

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

August 18, 1997

FSD LETTER NO. 97-11

ALL COUNTY LETTER NO. 97-46

TO: ALL IV-D DIRECTORS
 ALL DISTRICT ATTORNEYS
 ALL COUNTY WELFARE DIRECTORS
 ADMINISTRATIVE ADJUDICATIONS
 DIVISION

Reason for this Transmittal
<input type="checkbox"/> State Law or Regulation Change
<input type="checkbox"/> Federal Law or Regulation Change
<input checked="" type="checkbox"/> Court Order or Settlement Change
<input type="checkbox"/> Clarification Requested by One or More Counties
<input checked="" type="checkbox"/> Initiated by CDSS

SUBJECT: AFDC Recipients' Right to a State Hearing on Child Support Collection and Distribution Issues

REFERENCE: All County Letter No. 94-69

The purpose of this letter is to inform you of a change in the provision of state hearings to AFDC recipients regarding support collection and distribution issues.

All County Letter 94-69, dated August 26, 1994 advised counties that "if during the (Barnes) complaint resolution process, a current or former AFDC recipient identifies an issue that pertains to the amount of or eligibility for a disregard, excess or pass-on payment, or the retention of child support for the repayment of welfare, FSDs have been instructed to inform the complainant that he/she has the right to file a request for a state hearing on the issue." ACL 94-69 further stated that the Title IV-D child support program was a "public social services" program as defined in Welfare and Institution Code section 10051.

However, a better reading of current law and regulations as supported by the Court of Appeal decision in Maria Periera-Goodman v. Anderson is that the Title IV-D Child Support Program is not a "public social services program." Moreover, action by or on behalf of the FSD concerning the receipt and distribution of support is not an action of the county welfare department for purposes of providing a state hearing under Welfare and Institutions Code section 10950. While county welfare departments may assist in the accounting of support payments or may even process the payments on behalf of the FSD, state and federal regulations are clear that ensuring timely and accurate accounting of collections is a Title IV-D Agency responsibility (see state regulation 80-520.2 effective July 1, 1997 and federal regulations 45 C.F.R.. 302.32 and 302.51). Therefore, there is no right to state hearing under section 10950 regarding disputes about the receipt and distribution of support payments. The complainant's administrative remedy for disputes about receipt and distribution issues is the complaint resolution procedure established under the Barnes permanent injunction. This Title IV-D Complaint Resolution

Procedure was provided to counties via FSD Letter No. 94-13 and is found in Division 12-400 through 12-406. We will be seeking modification of the Permanent Injunction in Barnes to make the necessary changes to the quarterly notices and the Important Information Sheet which accompanies the quarterly notices.

Effective the date of this letter, state hearings challenging actions by or on behalf of an FSD concerning receipt and distribution of support will be dismissed for lack of jurisdiction. If, however, after the receipt and distribution of support, the county welfare department takes an action which affects the receipt of the AFDC grant, a notice of action will be sent to the AFDC recipient which provides for the right to a state hearing under Welfare and Institutions Code section 10950 concerning the receipt of AFDC.

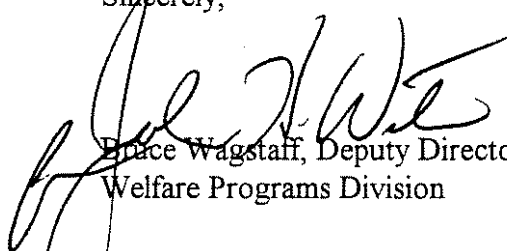
If you have any questions regarding this letter please contact Myrna Fluke at (916) 657-3484.

Sincerely,

Leslie L. Frye, Chief
Office of Child Support

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Sincerely,


Bruce Wagstaff, Deputy Director
Welfare Programs Division