

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 29, 1986

ALL COUNTY LETTER NO. 86-84

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: RUTAN v. McMAHON

REFERENCES: All County Letter No. 86-45
All County Welfare Directors MEDS Transmittal of June 10, 1986
All County Letter No. 86-55

On August 20, 1986, the Superior Court of Alameda County issued a preliminary injunction in the Rutan v. McMahon court case. A copy of the order is attached. The order enjoins the Department from:

1. Applying the lump sum regulations (MPP Section 44-207.4) to recipients who have not received a written notice (Exhibit A) explaining the lump sum rule prior to receipt of the lump sum income as of August 25, 1986;
2. Failing and refusing to redetermine the lump sum period of ineligibility for former AFDC recipients who are currently ineligible due to the receipt of lump sum income who:
 - a. did not receive a written explanation of the lump sum rule prior to the receipt of the lump sum income, and
 - b. spent all or part of the lump sum income prior to receiving any written notice (i.e., a notice of action).
3. Recouping overpayments resulting from the application of the lump sum regulations.

The purpose of this letter is to provide you with specific interim instructions to begin the implementation of this order.

Counties are instructed immediately to:

1. Cease applying MPP Section 44-207.4 for new applications as of August 25, 1986, and for ongoing cases as of September 1, 1986.

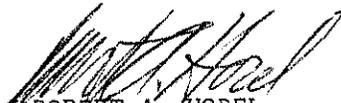
If an ongoing case is to be discontinued effective September 1, 1986 due to the receipt of lump sum income, that action must be rescinded and the benefits must be restored. The income received must be treated as regular income and budgeted accordingly.

In all cases, property values should be verified for the first of the month following suspension, prior to resuming aid.

2. Cease all recoupment activity for overpayments caused by the receipt of lump sum income as of August 20, 1986 (for recoupments being made by grant adjustment, this would apply beginning with the September grant).

Exhibit A of the court order is the written notice explaining the lump sum rule that must be given to all applicants and sent to all recipients within 45 days of the order. Counties are required to give all applicants this notice. Attached is a reproducible copy of the Notice for your use. However, counties may develop their own notice by using the language provided in Exhibit A. The only variations counties may make is the size of the paper, the use of upper and lower case letters for the text, and the option of providing the address and telephone numbers of the local legal aid office. Counties should begin to take the necessary action for the mass mailing.

Further instructions regarding this order will be forthcoming in the near future. If you have any questions please contact Cindy Wong Lan at (916) 324-2158.


ROBERT A. HOREL
Deputy Director

Attachment

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
BEFORE THE HONORABLE RICHARD A. BANCROFT, JUDGE
DEPARTMENT TWENTY-ONE

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MARCI RUTAN, ESTANISLAO SANDOVAL,
AND SHARON TATE,

PLAINTIFFS,

VS.

LINDA MC MAHON, DIRECTOR OF THE
CALIFORNIA DEPARTMENT OF SOCIAL
SERVICES; DEPARTMENT OF SOCIAL
SERVICES; JESSE R. HUFF, DIRECTOR
OF THE DEPARTMENT OF FINANCE;
DEPARTMENT OF FINANCE,

DEFENDANTS.

FILED IN CASE NO. 612542-4

NO. 612542-4

CLASS ACTION

PRELIMINARY INJUNCTION

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION CAME ON
FOR HEARING ON JULY 7, 1986. HAVING CONSIDERED THE BRIEFS OF
PLAINTIFFS' AND DEFENDANTS' COUNSEL FILED THEREWITH, THE ARGUMENTS
OF COUNSEL, AND ALL OTHER PLEADINGS ON FILE HEREIN, AND GOOD CAUSE
APPEARING, THE COURT ISSUES THIS PRELIMINARY INJUNCTION:

IT IS HEREBY ORDERED THAT:

1. DEFENDANTS MC MAHON AND DEPARTMENT OF SOCIAL SERVICES ("DSS"), TOGETHER WITH THEIR SUCCESSORS IN INTEREST, AGENTS, AND EMPLOYEES, AND ALL PERSONS ACTING IN CONCERT WITH THEM, INCLUDING THE COUNTY WELFARE DEPARTMENTS, SHALL BE PRELIMINARILY ENJOINED AND RESTRAINED, DURING THE PENDENCY OF THIS LITIGATION, FROM:

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1 AL ST 1, 1986, DUE IN WHOLE C TO APPLICATION
2 OF EAS SECTION 44-207.4;

3 C. TO IDENTIFY ALL CASES IN WHICH OVERPAYMENTS
4 WERE INCURRED DUE TO A COUNTY'S APPLICATION OF
5 EAS SECTION 44-207.4, AND HAVE NOT BEEN REPAID AS OF
6 THE DATE OF THIS ORDER.

7 DEFENDANTS SHALL INSTRUCT THE COUNTY WELFARE DEPARTMENTS TO
8 IDENTIFY ALL SUCH CASES NO LATER THAN SEPTEMBER 12, 1986.
9 DEFENDANTS SHALL PROVIDE A COPY OF THEIR INSTRUCTIONS TO
10 PLAINTIFFS' COUNSEL.

11 4. DEFENDANTS SHALL REQUIRE THE COUNTY WELFARE
12 DEPARTMENTS TO ALLOW ALL PERSONS IDENTIFIED PURSUANT TO PARAGRAPH
13 3 TO SHOW THAT THEY SPENT SOME OR ALL OF THE LUMP SUM INCOME PRIOR
14 TO RECEIVING A WRITTEN EXPLANATION OF THE LUMP SUM RULE.
15 DEFENDANTS SHALL CONSULT WITH PLAINTIFFS' COUNSEL CONCERNING THE
16 FORMS, NOTICES AND PROCEDURES TO BE USED PURSUANT TO THIS
17 PARAGRAPH. THE FORMS AND NOTICES, IF ANY, SHALL BE SENT TO ALL
18 SUCH RECIPIENTS NO LATER THAN SEPTEMBER 19, 1986.

19 5. DEFENDANTS SHALL REDETERMINE THE LUMP SUM
20 DISQUALIFICATION PERIOD FOR FORMER AFDC RECIPIENTS IDENTIFIED
21 PURSUANT TO PARAGRAPH 3(B) WHO SPENT ALL OR PART OF LUMP SUM
22 INCOME PRIOR TO RECEIVING WRITTEN NOTICE OF THE LUMP SUM RULE.
23 DEFENDANTS SHALL REDETERMINE SUCH A RECIPIENT'S DISQUALIFICATION
24 PERIOD BY TAKING INTO ACCOUNT ONLY THE AMOUNT OF LUMP SUM INCOME
25 THE RECIPIENT HAD AVAILABLE TO HER AFTER RECEIVING WRITTEN NOTICE
26 OF THE LUMP SUM RULE. DEFENDANTS SHALL PROVIDE STATE-ONLY OR
27 STATE-FEDERAL AFDC BENEFITS EFFECTIVE SEPTEMBER 1, 1986 TO THOSE
28 RECIPIENTS WHO HAVE THREE (3) MONTHS OR LESS REMAINING IN THEIR
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1 DISQUALIFICATION PERIOD, AS REDETERMINED, . OTHERWISE
2 ELIGIBLE.

3 6. DEFENDANTS SHALL INSTRUCT THE COUNTY WELFARE
4 DEPARTMENTS IMMEDIATELY TO CEASE RECOUPING ANY OVERPAYMENTS WHICH
5 RESULTED FROM THE OPERATION OF EAS SECTION 44-207.4 AND WHICH ARE
6 UNPAID IN WHOLE OR IN PART AS OF THE DATE OF THIS ORDER.

7 7. ALL COUNTY DETERMINATIONS REQUIRED UNDER
8 PARAGRAPHS 4-6 OF THIS ORDER SHALL BE COMPLETED NO LATER THAN
9 THIRTY (30) DAYS AFTER THE COUNTY HAS RECEIVED NECESSARY
10 INFORMATION FROM THE AFDC RECIPIENT.

11 8. DEFENDANTS SHALL REQUIRE THAT NOTICES OF ACTION
12 BE SENT EXPLAINING ALL DETERMINATIONS MADE AND ACTIONS TAKEN
13 PURSUANT TO PARAGRAPHS 4-6 OF THIS ORDER.

14 9. ON OR BEFORE JANUARY 1, 1987, DEFENDANTS SHALL
15 FILE AND SERVE A REPORT, IN A FORM TO BE AGREED UPON BETWEEN THE
16 PARTIES, SHOWING WHAT EACH COUNTY HAS DONE TO COMPLY WITH THIS
17 INJUNCTION.

18 10. IF THE PARTIES ARE UNABLE TO AGREE UPON THE FORMS,
19 NOTICES AND PROCEDURES REQUIRED UNDER PARAGRAPHS 4-6, OR UPON THE
20 REPORTS REQUIRED BY PARAGRAPH 9, OR IF PLAINTIFFS OBJECT TO THE
21 CONTENTS OF ANY INSTRUCTIONS SENT TO THE COUNTY WELFARE
22 DEPARTMENTS PURSUANT TO THIS ORDER, EITHER PARTY MAY SEEK A
23 HEARING UPON FIVE DAYS NOTICE. THE PARTY SEEKING SUCH A HEARING
24 SHALL FILE AND SERVE A MEMORANDUM DESCRIBING THE NATURE OF THE
25 DISPUTE FIVE DAYS PRIOR TO THE HEARING DATE. ANY REPLY SHALL BE
26 FILED TWO DAYS PRIOR TO THE HEARING.

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THIS PRELIMINARY INJUNCTION SHALL ISSUE WITHOUT BOND.

SO ORDERED.

DATED:

JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

DEPT. 21

Date: Aug. 20, 1986

Hon. RICHARD A. BANCROFT, Judge

M. Owyang

No. Deputy Clerk
Reporter

MARCI RUTAN, et al

Counsel appearing
for Plaintiff

No One

Plaintiff

vs.

Counsel appearing
for Defendant

LINDA MC MAHON, et al

No One

Defendant

NATURE OF PROCEEDINGS: PRELIMINARY INJUNCTION

ACTION No. 612542-4

Above matter submitted on July 7, 1986.

The Court makes its preliminary injunction, as attached.

Copy of this minute order mailed August 21, 1986 to:

Evelyn R. Frank
2357 San Pablo Ave.
Oakland, CA 94612

Winifred Smith
Deputy Attorney General
6000 State Building
San Francisco, CA 94102

by M. Owyang
M. Owyang, Clerk, Dept. 21

IMPORTANT NOTICE

TO: All people on AFDC or Refugee Assistance

If you receive lump sum income in the future, you may lose your federal cash aid. Read this notice so that you will know about the lump sum rule resulting from a change in the law.

Lump sum income is money you may get just one time or only once in a while. Lump sums can be past due Social Security, Workers' Compensation or personal injury court awards, lottery winnings, inheritances and the like. There are now very few exceptions.

If you get lump sum income while you are on aid, you will have to live on that money instead of your cash aid. The more you get, the longer you will have to live on it. You will not be able to get federal cash aid even if you have used up the lump sum money before your cash aid can start again.

Here is how the lump sum rule works. We will divide the amount of your lump sum income by the maximum cash grant for your family. So if, for example, you get aid for yourself and two children, and if you get a lump sum of \$6,170, you won't be able to get federal cash aid for 10 months (\$6,170 divided by \$617, the maximum grant for a family of three).

There is a state program that does not have the lump sum rule. If your federal cash aid stops for more than one month because of the lump sum rule, this program may help you if you are otherwise eligible. However, you can only get cash aid under this state program for three months a year.

If you receive lump sum income during a month when you are not on cash aid, then the lump sum rule may not apply. In that case, you could reapply for federal cash aid once you had less than \$1,000.

To avoid problems, don't spend a lump sum until you talk to your worker.

If you have any questions, contact your worker for more information. You may also contact your Legal Aid Office.