STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

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

August 27, 1996

ALL-COUNTY LETTER NO. 96-43

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: FOOD STAMP COURT CASE - LOPEZ v. ESPY

The purpose of this letter is to provide County Welfare Departments (CWDs) with instructions for compliance with the Lopez v. Espy court case.

The Lopez v. Espy lawsuit was filed on July 30, 1993, naming both the United States Department of Agriculture (USDA) and the California Department of Social Services (CDSS) as defendants. The basis for the class action was the policy of USDA to offset restored Food Stamp benefits against existing administrative error overissuances. On January 24, 1994, the United States District Court for the Eastern District of California granted the defendant's motion to dismiss. Subsequently, on May 9, 1996, the United States Court of Appeals for the Ninth Circuit reversed that decision. Defendant's request for a rehearing was denied by the appellate court on July 22, 1996. As a result, USDA, Food and Consumer Service has informed CDSS that effective July 31, 1996, counties must cease the process of offsetting the restoration of lost benefits against administrative error overissuances.

Food Stamp Manual Sections (M.S.) 63-801.313, 802.3, and 802.54 reference the methodology currently in place for performing offsetting of restored benefits. The offset provisions contained in these regulatory cites are to be disregarded in circumstances involving administrative error overissuances. Until further notice, the only allowable means for collecting administrative error overissuances is voluntary repayment, as stated in M.S. 63-801.431(e). Additionally, those households which agree to voluntary repayment in accordance with this section shall not have subsequent restorations of lost benefits offset even though they have opted for voluntary repayment. Also, in cases requiring recomputation of allotment amounts for multiple months, no balancing of resultant underissuances against administrative error overissuances is permitted. Any such underissuances must be promptly issued as lost benefits.

If you have any questions, please call David Badal at (916) 654-1405 or Alan Rowe at (916) 653-5208 of the Food Stamp Program Bureau.

Bruce Wagstaff

BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division