

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



September 11, 2000

ALL COUNTY LETTER NO. 00-62

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS

SUBJECT: ANDREYEVA V. ANDERSON

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

The purpose of this All County Letter (ACL) is to issue instructions for the implementation of the Andreyeva v. Anderson lawsuit. This lawsuit challenged the California Department of Social Services' (CDSS) authority to recover, by grant adjustment, aid paid pending overpayments that occurred between November 1996 and December 1997. With the enactment of the Temporary Assistance for Needy Families (TANF) program, federal law no longer required the recoupment of overpayments created as the result of aid paid pending. Therefore, the Department did not have specific authority to collect aid paid pending overpayments between the time TANF was enacted and California's TANF State Plan was approved. Sacramento County Superior Court has issued a court order in case number 98CS00419 that specifies the steps to be taken to implement the court order. The court order applies to any months between November 1, 1996, and December 31, 1997, that an aid paid pending overpayment occurred.

CLAIMS PROCEDURE

Copies of the claim form (TEMP 2179) in English, Spanish, Russian, Cambodian, Chinese and Vietnamese are attached for your information. The CDSS will mail claim forms to the potential class members on or about September 18, 2000. A list of Andreyeva Claim Coordinators will be mailed with each claim form. Andreyeva Claim Coordinators are offices or units in each county designated to process Andreyeva claims. The claim form instructs claimants to mail their completed claim forms to the Coordinator in the county(ies) they were living in when their aid paid pending overpayment was recovered by grant adjustment. The claim form also instructs claimants to contact the Andreyeva Claim Coordinator in the county(ies) to which they submitted claim(s), if they do not receive a corrective payment or a Notice of Action by April 12, 2001. It is the claimants' responsibility to submit a claim to each county that recovered an aid paid pending overpayment. Therefore, counties are not required to forward misdirected claims, but are not precluded from doing so. A copy of the Andreyeva Claim Coordinators List is attached for your information.

The claim period begins on the date the claim forms are mailed and ends on December 29, 2000. Counties must deny any claims submitted after the last day of the claim period unless resubmitted as described in the following paragraph.

The court order allows claimants to resubmit a claim form if: 1) they do not receive a Notice of Action and/or corrective payment from the county by April 12, 2001; 2) they contact the Andreyeva Claim Coordinator to inform the county by April 19, 2001, that they have not received a response; and 3) the county has no record of the first submittal. Claimants are not required to provide any proof of the first submittal. Counties must process resubmitted claim forms received by May 28, 2001, as timely.

Claimants need only provide enough information on the claim form to enable counties to identify their case file. If the claim form does not include adequate identifying information, counties must send the attached Notice of Action (TEMP 1219) to request the necessary information. Claimants must be given 30 days to respond. Counties are required to approve or deny claims within 30 days after receipt of the requested information, or by the end of the claim period (whichever is later).

TRANSLATIONS

Claim forms and Notices of Action translated into Spanish, Russian, Cambodian, Chinese, and Vietnamese will be provided to counties by Language Translation Services under separate cover. Translated claim forms must be provided upon request. In addition, each county must provide bilingual/interpretive services and written translations to non-English or limited English speaking populations as required by the Dymally-Alatorre Bilingual Services Act (Government Code Section 7290 et seq.) and by State regulations in Manual of Policies and Procedures, Division 21, Civil Rights Nondiscrimination, Section 115. To obtain a camera-ready copy of the attached Notices of Action in English, please contact the Forms Management Unit by telephone at (916) 657-1907 or by e-mail at fm@dss.ca.gov. For translated copies, contact Language Translation Services by telephone at (916) 654-1282 or by e-mail at LTS@dss.ca.gov.

CORRECTIVE ACTION

For each claimant who returns a claim form to the county within the claim period, the county must determine whether the claimant incurred an aid paid pending overpayment between November 1, 1996 and December 31, 1997. All months during this period are covered by the court order, even if the aid paid pending overpayment period at issue started before November 1, 1996, or continued after December 31, 1997. For example, if a claimant incurred an aid paid pending overpayment for the months of September, October, November and December 1996, September and October would not be covered by the court order, but November and December would be covered by the court order.

For any months covered by the court order, the county must take the following actions as applicable:

1. If the county has recovered, or is currently recovering, the aid paid pending overpayment by grant adjustment, the county must immediately cease further recovery by grant adjustment; and a corrective underpayment must be calculated to reimburse the claimant for any amount of the aid paid pending overpayment previously recovered by grant adjustment. Corrective underpayments may be used to offset overpayments currently owed by the claimant (except aid paid pending overpayments covered by the court order).

No later than March 29, 2001, counties must mail a corrective payment and/or an approval/denial Notice of Action (with language provided by CDSS) to each claimant, granting or denying their claim.

2. If the county has not begun recovery of any part of the aid paid pending overpayment, recovery by grant adjustment must not be commenced.
3. Counties must accept resubmitted claim forms received by May 28, 2001, as timely. Counties must process and grant or deny resubmitted claims within 60 days of receipt.

This corrective action only applies to recovery by grant adjustment. AFDC aid paid pending overpayments incurred during the period from November 1, 1996 through December 31, 1997, continue to be subject to recovery by all statutorily authorized methods other than grant adjustment.

For purposes of CalWORKs, any corrective payments made are not considered income in the month received, or resources in the month of receipt or the following month. Claimants who are CalWORKs recipients are entitled to place any corrective payments, up to the statutory amount, in a restricted account under Welfare and Institutions Code Section 11155.2.

The court order requires that counties adhere to the timeframes specified in this ACL. A chronological list of key implementation dates is attached (Attachment A).

REPORTING REQUIREMENTS

Counties are required to submit a statistical report (TEMP 2186) to CDSS on or before May 14, 2001. This report will capture data on the number of claims submitted, granted, and denied; and the dollar amount of corrective payments paid in each county. When calculating the total dollar amount of corrective underpayments, include amounts used to offset overpayments. Data on resubmitted claim forms processed after May 14, 2001, does not need to be reported. Also attached is a COURT CASE STATISTICAL REPORT CONTACT SHEET. Return the completed contact sheet to the CDSS Data Systems and Survey Design Bureau no later than March 16, 2001.

ATTACHMENTS

The following implementation documents are attached:

- Key Implementation Dates
- Andreyeva Claim Coordinator List
- TEMP 1217 (9/00) – Notice of Action Approval
- TEMP 1218 (9/00) – Notice of Action Denial
- TEMP 1219 (9/00) – Notice of Action Request for Information
- TEMP 1220 (9/00) – Notice of Action Continuation Form
- TEMP 2179 (9/00) – Claim Form
- TEMP 2186 (9/00) – Court Case Statistical Report Form and Contact Sheet

If you have any questions or need additional information regarding this ACL, please contact Paulette Stokes at (916) 654-3386.

Sincerely,
Original signed by
Bruce Wagstaff
on 9/11/00

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

c: CWDA
CSAC