

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



May 30, 1989

ALL COUNTY LETTER NO. 89- 47

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Implementation of the Order and Stipulated Judgement in the Louis v. McMahon Court Case

REFERENCE:

The purpose of this letter is to inform you that on April 7, 1989, the Order and Stipulated Judgement in the Louis v. McMahon court case was signed and filed with the San Francisco County Superior Court. A copy of the Order is attached.

In accordance with the Order, Counties are instructed that pursuant to 42 U.S.C. Sections 407(a) and 1383(d)(1), Social Security and/or SSI (including SSP), benefits are exempt from collection against Aid to Families With Dependent Children (AFDC) overpayments. 42 U.S.C. Section 407(a) reads, in part, that:

"The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process . . ."

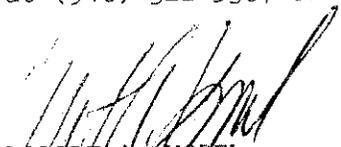
This means that Social Security and/or SSI funds are not subject to collection and that these funds cannot be used to repay AFDC overpayments without the express permission of the client. In order to ensure that individuals are informed of the exempt nature of Social Security and SSI benefits, and to avoid the appearance of legal process with respect to these funds, effective October 1, 1989, all overpayment and/or collection letters to clients must include the following: "You do not have to use any Social Security or SSI benefits you get to repay this overpayment."

The attached ten Notice of Action (NOA) messages with instructions are included to notify recipients of the impact of Louis v. McMahon on overpayments. These NOA messages supersede current messages and are effective October 1, 1989. They are:

M44-350A	M44-350F	M44-350H	M44-352C	M44-352H
M44-350E	M44-350G	M44-352A	M44-352G	M44-352J

These ten NOA messages will not be provided in camera ready format, therefore, Counties are to reproduce them as appropriate. Translated versions will follow as soon as possible in the five standard languages.

Should you have any questions, please contact an Overpayment Recovery Consultant at (916) 322-5387 or ATSS 492-5387.



ROBERT A. HOREL
Deputy Director

Attachments

1 MICHAEL D. KEYS
2 SAN FRANCISCO NEIGHBORHOOD
3 LEGAL ASSISTANCE FOUNDATION
4 49 Powell Street
5 San Francisco, California 94102
6 Telephone: (415) 627-0200

7 Attorneys for Plaintiff

ENDORSED
FILED
San Francisco County Superior Court

APR 7 - 1989

DONALD W. DICKINSON, Clerk
BY: CRISTINA BAUTISTA
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

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11 JULIA LOUIS,)
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Petitioner/Plaintiff,

Case No. 869353

v.

LINDA McMAHON, Director, State
Department of Social Services;
JESSE HUFF, Director, State
Department of Finance and
DOES I - III,

Respondents/Defendants.

ORDER AND
STIPULATED JUDGMENT

IT IS ORDERED, ADJUDGED AND DECREED that the terms and agreements as set forth in the attached Stipulation for Entry of Judgment on Plaintiff's Petition for Writ of Mandate (CCP Sec. 1094.5, W & IC Sec. 10962, CcP Sec. 1085), Complaint for Declaratory and Injunctive Relief shall be and hereby are the order of this Court.

DATED: _____

STUART R. POLLAK

JUDGE OF THE SUPERIOR COURT

1 MICHAEL D. KEYS
2 SAN FRANCISCO NEIGHBORHOOD
3 LEGAL ASSISTANCE FOUNDATION
4 49 Powell Street
5 San Francisco, California 94102
6 Telephone: (415) 557-0200

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

10 JULIA LOUIS,
11 Petitioner/Plaintiff,

12 v.

13 LINDA McMAHON, Director, State
14 Department of Social Services;
15 JESSE HUFF, Director, State
16 Department of Finance and
DOES I - III,

Respondents/Defendants.

) Case No. 869353

) STIPULATION

17 Plaintiff JULIA LOUIS, and defendants LINDA McMAHON,
18 Director of the State Department of Social Services; JESSE HUFF,
19 Director of the State Department of Finance; STATE DEPARTMENT OF
20 SOCIAL SERVICES and STATE DEPARTMENT OF FINANCE, by and through
21 their undersigned attorneys, hereby stipulate for entry of
22 judgment on plaintiff's Petition for Writ of Mandate (CCP §
23 1094.5, W & IC § 10962, CCP § 1085), Complaint for Declaratory
24 and Injunctive Relief as follows:

25 1. All overpayment notices and/or demands for
26 repayment of the value of public benefits paid to recipients who
27 were allegedly ineligible for such benefits, issued by the State

1 of California, Department of Social Services shall contain the
2 following statement:

3 "You do not have to use any Social Security
4 or SSI benefits you get to repay this
5 overpayment."

6 All such notices shall contain said language within six months of
7 the final order.

8 2. The State of California, Department of Social
9 Services shall issue an All County Letter instructing the
10 Counties regarding the exempt nature of Social Security and/or
11 SSI funds (pursuant to 42 U.S.C. §§ 407(a) and 1383(d)(1)). The
12 All County Letter shall be completed and distributed to the
13 Counties within 60 days of the Department's receipt of the signed
14 stipulation.

15 3. The State of California, Department of Social
16 Services shall instruct all counties, through its Instructions
17 For Implementation, to revise their collection letter form to
18 include the following specific language.

19 "You do not have to use any Social Security
20 or SSI benefits you get to repay this
21 overpayment."

22 4. The State of California, Department of Social
23 Services shall insert at MMP 44-352.441 as "handbook" material an
24 amendment which would be styled as "c" and would contain the
25 following specific language:

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"Except that if the former recipient's sources of income include Social Security or SSI benefits, these benefits are exempt from collection and will not be used to repay an overpayment unless agreed to by the client."

This insert shall be prepared and distributed within six months of the final order.

5. The defendants shall pay to the attorneys for the plaintiff reasonable attorney's fees; the sum to be determined by negotiations or in the alternative by motion with notice filed before this Court within 90 days from execution of this agreement.

DATED: MARCH 1, 1989

JOHN K. VAN DE KAMP, Attorney General
of the State of California

By: Stephanie Wald
STEPHANIE WALD
Supervising Deputy Attorney General
Attorneys for Defendants

DATED: 3-25-89

By: Michael D. Keys
MICHAEL D. KEYS
Attorneys for Plaintiff

State of California
Department of Social Services

Manual: g. No.: M44-350A
Action : Change
Reason: U/O Payment
Title: Overpayment Adjustment

Auto ID No. :
Flow Chart No. :
Source : Turner
Regulation Cite: 44-350.13, 44-352.411

Form No. : NA200
Effective Date : 05/01/87
Revision Date : 05/16/89

MESSAGE: As of _____, the County is changing your cash aid from \$_____ to \$_____. You were overpaid \$_____.

Here's why:

Your monthly aid will be reduced until the amount you owe is paid back. We will take less money out of your monthly aid payment when an overpayment is caused by a county mistake.

We have decided your overpayment was caused by the county.

We have decided your overpayment was not caused by the county.

If you go off cash aid before your overpayment is paid back, the county can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

The next pages show how much cash aid you should have had for each month you were overpaid, the total amount you owe, and how much will be taken out of each month's aid amount.

Your new cash aid amount is figured on this notice.

INSTRUCTIONS: Use to notify of an overpayment and subsequent grant adjustment.

Specify the amount owed and the reason for the overpayment.

Check the correct box.

State of California
Department of Social Services

Manual Pg. No.: M44-350E, 1of2
Action : Change
Reason: U/O Payment
Title: Excess Property O/P
and Adj. (Without Good Faith)
Form No. : NA200
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-350.122, 44-352.116, 44-352.41, 42-207.1

MESSAGE: As of _____, the County is changing your cash aid from \$_____ to \$_____.

Here's why:

You were overpaid \$_____.

You owned property worth more than \$1,000 while you were on aid. All the cash aid you got while you owned the property is an overpayment because you knew you could not get cash aid while you owned it.

Your countable property is shown on this notice.

Here is how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	_____
_____	_____
_____	_____
	Total
Countable Value	\$ _____

We will adjust your monthly aid payment until the overpayment is paid back.

If you go off aid before your overpayment is paid back, the County can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

The next pages show the month(s) you owned too much property, the total amount you owe, and how much will be taken out of each month's aid amount.

Your new aid amount is figured on this notice.

State of California
Department of Social Services

Manual Reg. No.: M44-350E, 2of2
Action : Change
Reason: U/O Payment
Title: Excess Property O/P
and (Without Good Faith)
Form No. : NA200
Effective Date : 05/01/86
Revision Date : 05/16/89
Regulation Cite: 44-350.122, 44-352.116, 44-352.41, 42-207.1

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-350.122, 44-352.116, 44-352.41, 42-207.1

INSTRUCTIONS: Use to notify ongoing cases that their aid will be reduced by grant adjustment due to an excess property overpayment when the county determines there has not been good faith.

Attach message M44-350J, to show the overpayment amount.

Attach message M44-352F, to show the grant adjustment amount.

State of California
Department of Social Services

Manual Reg. No.: M44-350F, 1of2
Action : Demand
Reason: U/O Payment
Title: Excess Property O/P
(Without Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.116, 44-352.43, 42-207.1

MESSAGE: Effective _____, the following action is being taken:

While you were aided, you were overpaid. After the County stopped your cash aid, we found that you owe us for an overpayment. The amount of your overpayment is due now. You owe \$_____.

Here's why:

You owned property worth more than \$1,000 while you were on aid. All the cash aid you got while you owned the property is an overpayment because you knew you could not get cash aid while you owned it. Here is how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	_____
_____	_____
_____	_____
	Total
Countable Value	\$ _____

The next page shows the months you owned too much property and the total amount you owe.

The amount you owe is now due. You must pay back the money or show the county your plan for paying it back before _____. If you do not, the County can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order, send or bring it to:

If you pay with cash, pay in person and be sure to ask for a numbered receipt with the county name on it.

State of California
Department of Social Services

Manual Pg. No.: M44-350F, 2of2
Action : Demand
Reason: U/O Payment
Title: Excess Property O/P
(Without Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.116, 44-352.43, 42-207.1

INSTRUCTIONS: Use to demand repayment of former recipients overpaid due to excess property when the county determines there has not been good faith.

Fill in the deadline date for paying or submitting a plan for repayment, the total amount owed and the county address.

Use the M44-350J as a second page to compute the amount of the overpayment.

State of California
Department of Social Services

Manual g. No.: M44-350G, 2of2
Action : Change
Reason: U/O Payment
Title: Excess Property O/P
Adj. (With Good Faith)
Form No. : NA200
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-350.122, 44-352.115, 44-352.41

INSTRUCTIONS: Use to notify ongoing cases that their aid will be reduced by grant adjustment because of an overpayment due to excess property when the county has determined there was good faith.

Use the M44-350D, Excess Property Overpayment Computation (With Good Faith) as a continuation page to compute the overpayment amount.

Use the M44-352F, Overpayment Adjustment Computation, as a continuation page to compute the grant adjustment amount.

State of California
Department of Social Services

Manual Reg. No.: M44-350H, 1of2
Action : Demand
Reason: U/O Payment
Title: Excess Property O/P
(With Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89
Regulation Cite: 44-350.122, 42-207.1, 44-352.115, 44-352.43

MESSAGE: Effective _____, the following action is being taken:

While you were aided, you were overpaid. After the County stopped your cash aid, we found that you owe us for an overpayment. The amount of your overpayment is due now. You owe \$_____.

Here's why:

You owned property worth more than \$1,000 while you were on aid. The amount of your overpayment is the amount on line C of the next page. When you honestly get cash aid while you have property worth more than the limit, we look only at the month you had the most property. Here is how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
	Total
Countable Value	\$ _____

The next page shows the months you owned too much property and the total amount you owe.

The amount you owe is now due. You must pay back the money or show the county your plan for paying it back before _____. If you do not, the County can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order send or bring it to:

If you pay by cash, pay in person and be sure to ask for a numbered receipt with the county name on it.

State of California
Department of Social Services

Manual: g. No.: M44-350H, 2of2
Action : Demand
Reason: U/O Payment
Title: Excess Property O/P
(With Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89
Regulation Cite: 44-350.122, 42-207.1, 44-352.115, 44-352.43

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-350.122, 42-207.1, 44-352.115, 44-352.43

INSTRUCTIONS: Use to demand an overpayment due to excess property when there was good faith.

Fill in the deadline date for paying or submitting a plan for repayment, the total owed, and the county address.

Attach the M44-350D to show the amount of the overpayment.

State of California
Department of Social Services

Manual Reg. No.: M44-352A
Action : Demand
Reason: U/O Payment
Title: Notice of Overpayment
and Demand
Form No. : NA290
Effective Date : 05/01/87
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Turner
Regulation Cite: 44-352.43

MESSAGE: While you were aided, you were overpaid. Though the County stopped your cash aid, you still owe us for your overpayment. The amount of your overpayment is due now.

You owe: \$ _____

Here's why:

The next page(s) shows the aid you were paid and what you should have been paid for each month of overpayment. It also shows your total overpayment.

You must pay back the money or show the County your plan for paying it back before _____. If you do not, the County can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order, send or bring it to:

If you pay by cash, pay in person. Be sure to ask for a numbered receipt with the County name on it.

If you have any questions call _____.

INSTRUCTIONS: Use to notify the client of an overpayment and demand repayment when the assistance unit (AU) is no longer on aid.

Specify the amount owed and the reason for the overpayment.
Specify the date the payback plan must be received by the county.
Specify the person or office and address for direct payback.
Specify the worker name and phone number in the space provided.

Attach an NA 274 showing the overpayment computation.

State of California
Department of Social Services

Manual g. No.: M44-352C
Action : Change
Reason: U/O Payment
Title: Overpayment Recovery
Form No. : NA200
Effective Date : 05/01/87
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Turner
Regulation Cite: 44-352.313, 44-352.314

MESSAGE: As of _____, the County is changing your cash aid from \$_____ to \$_____.

This person was overpaid in another case: _____

That overpayment amount was: \$_____

Here's why:

Because the person is now a member of your family, the amount owed must be taken out of your aid payment.

The next page(s) shows the amount owed and what will be taken out of your aid payment.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

Your new cash aid amount is figured on this notice.

INSTRUCTIONS: Use to begin grant adjustment for an overpayment from another case. In the space provided for the name:

1. Specify the name of the AU member responsible for an overpayment in another assistance unit or
2. Specify the name of an AU member who was a member of another assistance unit with an outstanding overpayment, the responsibility for which cannot be assigned.

Specify the amounts and the reason for the overpayment in the spaces provided.

Attach an NA274 showing the overpayment computation.

Attach an NA275 showing the grant adjustment computation.

State of California
Department of Social Services

Manual g. No.: M44-352G
Action : Demand
Reason: U/O Payment
Title: Demand Overpayment

Auto ID No. :
Flow Chart No. :
Source : Turner
Regulation Cite: 44-352.43

Form No. : NA290
Effective Date : 05/01/87
Revision Date : 05/16/89

MESSAGE: While you were aided, you were overpaid. Though the County stopped your cash aid, you still owe us for your overpayment. The amount of your overpayment is due now.

Before your aid was stopped, you were paying back what you owe. The amount you still owe is \$_____.

You must pay back the money or show the County your plan for paying it back before _____. If you do not, the County can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order, send or bring it to:

If you pay by cash, pay in person. Be sure to ask for a numbered receipt with the County name on it.

If you have any questions call_____.

INSTRUCTIONS: Use to demand repayment of the balance of an overpayment that was being recouped when the case went off aid.

Specify the balance owed.

Specify the date a payback plan must be received by the county.

Insert the name of the county person or office and the address for direct payback.

Specify the worker name and phone number in the space provided.

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.116, 44-352.43, 42-207.1, 44-350.122,
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

MESSAGE: Effective _____, the following action is being taken:

As of _____, the County is stopping your cash aid.

Here's why:

You can't get cash aid if your total countable property is more than \$1,000. Here is how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	_____
_____	_____
_____	_____
Total	
Countable Value \$ _____	

All the cash aid you got while you owned the property is an overpayment because you knew you could not get cash aid while you owned it.

The next page shows the aid you were paid for each month of overpayment. It also shows your total overpayment. You must pay back the money or show the county a plan for paying it back before _____. If you do not, the county can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order send or bring it to:

If you pay by cash, pay in person and be sure to ask for a numbered receipt with the county name on it. If you have any questions call:

State of California
Department of Social Services

Manual sg. No.: M44-352H, 2of2
Action : Discontinue
Reason: U/O Payment
Title: O/P due to Excess
Property (Without Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.116, 44-352.43, 42-207.1, 44-350.122,

INSTRUCTIONS: Use to discontinue and demand an overpayment due to excess property when there has not been good faith.

Fill in the property items and values, the deadline date for paying or submitting a plan for repayment, the total amount owed and the county address.

Use M44-350J, Excess Property Overpayment Computation (Without Good Faith), as a continuation page to show the overpayment amount.

State of California
Department of Social Services

Manual pg. No.: M44-352J, 1of2
Action : Discontinue
Reason: U/O Payment
Title: O/P due to Excess
Property (With Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.115, 42-207.1

MESSAGE: Effective _____, the following action is being taken:

As of _____, the County is stopping your cash aid.

Here's why:

You can't get cash aid if your total countable property is more than \$1,000. Here is how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	_____
_____	_____
_____	_____
Total	
Countable Value \$ _____	

You also owned the property while you got cash aid. You owe an overpayment for that time. When you honestly get cash aid while you have property worth more than the limit, we look only at the month you had the most property. Your overpayment amount can be no more than the amount of the property you owned over \$1,000 for that month.

The next page shows the aid you were paid for each month of overpayment. It also shows your total overpayment. The amount of your overpayment is the amount on line C of the next page.

You must pay back the money or show the county a plan for paying it back before _____. If you do not, the county can take action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

If you pay by check or money order send or bring it to:

If you pay by cash, pay in person and be sure to ask for a numbered receipt with the county name on it.

State of California
Department of Social Services

Manual Pg. No.: M44-352J, 2of2
Action : Discontinue
Reason: U/O Payment
Title: O/P due to Excess
Property (With Good Faith)
Form No. : NA290
Effective Date : 05/01/86
Revision Date : 05/16/89

Auto ID No. :
Flow Chart No. :
Source : Ex. Prop. O/P
Regulation Cite: 44-352.115, 42-207.1

INSTRUCTIONS: Use to discontinue and demand an overpayment due to excess property when there has been good faith.

Fill in the property items and values.

Fill in the date the payback plan must be submitted to the county and the county address.

Use M44-350D as a second page to compute the amount of the overpayment.