STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

May 26, 1987

ALL COUNTY LETTER NO. 87-77

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMMIGRATION REFORM AND CONTROL ACT OF 1986

REFERENCE: PUBLIC LAW 99-603

Introduction

The purpose of this letter is to provide counties with information on the Federal Immigration Reform and Control Act of 1986 (IRCA) and direction on related questions which are of immediate concern because of their impact on county welfare operations. Health and Welfare Secretary Clifford L. Allenby has formed a statewide task force to coordinate the implementation of IRCA. As information from this group's efforts becomes available, we will share it with you.

Background

On November 6, 1986, IRCA (Public Law 99-603) was enacted which provides that certain aliens may apply for legal resident status in the United States beginning May 5, 1987. There are several categories of aliens, including Cuban and Haitian entrants and special agricultural workers, which may elect to apply. Most aliens will first be granted temporary status when certain eligibility factors are met and/or verified. The time frames for subsequently achieving permanent status will be staggered.

Federally financed public assistance is unavailable for five years to newly legalized aliens from the date the alien was granted lawful temporary resident status with only a few exceptions, most medically related.

The County Welfare Directors Association Task Force on IRCA has produced an excellent summary of the provisions of IRCA which, we understand, was provided to all counties. We recommend that you refer to the CWDA report as to how IRCA affects various programs.

Immigration and Naturalization Service (INS) Application Factors

When an alien submits an application to INS for legal resident status, the burden of proof for documenting eligibility factors rests with the alien. The applicants must agree to fully cooperate with INS in the verification process. Any information provided must be verifiable by INS.

Aliens must declare on their INS applications whether or not they have been recipients of public cash assistance. At this point, we understand public cash assistance, as defined by the federal regulations, to include income or needs based monetary assistance such as AFDC, SSI and General Assistance received by the alien or his immediate family through Federal, State or local programs. It does not include assistance in kind, such as Food Stamps, public housing or other noncash benefits, nor does it include work-related compensation or certain types of medical assistance (Medicare, emergency treatment, services to pregnant women or children under 18 years of age, or treatment in the interest of public health). INS will determine, based on the alien's history, whether he/she is likely to become a public charge. Past acceptance of public cash assistance within a history of consistent employment will enter into INS' decision. The length of time an applicant has received public cash assistance will constitute a significant factor.

Initial County Welfare Department Impact

Many IRCA eligibility factors (identity, residence, etc.) are the same factors that are verified for AFDC and Food Stamp eligibility. It is possible that counties will receive requests for copies of documents contained in welfare case records to use in the alien legalization process.

The following questions have been asked:

1. May counties charge a fee to produce the requested documentation?

   Yes. A county may charge for the reasonable costs involved in producing copies of materials requested from a case file. This applies to both current and former recipients of public assistance.

2. Will counties be asked by INS to verify whether or not an individual has received public assistance?

   Not at this point. State staff are working with INS to assist in the verification of past receipt or nonreceipt of public assistance. Counties will likely not be involved in this process.

We are most interested in identifying operational issues of immediate concern that are raised by the implementation of IRCA. We will attempt to provide written guidance to all counties quickly on issues of general concern. Please telephone Judy Moore (AFDC) at (916) 324-2017 or Michiyo Laing (Food Stamps) at (916) 324-6583 with your questions as they arise.

ROBERT A. HOREL
Deputy Director

cc: CWDA