STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814
(916) 324-0097

June 20, 1985

ALL-COUNTY LETTER NO. 85-67

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: STEPHENS V. McMAHON
SHAW V. McMAHON

REFERENCE: ACIN I-106-84
ACL 84-125
ACL 85-13
ACL 85-24
ACL 84-109
ACL 85-25

This letter transmits clarifying information (Attachment A) as a follow up to the Stephens and Shaw implementing All-County Letters.

Also attached is a revised statistical report for reporting Stephens v. McMahon information (Attachment B). The report deadline has been extended to July 1, 1985.

Many counties have not submitted their implementing instructions for Stephens and Shaw. The implementing All-County Letters for both Stephens and Shaw required counties to submit an explanation of steps taken to implement these cases on or before April 1, 1985. This information is necessary for reporting to the Court. If you have not already done so, please submit a copy of your implementing instructions immediately to Kathy Layne, AFDC Program Development Bureau, Department of Social Services, 744 P Street, 16-25, Sacramento, California 95814.

If you have any questions, please contact Ms. Kathy Layne, AFDC Program Development Bureau, at (916) 324-0097 or (916) 322-5387.

ROBERT A. HOREL
Deputy Director

ATTACHMENT B

State of California
Health and Welfare Agency
Department of Social Services

Send one copy to:
Department of Social Services
Statistical Services Branch
744 P Street, M/S 12-81

STATISTICAL REPORT - Stephens v. McMahon

County

This report is ☐ Original Submission

☐ Subsequent Report No._____

☐ Revision No._____

1. Number of claims received....._____
2. Number of claims granted....._____
3. Number of claims denied....._____
4. Total benefits paid....._____
5. Number of claims pending ....._____

INSTRUCTIONS

The reporting period is from March 1, 1985 through April 30, 1985.

The due date for this report to be received in Sacramento is on or before July 1, 1985.

Questions concerning completion of this report should be directed to the Statistical Services Branch at (916) 322-2230.

Person to contact regarding this report:	Telephone Number: ( )	Date:

ATTACHMENT A

STEPHENS v. McMAHON

Aid Paid Pending

If the recipient received aid paid pending and has never gone off aid, the county should not take a separate CA-1 Stephens application or CA 2, but should just convert the case to a Stephens case. It is possible that the recipient had an overpayment due to excess property (Section 44-350.13).

Overpayment Recoupment

Overpayment recoupments that were a result of "windfall" lump sums received after April 2, 1982 which were recouped on or after October 1, 1984 should be refunded and the remaining overpayment cancelled. Only that portion recouped on or after October 1, 1984 should be refunded.

Statistical Reporting

The attached statistical report has been revised to include a box for applications pending, and the deadline for submitting it has been extended to July 1, 1985. In addition, the county shall submit a final revised report by September 1, 1985 (Attachment B).

What is a Windfall Lump-Sum Payment?

The court order did not define "windfall" but gave examples of "windfall" lump sum. Examples of windfall include:

- Personal injury payments
- Workers compensation injury settlements
- Gifts*
- Inheritances
- Lottery winnings
- Damage claim settlements**
- Employee portion of retirement (received upon severance from a job, for example)

*Gifts should not be considered as casual income under Section 44-101.4, but should be considered a windfall lump-sum payment in accordance with Stephens.

**Damage claim settlements received which were considered lump-sum income prior to the Stephens order are now considered a "windfall" and counted as a resource. These settlements are different from payments which compensate for exempt or excluded property which was lost, stolen, damaged, or destroyed (see EAS Section 42-213(g)).

What is NOT Windfall?

- Lump-sum Social Security benefits
- Lump-sum worker's compensation that represents back wages
- Lump-sum disability benefits
- Lump-sum state disability insurance
- Lump-sum nonindustrial disability insurance
- Lump-sum veteran's benefits
- Lump-sum disability retirement
- Profits from the sale of a home*
- Jury duty payment
- Unused vacation or sick leave pay received upon retirement/or severance of employment
- Severance pay
- Income tax refunds*
- Personal loan to repay debt
- Graduate student loan or grant
- Employer paid portion of retirement benefits
- Earned income credit
- Damaged property replacement settlement*

Beginning Date of Aid

For retroactive cases the beginning date of aid is determined by whether the case was denied or discontinued due to the windfall lump sum. For discontinued cases, the beginning date of aid is the first of the month following discontinuance, provided they are otherwise eligible. For denied cases, the beginning date of aid is the date the denial action was taken provided they are resource eligible. For prospective cases, the beginning date of aid is determined in accordance with the beginning date of aid rules (EAS Section 44-317.1).

*These are already property and therefore no windfall determination is appropriate.

SHAW v. McMAHON

Shaw Eligibility

In order to be eligible for Shaw benefits, an applicant must meet all State-only AFDC-U requirements in current regulations with one exception: there can be just one parent in the home. The courts have decided in both the Reyna v. McMahon and the Shaw cases that a requirement that two parents be in the State-only AFDC-U case exceeds state law eligibility criteria (W&IC Section 11201) because state law does not distinguish between single or two-parent households for the State-only AFDC-U Program. The courts interpret EAS Section 41-440.411, to be an explanation of how to determine who is the principal earner in a two-parent household; that it is not as a requirement that there be two parents in the household. We are reexamining whether State-only AFDC-U regulations need to be revised in light of the courts' interpretations.

In order to get State-only AFDC-U, the parent cannot be eligible for benefits as a federal unemployed parent. This means the primary families who might be eligible for Shaw are families whose federal AFDC deprivation is based on absence or incapacity.

Incapacity

Persons who received federal AFDC with the deprivation of incapacity are potentially eligible to receive three months of State-only AFDC-U under Shaw. The county will need to determine if the incapacitated person can meet the definition of a State-only AFDC-U person. It is possible that the incapacitated person may also be eligible for federal-U due to work quarters. If this is the case, this person is federal AFDC-U eligible and therefore cannot be State-only AFDC-U eligible.

SSI Parent

An AFDC case that is discontinued for lump sum which has an SSI parent may be eligible for Shaw benefits if the parent qualifies as an unemployed parent. The State-only AFDC-U Program requires that there be a parent in the home, but does not require that the parent be in the assistance unit.

Caretaker Relative

Assistance units which have a caretaker relative other than a parent are not eligible for Shaw benefits because the caretaker relative cannot qualify for state-U because there must be a parent in the home.

Foster Care

Foster care cases are not eligible for Shaw benefits because they cannot qualify for State-U which requires a parent be in the home.

Work Registration

The State-U eligible principal earner shall be registered with EDD-JS unless that individual is ill or injured, aged 65 or older, or incapacitated. These individuals are exempt from work registration under EAS Section 42-630.3, .4, and .5. (Note: The parent of a child under six who is personally providing full-time care for the child is not exempt from work registration under the State-U Program. EAS 42-630.3, .4, and .5) For retroactive Shaw cases work registration does not apply.

Outstanding Uncollected Overpayments

Outstanding uncollected overpayments may not be balanced dollar for dollar against Shaw benefits. EAS Section 44-351.3 does not apply. Any outstanding collectable overpayment can only be recouped through grant adjustment as specified in EAS Section 44-352. The "Approval with Adjustment" Notice of Action shall be used along with the "Overpayment Adjustment" page.

Beginning Date of Aid (For all cases except those following a one-month suspension)

For prospective Shaw cases the beginning date of aid is determined in accordance with normal beginning date of aid rules (EAS Section 44-317.1). For retroactive Shaw cases the beginning date of aid is the first of the month of eligibility.

Lump-Sum Remainder Income following One-Month Suspense

When a recipient has a lump sum that results in a one-month suspension with a remainder amount from the lump sum treated as income in the following month, the county will automatically convert the case to State-only AFDC-U for the entire month if the recipient is Shaw eligible. The recipient will need to meet all the State-U eligibility conditions, including work registration as applicable. This means that the county may need to contact the recipient to get a work history or may need to advise the recipient regarding work registration requirements. If the recipient is already WIN registered, it is not necessary to deregister the individual.

The case will be changed from aid code 30 to aid code 35 with a nonfederal persons count. The case information will also be reported to the Medi-Cal Eligibility Data System (MEDS) as aid code 35 so that a Medi-Cal card can be issued for the remainder month.

If the recipient does not meet Shaw eligibility conditions by the first of the remainder month, they will receive the federal AFDC grant with the remainder subtracted as income.

Notices of Action are being developed for the suspense month as well as other lump-sum situations. As soon as they are developed and approved through the Turner consent decree, they will be forwarded to counties.

If the county has already issued a federal AFDC grant in the remainder month, the county will correct the case, provide a supplemental payment in the amount of the remainder, issue a notice and back out the federal portion from the claim. Specific claiming questions should be addressed to Stephanie Davis of the Fiscal Policy and Procedures Bureau at (916) 445-7046 or (916) 323-0267.

Medi-Cal in Remainder Month

Counties are to report the entire assistance unit to MEDS as aid code 35 and indicate that they are eligible for a Medi-Cal card if they are eligible for State-only AFDC-U in the remainder month. Although in most State-only AFDC-U cases the parents are not eligible for a Medi-Cal card, this situation is an exception. That is because the assistance unit is both federally as well as State-only U eligible.

If you hve any questions concerning Medi-Cal card issuance via the MEDS system, contact your Department of Health Services MEDS liaison.

Budgeting

Normal budgeting rules are followed in Shaw (see Section 44-313).

Shaw Examples

The following are examples of potential Shaw State-only AFDC-U situations.

EXAMPLE 1 -- LUMP-SUM REMAINDER FOLLOWING SUSPENSE

	Jan.	Feb.	March	April	May
Federal AFDC	Lump Sum Received	Lump Sum Reported	Suspense	-Remainder counted as income -Retrospective budgeting	Federal AFDC eligible
State-only AFDC-U			Income ineligible due to retrospective tive budgeting Check resource level May need to work register May need work history	Shaw eligible entire month -No application needed. Continue retrospective budgeting -Do not count remainder income in grant computation -Change to aid code 35 with non-federal persons number -Submit for Medi-Cal card	Goes back on federal AFDC

EXAMPLE 2 - INCOME EXCEEDS 185%

	Jan.	Feb.	March	April
	Lump-Sum Received	Lump-Sum Reported	Suspense*	-Anticipated April income and lump-sum remainder counted as income -Exceeds 185%
Federal AFDC		-Discontinued effective 2/28 -Require recipient to reapply		
State AFDC			Income ineligible due to retrospective budgeting	-Must apply for Shaw -Normal BDOA rules -Prospective budgeting -Change to aid code 35 -Nonfederal persons number -Check resource level -Do not count remainder income in grant computation

*This case would have been a suspense but because of anticipated income in April along with remainder lump-sum income, the income exceeds 185 percent and the case was discontinued at the end of February.

EXAMPLE 2 - INCOME EXCEEDS 185%

	Jan.	Feb.	March	April
	Lump-Sum Received	Lump-Sum Reported	Suspense*	-Anticipated April income and lump-sum remainder counted as income -Exceeds 185%
Federal AFDC		-Discontinued effective 2/28 -Require recipient to reapply		
State AFDC		Income ineligible due to retrospective budgeting		-Must apply for Shaw -Normal BDOA rules -Prospective budgeting -Change to aid code 35 -Nonfederal persons number -Check resource level -Do not count remainder income in grant computation

*This case would have been a suspense but because of anticipated income in April along with remainder lump-sum income, the income exceeds 185 percent and the case was discontinued at the end of February.

EXAMPLE 3 -- ONE MONTH SUSPENSE

	Jan.	Feb.	March	April
Federal AFDC	Lump-Sum Received	Lump-Sum Reported	Suspense	AFDC grant
State-only AFDC-U			Income ineligible due to retrospective budgeting	-Not Shaw eligible. Back on federal AFDC

EXAMPLE 4 -- LUMP-SUM PERIOD OF INELIGIBILITY

	Jan.	Feb.	March	April - Dec.
Federal AFDC	Lump-Sum Received	Lump-Sum Reported	Suspense	Period of Ineligibility
State-only AFDC-U			Income ineligible due to retrospective budgeting	-Must apply for Shaw -Normal BDOA rules -Prospective budgeting -County should advise client to pick the three months to their advantage to receive State-U -Do not count remainder income in grant computation -Check resource level

EXAMPLE 5 -- LUMP-SUM RECEIVED AND REPORTED SAME MONTH

	Jan.	Feb.	March	April - Dec.
	Lump-Sum Received Lump-sum Reported Disc. 1-31	Discontinued on the 15th Period of Ineligibility	Period of Ineligibility	Period of Ineligbility
Federal AFDC		Overpayment for 1-15 First month of period of ineligibility		
State-only AFDC-U		Can apply for Shaw Normal BDOA rules		

- If granted for February - use retrospective budgeting (suspend for March because continuing retrospective budgeting income ineligible for March due to income from January) Continue Shaw for April and May

- If granted for March prospective budgeting for March and April and retrospective for May

- Do not count remainder income in grant computation

- Check resource limit

EXAMPLE 4 -- LUMP-SUM PERIOD OF INELIGIBILITY

	Jan.	Feb.	March	April - Dec.
Federal AFDC	Lump-Sum Received	Lump-Sum Reported	Period of Ineligibility	Period of Ineligibility
State-only AFDC-U			Income ineligible due to retrospective budgeting	-Must apply for Shaw -Normal BDOA rules -Prospective budgeting -County should advise client to pick the three months to their advantage to receive State-U -Do not count remainder income in grant computation -Check resource level

EXAMPLE 5 -- LUMP-SUM RECEIVED AND REPORTED SAME MONTH

	Jan.	Feb.	March	April - Dec.
Federal AFDC	Lump-Sum Received Lump-sum Reported	Ineligibility effective February 1 Overpayment for 1-15 County cancelled 15th warrant	Period of Ineligibility	Period of Ineligbility
State-only AFDC-U		Can apply for Shaw Normal BDOA rules - If granted for February - use retrospective budgeting (suspend for March because continuing retrospective budgeting income ineligible for March due to income from January) Continue Shaw for April and May - If granted for March prospective budgeting for March and April and retrospective for May - Do not count remainder income in grant computation - Check resource limit		

EXAMPLE 6 -- STATE-U PERIOD BUMPS UP TO FEDERAL AFDC

	Jan.	Feb.	March	April	May	June	July
Federal AFDC	Lump-Sum Received	Lump-Sum Reported Disc. 2/28	POI	POI	POI	POI	Remainder
State AFDC				Applied Shaw BDOA 4/10 -prorate 4/10 - 4/30 Pro-spec-tive budget-ing	Prospect-ive bud-geting	Retro-spective budgeting	-Shaw budget 1-10* -Remainder not counted for Shaw -Federal AFDC budgeted 11-31** -Remainder is income -Retro-spective budgeting

Budgeting Example

AFDC-FBU consists of four persons

Lump Sum of $2,100

660 ÷ 2100 = three-month period of ineligibility with $120 remaining as income in July

Social Security $200

For July

MAP for 4 = $698

For State AFDC-U Prorated for 1st - 10th	MAP	$698	
	Social Security	-200	
		$498	1/3 = $166 Grant
For Federal AFDC Prorated 11th - 31st	MAP	$698	
	Remainder	-120	
		$578	
	Social Security	-200	
		$378	2/3 = $252 Grant
	Total AFDC Grant		$418 Grant

Fiscal Claiming Instructions

Two separate warrants must be issued in a month where the case is eligible for both State AFDC-U and Federal AFDC. Persons counts must also be claimed for both the State AFDC-U and Federal AFDC program.

EXAMPLE 6 -- STATE-U PERIOD BUMPS UP TO FEDERAL AFDC

	Jan.	Feb.	March	April	May	June	July
Federal AFDC	Lump-Sum Received	Lump-Sum Reported	Discon. 3/31	POI	POI	POI	Remainder
State AFDC				Applied Shaw BDOA 4/10 -prorate 4/10 - 4/30 Pro-spec-tive budget-ing	Prospect-ive bud-geting	Retro-spective budgeting	-Shaw budget 1-10* -Remainder not counted for Shaw -Federal AFDC budgeted 11-31** -Remainder is income -Retro. spective budgeting

Budgeting Example

AFDC-FBU consists of four persons

Lump Sum of $2,100

660 ÷ 2100 = three-month period of ineligibility with $120 remaining as income in July

Social Security $200

For July

MAP for 4 = $660

For State AFDC-U Prorated for 1st - 10th	MAP	$660	
	Social Security	-200	
		$460	1/3 = $153 Grant
For Federal AFDC Prorated 11th - 31st	MAP	$660	
	Remainder	-120	
		$540	
	Social Security	-200	
		$340	2/3 = $113 Grant
	Total AFDC Grant		$266 Grant

Fiscal Claiming Instructions

Two separate warrants must be issued in a month where the case is eligible for both State AFDC-U and Federal AFDC. Persons counts must also be claimed for both the State AFDC-U and Federal AFDC program.