

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 1, 1993

| <u>Reason for this Transmittal</u> | |
|-------------------------------------|---|
| <input type="checkbox"/> | State Law Change |
| <input type="checkbox"/> | Federal Law or Regulation Change |
| <input checked="" type="checkbox"/> | Court Order |
| <input type="checkbox"/> | Clarification Requested by One or More Counties |
| <input type="checkbox"/> | Initiated by CDSS |

ALL COUNTY LETTER NO. 93-61

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY GAIN COORDINATORS

SUBJECT: QUESTIONS AND ANSWERS PERTAINING TO THE
IMPLEMENTATION OF THE JACOBSON V. ANDERSON LAWSUIT

REFERENCES: ALL COUNTY LETTER (ACL) NO. 90-68, 91-56 and 93-37
MANUAL OF POLICIES AND PROCEDURES SECTION 50-023

This letter is to provide answers to questions posed by Greater Avenues for Independence (GAIN) county staff regarding the implementation of the Jacobson Consent Decree.

1. Does the retroactive corrective payment for Jacobson effect Medi-Cal benefits?

ANSWER: Yes. Retroactive payments are not counted as income but are counted as property (resource) in the month Medi-Cal is received for the purpose of determining eligibility. There is no authority under the settlement to exempt these retroactive benefits from inclusion in the property reserve.

2. What does "no longer on aid" mean?

ANSWER: Aid means any financial assistance provided to or on behalf of a needy person except for Supplemental Security Income.

3. What is a county to do if it does not have a list of individuals sanctioned by GAIN, nor a list of individuals sanctioned by AFDC?

ANSWER: If the county does not have a list of sanctioned individuals, it does not take any action until claims are filed. The county is not required to search any files to identify any class members except for two instances. The

first is when CWDs have a list of individuals sanctioned by GAIN. In those counties, the CWD will search the GAIN case files as specified in MPP 50-023.5 to identify class members "1" and "2" as defined in MPP 50-023.2.

The second instance is when the county does not have a list of individuals sanctioned by GAIN, but did maintain separate records so that it has an existing list of individuals sanctioned under AFDC for the retroactive period. If the county has such a list, the CWD is to mail the TEMP GAIN 80 to those individuals on the list.

4. What does "similar SIP" mean?

ANSWER: A "similar SIP" would mean occupations with related characteristics. Examples are: 1) electronics technician, mechanical technician, electrician, heating and air-conditioning technician, mechanic; 2) secretary, medical transcriber, legal secretary, receptionist, word processor, key data operator; 3) cook, baker, chef; 4) carpenter, roofer, cabinet maker, construction worker; 5) printer, composing operator, computer graphics technician; 6) truck driver, heavy duty equipment operator, warehouseman; 7) beautician, barber, makeup artist, sculptured nails technician; 8) medical technician, surgical technician, x-ray technician, dental assistant. These are just a few examples of similar programs.

5. What regional market rates are counties to use?

ANSWER: For the payment of retroactive benefits, use market rates that were in effect during the retroactive period. For determining the rates to be used for class members re-enrolling in SIPs, use the current regional market rates.

6. What regulations are to be used if a class member re-enrolls in his SIP and does something that results in a sanction?

ANSWER: If a class member re-enrolls in his SIP and subsequently is sanctioned, the county is to follow current sanction regulations as specified in MPP 42-786. Even though the class member has re-enrolled in his SIP under regulations in effect during the retroactive period, any failure to cooperate by the class member after re-enrollment will be subject to current regulations.

7. If the corrective payment is less than \$1.00, must the county pay the class member?

ANSWER: Yes. There is no minimum amount a class member may receive as payment for a corrective payment from a county.

8. If a class member is deceased, must a county pay the underpayment?

ANSWER: If the person who files a claim for the deceased class member is in the assistance unit, the county will pay the assistance unit the corrective payment. If members of the assistance unit are too young or unable to file on behalf of the deceased class member, a person who is not in the assistance unit may file in their behalf. An assistance unit is defined in MPP 80-301(a)(8).

9. If a person submits a completed Jacobson Claim Form (TEMP GAIN 81) but checks "NO" to all of the qualifying questions, does a county need to send a notice of action (NOA) denying the claim?

ANSWER: Yes. If a person submits a TEMP GAIN 81 but indicates that they are not a class member, the county will issue NOA M50-023D denying the claim. If no address is provided by the claimant on the TEMP GAIN 81, retain the form until after the claim period. This is in case the claimant inquires why he/she did not receive a response from the county, the county can prove there was no address to respond to on the form.

10. Does the same apply if the person submits an Informing Notice Card (TEMP GAIN 78) and the person checks the boxes that indicate that the person is not a class member?

ANSWER: No. The county does not need to issue a denial NOA.

11. What if the Informing Notice Card indicates that the person is a class member?

ANSWER: If the TEMP GAIN 78 is checked to indicate that the person is a class member and the person provides an address, treat the TEMP GAIN 78 as a written request for a claim form and mail the individual a TEMP GAIN 81.

12. What does a non-affected county do when it receives a TEMP GAIN 81 from a person who indicates he is a class member?

ANSWER: Issue NOA M50-023D denying claim since a person who was or is in GAIN in the non-affected county cannot be a class member. However, if the person submits a claim to a non-affected county but indicates on the TEMP GAIN 81 another county is responsible, the non-affected county will forward the claim form to the responsible county and issue NOA M50-23D denying the claim for the non-affected county.

13. What do you mean when you refer to a NA 801, NA 802 and NA 803 at the top of the NOA messages for the Jacobson lawsuit?

ANSWER: NA 801, NA 802 and NA 803 are blank camera-ready NOA forms that the Jacobson NOA messages are to be printed onto. For instructions on how to use these forms, refer to ACL 92-73 dated August 14, 1992. The NA 801 is the front page of a NOA that will have a continuation page. NA 803 is the continuation page. The NA 802 is for NOA messages that do not need a continuation page.

14. What questions on the claim form specify a specific class member?

ANSWER: An individual that answers YES to questions: 1, 2 and 4 is class member "1"; 1, 3 and 4 is class member "2"; 1, 2, 5 and 7 is class member "3"; 1, 3, 5 and 7 is class member "4"; 2 and 6 is class member "5" and shall be eligible for retroactive supportive services if the person continued in his/her educational or training program. If class member "5" also answers yes to question 7, the class member may be eligible for prospective supportive services.

Minor changes have been made to the draft emergency regulations mailed to counties prior to the July 1 implementation date. These changes were a result of the review by the Office of Administrative Law (OAL). Counties are to use the approved regulations filed by OAL with the Secretary of State for implementing this lawsuit. You will receive the regulations under separate cover. If you have any additional questions regarding the Jacobson settlement, please contact Ms. Pat Loader at (916) 654-1770 or (CALNET) 8-464-1770.



MICHAEL C. GENEST
Deputy Director
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Enclosures

c: CWDA