STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
P.O. Box 244245, Sacramento, CA 94244-2450

August 26, 1994

ALL COUNTY LETTER NO. 94-69

TO: ALL COUNTY WELFARE DIRECTORS

Reason for this Transmittal
[ ] State Law or Regulation Change
[ ] Federal Law or Regulation Change
[ ] Court Order or Settlement Agreement
[ ] Clarification Requested by One or More Counties
[X] Initiated by CDSS

SUBJECT: FAMILY SUPPORT DIVISION COMPLAINT RESOLUTION PROCEDURES

REFERENCE: MPP SECTION 22-003 - RIGHT TO STATE HEARING
MPP SECTION 22-004 - REQUEST FOR STATE HEARING
MPP SECTIONS 22-023.221 and 22-023.26 - COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE STATE HEARING
WELFARE & INSTITUTIONS CODE SECTIONS 10051, 10960, and 11478.2
FSD LETTER NOS. 94-13 and 94-21 - COMPLAINT RESOLUTION PROCEDURES

The purpose of this letter is to transmit information on implementation of the new Family Support Division (FSD), Complaint Resolution Procedures.

BACKGROUND

In October 1990, Legal Services of Northern California filed a federal class-action lawsuit concerning California's child support enforcement program, naming the California Department of Social Services (CDSS) as defendant. One of the remaining issues in the lawsuit pertains to the level of due process to be accorded to custodial parties who contest a support enforcement agency's decision regarding the collection or distribution of a support payment(s).

On April 29, 1994, in response to the due process issue, the CDSS issued FSD Letter No. 94-13, Complaint Resolution Procedures (with related forms), to all district attorneys and IV-D directors, statewide. Revisions to these procedures were issued via FSD Letter No. 94-21. Although FSDs have existing procedures for responding to complaints, FSD Letters 94-13 and 94-21 standardized the process for handling complaints pertaining to the collection or distribution of child support payments. Family Support Division letter 94-13 was effective on June 1, 1994 and the revisions transmitted in FSD 94-21 were effective July 1, 1994.

The procedures provide that any custodial party of a child for whom an FSD is collecting or has collected support may file a complaint. The county FSD is obligated to act on that complaint. If a complainant requests an informal review, the FSD can agree to handle the complaint informally. However, if a complainant files a formal complaint, the FSD is required to review the formal complaint and provide the complainant with a written response.

STATE HEARING ISSUES

If during the complaint resolution process a current or former AFDC recipient identifies an issue that pertains to the amount of or eligibility for a disregard, excess, or pass-on payment, or the retention of child support for the repayment of welfare, FSDs have been instructed to inform the complainant that he/she has the right to file a request for a **state hearing** on the issue. Additionally, at the complainant's option, the FSD may continue to attempt to resolve the complaint even though the issue is one that may be under the jurisdiction of the state hearing process.

A recent review of several state hearing decisions has brought to light the fact that there is some confusion as to when there is jurisdiction to consider certain child support issues. Jurisdiction for state hearing purposes arises under Welfare and Institutions (W&I) Code section 10960 and state regulation section 22-003. Under these provisions, a current or former recipient of public social services is entitled to a state hearing if he or she is "dissatisfied with any action or inaction of the county (welfare) department relating to his or her application for or receipt of public social services...." (W&I Code section 10960)

The child support program is a public social service program as defined in W&I Code section 10051. The question or issue that arises most often in the child support jurisdiction context is whether there is a requisite "county (welfare) department" action or inaction relating to the receipt of public social services (i.e. child support). More specifically, when a claimant timely expresses dissatisfaction with the mathematical calculation, entitlement or receipt (or lack thereof) of a "disregard," "excess" or "pass-on" payment, there is jurisdiction to conduct a state hearing. In these situations, the CDSS believes there is a sufficient connection or relation between the receipt of public social services (AFDC and Child Support) and the CWDs involvement in the payment, tracking and abatement of aid payments, to warrant jurisdiction.

On the other hand, transactions undertaken by the IV-D agency solely within its control or discretion such as the providing of documents or other actions taken under W&I Code section 11478.2, the adequacy of the amount of child support or other enforcement actions, are not within the jurisdiction of the state hearing system. These situations do not in any way implicate any action or inaction by the "county (welfare) department."

Although the primary purpose of this letter is to clarify existing statutory and regulatory state hearing jurisdictional issues, it should be understood that Title IV-A and IV-D agencies must cooperate and share financial information in order to adequately respond to child support related requests for state hearings (MPP sections 22-023.221 and 22-023.26). That cooperation includes CWD notification to the FSD of child support related state hearing filings. Furthermore, because of the impending resolution of the aforementioned law suit, all county CWDs and FSDs should implement the provisions of this ACL immediately upon receipt.

If you have any questions regarding the child support complaint resolution procedures, please contact Royce Briggs of the Child Support Management Bureau at (916) 657-2038. Questions regarding any of the child support issues in this letter identified as hearable should be addressed to Dennis Ragasa of the AFDC Policy Implementation Bureau at (916) 654-1063.

MICHAEL C. GENEST
Deputy Director
Welfare Programs Division

c: ALL TITLE IV-D ADMINISTRATORS