

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 3, 1997

ALL COUNTY LETTER 97-49  
FAMILY SUPPORT DIVISION LETTER 97-12

TO: ALL COUNTY WELFARE DIRECTORS  
ALL DISTRICT ATTORNEYS  
ALL TITLE IV-D AGENCIES

REASON FOR THIS TRANSMITTAL

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

SUBJECT: IV-D REFERRALS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAM: PATERNITY ESTABLISHMENT IN THE TWO-PARENT HOUSEHOLD

REFERENCE: ASSEMBLY BILL (AB) 1832, ALL COUNTY LETTER (ACL) 96-67

The purpose of this letter is to inform County Welfare Departments (CWDs) and Family Support Divisions (FSDs) of a policy change in the IV-D referral process. This change is for families in which both parents are present in the home but are not married. Manual of Policies and Procedures (MPP) section 41-403.2 states that "in any case where the child is conceived out of wedlock, and there has been no prior determination of paternity, the matter shall be referred to the District Attorney." MPP section 43-201.1 currently requires that the CWD refer all cases to the District Attorney (DA) when an application for AFDC has been filed "on behalf of a child whose parents are unmarried and paternity has not yet been established by a court order." With the implementation of the Declaration of Paternity (form CS 909), it is now possible to establish paternity without involvement of the DA's office or the courts, and referrals to the DA will not be required for cases in which a declaration has been signed and filed appropriately.

As noted in All County Letter (ACL) 96-67, AB 1832 mandated that the Declaration of Paternity be made available in CWDs effective January 1, 1997 for unmarried parents wishing to voluntarily establish paternity. Unmarried parents were to be informed of the form's availability and be given the option of signing the CS 909 in the welfare office to establish paternity. ACL 96-67 outlined the requirements for using this form and allowed counties discretion in their method of implementation. The letter also instructed CWDs to continue referring these cases to the DA's office.

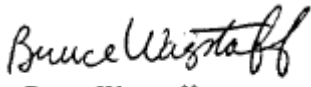
The signing of the declaration establishes paternity once it has been filed with the State Office of Vital Records (OVR) and is considered to carry the same weight as a court

judgement of paternity. Welfare and Institutions Code Section 11476 now states that CWDs are to refer all cases in which the parents are unmarried and parentage has not been established by the completion and filing of a voluntary declaration of paternity or a court of competent jurisdiction. Therefore, the California Department of Social Services has determined that referrals to the DA (IV-D agency) can now be eliminated in these unmarried two-parent cases once the signed declaration is filed with the OVR.

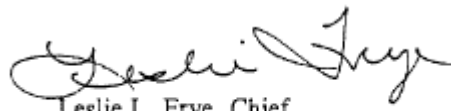
Attachments 1 and 2 outline the key points of this policy change for CWDs and FSDs.

If you have any additional questions regarding this ACL as it pertains to the AFDC program, you may contact Dennis Ragasa of the AFDC Policy Implementation Bureau at (916) 654-1063/CALNET 464-1063. If you have any questions regarding the family support portion of this letter, please contact Paternity Opportunity Program analyst Jim Mullany at (916) 654-1223.

Sincerely,

  
Bruce Wagstaff  
Deputy Director  
Welfare Programs Division

Sincerely,

  
Leslie L. Frye, Chief  
Office of Child Support

Attachments

**KEY POINTS FOR CWDs**

- o The declaration (CS 909) must be made available at the CWD for unmarried parents to sign if they wish. Signing of the declaration, however, is voluntary.
- o Existing laws and regulations provide sufficient flexibility so that FSDs and CWDs can devise a system for the completion and processing of paternity declarations that works most efficiently in their county.
- o In order for the declaration to legally establish paternity, the form must be filed with the OVR once the parents have signed the document. Staff witnessing the signing of the document are responsible for filing it with the OVR. However, if there is agreement between the CWD and the FSD for one or the other agency to be responsible for filing the declaration, such flexibility is permissible.
- o If the signatures of the unmarried parents in a two-parent case are obtained at the CWD, and the form filed with OVR, a referral to the IV-D agency for paternity establishment is not required. If no referral is made to the IV-D agency, the CWD would not send a Child Support Questionnaire (CA 2.1Q) or Referral to DA (CA 371) to the DA. (Referrals can continue if the CWD and DA's office mutually agree to continue referrals in these cases.)
- o If a signature is not obtained, CWDs must continue to refer these cases to the DA to legally establish paternity.
- o If the unmarried parents indicate they have previously signed a CS 909 at the hospital, they must provide a valid copy of the declaration in order for the CWD to accept it as establishing legal paternity. If a copy is not provided, or CWD staff has reason to question the validity of the document, they should refer the couple to the DA for resolution of the paternity issue according to current regulations.
- o Parents may rescind the paternity declaration by filing a rescission with the OVR within 60 days of signing the CS 909. If one of the parents wishes to file a rescission, CWDs should send him/her to the DA's office to file. Rescission forms will be available there.
- o If one of the parents files a rescission, the CWD will be notified of the rescission by the Paternity Opportunity Program coordinator at the FSD. Notification of a rescission should trigger a redetermination of eligibility for the aided child(ren). There may be a change in deprivation and a need to refer the custodial parent to the DA for a new paternity determination and/or for a child support order to be established.

**KEY POINTS FOR FSDs**

- o Existing laws and regulations provide sufficient flexibility so that FSDs and CWDs can devise a system for the completion and processing of paternity declarations that works most efficiently in their county.
- o If the CWD files the CS 909 with the state OVR, the case is not required to be referred to the FSDs for paternity establishment. However, a referral may be made if both the CWD and the FSD agree to continue to do so.
- o Those cases (without a completed CS 909) referred to the FSDs for paternity establishment need to be processed in accordance with existing regulations and procedures.
- o In those cases referred to the FSDs for paternity establishment in which a paternity action has been filed, the district attorney shall provide the mother and alleged father an opportunity to voluntarily acknowledge paternity by signing a CS 909. This requirement may also be met by affording the defendant in a paternity action an opportunity to enter into a stipulation for judgement of paternity (Welfare and Institutions Code Section 11359.3).
- o When the FSD is notified of a rescission of the declaration, the Paternity Opportunity Program Coordinator will immediately notify the CWD.