

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



January 10, 1994

ALL-COUNTY LETTER NO. 94-01

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- State Law Change  
 Federal Law or Regulation Change  
 Court Order  
 Clarification Requested by One or More Counties  
 Initiated by CDSS

SUBJECT: QUESTIONS AND ANSWERS  
WELFARE RECIPIENTS LEAGUE (WRL) V. MCMAHON  
CLEAN-UP REGULATIONS

REFERENCES: ACL 93-41, dated June 16, 1993  
MPP 44-318 (Beginning Date of Aid for Persons Added)  
MPP 44-350 (Overpayments - General)  
MPP 44-355 (Mandatory Inclusion - Overpmts/Underpmts)  
MPP 82-610 (Potentially Available Income)  
MPP 82-612 (Unemployment Insurance Benefits (UIB))  
MPP 82-808.1 (Caretaker - Degree of Relatedness)  
MPP 82-824 (Combined Assistance Units)

The purpose of this letter is to provide answers to questions posed by County Welfare Department staff regarding the implementation of WRL V. McMahon Clean-up regulations which were effective July 1, 1993.

Attached are the responses to common questions we received subsequent to the implementation of the WRL regulations.

If you have further questions, please contact the following staff:  
Beginning Date of Aid: Henry Puga (916) 654-1068, ATSS 464-1068.  
Overpayments/Underpayments: Pam Kian (916) 654-1801, ATSS 464-1801.  
Potentially Available Income, Caretaker Relatives, Combined Assistance Units: Julie Lopes (916) 654-1786, ATSS 464-1786.

Sincerely,

MICHAEL C. GENEST  
Deputy Director  
Welfare Programs Division

Attachment

MPP 40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY

1.Q: How are counties to determine the amount of income received from the time the individual returned to the home to the date the CWD became aware of his presence?

A: Counties should use the same method for determining income per MPP 40-181.241(f).

2.Q: Does the recipient submit corrected CA 7s for all months in which the individual was in the home?

A: Yes.

MPP 44-207.21 DESCRIPTION OF THE 185 PERCENT INCOME LIMIT

1.Q: Do you increase the MBSAC of the AU in the 185 percent test to consider the needs of ineligible alien children residing in the home of a parent in the AU?

A: No. The deemed income and gross income of the AU must not exceed 185 percent of the MBSAC and the value of any special needs for the AU or the AU is ineligible. Per the Darces decision, income of parents in the AU cannot be considered available to the AU, in any income test, without consideration of the unmet needs of ineligible alien children residing in the home with eligible siblings. Therefore, if ineligible alien children's needs are not met in the deeming unit, income from the parent in the AU is allocated by the unmet needs computation. This portion is considered unavailable income in the AU's 185 percent gross test.

MPP 44-318 BEGINNING DATE OF AID (BDA) FOR PERSONS BEING ADDED

1.Q: MPP Section 44-318, et seq. states that the beginning date of aid for persons being added to the AU is either the date the person joins the AU or the date all eligibility conditions are met or the date all eligibility requirements are met. What is meant by "the date all eligibility conditions are met" and "the date all eligibility requirements are met"? Do they mean the same thing?

A: Yes. The above two phrases as used in MPP Section 44-318 have the same meaning. Please see MPP Section 44-317.112 which provides the following definition: "The date on which the applicant meets all eligibility conditions means the date all linking and nonlinking factors of eligibility are met..."

2.Q: When would the beginning date of aid (BDA) for a newborn not be the "date of birth"? MPP Section 44-318.16 is not clear.

A: In situations where the recipient has provided pregnancy verification and is receiving a pregnancy special need (PSN) the BDA would be the date of birth since the CWD is already aware of the pregnancy. This assumes that the parent of the newborn complies with all technical conditions by the date aid is authorized. However, when the CWD is not aware of the pregnancy, the BDA can be no sooner than the date the CWD becomes aware that there is a newborn; or the date all eligibility conditions are met, whichever is later.

3.Q: In MPP 44-318.11 what does "the date the person joins the AU or the date all eligibility...in the AU" mean?

A: This is interpreted to mean the date the person comes into the home of the AU to reside.

#### MPP 44-350 OVERPAYMENTS - GENERAL

1.Q: Is an immediate need payment collectible as an overpayment only when an applicant has actually been determined ineligible rather than just a "no show" (i.e. failed to complete the process)?

A: No. An immediate need payment is collectible for any aid received to which the AU was not eligible. During the application process, immediate need may be granted based on apparent eligibility. However, if the facts provided are never verified, the eligibility process cannot be completed. In this situation, eligibility is never established. Therefore the AU received aid to which it was not entitled.

#### MPP 44-355 MANDATORY INCLUSION - OVERPAYMENTS/UNDERPAYMENTS

1.Q: Will overpayments that the county is currently collecting have to be reassessed according to the new rules?

A: No. Any overpayments "discovered" prior to 7/1/93 would be treated in accordance with the regulations in effect at the time of discovery.

2.Q: In cases where the absent parent is discovered in the home after several years, how far do you go back?

A: Retroactive to the date the person should have been included in the AU or 10/91 when mandatory inclusion became effective (whichever is later).

3.Q: Is deprivation determined monthly? And if so, does that also include the connection to the labor force?

A: The basis of deprivation has to be established each month before the overpayment can be calculated. If the basis of deprivation is not established, then the entire aid payment is an overpayment. However, for U-cases the connection to the labor force need only be established initially, unless there is a break-in-aid during the retroactive period. NOTE: Since the unreported person is not considered a recipient of aid, the county shall apply the 100-hour limitation specified in MPP 41-440.

4.Q: The current AU consists of mom and two children. Mom reports on 10/13/93 that the absent parent returned to the home on 3/1/92. Father has had no income since he returned to the home. Is this an underpayment since mom reported?

A: No. Per MPP 44-355.162 an underpayment only exists when the caretaker relative is cooperating in meeting conditions of eligibility and he/she has met the 5-day reporting responsibilities as outlined in MPP 40-105.14.

5.Q: Case law, People v. Carlson, states that aid can only be paid for the "type of aid and persons in which the applicant applied for." How can we aid someone when aid was not requested?

A: The retroactive period defined in MPP 44-355 is for overpayment calculation purposes only. First you determine if the basis of deprivation still exists and if so, then you calculate the correct grant amount using the unreported person's income/resources. MPP 44-318.14 specifically addresses the BDA as no earlier than "the date the individual was discovered in the home, providing he/she is cooperating..."

6.Q: What is the reinforcing notice that is mentioned in MPP 44-355.11?

A: At this time the CDSS has not developed a reinforcing form. This item will be added to the agenda for the January forms committee to discuss.

7.Q: MPP 44-355.11 states that upon discovery, the county shall reinforce the AU that the unreported person is required to be included. What happens if there is a delay between the discovery date and reinforcing date?

A: The retroactive period for assessing an overpayment begins with the date the person should have been included, and ends with the date the person was discovered in the home, rather than the reinforcing date. This is consistent with the BDA rules, which also references the date discovered.

MPP 82-610 POTENTIALLY AVAILABLE INCOME

1.Q: Who has to apply for and accept potentially available income?

A: All mandatory and optional applicants/recipients who are to be aided must seek and accept potentially available income (MPP Section 82-610). This means applying for and accepting any benefits to which they may be entitled, including UIB (see Handbook Section 82-610.14). The county shall impose the appropriate penalties when an AU member fails to seek or accept potentially available income.

MPP 82-612 UNEMPLOYMENT INSURANCE BENEFITS (UIB)

1.Q: Are all mandatory included members subject to meeting conditions of eligibility for UIB?

A: No, only mandatory work registrants must meet current conditions of eligibility for UIB as required by MPP Section 82-612.13 unless they have good cause as specified in MPP Section 82-614.

MPP 82-808.1 CARETAKER RELATIVE DEGREE OF RELATEDNESS

1.Q: Is a second cousin to the applicant child eligible to be his/her caretaker relative?

A: No. A first cousin once removed meets the degree of relatedness for caretaker relative. A second cousin is not a first cousin once removed (see Handbook Example 82-808.1(a)) and is not within the 5th degree of kinship to the dependent child to qualify as an appropriate caretaker relative.

MPP 82-824 ASSISTANCE UNITS THAT SHALL BE COMBINED

1.Q: What is meant by "eligible child in common" in MPP Section 82-824 as a basis to combine assistance units when two caretakers have separate children and a common child?

A: An eligible child is a child who meets all linking and nonlinking eligibility factors as defined in MPP Section 40-107.3 and who is not excluded by law.