

DEPARTMENT OF BENEFIT PAYMENTS



June 17, 1974

ALL-COUNTY LETTER NO. 74-109

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: CWRO v. BRIAN

REFERENCE:

New regulations have been filed which revise EAS § 44-115 to provide that an unborn child is to be treated as any other person for purposes of computing aid, and no reduction shall be made for in-kind income attributable to needs of the unborn child which are supplied by the mother's body. An advance copy of these regulations is attached.

The regulations have been adopted on an emergency basis to comply with a Writ of Mandate issued by the Supreme Court of the State of California in CWRO v. BRIAN which invalidated EAS § 44-115.95. Effective June 1, 1974 an unborn child shall be treated the same as a born child for purposes of eligibility and grant computation. Supplemental aid payments shall be made as soon as administratively feasible retroactive to June 1, 1974.

The opinion of the Supreme Court and these regulations do not in any way prohibit application of other in-kind income regulations in appropriate AFDC cases which include unborn children.

Appropriate regulation revisions will be issued shortly to manual holders.

Sincerely,

DAVID B. SWOAP
Director

Attachment

cc: CWDA

GEN 654 (2/74)

OBSOLETE

Superseded by

AC L #77-15

Issued

3-17-77