

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 30, 1986

• ALL COUNTY LETTER NO. 86-44

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: NOIA v. McMAHON

REFERENCE: All-County Letter (ACL) No. 86-37, Eligibility and Assistance Standards (EAS) 44-111.437, 44-113.13

In ACL No. 86-37, you were informed that on May 6, 1986, the United States District Court for the Eastern District of California issued an order in the case of Noia v. McMahon. The order enjoins the Department from enforcing the above-cited regulations. These regulations require that nongovernmental loans available to meet current needs be treated as income when computing Aid to Families with Dependent Children (AFDC) grants. ACL No. 86-37 instructed counties to begin flagging affected cases effective May 1, 1986.

The purpose of this letter is to provide you with specific instructions and materials necessary to implement the terms of the Noia preliminary injunction. The counties must identify and notify all cases in which aid has been reduced, denied, terminated, granted, or where an overpayment has been assessed, at the reduced amount, due to the effect of the challenged regulations cited above.

In addition to the detailed implementing instructions, the following implementation materials are attached:

1. A reproducible copy of the Informing Notice to affected cases in English (Spanish version to come on approximately June 15, 1986).
2. A reproducible copy of the Notices of Action in English (Spanish version to come on approximately June 15, 1986).
3. Instructions on completing Notices of Action.
4. Compliance Reporting Form.

If you have any questions regarding the Implementing Instructions, Informing Notice or Notices of Action, please contact Jim Mullany of the AFDC/FS Policy Implementation Bureau at (916) 324-2661.

for Robert Horel
for ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA

IMPLEMENTING INSTRUCTIONS

(Noia v. McMahon)

1. Cases affected by the Noia preliminary injunction are:
 - (a) All families whose AFDC grant has been or would be reduced on or after May 1, 1986 because a nongovernmental loan was determined to be available to meet current needs and consequently was treated as income (EAS Sections 44-111.437 and 44-113.13);
 - (b) All families whose application for AFDC was or would be granted at the reduced amount on or after May 1, 1986 because a nongovernmental loan which was determined to be available to meet current needs was treated as income (EAS Sections 44-111.437 and 44-113.13);
 - (c) All families whose AFDC grant was or would be discontinued on or after May 1, 1986 because a nongovernmental loan which was determined to be available to meet current needs was treated as income (EAS Sections 44-111.437 and 44-113.13);
 - (d) All families whose AFDC application was or would be denied on or after May 1, 1986 because a nongovernmental loan which was determined to be available to meet current needs was treated as income (EAS Sections 44-111.437 and 44-113.13); and
 - (e) All families who were assessed an overpayment or where counties have collected overpayments due to the application of EAS Sections 44-111.437 and 44-113.13 on or after October 1, 1985, and whose grants are being reduced on or after May 1, 1986.

The Noia preliminary injunction applies to the Refugee Cash Assistance Program (RCA), the Entrant Cash Assistance Program (ECA), and the Refugee Demonstration Project (RDP).

2. In order to comply with this court order, counties must, on a prospective basis, implement the following by July 1, 1986:
 - (a) Cease treating nongovernmental loans as income when they are available to meet current needs as currently set forth in EAS Sections 44-111.437 and 44-113.13 in determining eligibility and grants for July 1986 and thereafter.
 - (b) Nongovernmental loans available to meet current needs shall not be treated as income when:
 - (i) The terms of the loan are stated in a written agreement between the lender and the borrower, and the recipient is able to submit, as part of the verification process, loan contract papers or a written agreement setting forth the

terms of the loan regarding its amount and the repayment plan. The agreement must be signed by the lender and the recipient as parties to the agreement.

- (ii) The agreement clearly specifies: (a) the obligation of the borrower to repay the loan; and (b) a repayment plan which provides for installments of specified amounts to begin within 90 days of the receipt of the loan and continue thereafter on a regular basis until the loan is fully repaid.
 - (c) In some cases, nongovernmental loans which are exempted under the Noia injunction may have to be considered as property. Therefore, counties should be aware of the requirements of EAS Section 42-213.2(c) and apply them when appropriate.
3. From the period May 1, 1986 through June 30, 1986, counties must take the following action within the timeframe specified below:
- (a) For families whose AFDC grant has been reduced, terminated, denied, or whose application was determined to be approved at a reduced amount, because a nongovernmental loan available to meet current needs was treated as income:
 - (i) Identify affected cases;
 - (ii) Review the case to determine if a computation can be made based upon information available in the file, or if the recipient must be contacted in order to determine eligibility under this court order.
 - (iii) If necessary, provide the recipient with the opportunity to submit the required verification as set forth in item 2 (b) of this All County Letter (ACL) (a Recipient Informing Notice is attached for your use in order to facilitate this action). For these retroactive cases only, affected recipients must have a loan agreement that provides for repayment to begin within 90 days from the date the Informing Notice is received by the recipient.
 - (iv) Restore benefits to the amount to which they would otherwise have been entitled had the nongovernmental loan not been counted as income as provided for in item 2 (b) of this ACL. In some cases, nongovernmental loans which are exempted under the Noia injunction may have to be considered as property. Therefore, counties should be aware of the requirements of EAS Section 42-213.2(c) and apply them when appropriate.
 - (v) Send an appropriate Notice of Action.

- (vi) The actions specified in (i) through (v) above must be taken by July 1, 1986.
- (b) For families who have incurred an overpayment or where counties have been recouping overpayments due to delayed implementation of EAS Sections 44-111.437 and 44-113.13 as a result of aid paid pending an administrative appeal filed by any class member, the counties must take the following action:
 - (i) Identify affected cases;
 - (ii) Review the case to determine if a computation can be made based upon information available in the file, or if the recipient must be contacted in order to determine eligibility under this court order.
 - (iii) If necessary, provide the recipient with the opportunity to submit the required verification as set forth in item 2 (b) of this ACL (a Recipient Informing Notice is attached for your use in order to facilitate this action). For these retroactive cases only, affected recipients must have a loan agreement that provides for repayment to begin within 90 days from the date the Informing Notice is received by the recipient.
 - (iv) Restore benefits to the amount to which they would otherwise have been entitled and cease all other collection efforts with respect to overpayments which would not have been incurred had the nongovernmental loan not been counted as income, as provided for in item 2 (b) of this ACL. In some cases, nongovernmental loans which are exempted under the Noia injunction may have to be considered as property. Therefore, counties should be aware of the requirements of EAS Section 42-213.2(c) and apply them when appropriate.
 - (v) Send an appropriate Notice of Action regarding the underpayment.
 - (vi) The actions specified in (i) through (v) must be taken by July 1, 1986.
4. Complete the attached compliance form and submit it to DSS on or before August 1, 1986. Please submit the completed form to:

Department of Social Services
 AFDC/FS Policy Implementation Bureau
 744 P Street, M.S. 16-31
 Sacramento, CA 95814
 Attention: Jim Mullany

5. Reproducible copies of the Notices of Action in English, which are to be used for families covered by the Noia v. McMahon injunction who are entitled to a retroactive corrective payment, are attached. The Spanish version will be sent to you approximately June 15, 1986.

INITIAL INFORMING NOTICE

Your cash aid was stopped, changed, or denied because we counted money that was loaned to you. A new court order says we can't count most loan money as income if you have a signed loan agreement.

The agreement must show the amount loaned, a plan to pay it back starting within 90 days after receiving this notice, and it must be signed by you and the lender.

If you show us an agreement you may get the cash aid we stopped, changed, or denied.

Call or see:

Please call or come in before:

Notice of Action

If you have questions or want more information about this action, please contact your worker.

Case Name :
Case Number :
Worker :
Phone :
Date :

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken

The County has restored your cash aid.

We stopped your cash aid because you had loan money that we counted as income against you in _____. A new court order says we can't count it when you have a signed loan agreement.

The agreement must show the amount loaned, a plan to pay it back starting within 90 days and it must be signed by you and the lender. You have a signed loan agreement.

When we do not count that money, your income goes down and you can get cash aid.

Your monthly cash aid amount is figured on this notice.

Computation of: Financial Eligibility
 Aid Payment

_____ for _____ persons _____
Special Needs (specify) _____ + _____
_____ + _____
Net Non-exempt Income _____
Child/Spousal Support Collected by the County _____
(for eligibility computation only) - _____
Total Grant = _____
Overpayment Adjustment (see page _____) - _____
Aid Payment = _____

Net Nonexempt Income Computation

	Name	Name	Name
Total Earned Income			
Inc. Tax, Soc. Sec. and Disab. Ins.			
Standard Work Expense Disregard			
Dependent Care Expense Disregard			
Disregard: \$30			
Subtotal			
Disregard: 1/3 of Subtotal			
Other Countable Income: _____			

Court Ordered Child/Spousal Support Paid			
● Net Nonexempt Income			
● Net Nonexempt Income Total (columns 1 + 2 + 3)			

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) _____ Authority: NOIA v. McMAHON order and ACL 86-37

Medi-Cal: California Administrative Code Title 22, Section(s) _____

Child Support. The District Attorney can help you locate an absent parent, legally establish your child's paternity, and collect child support. To obtain these services, or to continue them if aid is discontinued, you must contact the District Attorney's office.

Family Planning Services. Information is available from the County Welfare Department on request.

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

Notice of Action

If you have questions or want more information about this action, please contact your worker.

Case Name :
Case Number :
Worker :
Phone :
Date :

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken

The County has approved your cash aid.

You were denied because you had loan money that we counted against you in _____. A new court order says we can't count it as income when you have a signed loan agreement.

The agreement must show the amount loaned, a plan to pay it back starting within 90 days and it must be signed by you and the lender. You have a signed loan agreement.

When we do not count that money, your income goes down and you can get cash aid.

Your monthly cash aid amount is figured on this notice.

Your first month's aid amount is \$_____. This amount is based on your regular monthly cash aid amount. It is less because you are not getting cash aid for the whole first month.

Computation of: Financial Eligibility
 Aid Payment

Net Nonexempt Income Computation

_____ for _____ persons _____
Special Needs (specify) _____ + _____
_____ + _____
Net Non-exempt Income _____
Child/Spousal Support Collected by the County _____
(for eligibility computation only) - _____
Total Grant = _____
Overpayment Adjustment (see page _____) - _____
Aid Payment = _____

	Name	Name	Name
Total Earned Income			
Inc. Tax, Soc. Sec. and Disab. Ins.	-		
Standard Work Expense Disregard	-		
Dependent Care Expense Disregard	-		
Disregard: \$30	-		
Subtotal	=		
Disregard: 1/3 of Subtotal	-		
Other Countable Income: _____	+		
_____	+		
Court Ordered Child/Spousal Support Paid	-		
● Net Nonexempt Income	=		
● Net Nonexempt Income Total (columns 1 + 2 + 3)	=		

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) _____ Authority: NOIA v. McMahan order and ACL 86-37

Medi-Cal: California Administrative Code Title 22, Section(s) _____

Child Support. The District Attorney can help you locate an absent parent, legally establish your child's paternity, and collect child support. To obtain these services, or to continue them if aid is discontinued, you must contact the District Attorney's office.

Family Planning Services. Information is available from the County Welfare Department on request.

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

Notice of Action

If you have questions or want more information about this action, please contact your worker.

Case Name :
Case Number :
Worker :
Phone :
Date :

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken

The County is changing your cash aid from \$_____ to \$_____.
You had an overpayment because you had loan money that we counted against you. To pay back the overpayment we adjusted your cash aid amount in _____. A new court order says we can't count loan money as income when you have a signed loan agreement.

The agreement must show the amount loaned, a plan to pay it back starting within 90 days, and it must be signed by you and the lender. You have a loan agreement.

We are stopping the adjustment amount. Your new cash aid amount is figured on this notice.

We will pay back the amount adjusted so far. We owe you \$_____.

a check is enclosed.

a check will be sent soon.

Computation of: Financial Eligibility
 Aid Payment

Net Nonexempt Income Computation

_____ for _____ persons _____
Special Needs (specify) _____ + _____
_____ + _____
Net Non-exempt Income _____
Child/Spousal Support Collected by the County
(for eligibility computation only) - _____
Total Grant = _____
Overpayment Adjustment (see page _____) - _____
Aid Payment = _____

	Name	Name	Name
Total Earned Income			
Inc. Tax, Soc. Sec. and Disab. Ins.			
Standard Work Expense Disregard			
Dependent Care Expense Disregard			
Disregard: \$30			
Subtotal			
Disregard: 1/3 of Subtotal			
Other Countable Income: _____			

Court Ordered Child/Spousal Support Paid			
• Net Nonexempt Income			
• Net Nonexempt Income Total (columns 1 + 2 + 3)			

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) _____ Authority: NOIA v. McMahan order and ACL 86-37

Medi-Cal: California Administrative Code Title 22, Section(s) _____

Child Support. The District Attorney can help you locate an absent parent, legally establish your child's paternity, and collect child support. To obtain these services, or to continue them if aid is discontinued, you must contact the District Attorney's office.

Family Planning Services. Information is available from the County Welfare Department on request.

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

NOIA 5 (5/86) Noia v. McMahan - Restore Refund Grant Reduction Following Overpayment Adjustment.

Notice of Action

*If you have questions or want more information
about this action, please contact your worker.*

Case Name :
Case Number :
Worker :
Phone :
Date :

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken:
The County has denied your application.

You did not show us a signed loan agreement with the amount of the loan and a plan to pay it back starting within 90 days.

You showed us a signed loan agreement, but there is another reason you can not get cash aid now. It is:

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) _____ Authority: NOIA v. McMAHON order and ACL 86-37

Medi-Cal — California Administrative Code Title 22, Section(s) _____

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

NOIA 6 (5/86) Noia v. McMahan - Denial

Notice of Action

Case Name :
Case Number :
Worker :
Phone :
Date :

If you have questions or want more information about this action, please contact your worker.

Description of the Action, Amount, Reason(s), Comments. Effective _____, the following action is being taken:
The County owes you an underpayment.

You had loan money that we counted against you in _____. A new court order says we can't count it as income when you have a signed loan agreement.

The agreement must show the amount loaned, a plan to pay it back starting within 90 days and it must be signed by you and the lender. You have a signed loan agreement.

When we do not count that money, your income goes down and your cash aid amount goes up.

We will pay back the amount taken out of your cash aid amount in _____. We owe you \$ _____.

a check is enclosed.

a check will be sent soon.

Regulations. This action is required by State regulations which are available for review at the county welfare department: Manual of Policies and Procedures (MPP) Section(s) _____ Authority: NOIA v. McMAHON order and ACL 86-31

Medi-Cal — California Administrative Code Title 22, Section(s) _____

State Hearing. If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.

NOIA 7 (5/86) Noia v. McMahon - Refund Grant Reduction Following Receipt of Loan

INSTRUCTIONS ON COMPLETING NOTICES OF ACTION

Attached are reproducible copies of the Notices of Action in English which are to be used in informing families covered by the NOIA v. McMahon order. The language on the attached Notices of Action has been approved under the terms of the Turner Consent Decree and is mandated for use.

We have attempted to develop Notice of Action messages for the majority of case situations. However, the messages may not address every possibility. Counties may develop additional messages to meet individual case circumstances following the language pattern established in the state messages.

NOIA 1 INITIAL INFORMING NOTICE

Use to notify cases whose AFDC grant has been reduced, terminated, denied or whose application was approved at a reduced amount because a non-governmental loan was counted as income from May 1, 1984 forward. Also use to notify cases who have incurred an overpayment due to counting a non-governmental loan as income since May 1, 1986. Use when the information in the case file is insufficient for the county to make a determination of eligibility under NOIA v. McMahon. The Notice informs cases of the requirement to provide a loan agreement to qualify under NOIA v. McMahon.

NOIA 2 RESCIND DISCONTINUANCE

Use to rescind a discontinuance and approve aid back to when it was "erroneously" discontinued. Fill in the month aid was originally discontinued.

NOIA 3 RESTORE FOLLOWING RECEIPT OF LOAN

Use to change grant amount after it was reduced in the current month due to receipt of a small loan in the current month (prospective budgeting) or in the budget month (retrospective budgeting) that did not make the case ineligible for that month.

Some cases may also require a NOIA 7, Refund Grant Reduction Following Receipt of Loan.

NOIA 4 RESCIND DENIAL

Use to rescind denial and approve aid back to the appropriate BDOA using the rule at MPP 44-317 for cases denied in error.

Fill in the month of the original denial.

Check the box and fill in the partial 1st month's aid amount if the beginning date of aid is not on the first of a month.

NOIA 5 RESTORE AND/OR REFUND GRANT REDUCTION FOLLOWING OVERPAYMENT ADJUSTMENT

Use to stop the adjustment amount for an overpayment due to the receipt of a loan in any month from October 1985 through May 1986. Also use to notify the case of an underpayment amount for the grant adjustment(s) made since May 1, 1986.

Complete the blanks to show the date the adjustment will stop and the old and new grant amounts.

If grant adjustments have been made, check the first box at the bottom and indicate the amount of the underpayment. Check the appropriate box indicating when the underpayment will be sent.

NOIA 6 DENIAL

Use to deny after the client's documentation and other eligibility factors have been verified.

Check the appropriate box.

Complete the reason for ineligibility if the second box is checked. Show the computation for ineligibility if appropriate.

NOIA 7 REFUND GRANT REDUCTION
FOLLOWING RECEIPT OF LOAN

Use to refund grant reductions that have been made since May 1, 1986 due to the counting of a non-governmental loan as income. One Notice is necessary for each month of aid that is being refunded.

Fill in the month the loan was originally counted as income.

Fill in the month cash aid was reduced, the amount owed the case for that month and check the appropriate box indicating when the underpayment will be refunded.

Some cases may also need a NOIA 3, Restore Following a Receipt of a Loan.

State of California
Health and Welfare Agency

Department of Social Services

NOIA v. McMAHON

The county of _____, State of California, has issued instructions to eligibility workers to apply the Noia v. McMahon court order retroactively to May 1, 1986, and prospectively beginning July 1, 1986 per ACL No. 86-37 and ACL No.

(Your Name/Title (Print))

Date

Signature

Return completed form to:

Department of Social Services
AFDC/FS Policy Implementation Bureau
744 P Street, M. S. 16-31
Sacramento, CA 95814

Attention: Jim Mullany
(916) 324-2661