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

September 30, 1994

ALL-COUNTY LETTER NO. 94-82

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: TREATMENT OF SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT (SSI/SSP) BENEFITS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE (AFDC-FC) PROGRAM

Reference: ACL 94-42

Supersedes: ACIN I-65-91

The purpose of this All County Letter (ACL) is to provide instruction to counties on the treatment of SSI/SSP benefits in the federal and non-federal AFDC-FC programs.

BACKGROUND

SSI/SSP is a joint federal and state assistance program administered by the Social Security Administration (SSA) for persons who are aged, blind, or disabled and who meet the program's income and resources requirements.

On November 2, 1993, the U.S. Department Of Health And Human Services (DHHS) Administration for Children & Families (ACF) issued Action Transmittal (AT) 93-20 to clarify federal AFDC policy with respect to treatment of retroactive lump sum SSI payments. In addition, on February 4, 1994, the DHHS Administration on Children, Youth and Families (ACYF) issued ACYF Policy Announcement 94-02 which lifted the prohibition on concurrent receipt of Title IV-E Foster Care and Title XVI SSI benefits. These changes in federal policy concerning the treatment of retroactive non-recurring lump sum SSI/SSP benefits and the allowance of concurrent receipt of SSI/SSP and federal foster care benefits have generated numerous county questions.

FEDERAL AFDC-FC

As of February 4, 1994, federal AFDC-FC payments may be made to otherwise eligible children receiving SSI/SSP benefits, and the SSI/SSP benefits are not to be counted as income in the federal AFDC-FC program. Where federal foster care payments are made to an SSI/SSP eligible child the SSA will reduce the SSI/SSP payments on a dollar for dollar basis. When federally eligible AFDC-FC children are dependents and/or wards of the court, the county welfare department (CWD) should become the designated SSI/SSP payee. In those relatively few

instances where the federally eligible AFDC-FC child is not a dependent or ward and serves as their own SSI/SSP payee (i.e., youth age 18 receiving AFDC-FC until graduation) the CWD will disregard SSI/SSP benefits and the SSA will adjust the SSI/SSP payment as noted above. Where the costs of foster care are less than SSI/SSP payment levels, any remaining SSI/SSP benefit is treated as a resource in the following month as noted below in the "Property" section.

NON-FEDERAL AFDC-FC

For children receiving non-federal AFDC-FC benefits, SSI/SSP payments are to be treated as income for foster care eligibility purposes because the SSA will not adjust the SSI/SSP payment as is their practice in federal foster care cases. Again, the CWD should become the designated payee for dependents and wards. Non-federal AFDC-FC benefits may be used to supplement the cost of out-of-home care if the SSI/SSP payment levels do not cover the cost of placement in accordance with existing Eligibility and Assistance Standards (EAS) Manual section 45-302.11. Supplementation of SSI/SSP with non-federal AFDC-FC is only allowed when the following conditions are met:

- The child meets all general and state AFDC-FC eligibility requirements.
- The cost of foster care placement exceeds the amount of the SSI/SSP benefit level.
- The child is not otherwise eligible for federal AFDC-FC benefits.

In those relatively few instances where the non-federally eligible AFDC-FC child is not a dependent or ward and he/she or a guardian serves as SSI/SSP payee (i.e., youth age 18 receiving AFDC-FC until graduation, or a child living with a non-related legal guardian [NRLG]) the CWD will count the SSI/SSP benefits as income available to the child and supplement as indicated above if the child is eligible and the foster care placement cost exceeds the SSI/SSP benefit. Where the costs of foster care are less than SSI/SSP payment levels, any remaining SSI/SSP benefit becomes the property of the child in the following month and must be treated in accordance with regulation.

SSI/SSP LUMP SUM PAYMENTS IN THE AFDC-FC PROGRAM

As noted above, ACF-AT-93-20 clarifies federal AFDC policy with respect to treatment of lump sum retroactive SSI payments collected during the SSI/SSP retroactive period. This retroactive period is described as the "SSI application processing or determination period, which varies depending on the time it takes to develop a claim." Because the family or recipient may have incurred debts for specialized care during the retroactive period, the policy states that a non-recurring lump sum SSI/SSP retroactive payment, "made to an AFDC recipient, shall not be counted as income or a resource for AFDC purposes in the month paid and the next following month."

Therefore, a non-recurring lump sum SSI/SSP retroactive payment made to an AFDC-FC eligible child shall not be counted as income or a resource for AFDC-FC purposes in the month paid and the next following month. After that time all residuals would be considered a resource and treated according to property regulations referenced below. To ensure equity, this policy will apply to children in both the federal and state AFDC-FC programs.

INTERIM ASSISTANCE REIMBURSEMENT AGREEMENTS

For non-federal AFDC-FC children, counties should attempt to recover any interim assistance paid on behalf of a child who subsequently receives a retroactive SSI/SSP payment by using the Interim Assistance Reimbursement (IAR) procedures described in ACL 94-42. If there is a residual after the interim assistance reimbursement process is completed, that remainder is to be treated as property as described above under "SSI/SSP Lump Sum Payments" section. Similarly, where recovery through the IAR process is not possible, the retroactive SSI/SSP payment is to be treated in accordance with the policy described above.

PROPERTY

With the exception of those limits placed on treatment of retroactive SSI/SSP lump sum payments described above, property which is the result of SSI/SSP income accumulation shall be treated in accordance with EAS section 42-201.1; if it is available to the applicant or recipient, it is countable as a resource in determining AFDC-FC eligibility.

ADDITIONAL REQUIREMENTS

EAS section 40-109.2 states that a person or his or her representative who believes the applicant meets the eligibility requirements for more than one category of aid has the right to choose the type of aid he/she will apply for. Since AFDC-FC and SSI/SSP are both aid programs, the county representative can choose the program that best meets the needs of the foster child. Counties are encouraged to review the circumstances in each case to determine which of several options ensures that county, state and federal funds are expended in the most cost-beneficial manner.

If you have any general questions pertaining to SSI/SSP, they should be directed to the local office of the federal SSA office. Questions regarding the IAR procedures should be referred to the county's IAR Coordinator. For questions pertaining to the AFDC-FC program, please contact the Foster Care Policy Bureau at (916) 445-0813.

Marjorie Kelly

MARJORIE KELLY
Deputy Director
Children and Family Services Division