

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 1, 1986

ALL COUNTY LETTER NO. 86-120

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: AVAILABILITY OF PROPERTY - 60 DAY EXEMPTION

REFERENCES: ACL 83-83 (Galster v. Woods)
ACL 85-73 (DEFRA Questions and Answers)
ACIN 56-83 (Galster v. Woods)

The purpose of this letter is to rescind the provision for the 60 day exemption period referenced in ACL 83-83 and in ACL 85-73, page 1, Answer to Question #1.

On April 29, 1983, you were informed in All-County Information Notice I-56-83 that the California Supreme Court had issued an order in the Galster v. Woods lawsuit. That order prohibited the denial of AFDC benefits to any person solely on the grounds that he or she owned a property right of a market value in excess of \$1,000 if that property right was not, as a practical matter, available for use or expenditure to meet current needs. The order applied to both real and personal property and affected all eligibility determinations made on applications and redeterminations on or after April 6, 1983, pending the decision of the appellate court.

All County Letter 83-83, issued to implement the order of the California Supreme Court instructed counties to exempt for 60 days property which was not clearly available, until its availability could be determined.

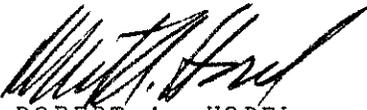
On August 13, 1983, state law (W&I Code Section 11257) was amended by AB 1733 limiting the consideration of real and personal property to that which is "actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance".

On August 1, 1985, MPP Section 42-201.1 was revised to reflect the content of the W&I Code Section stated above. MPP Section 42-213.4 was added to exempt the usual home of a client from consideration for three months if the client has entered into a marital separation.

The Court of Appeal decision issued in the Galster case, effective October 1985, terminated all prior orders, including the Supreme Court order, although the court granted retrospective relief to the named plaintiffs, it did not grant prospective relief to the class represented because federal regulations and state law had been changed to permit a six month exemption period for a family to sell excess real property. This rule appears at MPP Section 42-213.12.

Effective with the receipt of this letter, property (outside of that which is covered by specific exemptions in the regulation) shall be considered available unless the client can obtain and provide evidence that the property is currently unavailable. If the client is unwilling to obtain such evidence, the property shall be included in the resource evaluation. During the time the client is obtaining evidence, the property in question shall not be considered in the resource evaluation. Any 60 day exemptions granted prior to receipt of this letter shall remain in effect.

If you have questions or need further information, please contact Judy Moore at (916) 324-2017 or ATSS 454-2017.


ROBERT A. HOREL
Deputy Director