eligibility Report or to submit an incomplete report. Information regarding the use of these forms which was provided in ACL 83-116, including attached forms instructions, remain in effect except as modified below for the Food Stamp Program. As indicated in the earlier instructions, the counties are not to check either box regarding Benefits on Time/Benefits 10 days late. Counties that have not printed supplies may delete these options from the notices.

FOOD STAMP IMPACT

The food stamp regulations which contain provisions for adequate only notice and delayed payment are contained in the Monthly Reporting/Retrospective Budgeting (MRRB) regulations which were filed with the Secretary of State on September 30, 1983 and were effective on January 1, 1984, as planned. As indicated above, the Department and CWDs are prohibited from implementing the adequate only Notice of Action provisions. Therefore, CWDs shall provide timely and adequate notice to be mailed at least 10 days prior to the effective date of action, in all instances where the proposed action would result in a reduction or termination as a result of information reported on the monthly report, so long as the completed monthly report is submitted by the extended filing date. Accordingly, the regulation sections identified below shall be implemented in the following manner:

Regulation Section	Court Impact
63-504.261 ...except as provided in Sections 63-504.265 and .267.	Sections 63-504.265; 267(3)(2), (3) and (4) are not exempted from timely notice.
63-504.265(b) ...shall be provided a notice of change no later than the household's normal or delayed issuance date.	A notice shall be provided at least 10 days prior to reduction or termination of benefits.

63-504.267(e)(2) A household's benefits are reduced or terminated as a result of: ...requesting the household to submit a complete CA 7....	A notice shall be provided at least 10 days prior to the reduction or termination of benefits.
63-504.267(e)(3) and (4) A household's benefits are reduced or terminated as a result of: ...requesting household to submit missing verification....	1) The Notice of Change must contain modified language provided by SDSS in order to satisfy both the reminder and Notice of Adverse Action. It shall be timely and show the new allotment amount; or 2) The Notice of Proposed Change shall be provided early in the month and followed up with a timely Notice of Change if the household has not responded or responds with other information which will decrease benefits.
63-504.34 ...fails to provide the required verification with the CA 7, the CWD shall notify the household (DFA 377.4) of the need to submit the missing verification.	Same as above.
63-504.342 ...questionable...notify the household (DFA 377.4).	Same as above.
63-504.353(b) ...in accordance with Section 63-504.26.	A notice shall be provided at least 10 days prior to reduction or termination of benefits.
63-504.356 ...household shall be provided with a Notice of Change (DFA 377.4).	A notice shall be provided at least 10 days prior to reduction or termination of benefits.
63-504.382 ...CWD may delay providing the household an opportunity to participate.	This provision no longer applies.
63-804.622 ...household provided a concurrent change (DFA 377.4).	All households shall be provided a notice at least 10 days prior to reduction or termination of benefits.

Food Stamp Case Situations

The following sample case situations are provided to further clarify the steps necessary to implement the Saldivar decision.

SITUATION 1:

The household fails to submit a CA 7 or submits an incomplete CA 7 by 10 days before the end of the report month.

CWD Action:

- CWD shall send a NA 960X or Y, as appropriate.
- Do NOT issue benefits until a complete CA 7 is received.
  - If a complete CA 7 is not received by the extended filing date, terminate with no further action/notice.
  - If a complete CA 7 is received by the extended filing date, CWD shall issue benefits if there is no change or there is an increase in benefit level (see CWD action for Situation 2 for instructions on handling reduced benefit level).
  - If the CA 7 is received very late in the report month but by the extended filing date, benefits shall be issued as soon as administratively feasible.

SITUATION 2:

The household failed to submit a CA 7, the CWD sent the household a NA 960X, the household responds by submitting a complete CA 7.

CWD Action:

- If the CA 7 is received by the extended filing date, the CWD shall issue benefits.
- If the CA 7 is received very late in the report month but by the extended filing date, the CWD shall issue benefits as soon as administratively feasible.
- If the CA 7 contains information which would reduce benefits (no verification of deductions, increased income, etc.), the CWD cannot reduce benefits without providing the household a timely notice.
  - The CWD shall not establish a claim against the household which meets its reporting responsibilites, i.e., submits a complete CA 7 by the extended filing date.

SITUATION 3:

The household submits an incomplete CA 7 that is also missing information/verification of a deduction.

CWD Action - Option 1:

- Send a NA 960Y (for incomplete CA 7), also check Additional Information Requested and use modified explanation provided by SDSS. The NA 960Y will serve as a discontinuance, reminder and Notice of Adverse Action (if deduction is disallowed).

- The NA 960Y must inform the household of new benefit amount (if deduction is disallowed).

- The NA 960Y must be sent timely.

- If a complete CA 7 is not received by the extended filing date, terminate the household with no further notice.

- If a complete CA 7, including all information/verification of deductions, is received by the extended filing date, the CWD shall issue benefits.

- If the CA 7 is received very late in the report month but by the extended filing date, benefits shall be issued as soon as administratively feasible.

- If the household submits a complete CA 7 but fails to provide information/verification of deductions by the extended filing date, the CWD shall disallow the deduction and issue benefits.

CWD Action - Option 2:

- Screen all CA 7s as soon as they come in. For those CA 7s that fall into this category, send a NA 960Y (also check Additional Information Requested) as soon as possible.

- If the household provides a complete CA 7, including all information/verification of deductions consistent with the CA 7 (and which represents no change or an increase from the previous allotment) the CWD shall issue benefits.

- If the household provides a complete CA 7, including all information/verification of deductions and which results in a decrease from the previous allotment, the CWD shall provide the household a timely Notice of Change and issue benefits accordingly.

    - If the CWD cannot provide the household a timely Notice of Change, the household's benefits shall not be reduced from the previous level.

    - The CWD shall not establish a claim against the household so long as the CA 7 is submitted by the extended filing date.

- If the household has still not submitted a complete CA 7 and has still not submitted verification of deductions by the date the CWD prepares timely Notices of Action, the CWD shall send the household a Notice of Change (DFA 377.4) with modified explanation provided by SDSS which reflects the disallowance of the deduction.

- If the household responds to the NA 960 and submits a complete CA 7 but fails to provide the requested information/verification by the date the CWD prepares timely Notices of Action, the CWD shall send the household a Notice of Change (DFA 377.4) which reflects the disallowance of the deduction.

- If the household submits a complete CA 7 and provides information/verification in an amount less than reported on the CA 7, the CWD shall not reduce benefits to an amount different than that shown on the Notice of Change unless the CWD can provide the household with another timely Notice of Change.

    - The CWD shall not establish a claim against the household so long as the CA 7 is submitted by the extended filing date.

SITUATION 4:

The household submits an incomplete CA 7 that also contains information which would result in a benefit reduction and that is also missing information/verification of a deduction; e.g., household reports increased income but fails to provide pay stubs and fails to provide receipts for reported dependent care expenses.

CWD Action - Option 1:

- CWD shall act in accordance with Situation 3, Option 1 except on the NA 960Y the CWD shall also provide the new benefit level for reported change as well as the further reduced benefit level if deduction is disallowed. Modified explanation and a sample message for use on the NA 960Y will be provided by SDSS.

CWD Action - Option 2:

- CWD shall act in accordance with Situation 3, Option 2 except if the household has not submitted a complete CA 7 and/or all information/verification by the date the CWD prepares timely Notices of Action, the CWD shall prepare a Notice of Change reflecting the reduced benefit level resulting from the reported change as well as the further reduced benefit level if the deduction is disallowed. Modified explanation and a sample message for use on the DFA 377.4 will be provided by SDSS.

SITUATION 5:

The household submits an incomplete CA 7 that also contains information which would result in a benefit reduction.

CWD Action - Option 1:

- CWD shall act in accordance with Situation 4, Option 1 above except that no information shall be provided regarding the potential disallowance of a deduction.

CWD Action - Option 2

- o CWD shall act in accordance with Situation 4, Option 2 except that no information shall be provided regarding the potential disallowance of a deduction.

SITUATION 6:

The household submits a complete CA 7 with missing information/verification of a deduction.

CWD Action - Option 1:

- o CWD shall send a Notice of Change (DFA 377.4) with modified explanation provided by SDSS. The Notice of Change will serve as both a reminder to the household to provide information/verification of the deduction and as a Notice of Adverse Action.
    - o The DFA 377.4 must inform household of new benefit amount (if deduction is disallowed).
    - o The DFA 377.4 must be sent timely.
- o If household fails to provide requested information/verification, the CWD shall disallow the deduction and issue benefits.
- o If household provides information/verification but in an amount less than reported on the CA 7, the CWD shall not reduce benefits to any amount different than that shown on the Notice of Change unless the CWD can provide the household with another timely Notice of Change.
    - o The CWD shall not establish a claim against the household so long as the CA 7 is submitted by the extended filing date.

CWD Action - Option 2:

- o Screen all CA 7s as soon as they come in. For those CA 7s that fall into this category, send a Notice of Proposed Change in Benefits (DFA 377.4) as soon as possible.
    - o If the household provides information/verification consistent with the CA 7 (and which represents no change or an increase from the previous allotment) the CWD shall issue benefits.
    - o If the household provides information/verification which would result in a decrease from the previous allotment, the CWD shall provide the household a timely Notice of Change and issue benefits accordingly.
    - o If the CWD cannot provide the household a timely Notice of Change, the household's benefits shall not be reduced from the previous level.
    - o The CWD shall not establish a claim against the household.

- If the household has not provided information/verification by the date the CWD prepares timely Notices of Action, the CWD shall send the household a Notice of Change (DFA 377.4) with modified explanation provided by SDSS which reflects the disallowance of the deduction.

  - The CWD shall then disallow the deduction and issue benefits.

  - If the household provides information/verification but in an amount less than reported on the CA 7, the CWD shall not reduce benefits to any amount different than that shown on the Notice of Change unless the CWD can provide the household with another timely Notice of Change.

    - The CWD shall not establish a claim against the household so long as the CA 7 is received by the extended filing date.

SITUATION 7:

The household submits a complete CA 7 that contains a reported change which results in a benefit reduction and that is also missing information/verification of a deduction; e.g., household reports (and verifies) increased income but fails to verify claimed child care expenses.

CWD Action - Option 1:

- CWD shall act in accordnce with Situation 6, Option 1 except on the Notice of Change, the CWD shall also provide the new benefit level for the reported change as well as the further reduced benefit level if the deduction is disallowed. Modified explanation and a sample message will be provided by SDSS.

CWD Action - Option 2:

- CWD shall act in accordance with Situation 6, Option 2 except if the household has not provided information/verification by the date the CWD prepares timely Notices of Action, the CWD shall send the household a Notice of Change which reflects the new benefit level resulting from the reported change as well as the further reduced benefit level if the deduction is disallowed. Modified explanation and a sample message will be provided by SDSS.

SITUATION 8:

The household submits a complete CA 7 with missing information/verification of a deduction and the disallowance of the deduction would result in the household being ineligible.

CWD Action:

CWD shall act in accordance with Situation 6, either Option 1 or 2, except a timely Notice of Termination with SDSS modified explanation will be provided the household.

SITUATION 9:

The household submits a complete CA 7 that contains a reported change which results in a benefit reduction and that is also missing information/ verification of a deduction and the disallowance of the deduction would result in the household being ineligible.

CWD Action:

CWD shall act in accordance with Situation 7, either Option 1 or 2, except a timely Notice of Termination with SDSS modified explanation will be provided the household.

FORMS IMPACT (FOOD STAMP PROGRAM)

In order to implement the Saldivar decision and minimize any overissuance of food stamp benefits, alternative procedures for using the DFA 377.4, Food Stamp Notices of Change, and the NA 960Y, Notice of Action-CA 7 Incomplete, have been developed. County Welfare Departments (CWDs) are given major options, described in the preceding case situations, for providing timely notice when a CA 7 has been received too late to provide timely notice in accordance with existing regulations.

To ensure that households are provided adequate notice as well as timely notice in these situations, additional messages are being developed for inclusion on the notices when these alternative procedures are used. This information will be provided to counties by January 13, 1984 along with revised form instructions and a table showing how each alternative procedure and the additional messages apply to each case situation. CWDs should not develop explanations for use with these alternative procedures as the explanations now being developed by SDSS must be used, without modification.

Should you have any questions regarding this letter, please contact your Food Stamp Corrective Action Consultant at (916) 322-5475 or your AFDC Corrective Action Consultant at (916) 445-4458.

Kyle S. McKinsey

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Deputy Director

cc: CWDA