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

May 11, 1988

ALL COUNTY LETTER NO.: 88-43

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARING (ADH) SCREENING PROCESS

REFERENCE: MPP 22-202.22

The purpose of this letter is to advise the counties that effective May 31, 1988, the Administrative Adjudications Division (AAD) will begin screening county ADH requests prior to such requests being scheduled for hearing. The requests to be screened include all requests that are awaiting scheduling, as of May 31, regardless of the date they were initially sent to the State, as well as all future requests received after such date.

The ADH screening process is being established to ensure that the county's evidence in all scheduled cases will meet minimum standards for sufficiency. Such screening process will not attempt to adjudicate the claim presented by the request. There will be no evaluation of the evidence to determine whether it would, in fact, support a finding of fraud or Intentional Program Violation (IPV) based on the required standard of clear and convincing evidence. The adjudication of the claim is strictly reserved for the Administrative Law Judge (ALJ) at the ADH itself.

A request will be accepted for scheduling when the county has identified evidence that could support a decision in the county's favor on all essential facts in the case. Thus, when the county has failed to identify the evidence that would support a finding that a respondent knew about another individual's earnings, the request would be rejected because there is no evidence that this essential fact could be established. A request would also be rejected when the county has presented no evidence to show why a respondent's failure to do something should be viewed as intentional behavior as opposed to mistake or inadvertence.

Under this process, only those requests which are accepted will be scheduled for hearing. Those requests which are rejected because of insufficient evidence will be returned to the county with a brief explanation. Such requests may be re-filed with the

State if the county subsequently provides additional information which the county believes will make the request sufficient. When the county disputes a screening determination, the county may request the Chief Administrative Law Judge to review the matter. An explanation of the county's position should accompany the reconsideration request.

To a great degree, the role that the screening process will play will depend on the effectiveness of the counties' own screening or review of potential ADH requests. For those counties which fail to carefully screen, a large percentage of requests may be initially returned as insufficient. For those counties which conscientiously screen potential requests, it is expected that few, if any, requests will be returned.

In our continuing effort to improve the counties' skill in preparing ADH requests, we strongly recommend that counties obtain copies of the revised HANDBOOK on the ADH Process. The ADH HANDBOOK provides an excellent understanding of the ADH process and includes a comprehensive discussion of the kinds of evidence that should be included in such requests and presented at the ADH itself. The counties are also urged to complete the approved IPV form Statement of Position and attach it to the request that is initially sent to the State. Copies of both documents are available from the AAD.

If you have any suggestions or questions regarding the screening process, or you would like copies of the Handbook and/or Statement of Position, please contact Laurence H. Geller, Supervising Administrative Law Judge, at 916/324-4500.

THOMAS S. WILCOCK
Chief Administrative Law Judge
Administrative Adjudications Division

cc: CWDA