

STATE OF CALIFORNIA, HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES



744 P Street, Sacramento, CA 95814

May 31, 1994

ALL-COUNTY LETTER NO. 94-42

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
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: ABATEMENT OF INITIAL RETROACTIVE SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENTS (SSI/SSP) LUMP SUM INCOME IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE (AFDC-FC) PROGRAM

The purpose of this notice is to inform you how to treat initial lump sum retroactive SSI/SSP for purposes of the AFDC-FC Program. 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.

Pursuant to Federal Interim Assistance Reimbursement (IAR) regulations at 20 CFR 416.1901, these lump sum SSI/SSP benefits may be used to reimburse any AFDC-FC payment that is not wholly or partly financed by federal funds and that was paid during the child's SSI/SSP eligibility determination period. Because of the Sullivan v. Zebley court decision in February 1990, counties are seeing an increased number of AFDC-FC children becoming eligible for SSI/SSP and thus an increasing number of lump sum retroactive SSI/SSP benefits for these children. The Sullivan v. Zebley decision declared invalid the federal regulations governing childhood disability claims under SSI/SSP.

AFDC-FC benefits considered to be interim assistance payments made on behalf of a nonfederal foster child can be deducted from the initial retroactive SSI/SSP lump sum payment when all the State IAR regulatory requirements in the Manual of Policies and Procedures (MPP) section 46-337 are met. These requirements are summarized below, but counties are referred to MPP section 46-337 for complete instruction.

1. The county must have an IAR agreement with the California Department of Social Services (CDSS).
2. The foster child's out-of-home board and care payments must have been wholly or partly financed from federal funds.
3. The foster child's out-of-home board and care payments must meet the following definition of interim assistance:
 - The AFDC-FC payments must have been provided to meet the child's "basic needs". Since all public assistance payments, including foster care payments, are intended to meet the recipient's basic needs, and since there is no definition of basic needs in either federal law or

regulations, the CDSS' interpretation is that the full amount of the AFDC-FC payment can be abated against the initial lump sum SSI/SSP benefit if all other relevant IAR requirements are met.

In addition,

- The AFDC-FC payments must have been made within the period that begins with the day of the month the child applied for SSI/SSP benefits and was eligible for them, and ends with and includes the month the child's SSI/SSP benefits began.

Or,

- The AFDC-FC payments must have been made within the period that begins with the day the child's eligibility for SSI/SSP is reinstated after a period of suspension or termination, and ends with and includes the month SSA makes the first payment of benefits following the suspension or termination.
4. A CDSS-approved IAR form which authorizes payment of an individual's initial SSI/SSP payment to the county must be signed by the child's designated representative. When a county has been granted care, custody, and control of a child by a court order, the county can appoint a designated representative to sign the authorization form. (See Federal Claims Manual 3021.1 and 3032.2 regarding the authorized actions of a county as representative payee.)
 5. The individual's IAP authorization must be in effect with the SSA at the time the initial SSI/SSP lump sum payment is issued. This means counties must submit IAR authorizations to SSA on a timely basis, regardless of whether the system the county uses for submitting authorizations is a manual or automated one.
 6. For manual counties, the individual's IAR authorization form should be the Form SSP-14 (or the CDSS-approved equivalent). Automated counties are also required to have a signed authorization. Although this form does not have to be an SSP-14, it must be approved by the CDSS prior to the county's implementation of an automated system. In either case, counties should ensure that the IAR authorization form does not specify General Assistance as the only type of interim assistance payment that **is recoverable under TAB.**

It should be noted that the "initial" SSI/SSP lump sum benefit may be issued in several checks if the retroactive amount is very large. All SSI/SSP checks that are received by the county as the IAR agency and that cover either of the two SSI/SSP eligibility determination periods described in #3 above are considered part of the "initial" SSI/SSP lump sum benefit. The county may fully abate its qualifying AFDC-FC expenditures against these checks.

Counties should be aware that when the initial lump sum is issued in multiple checks, SSA will sometimes erroneously send only one of the checks to the county. However, counties have reported that their success in obtaining all of the multiple checks improves significantly

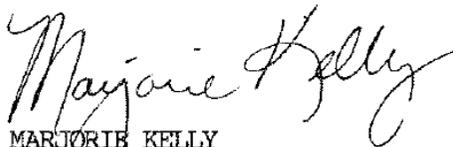
when county IAR staff establish an ongoing, cooperative communication with their counterparts at SSA.

Counties should review their IAR agreements, IAR regulations and IAR training materials previously provided by the CDSS to ensure that all IAR requirements and terminology are understood.

Counties must ensure that the foster care funds recovered are reported on the current AFDC-FC claim as an abatement (abatements are reported as recoveries of aid on the CA 800A FC) and all State claims must be adjusted in accordance with the proper State-county sharing ration.

If you have any questions or need further information regarding SSI/SSP, please contact Ms. Jan Darvas of the Adult Services Operations and Evaluation Branch at (916) 654-1864. For questions regarding the IAR program, please call the IAR program contact in your county's General Assistance Unit. For questions pertaining to the AFDC-FC program, please contact the Foster Care Policy Bureau at (916) 445-0813.

Sincerely,


MARJORIE KELLY
Deputy Director
Children & Family Services