

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 27, 1998

ALL COUNTY LETTER NO. 98-55

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS

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: PAOLI V. ANDERSON

REFERENCE: ALL COUNTY LETTER NOS. 97-59, 97-63 AND 98-18

The purpose of this All County Letter is to issue instructions for the implementation of the retroactive portion of the Paoli v. Anderson lawsuit. This lawsuit challenged the continued application of the lump sum rule, which imposed a period of ineligibility for receipt of a lump sum, after the implementation of the Temporary Assistance for Needy Families (TANF) program. Sacramento County Superior Court has issued a court order in case number CIV97CS02566, that specifies the steps to be taken to implement the retroactive portion of the lawsuit. The court order applies to any months after October 1996 that were months of a lump sum period of ineligibility. The claims period for retroactive benefits is August 15, 1998, through November 30, 1998.

Informing Notice:

On or about August 15, 1998, the State will mail out the attached informing notice Temp 2158 to all currently active CalWORKs assistance units. No later than August 15, 1998, counties must mail the Temp 2158 to previously identified cases that were flagged at the time of prospective implementation. The flagging was required by All County Letter 97-63. In addition, Interim SAWS (ISAWS) counties must mail the Temp 2158 to assistance units that can be identified by automated means as having a lump sum period of ineligibility during the retroactive period. This list of assistance units will be provided to ISAWS counties by the State. No county is required to do any type of manual case search to identify potential class members.

Claims Process:

A copy of the claim form is attached for your use. Potential class members will be able to request a claim form in three ways: (1) return the completed informing notice Temp 2158; (2) come to the welfare office in person and request a claim form; or (3) call the toll-free number on the informing notice and request a claim form from the state. Counties must provide a claim form immediately to anyone who requests one in person and within three working days to anyone

who requests one by mail. The county welfare departments (CWDs) will have 30 days from the receipt of a claim form to request any necessary additional information and 30 days after the receipt of a completed claim form (including any such necessary additional information) to approve or deny a claim. If additional information is requested, the claimant will have 30 days or until the end of the claims period (whichever is later) to provide the information. Failure to provide the information within the specified time will result in denial of the claim.

Where documentation relating to eligibility requirements other than the lump sum spend down requirement has been lost or is no longer in the claimant's or the county's possession, a declaration under penalty of perjury will be sufficient to establish facts related to eligibility, unless the CWD has contrary evidence.

Calculation of Retroactive Benefits:

The amount of the corrective underpayment shall be equal to the amount of AFDC benefits to which the class member would have been entitled had the lump sum rule not been applied. For purposes of determining a claimant's resource eligibility, the court order requires certain presumptions.

If the amount of a lump sum was equal to or less than four months of the maximum aid payment for the assistance unit's (AU's) size, you must presume that the lump sum was spent down below the resource limit within one month. If the amount of a lump sum was greater than four months of the maximum aid payment for the AU's size, you should presume that the lump sum was spent down below the resource limit within four months, unless the family establishes by documentary evidence that the lump sum was spent down more quickly.

You must tell claimants whose lump sums were greater than four months of the applicable maximum aid payment that they may offer documentation to prove that the lump sum was spent down sooner than four months. This documentation may include, but is not limited to, bank records showing a balance below the resource limit. You should **not** allow claimants to prove that the lump sum was spent down sooner than four months by a declaration under penalty of perjury.

The following example is for a family who received a lump sum which was greater than four months of the maximum aid payment:

A family of three received a lump sum of \$5,650 in November 1996, equal to ten months' maximum aid payments. The family reported the lump sum and received a ten-month period of ineligibility, from November 1996 through August 1997. The court order requires that the family be presumed to have spent that money down below the resource limit within four months, in this case by March 1997. Thus, the family is entitled to retroactive benefits for March through August 1997, but only to the extent they are otherwise eligible. If the family proves by bank records or other documentary evidence that they spent the lump sum before March 1997, they would be eligible for retroactive benefits from the time the resource limit was met.

Interest:

Class members who are **not** receiving cash aid under CalWORKs at the time the corrective underpayment is made are to receive simple interest at the annual rate of 7 percent. Class members who **are** receiving cash aid when the corrective underpayment is made are **not** to receive interest.

Restricted Accounts:

Class members who are still in possession of a lump sum that resulted in a period of ineligibility, and which combined with their other resources exceeds the CalWORKs resource limit, are entitled to place the lump sum amount in a restricted account up to the limit specified in Welfare and Institutions Code Section 11155.2. Class members who are CalWORKs recipients are also entitled to place retroactive benefits in a restricted account under the terms of Section 11155.2.

Fiscal Claiming Instructions:

The Fiscal Policy Bureau will issue detailed claiming instructions to counties for retroactive assistance payments in a separate County Fiscal Letter.

Additional Instructions:

Corrective underpayments (excluding any interest paid) are not to be considered income in the month received or resources in the month received or the following month.

You will receive the following materials under a separate cover letter:

- (1) Notice of Action (NOA) to approve a claim, NOA to approve a claim with interest, NOA to deny a claim, NOA to request additional information;
- (2) Reporting Form and instructions;
- (3) Claiming instructions; and
- (4) Poster

If you have any questions about this court order, please call Mr. Vincent Toolan at (916) 654-1808.

Sincerely,

***Original Document Signed by Bruce Wagstaff
on July 27, 1998***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

c: CWDA
CSAC