

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



December 28, 1995

ALL-COUNTY LETTER 95-82

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: IMPLEMENTATION OF REGULATION PACKAGE #0295-4: POLICY CHANGES FOR INELIGIBLE ALIEN PARENT AND SENIOR PARENT DEEMING, CLEANUP OF MONTHLY REPORTING, NET INCOME, LUMP SUM, AND EXCLUDED PERSONS PROVISIONS

REFERENCES: MPP 40-181, 44-113, 44-133, 44-207, 82-828, and 82-832
Federal Register, Vol. 57, No. 131, July 8, 1992

The purpose of this letter is to provide you with copies of regulations, Notices of Action (NOA) messages and forms you will need to implement the attached regulations package which will be effective for the budget month of March 1, 1996. The package provides for: (1) a policy change for the deeming of income from ineligible alien parents, initiated by this Department; (2) a policy change pertaining to senior parent deeming of income for minor parents who receive SSI, initiated as a result of federal policy clarification; and (3) minor cleanup language for various regulations to ensure policy clarity and consistency.

REGULATIONS (ATTACHMENT 1)

Copies of the attached regulations implement the following changes:

Deeming of Income Policy Changes

- o 44-113.14 - Unmet Needs: This section is being amended to be consistent with the new ineligible alien parent deeming formula. Specifically, the portion of the unmet needs test which applies to a second excluded alien parent has been amended. The new ineligible alien parent deeming formula replaces the previous cross reference which applied the stepparent deeming formula. The use of the ineligible alien parent formula is applied here to maintain consistent treatment of income. Additionally, Handbook Sections have been added to provide examples of this differential computation that applies prior to allocating any income from the

aided parent in cases where a preliminary income test is necessary to determine the availability of the excluded second parent's income to meet the needs of the common ineligible alien child. There has been no change in the computation of the aided parent's income for purposes of determining an unmet need.

- o **44-133.5 - Ineligible Alien Parent Deeming:** This new cite is added to incorporate a new deeming formula for ineligible alien parents who do not fall under the Immigration Reform Control Act (IRCA). These individuals will no longer have their income deemed available to an assistance unit pursuant to the stepparent deeming rules of 44-133.6. The new formula offsets ineligible alien parents' income from a need standard differential between the excluded ineligible alien parent unit and the assistance unit. A cross reference to the unmet needs calculation of 44-113.4 has also been added and relocated to this section for convenience.
- o **44-133.6 - Stepparent Deeming:** Ineligible alien parents are removed from the stepparent deeming formula, with the exception of any remaining ineligible alien parents who fall under IRCA and have not yet been aided. The cross reference for determination of unmet needs has also been removed and relocated to the new ineligible alien parent deeming formula.
- o **44-133.7 - Senior Parent Deeming:** This section is being amended to incorporate a policy change requiring that senior parent deeming apply to the minor parent's child's assistance unit in cases where the senior parent is unaided and the minor parent resides in the home and receives SSI/SSP.

Cleanup

- o **40-181.223 - CA-7 Late Reporting Penalties:** Corrects the cross reference applied in imposing penalties for late reporting.
- o **44-133.26 - Assistance Unit Resides with SSI/SSP Recipient:** Clarifies that a senior parent's income is applied in an AFDC grant computation when the senior parent is an applicant or recipient of aid, even if the income was used in an SSI/SSP calculation.
- o **44-133.7 - Senior Parent Deeming:** Adds clarifying language that senior parent deeming does not apply if the senior parent is receiving AFDC. Also clarifies that "needs" may not be counted twice.
- o **44-207.4 - Lump Sum Income:** Adds clarifying language and cross references which were previously deleted from the lump sum provisions to accurately reflect the current policy.
- o **82-832.2 - Sanctioned Persons:** Repeals obsolete language which provides for the exclusion of certain individuals who fail to see

potentially available income. The change is necessary to comply with current regulations implemented July 1, 1993, which initiated a federally-mandated policy change penalizing the entire assistance unit when a mandatory member fails to seek potentially available income. A renumbering of the continued portion of these provisions were also necessary as a result of this change.

NOA MESSAGES (ATTACHMENT 2)

Attached are two temporary NOA messages that have been developed to assist you with implementation of the deeming changes. Instructions for use are at the end of each message document.

NA FORMS (ATTACHMENT 3)

Attached are the Continuation Page for Deemed Income Computations-Cash Aid (NA 271), the Continuation Page for Income of Aided Parent/Ineligible Alien Child (NA 272), and the Continuation Page for the Unmet Need Deduction from Aided Parent's Income (NA 276). All three NA forms have been revised as a result of the regulation change. Instructions for use are included with the revised forms.

TRANSLATIONS

The Spanish translations for the NOA messages and the NA forms will follow under separate cover. The Asian languages (Cambodian, Chinese and Vietnamese) will be available, upon request through the Language Services Bureau.

CONTACTS

For questions pertaining to the regulations, please contact Julie Lopes at (916) 654-1786/CALNET 464-1786. For questions pertaining to a NOA and/or NA form, contact Pam Kian at (916) 654-1801 /CALNET 464-1801. To request camera-ready copies of the Asian translations, contact Language Services Bureau at (916) 654-1282/ CALNET 464-1282. To request camera-ready copies of the Spanish translations for the NA forms only contact the Forms Management Unit at (916) 657-1907/CALNET 437-1907.

Sincerely,

Walter Baumgardner
to Bruce Wagsstaff

BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachments

ATTACHMENT 1

Amend Section 40-181.2 to read as follows:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY (Continued) 40-181

.2 Periodic Determination of Eligibility (Continued)

.22 AFDC recipients other than AFDC-FC shall, in addition to the annual completion of the CA 2, complete and return the CA 7 to the County Welfare Department (CWD) by the 5th calendar day of each report month but not before the first calendar day of that month. CA 7s not received by the 11th of the month shall be considered late. (Continued)

.223 The CWD shall impose the penalties for late reporting as specified in Sections 44-113.2178 and 44-111.232(c) only under the following circumstances: (Continued)

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 45 U.S.C. 516(b) and (f); 45 CFR 233.28, 233.29(c), and 235.112(b); 7 CFR 273.16(b); and Sections 10553, 10554, 10604, 11280, 11451.7, and 11486, Welfare and Institutions Code.

Renumber Sections 44-133.634(a) and (a)(1) to Sections 44-113.142 and .142(a) and Amend Section 44-113 to read:

44-113 NET INCOME (Continued)

44-113

.14 Deduction for an Ineligible Alien Child(ren) Living in the Home of an Aided Parent (Continued)

~~44-133.634(a)~~

.142 When there is insufficient income based on the ~~steparent~~/Ineligible Alien Parent computation in Section 44-133.~~635~~142 to meet the entire needs of an Ineligible Alien Parent Unit and the Ineligible Alien Parent Unit contains ineligible alien children of the aided parent, the county shall:

~~44-133.634(a)(1)~~

(a) Determine the amount of unmet need resulting from insufficient Ineligible Alien Parent income by subtracting the amount of ~~that~~ net nonexempt income from the difference between the MBSAC amount for the Ineligible Alien Parent Unit with the Assistance Unit, and the MBSAC amount for the Assistance Unit. This unmet need shall be treated in accordance with the comparison required in Section 44-113.144(c)(1).

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(1) Example: Determining Unmet Needs for Ineligible Alien Children.

Computation Factors

Ineligible Alien Parent Unit

Ineligible Alien Parent Unit consists of the ineligible alien parent and two ineligible alien children in common with the aided parent. The aided parent's AU includes the aided parent and one child who is the half-sibling of the two ineligible alien children. The Ineligible Alien Parent works part time with net nonexempt income of \$300.

Computations

\$979 MBSAC for 5 persons (Ineligible Alien Parent Unit and the AU).
-583 MBSAC for 2 (AU).
\$396 MBSAC differential
-300 Net nonexempt income of the Ineligible Alien Parent.
\$96 Amount of potential Unmet need to be compared to Section 44-113.141.

HANDBOOK ENDS HERE

.1473 Where there is an unaided parent of an ineligible alien child(ren) in the home who is not an Ineligible Alien Parent as defined in Section 44-133.65, and that parent is: a parent in common with the aided parent, not a parent of an aided child, and not married to the aided parent, the county shall determine the extent to which that parent's income meets the needs of his/her ineligible alien child(ren) through the application of the ~~Steparent/Ineligible Alien Parent~~ provisions in Section 44-1713.6142 above.

(a/) In applying the ~~Steparent/Ineligible Alien Parent~~ provisions pursuant to Section 44-113.1473, only the extent to which the unaided parent's income meets the needs of the ineligible alien child(ren) shall be considered; no income from this unaided parent shall be deemed to the AU.

.1474 The deduction for the ineligible alien child(ren) is allowed from the aided parent's income only when:

(a) The ineligible alien child(ren) is not included in a Stepparent/ or Ineligible Alien Parent Unit, or (Continued)

(c) The ~~Steparent/~~ or Ineligible Alien Parent has insufficient income to meet the needs of ineligible alien child(ren) he/she has in common with the aided parent.

(1) The deduction allowed from the aided parent's income shall be the lesser amount between that established in ~~his~~ Section 44-113.141 and the amount determined in Section 44-1713.6142(a) concerning unmet needs of ineligible alien children. (Continued)

HANDBOOK BEGINS HERE

.1445 Determining the amount of the deduction from the aided parent's income for his/her ineligible alien children.

Computation Factors

- AFDC-AU consists of mother and ~~two~~ one aided child(ren).
- Ineligible Alien Parent Unit consists of Ineligible Alien Parent father and two ineligible alien children in common with the aided mother.
- Ineligible Alien Parent Unit has an unmet need of \$24096 based upon the computation in Section 44-1713.6142(a).
- Aided mother has \$500 net nonexempt income.

Computation

\$ 94 858	MBSAC for the number of aided persons (mother and two <u>one</u> aided child(ren)) plus the number of ineligible alien children in common with the Ineligible Alien Parent (two children) for a total of five <u>four</u> persons.
- \$ 94 583	MBSAC for the number of aided persons only (mother and two <u>one</u> aided child(ren)) for a total of three <u>two</u> persons.
= \$24675	Subtotal
- \$ 0	All combined income of the aided parent's child(ren) in the Ineligible Alien Parent Unit.
= \$24675	Potential deduction from the aided parent's income. <u>Compare to unmet needs in Section 44-113.142(a).</u>

The deduction from the aided parent's income is the lesser amount between the unmet need of the Ineligible Alien Parent Unit (\$24096) and the potential deduction from the aided parent's income (\$24675). Thus, the deduction allowed from the aided parent's income would be \$24096.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554 and 11008.19, Welfare and Institutions Code; 45 CFR 233.10; 45 CFR 233.20(a)(3)(ii)(C); ~~and~~ 45 CFR 233.20(a)(3)(vi)(A); 45 CFR 233.20(a)(11); 45 CFR 255.3; and Darces v. Woods/ (1984) 35 Cal. 3d 871.

Amend Section 44-133 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.2 Income in Cases in Which the Family Budget Unit Resides in the Same Household as an SSI/SSP or APSB Recipient (Continued)

.26 If an AFDC applicant is determined to be eligible for AFDC and is included in the FBU, income of the AFDC applicant (including income considered available from a stepparent under provisions of EAS Section 44-133.6 or a senior parent under provisions of EAS Section 44-133.7) that may have been used in computing an SSI/SSP or APSB grant for another person will be included in the AFDC grant computation. The county shall notify the Social Security Administration or the appropriate APSB worker as to the effective date that the income is used in the AFDC grant computation so that such income may be deleted from the SSI/SSP or APSB grant computation. (Continued)

.5 Repealed by Manual Letter No. 88-9174, effective 10/1/91 Income in Cases Where an Ineligible Alien Parent(s) Resides in the Home

Regulations concerning income to the Assistance Unit (AU) from an Ineligible Alien Parent (see Section 44-133.52) apply only when the Ineligible Alien Parent resides in the home with his/her aided child(ren).

An Ineligible Alien Parent is a natural or adoptive parent of an aided child who is not eligible for assistance because he/she is not a citizen or eligible alien. See Section 42-431.

An alien being naturalized under the Immigration Reform and Control Act of 1986 (IRCA), who has not met the alien eligibility factor (See Section 42-431.2), shall have income deemed to the assistance unit using the Stepparent Deeming provisions of Section 44-133.63.

.51 Composition of Ineligible Alien Parent Unit

.511 The Ineligible Alien Parent Unit may include, in addition to the Ineligible Alien Parent, any of the following individuals:

(a) His or her spouse;

(b) His or her separate children;

(c) The child(ren) he or she has in common; or

(d) Any other persons residing in the home who may be claimed by the Ineligible Alien Parent as dependents for federal income tax purposes.

.512 No individual may be included in the Ineligible Alien Parent Unit who:

(a) Is included in an AU; or

- (b) Has been excluded from the AU pursuant to the provisions of Section 44-133.31.

.52 Computation of Income to the AU

.521 The Ineligible Alien Parent's income deemed available to the AU is determined as follows:

(a) Determine the Ineligible Alien Parent's net nonexempt income according to the provisions in Chapter 44-100.

(1) When determining net earned income, the Ineligible Alien Parent shall be entitled to the work expense disregard.

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(A) See Section 44-113.214 regarding the Work Expense Disregard.

HANDBOOK ENDS HERE

(2) The dependent care expense disregard, the \$30 and 1/3 disregard, and as applicable in control cases of the California Assistance Payments Demonstration Project, the \$30 disregard shall not be allowed.

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(A) See Sections 44-113.215, .216, and .217 regarding the \$30 and 1/3 disregard, the \$30 disregard, and the dependent care expense disregard, respectively.

HANDBOOK ENDS HERE

- (b) Deduct any amounts actually paid by the Ineligible Alien Parent to persons not living in the same home but who are, or could be, claimed by him/her as dependents for purposes of determining his/her federal personal income tax liability.
- (c) Deduct any child support and alimony payments made by the Ineligible Alien Parent to persons not living in the home.
- (d) Deduct an amount equal to the difference between the MBSAC amount plus any special needs, if applicable, for members of the AU, with the Ineligible Alien Parent Unit, and the MBSAC amount for the AU.

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.522 Example: Ineligible Alien Parent Income to the AU

Computation Factors

- Ineligible Alien Parent Unit consists of two persons (Ineligible Alien Parent and one ineligible sibling of an aided child.)
- AFDC-AU consists of two persons (the eligible mother and the mother's aided child.)
- The Ineligible Alien Parent earns \$900 within the month from part-time employment.
- The Ineligible Alien Parent pays \$100 per month child support for his son who resides with the Ineligible Alien Parent's ex-spouse.
- No other payments are made by the Ineligible Alien Parent to persons living outside the home.

Computation

<u>\$900</u>	<u>gross income of Ineligible Alien Parent</u>
<u>- 90</u>	<u>less standard work expense disregard</u>
<u>\$810</u>	
<u>-100</u>	<u>less child support paid</u>
<u>\$710</u>	<u>net income</u>
<u>\$858</u>	<u>*MBSAC for 4 (AU plus Ineligible Alien Unit)</u>
<u>-583</u>	<u>*MBSAC for 2 (AU)</u>
<u>\$275</u>	<u>MBSAC Differential</u>
<u>\$710</u>	<u>net income</u>
<u>-275</u>	<u>less MBSAC Differential</u>
<u>\$435</u>	<u>Ineligible Alien Parent Income Deemed to the AU</u>

* Amount subject to change. See Section 44-315.311 for current applicable amounts.

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.523 Refer to Section 44-113.142 for the determination of unmet needs of Ineligible Alien Children.

.6 Income in Cases Where a Stepparent or ~~Ineligible Alien~~ IRCA Parent Resides in the Home

Regulations concerning income to the assistance unit from a stepparent (see Section 44-133.63) apply only when the stepparent resides in the same household with the aided children or unaided unborn (see Sections 82-836 and 88-410) and their parent, but neither the stepparent nor any of his/her natural or adoptive children, are in the assistance unit.

Note: When the stepparent is included in the assistance unit (see Section 82-828), the total amount of his/her net nonexempt income shall be income to the assistance unit for purposes of grant and eligibility computation.

When the stepparent is not included in the assistance unit but one or more of his/her children is in the assistance unit, and the stepparent is also either an excluded parent or an ineligible alien parent. See EAS Section 44-133.3 or Section 44-133.5 for treatment of his/her income.

An Ineligible Alien Parent is a natural or adoptive parent of an aided child and is a parent who is not eligible for assistance because he/she does not meet the requirements of citizenship or eligible alien status!

An IRCA Alien who is the natural or adoptive parent of an aided child shall have his or her income deemed to the AU using these stepparent deeming provisions.

.61 Composition of Stepparent/Ineligible Alien IRCA Parent Unit

.611 The Stepparent/Ineligible Alien IRCA Parent Unit may include, in addition to the stepparent or Ineligible Alien IRCA Parent, any of the following individuals: (Continued)

(c) The child(ren) he or she has in common with his or her the aided parent spouse.

(d) Any other persons residing in the home who may be claimed by the stepparent/Ineligible Alien IRCA Parent as dependents for federal income tax purposes.

.612 No individual may be included in the Stepparent/Ineligible Alien IRCA Parent Unit who:

(a) Is required to be included in an AU, or (Continued)

.62 Needs of Stepparent/Ineligible Alien IRCA Parent Unit

When the stepparent/Ineligible Alien IRCA Parent is excluded from the AU, the county shall determine his/her ability to support the Stepparent or Ineligible Alien IRCA Parent Unit on the basis of the AFDC Minimum Basic Standard of Adequate Care (MBSAC) (Section 44-207.112) plus any special needs, if applicable. See Section 44-211. Allow disregards from the stepparent's or Ineligible Alien IRCA Parent's gross income in accordance with Sections 44-133.631(a) through (c).

.63 Computation of Income to the Assistance Unit (AU)

.631 The stepparent's or Ineligible Alien IRCA Parent's income deemed available to the AU is determined as follows:

(a) Determine the stepparent's or Ineligible Alien IRCA Parent's net nonexempt income according to the provisions in Chapter 44-100.

- (1) When determining net earned income, the stepparent or ~~the eligible child~~ IRCA Parent shall be entitled to the work expense disregard. (Continued)
- (2) The dependent care expense disregard and the \$30 and 1/3 disregard, and/ as applicable/ in control cases of the California Assistance Payments Demonstration Project, the \$30 disregard ~~and~~ shall not be allowed. (Continued)
- (b) Deduct any amounts actually paid by the stepparent/~~the eligible child~~ IRCA Parent to persons not living in the same home but who are, or could be, claimed by him/her as dependents for purposes of determining his/her federal personal income tax liability.
- (c) Deduct any child support and alimony payments made by the stepparent/~~the eligible child~~ IRCA Parent to persons not living in the home.
- (d) Deduct the MBSAC amount for members of the ~~the~~ Stepparent/~~the eligible child~~ IRCA Parent Unit plus any special needs, if applicable. See Section 44-211.

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.632 Example: Stepparent/IRCA Parent Income to the AU

Computation Factors

- Stepparent/IRCA Parent ~~Unit~~ consists of 1 person (stepparent).
- AFDC-AU consists of 5 persons (the mother and mother's 4 children)
- Stepparent/IRCA Parent earns \$800 within the month from full-time employment.
- Stepparent/IRCA Parent pays \$100 per month child support to his/her daughter who resides with the stepparent's ex-spouse.
- No other payments are made by the stepparent/IRCA Parent to persons living outside the home.

Computation

\$800	gross income
<u>- 90</u>	less standard work expense disregard
\$710	
<u>-100</u>	less child support paid
\$610	net income

\$610	net income
<u>-34155</u>	*less MBSAC for stepparent unit (1 person)
\$28955	stepparent income to the AU
\$94879	*MBSAC for AFDC-AU (5 persons)
<u>-28955</u>	less stepparent income to the AU
\$71724	Potential Grant
\$89924	*MAP for 5
<\$71724	Potential Grant is Less than or Equal to MAP
\$71724	GRANT AMOUNT (The grant amount is the same as the potential grant rather than the MAP amount because the potential grant is less than the MAP)

* The MBSAC and MAP amounts are subject to change. See Handbook Section 44-315.311 for currently applicable amounts.

1633 Example: Ineligible Alien Parent Income to the AU

COMPUTATION FACTORS

- + Ineligible Alien Parent Unit consists of two persons (Ineligible Alien Parent and one Ineligible Sibling of an aided child)
- + AFDC/AU consists of two persons (the eligible mother and the mother's aided child)
- + The Ineligible Alien Parent earns \$333 within the month from part-time employment
- + The Ineligible Alien Parent pays \$100 per month child support to his/her son who resides with the Ineligible Alien Parent's spouse
- + No other payments are made by the Ineligible Alien Parent to persons living outside the home

COMPUTATION

\$900	Gross Income of Ineligible Alien Parent
<u>+ 90</u>	Less Standard Work Expense disregard
\$810	
<u>-100</u>	Less Child Support Paid
\$710	Net Income
\$710	Net Income
<u>+360</u>	Less MBSAC for Ineligible Alien Parent Unit
\$350	Ineligible Alien Parent Income to the AU

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1874 DETERMINATION AND TREATMENT OF UNMET NEEDS OF INELIGIBLE ALIEN CHILDREN

12) [renumbered to Section 44-113.142]

11) [renumbered to Section 44-113.142(a)]

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12) Example: DETERMINING UNMET NEEDS FOR INELIGIBLE ALIEN CHILDREN

COMPARISON FACTORS

+ INELIGIBLE ALIEN PARENT UNIT CONSISTS OF THE INELIGIBLE ALIEN PARENT AND TWO INELIGIBLE ALIEN CHILDREN IN COMMON WITH AN ELIGIBLE PARENT!

+ INELIGIBLE ALIEN PARENT NET NONEXEMPT IS \$894

COMPARISON

\$894 MESSAGE FOR THE INELIGIBLE ALIEN PARENT UNIT OF 3 PERSONS!

+ 484 NET NONEXEMPT INCOME OF THE INELIGIBLE ALIEN PARENT!

= \$240 AMOUNT OF UNMET NEEDS!

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.7 Income in Cases Where the Senior Parents Reside in the Home with a Minor Parent

.71 Definitions (Continued)

.713 A Senior Parent Unit consists of the senior parent, his/her spouse, his/her children and any other persons residing in the home who may be claimed by the senior parent as dependents for federal income tax purposes when they are not in the assistance unit. However, the Senior Parent Unit shall not include any individual who has been excluded from the assistance unit pursuant to the provisions of Section 44-133.31. When the minor parent is excluded from the assistance unit for reasons other than being an SSI/SSP recipient, or being excluded pursuant to the provisions of Section 44-133.31, the minor parent shall be a member of the Senior Parent Unit provided the minor parent's needs are not already being considered in another AFDC eligibility determination.

- .72 When a minor parent is an SSI/SSP recipient, the income of the senior parent residing in the home shall ~~not~~ be subject to the senior parent computation in Section .75 below. The aid payment and income of the SSI/SSP recipient shall be treated in accordance with Section 44-133.2.
- .73 Regulations concerning income to the assistance unit from a senior parent of a minor parent apply only when the senior parent resides in the home with a minor parent and the minor's child, and the senior parent is not ~~in the assistance unit~~ receiving AFDC.
- .74 When the senior parent is included in the assistance unit with the minor parent and the minor parent's child, the total amount of the senior parent's net nonexempt income shall be income to the assistance unit for the purposes of eligibility determination and grant computation. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, 11450, 11452, 11453, and 11486, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR 233.20(a)(3)(ii)(C), (a)(3)(vi)(B), and (a)(3)(xiv), (a)(3)(xiv)(B), and (xviii); 45 CFR 233.50(A)(c); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; Simpson v. Hegstrom, 873 F.2d 1294 (1989); and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993 and 42 USC 602(a)(39).

Amend Section 44-207 to read:

44-207 INCOME ELIGIBILITY

44-207

This chapter shall be applied to new cases as well as continuing cases each month.
(Continued)

.4 Treatment of Lump Sum Income (Continued)

.41 Definition of Lump Sum Income (Continued)

.414 Income of a stepparent who is not included in the AU or a person excluded from the AU by law shall be considered available to the AU. The amount of income available to the AU is determined by applying the appropriate deeming computation (Section 44-133). If the countable income, including the lump sum, exceeds the AU's MBSAC plus any special needs for the month, the AU is ineligible for that month (see Section 44-315.8 for regulations governing one-month suspensions). Any portion of the lump sum income retained by the stepparent or the person excluded from the AU by law subsequent to the month of receipt represents property (see Sections 42-203.5, 42-205.3, and 42-205.4). (Continued)

.42 Lump Sum Income Computation

The following computation applies to lump/sum income which was received but not reported to the county, and to reported lump/sum income received in the budget month.

.421 Divide the total of the lump sum income, plus any other net nonexempt income received in the budget month by the total of the MBSAC plus any special needs. When an ineligible alien child ~~of the parent(s)~~ with unmet needs lives in the home with an aided parent who receives a lump sum, the MBSAC shall be increased for each such child. (Continued)

Authority Cited: Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11017, 11157, 11255, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(i) and (xiii); ~~and~~ (a)(3)(ii)(F), (a)(3)(vi)(B), ~~and~~ (a)(3)(xiv), and (a)(3)(xiv)(B); and Darces v. Woods/ (1984) 35 Cal. 3d 871; Petrin v. Carlson Court Order, Case No. 638381, May 12, 1993; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHSS), December 5, 1990; Johnson v. Carlson Stipulated Judgement; Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Repeal Sections 82-832.26 and 82-832.27:

82-832 EXCLUDED PERSONS (Continued)

82-832

.2 Sanctioned Persons

A person excluded from the AU due to a sanction, is: (Continued)

126 VIB/ACCEPTLY FOR/ACCEPT

AN APPLICANT OR RECIPIENT WHO IS NOT THE PRINCIPAL EARNER AND WHO/

1261

IS APPARENTLY ELIGIBLE TO AND DOES NOT APPLY FOR VIB/ OF

1262

DOES NOT ACCEPT ANY VIB TO WHICH S/he DETERMINES HE/SHE IS ELIGIBLE/

127 VIB + BEST CONDITIONS

AN APPLICANT OR RECIPIENT WHO IS NOT THE PRINCIPAL EARNER AND WHO IS NOT EXEMPT FROM ANY OF EPTS/ AND FAILS WITHOUT GOOD CAUSE TO BEST CONDITIONS OF ELIGIBILITY FOR VIB/

.286 (Continued)

Authority Cited: Sections 10553, and 10554, and 11270, Welfare and Institutions Code.

Reference: 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11263.5, 11268, 11270, 11315, 11320.6(e), 11406.5, 11450, 11477, and 11486, Welfare and Institutions Code.

ATTACHMENT 2

NOTICE OF ACTION (NOA) MESSAGES

The following NOA messages are attached:

96.x1t (12/95) - Deemed Income Change

The 96.x1t message was developed to implement the deeming formula change. This temporary message changes the cash aid amount due to deemed income.

96.x2t (12/95) - Deemed Income Discontinue

The 96.x2t message was developed to implement the deeming formula change. This temporary message discontinues cash aid due to deemed income.

FOR HOLDERS OF THE AFDC NOA HANDBOOK

- o Since these are temporary messages, they will not be indexed or filed in the AFDC Notice of Action Handbook.

State of California
Department of Social Services

Noa Msg Doc No.: 96.xlt Page 1 of 1
Action : Change
Issue: Deemed Income
Title: New Formula

Auto ID No.:
Source :
Issued by :
Reg Cite : 44-133.5

Use Form No. : NA 200
Original Date : 12/1/95, temp
Revision Date :

MESSAGE:

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

Here's why:

On March 1, 1996, the State changed the way
we figure the ineligible alien parent's
income. This income is used to figure your
cash aid.

We figured the ineligible alien parent's
income on the next page.

Your new cash aid amount is figured on this
notice.

INSTRUCTIONS: Use this temporary NA form to initially change cash aid when
implementing the deeming formula change. Attach NA 271 continuation page.

file : pkian/MSERIES/96.xlt

State of California
Department of Social Services

Noa Msg Doc No.: 96.x2t Page 1 of 1
Action : Discontinue
Issue: Deemed Income
Title: New Formula

Auto ID No. :
Source :
Issued by :
Reg Cite : 44-133.5, 44-207.2
44-207.3

Use Form No. : NA 290
Original Date : 12/1/95, temp
Revision Date :

MESSAGE:

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

Here's why:

On March 1, 1996, the State changed the way we figure the ineligible alien parent's income. This income is used to figure your cash aid.

You can't get cash aid if your family's gross income is more than 185% of the basic need standard or if your family's net countable income is more than the basic need standard set by the State for your family size.

INSTRUCTIONS: Use this temporary NA form to initially discontinue cases when implementing the deeming formula change.

file : pkian/MSERIES/96.x2t

ATTACHMENT 3

NA FORMS

- o NA 271 (12/95) Continuation Page - Deemed Income Computations - Cash Aid Revised Form and Instructions
- o NA 272 (12/95) Continuation Page - Income of an Aided Parent of Ineligible Alien Children Revised Form and Instructions
- o NA 276 (12/95) Continuation Page - Unmet Need Deduction From Aided Parent's Income Revised Form and Instructions

EFFECTIVE DATES

All of the forms are effective immediately, subject to availability.

FOR HOLDERS OF THE AFDC NOTICE OF ACTION HANDBOOK

File the English language NA forms and instructions in Section 5 of your AFDC NOA Handbook. Remove the earlier versions.

DESCRIPTION OF CHANGES

NA 271 (12/95) Continuation Page

- o Renamed first column from "Income of an Unaided Parent, Child or Spouse of an Aided Child" to "Income of an Excluded Person" and moved to the third column.
- o Modified the title of the second column from "Income of an Unaided Stepparent, Senior Parent, Guardian, or Ineligible Alien Parent" to "Income of an Unaided Stepparent, Sr. Parent". Guardian was deleted and Ineligible Alien Parent was moved to another column due to the deeming change.
- o An additional column was created and titled "Income of an Excluded Person (Sanctioned)".
- o "Court Ordered Support Paid" has "to Child or Former Spouse not in the Home" added to the end for clarity.
- o "Support Paid to Child or Former Spouse" was modified to "Any Support Paid to Child or Former Spouse not in the Home" for clarity.

- o "Support Paid to Other Dependents Not in the Home" added the word "Any" to the beginning for clarity.
- o "Countable Income" added the word "Net" to the beginning to be consistent with current language.
- o "Living Allowance for One Person" was reformatted and the complete MBSAC Differential computation was inserted for clarity.
- o The "Special Needs" line was deleted for consistency.
- o "Income to the Aided Family Members" was changed to "Income to the Assistance Unit" for consistency.

NA 272 (12/95) Continuation Page

- o The second "\$30" was deleted from the "1/3 Disregard" line to accomodate a previous change.
- o The word "Ineligible" was inserted in the Subtotal B line for clarity.
- o A new Section C was inserted and retitled "MBSAC Differential Standard" for clarity.
- o The original Section C was moved to Section D. "Deduction from Parent's Countable Income" inserted "Aided" after "from" in the title for clarity.
- o "Living Allowance for ____ Person(s)" was renamed "MBSAC Differential Standard" to incorporate the new computation inserted on the form.
- o "Of Ineligible" was inserted after "Net Countable Income" to be consistent with the change in the Subtotal B line above.
- o "(Not less than \$0)" was deleted from the "Parent's Deduction" line because it is no longer necessary.
- o The original Section D was retitled Section E. "Parent's Income to the Aided Family Members" was modified to "Aided Parent's Income to the Assistance Unit" to be consistent with the other language.
- o Subtotal "D" was changed to "E" and the wording "Income to Aided Family Members" changed to "Income to Assistance Unit".
- o The "(C)" on the "Parent's Deduction" line was changed to "(D)" to be consistent with the changes noted above.

NA 276 (12/95) Continuation Page

- The "Basic Need for ____ Persons" was changed to "MBSAC for Aided & Excluded Persons Plus Special Needs". The "Special Needs" line was changed to "MBSAC for Assistance Unit". The "Total Needs of Unit" after Subtotal A was changed to "MBSAC Differential Standard".
- The Unmet Needs, Computation 2 language was reworded to be consistent with the new language for the MBSAC Differential computation:
 - "Basic Need for ____ Persons (aided persons and aided parent's ineligible alien children)" was changed to "MBSAC for Assistance Unit & Aided Parent's Ineligible Alien Children with Unmet Needs Plus Special Needs".
 - "Basic Need for ____ Persons (aided persons only)" was changed to "MBSAC for Assistance Unit".
- The MPP cite 44-133.6 was replaced by 44-133.5 to reflect the new regulations in the pre-test of a second parent's income when determining an unmet need. 44-113.14 was added since this is the cite for the final unmet needs rule which applies to the aided parent(s).

INSTRUCTIONS

NA 271 (12/95) Continuation Page - Deemed Income Computations - Cash Aid

Use as a continuation of a "Page 1" NOA to show how the income of an unaided person or persons in the home, as specified in the column headings on the form, has been computed for deeming to the AFDC family.

Fill in the name of the individual and the month from which the income is being deemed (budget month). Fill in the sources of Other Countable Income, if any.

In the first column only, fill in "MBSAC for ____Persons" with the number of persons in the stepparent/senior parent unit. Subtract the amount from the Net Countable Income and bring down to the Income to the Assistance Unit (AU) line.

In the second and third columns, there is an additional calculation. The MBSAC for the AU is subtracted from the MBSAC plus Special Needs (SN) for the AU and the excluded persons. This is the MBSAC Differential Standard and is only used in the Ineligible Alien Parent/Excluded Person columns.

In the fourth column, the Net Countable Income amount is brought down to the Income to the Assistance Unit line.

Fill in the page number and the number of pages at the bottom of the page.

Revision Date: 12/95
file: pkian/271.instr

NOTICE OF ACTION

(Continued)

COUNTY OF _____

STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

Notice Date _____
Case Name _____
Number _____

DEEMED INCOME

	Income of an Unaided Stepparent, Sr. Parent	Income of an Ineligible Alien Parent	Income of an Excluded Person	Income of an Excluded Person (Sanctioned)
Name of Unaided Person:	_____	_____	_____	_____
Month:	_____	_____	_____	_____
Total Earned Income	\$ _____	\$ _____	\$ _____	\$ _____
Work Expense Disregard	- _____	- _____	- _____	- _____
Dependent Care Disregard	_____	_____	- _____	- _____
Other Countable Income (List Sources)				
_____	+ _____	+ _____	+ _____	+ _____
_____	+ _____	+ _____	+ _____	+ _____
_____	+ _____	+ _____	+ _____	+ _____
Court Ordered Support Paid to Child or Former Spouse not in the Home	_____	_____	- _____	- _____
Any Support Paid to Child or Former Spouse not in the Home	- _____	- _____	_____	_____
Any Support Paid to Other Dependents Not in the Home	- _____	- _____	_____	_____
Net Countable Income	= _____	= _____	= _____	= _____
MBSAC for Assistance Unit & Excluded Persons Plus Special Needs	_____	_____	_____	_____
MBSAC for Assistant Unit	_____	- _____	- _____	_____
MBSAC Differential Standard	_____	= _____	= _____	_____
MBSAC for _____ Persons	- _____	_____	_____	_____
Net Countable Income	_____	_____	_____	_____
MBSAC Differential Standard	_____	- _____	- _____	_____
Income to the Assistance Unit	= _____	= _____	= _____	= _____

Rules: These rules apply; you may review them at your welfare office: MPP 44-133

INSTRUCTIONS

NA 272 (12/95) Continuation Page - Income of an Aided Parent of Ineligible Alien Children

Use as a continuation of a "Page 1" NOA to show how the income of an aided parent of ineligible alien children is computed.

Fill in the name of the parent and the month from which the income is being computed (budget month). Fill in the sources of Other Countable Income, if any. Fill in the names of the ineligible alien children and the sources of their Other Countable Income, if any.

Complete the appropriate computations, as indicated on the form.

The MBSAC for the Assistance Unit (AU) is subtracted from the MBSAC plus Special Needs (SN) amount for the AU and the ineligible alien children. An ineligible alien child with sufficient income to meet his/her needs is not included in Section C. Each ineligible alien child's income is figured separately. Income in excess of the child's needs should not be applied to another child.

Fill in the page number and the number of pages at the bottom of the page.

Revision Date: 12/95
file: pkian/272.instr

NOTICE OF ACTION

COUNTY OF _____

STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

(Continued)

Notice Date _____
Case Name _____
Number _____

Income of an Aided Parent of Ineligible Alien Children

Name of Parent _____
Month: _____

Section A. Parent's Countable Income

Total Earned Income	\$	_____	_____	_____
Work Expense Disregard	-	_____	_____	_____
\$30 Disregard	-	_____	_____	_____
1/3 Disregard	-	_____	_____	_____
Dependent Care Disregard	-	_____	_____	_____
Other Countable Income (list sources)		_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
Court Ordered Support Paid	-	_____	_____	_____
Countable Income - Parent	(A) =	_____	_____	(A)

Section B. Countable Income of Ineligible Children

Name of Child _____

Total Earned Income	\$	_____	_____	_____
Work Expense Disregard	-	_____	_____	_____
Other Countable Income (list sources)		_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
Net Countable Income - Ineligible Children	(B) =	_____	_____	(B)

Section C. MBSAC Differential Standard

MBSAC for Assistance Unit & Aided Parent's Ineligible Alien Children With Unmet Needs Plus Special Needs		_____	_____	_____
MBSAC for Assistant Unit	-	_____	_____	_____
MBSAC Differential Standard	(C) =	_____	_____	(C)

Section D. Deduction From Aided Parent's Countable Income

MBSAC Differential Standard (C)		_____	_____	_____
Net Countable Income of Ineligible Children (B)	-	_____	_____	_____
Parent's Deduction	(D) =	_____	_____	(D)

Section E. Aided Parent's Income to the Assistance Unit

Countable Income - Parent (A)		_____	_____	_____
Parent's Deduction (D)	-	_____	_____	_____
Income to Assistance Unit (not less than \$0)	(E) =	_____	_____	(E)

Rules: These rules apply; you may review them at your welfare office: MPP 44-113

INSTRUCTIONS

NA 276 (12/95) Continuation Page - Unmet Need Deduction From Aided Parent's Income

Use as a continuation of a "Page 1" NOA to show how the amount of unmet needs of an ineligible alien child(ren) can be allowed as a deduction from an aided parent's income when there is another parent in the home who is unaided and there is a common ineligible alien child(ren). The definition of an unaided parent is one of the following: an unmarried parent of an ineligible alien child(ren) or an ineligible alien parent of an ineligible alien child(ren).

The deduction for unmet needs of ineligible alien children is allowed from the net income of the aided parent.

UNAIDED PARENT UNIT'S NEEDS - COMPUTATION 1

Fill in the month the income is received. Subtract the MBSAC for the AU from the MBSAC plus Special Needs (SN) for the AU and the excluded persons. This is the MBSAC Differential Standard.

Determine the net income of the unaided parent's unit by listing the income sources of the parent and allowing the appropriate deductions. Enter the resulting figure in Subtotal B.

Determine the potential unmet need by subtracting Subtotal B from Subtotal A. The resultant figure is Subtotal C, the unmet need of the excluded ineligible alien unit after consideration of the unaided parent's income.

UNMET NEED - COMPUTATION 2

Compute the Countable Income of each ineligible alien child(ren) separately by totaling earned income less the work expense disregard and other countable income, if any, of the children. This is Subtotal D. NOTE: If the child has sufficient income to meet his/her entire need, the MBSAC Differential for that child is not included in the Unmet Needs, Computation 2. Each child's income is only applied to his/her need.

Determine Subtotal E by deducting the MBSAC amount for the AU from the MBSAC amount plus Special Needs for the AU and the aided parent's ineligible alien child(ren) with unmet needs. Deduct the child(ren)'s net income at Subtotal D. The result is Subtotal E, unmet needs of the ineligible child(ren) after consideration of the child(ren)'s income.

DEDUCTION FROM AIDED PARENT'S NET INCOME - COMPUTATION 3

The deduction allowed from the aided parent's income is the lesser of either Subtotal C or Subtotal E.

Fill in the page number and the number of pages at the bottom of the page.

NOTICE OF ACTION

(Continued)

Computation of Unmet Needs of Aided Parent's Ineligible Alien Children

Notice Date : _____
Case Name : _____
Number : _____

Month _____

COMPUTATION 1, UNMET NEEDS BASED ON UNAIDED PARENT'S INCOME

Unaided Parent Unit's Needs

MBSAC for Assistance Unit & Excluded Persons Plus Special Needs	\$ _____	_____	_____
MBSAC for Assistance Unit	- _____	_____	_____
Subtotal A - MBSAC Differential Standard	= _____	_____	_____

Unaided Parent's Net Income

Total Earned Income	\$ _____	_____	_____
Work Expense Disregard	- _____	_____	_____
Other Countable Income (list sources)			
_____	+ _____	_____	_____
_____	+ _____	_____	_____
_____	+ _____	_____	_____
Support Paid to Child or Former Spouse	- _____	_____	_____
Support Paid to Other Dependents Not in the Home	- _____	_____	_____
Subtotal B - Parent's Net Income	= _____	_____	_____

Unmet Needs, Computation 1

Total Needs of Unit (Subtotal A)	\$ _____	_____	_____
Parent's Net Income (Subtotal B)	- _____	_____	_____
Subtotal C - Unmet Needs, Computation 1	= _____	_____	_____

COMPUTATION 2, UNMET NEEDS BASED ON CHILD(REN)'S INCOME

Ineligible Alien Child(ren)'s Net Income

Total Earned Income	\$ _____	_____	_____
Work Expense Disregard	- _____	_____	_____
Other Countable Income (list sources)			
_____	+ _____	_____	_____
_____	+ _____	_____	_____
Subtotal D - Net Income of Child(ren)	= _____	_____	_____

Unmet Needs, Computation 2

MBSAC for Assistance Unit & Aided Parent's Ineligible Alien Children With Unmet Needs Plus Special Needs	_____	_____	_____
MBSAC for Assistant Unit	- _____	_____	_____
Net Income of Child(ren) (Subtotal D)	- _____	_____	_____
Subtotal E - Unmet Needs, Computation 2 (not less than \$ 0)	= _____	_____	_____

COMPUTATION 3, DEDUCTIBLE UNMET NEEDS

Unmet Needs, Computation 1 (Subtotal C)	\$ _____	_____	_____
Unmet Needs, Computation 2 (Subtotal E)	\$ _____	_____	_____
Deductible Unmet Needs (lesser of Computation 1 or 2)	= _____	_____	_____

Rules: These rules apply; you may review them at your
Welfare Office: MPP 44-113.14, 44-133.5

NOTICE OF ACTION

(Continued)

Computation of Unmet Needs of Aided Parent's Ineligible Alien Children

Notice Date : _____
Case Name : _____
Number : _____

Month _____

COMPUTATION 1, UNMET NEEDS BASED ON UNAIDED PARENT'S INCOME

Unaided Parent Unit's Needs

MBSAC for Assistance Unit & Excluded Persons Plus Special Needs	\$	_____	_____	_____
MBSAC for Assistance Unit Plus Special Needs	-	_____	_____	_____
Subtotal A - MBSAC Differential Standard	=	=====	=====	=====

Unaided Parent's Net Income

Total Earned Income	\$	_____	_____	_____
Work Expense Disregard	-	_____	_____	_____
Other Countable Income (list sources)		_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
Support Paid to Child or Former Spouse	-	_____	_____	_____
Support Paid to Other Dependents Not in the Home	-	_____	_____	_____
Subtotal B - Parent's Net Income	=	=====	=====	=====

Unmet Needs, Computation 1

Total Needs of Unit (Subtotal A)	\$	_____	_____	_____
Parent's Net Income (Subtotal B)	-	_____	_____	_____
Subtotal C - Unmet Needs, Computation 1	=	=====	=====	=====

COMPUTATION 2, UNMET NEEDS BASED ON CHILD(REN)'S INCOME

Ineligible Alien Child(ren)'s Net Income

Total Earned Income	\$	_____	_____	_____
Work Expense Disregard	-	_____	_____	_____
Other Countable Income (list sources)		_____	_____	_____
_____	+	_____	_____	_____
_____	+	_____	_____	_____
Subtotal D - Net Income of Child(ren)	=	=====	=====	=====

Unmet Needs, Computation 2

MBSAC for Assistance Unit & Aided Parent's Ineligible Alien Children With Unmet Needs Plus Special Needs		_____	_____	_____
MBSAC for Assistant Unit Plus Special Needs	-	_____	_____	_____
Net Income of Child(ren) (Subtotal D)	-	_____	_____	_____
Subtotal E - Unmet Needs, Computation 2 (not less than \$ 0)	=	=====	=====	=====

COMPUTATION 3, DEDUCTIBLE UNMET NEEDS

Unmet Needs, Computation 1 (Subtotal C)	\$	_____	_____	_____
Unmet Needs, Computation 2 (Subtotal E)	\$	_____	_____	_____
Deductible Unmet Needs (lesser of Computation 1 or 2)	=	=====	=====	=====

Rules: These rules apply; you may review them at your Welfare Office: MPP 44-113.14, 44-133.5