

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 8, 1997

ALL COUNTY LETTER NO. 97-43

TO: ALL COUNTY WELFARE DIRECTORS

<p>REASON FOR THIS TRANSMITTAL</p> <p><input type="checkbox"/> State Law Change</p> <p><input checked="" type="checkbox"/> Federal Law or Regulation Change</p> <p><input type="checkbox"/> Court Order or Settlement Agreement</p> <p><input type="checkbox"/> Clarification Requested by One or More Counties</p> <p><input type="checkbox"/> Initiated by CDSS</p>

SUBJECT: PROCESSING OF TERMINATED SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT (SSI/SSP) AND SOCIAL SECURITY DISABILITY INSURANCE (SSDI) CASH BENEFITS TO IN-HOME SUPPORTIVE SERVICES (IHSS) RECIPIENTS BASED ON NO LONGER DISABLED, INCLUDING DRUG ADDICTION AND/OR ALCOHOLISM (DA&A)

The purpose of this All County Letter (ACL) is to provide information to counties on terminating and referring IHSS recipients whose SSI/SSP or SSDI benefits were terminated because they are "no longer disabled". This includes situations where DA&A was determined to be material to the applicant's disabling condition.

BACKGROUND

The Social Security Independence and Program Improvement Act of 1994 (Public Law 103-296 effective March 1, 1995) stated a diagnosis of DA&A means that the drug addiction or alcoholism is a contributing factor material to the finding of disability and that the individual would not be found disabled if the person discontinued using drugs or alcohol. A new law, the Contract with America Advancement Act of 1996 (Public Law 104-121, effective March 29, 1996), prohibits SSDI and SSI/SSP disability benefits to people who are disabled because of DA&A. This provision was effective immediately for persons who file for benefits or whose cases were finally adjudicated on or after that date.

PERSONAL CARE SERVICES PROGRAM (PCSP) ELIGIBILITY

Persons receiving SSI/SSP disability benefits based on DA&A may have had their cash benefits terminated on December 31, 1996. The last regular monthly SSI/SSP check would have been dated November 29, 1996. Counties should immediately begin a review of IHSS eligibility, for those persons who have lost SSI/SSP eligibility.

If a former (no longer disabled) SSI/SSP recipient's cash benefits ended December 31, 1996, the person may be able to continue receiving benefits until a decision is made on their case. This would occur if he/she appealed their Social Security Administration (SSA) notice of termination for SSI/SSP, and has not received a final decision. A decision becomes final when an individual does not or cannot appeal the SSI/SSP decision any further. The period for filing an appeal must have ended.

In cases where SSA's initial disability determination was based on DA&A and the final decision did not find the applicant disabled, the counties should proceed in accordance with current regulations. If the recipient files a request for a state hearing prior to the effective date of any resultant notice of action, IHSS shall be continued.

To assist the counties in identifying those SSI/SSP recipients affected by this law change, we have developed a report from the SSA's State Data Exchange (SDX) via the Medi-Cal Eligibility Data System (MEDS). The report will include all IHSS recipients who have been terminated from SSI/SSP because they are "no longer disabled" (MEDS Payment Status Code N07 from the SDX). The report is sorted by county, district office, and social service worker number. Each recipient will be identified by name, case number, social security number, and aid code. County staff must contact the affected recipients or SSA to verify SSI eligibility status before terminating IHSS.

Counties will initially receive monthly reports covering the periods of December 31, 1996 through February 28, 1997. We expect to distribute the report to the counties during the second week of August. Thereafter, an SSI/SSP Eligibility Status Report showing all SSI/SSP terminations will be distributed to counties on a monthly basis to identify impacted IHSS Status Eligible recipients.

IHSS INCOME ELIGIBILITY

For IHSS income eligible recipients who may be affected by this law change, counties should identify these persons at their annual reassessment or at a medical reexamination, whichever is earlier. Counties can identify the Income Eligible DA&A cases by specific information on the most recent MC221, Disability Determination and Transmittal form, or the State Programs-Disability and Adult Programs Division (SP-DAPD) attachment to the MC221 in each recipient's case:

To identify most DA&A cases, counties will need to look for the following information on the MC 221:

- Item 13 will have the box "Is Disabled" checked;
- Item 14 will have "Reg-Basis Code" of A61, A62, or A63;
- Item 15 will include a diagnosis of Alcoholism, Substance Abuse or Addiction, or Drug Abuse or addiction. Counties should be aware that this item also includes non DA&A diagnoses such as pancreatitis, personality disorder, and low back pain.
- Item 16 will usually show a listing of 12.09 if the "Reg-Basis Code" is A61.
- Item 16 may show a listing number of 12.09 if the "Reg-Basis Code" is A62.
- Item 16 will be blank if the "Reg-Basis Code" is other than A61 or A62.

These examples are not all inclusive. If there is a diagnosis of drug abuse or alcoholism annotated on the MC 221, a new disability packet must be completed, and forwarded to SP-DAPD before any action is taken.

NOTICE OF ACTION

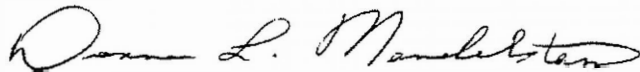
For all IHSS recipients found to be no longer disabled, counties will deny the application or stop benefits using the following NOA code:

- 440 You are not 65 or older, blind or so disabled that you cannot be expected to be able to work at any job for the next 12 months. 20 CFR Part 416 Subparts H & I and MPP 30-771.

Normal appeal and new application procedures would apply to any DA&A recipient who disagrees with the termination decision.

Please call me at (916) 657-2265 or Angela Duromola of the Adult Services Management Branch at (916) 229-4594 if you have any questions regarding this ACL.

Sincerely,



DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division