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.1 Background

On December 21, 1990, the Yslas v. Anderson Lawsuit was filed with the Sacramento County Superior Court. This lawsuit challenged the California Department of Social Services' (CDSS) policy of allowing county welfare departments (CWDs) to deny, reduce or stop payments for Greater Avenues for Independence (GAIN) Program supportive services because participants received an educational loan or grant. On March 30, 1994, the Sacramento County Superior Court signed the Settlement and Consent Decree. Under the terms of the Yslas v. Anderson Settlement and Consent Decree, plaintiffs and CDSS agreed that the following is the correct policy for CWDs to follow concerning the treatment of financial aid: CWDs shall obtain the prior, voluntary agreement of the GAIN participant before using student financial aid to deny, reduce or stop GAIN supportive services payments. In addition, the Yslas v. Anderson Settlement and Consent Decree specifies that GAIN participants whose supportive services payments were denied, reduced or stopped, due to the receipt of financial aid from October 19, 1987 through August 31, 1993, are entitled to retroactive benefits.

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.2 Definitions

For the purpose of these regulations:

- a. (Reserved)
- b. (Reserved)
- c. (1) "Category 1 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational loan.
- (2) "Category 2 eligible claimant" means any current or former GAIN participant who signed a promissory note to repay the county for supportive services payments received during the retroactive period pending receipt of an educational grant or educational loan.
- (3) "Category 3 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational grant he or she received to attend an educational or vocational training program, unless he or she agrees the funds were actually available for those supportive services.

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- (4) "Claim period" means the period from January 15, 1995 through April 14, 1995 during which a potentially eligible claimant may file a claim under the Yslas v. Anderson Settlement.
- (5) "Corrective underpayment" means the retroactive payment of supportive services inappropriately withheld from an eligible claimant because of receipt or pending receipt of an educational loan or grant.
- (6) "CWD" means County Welfare Department.
- d. (Reserved)
- e. (Reserved)
- f. (1) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
- (2) "Four standard Asian languages" means Vietnamese, Laotian, Chinese and Cambodian.
- g. (1) "GEN 1172 (5/93) Court Case: Yslas v. Anderson- Report A" means the form used by CWDs to report statistical data regarding the claims filed and paid under this lawsuit.
- (2) "GEN 1172 (5/93) Court Case: Yslas v. Anderson- Report B" means the form used by CWDs to report data regarding their use of the TEMP GAIN 56A (8/93), (Student Financial Aid Statement, GAIN Supportive Services) form, as required by the Yslas v. Anderson Settlement and Consent Decree.
- h. (Reserved)
- i. (Reserved)
- j. (Reserved)
- k. (Reserved)
- l. (Reserved)
- m. (Reserved)

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- n. (1) "NOA" means a notice of action that is considered to be adequate within the meaning of Section 22-021.
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)
- r. (1) "Responsible CWD" means the county welfare department GAIN office that took an action on which an eligible claimant's claim is based.

(2) "Retroactive period" means the period from October 19, 1987 through August 31, 1993.
- s. (Reserved)
- t. (1) "TEMP GAIN 84 (11/94), Informing Notice" means the document mailed by the CWD to inform potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.

(2) "TEMP GAIN 85 (1/95), Claim Form" means the document used by claimants to file a claim based on the Yslas v. Anderson Settlement and Consent Decree.

(3) "TEMP GAIN 88 (11/94), Informing Poster" means the document that is posted to notify potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

.3 Informing Eligible Claimants

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- .31 CDSS responsibilities. CDSS shall:
- .311 Print the TEMP GAIN 88 (Informing Poster) in English with bullets in the five standard languages.
 - .312 Provide CWDs with:
 - (a) A reproducible copy of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.
 - (b) Reproducible copies of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.
 - (c) Copies of NOA messages in English and reproducible copies of NOA forms in English and the five standard languages.
 - (d) Reproducible copies of the TEMP GAIN 88 (Informing Poster) with bullets in the five standard languages.
 - .313 Mail copies of the TEMP GAIN 88 (Informing Poster) to legal aid and welfare rights organizations of plaintiffs' choice at least 10 days before the beginning of the claim period.
 - (a) Plaintiffs' counsel shall provide CDSS with the mailing labels not to exceed 400.
 - .314 Provide a public service announcement, to be broadcast at no charge to CDSS, informing the public of the opportunity to claim corrective underpayments.

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- .32 Included CWDs
- .321 All CWDs shall fully implement the provisions of Section 50-024.
 - (a) No CWDs are excluded from implementation of the Settlement and Consent Decree.

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- .33 CWD responsibilities. CWDs shall:
- .331 Reproduce an adequate supply of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.
 - (a) On the TEMP GAIN 84 (Informing Notice), CWDs shall specify the county office address and phone number that potential claimants are to contact or call to obtain a TEMP GAIN 85 (Claim Form).
 - .332 Notify potentially eligible claimants by January 5, 1995 using one of the following methods:
 - (a) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all current AFDC recipients, by means of a CA 7 stuffer or similar mailing, or
 - (b) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all individuals who were GAIN participants from October 19, 1987 through August 31, 1993.
 - (1) CWDs shall maintain a record of all former GAIN participants to whom notices were mailed.
 - .333 Place TEMP GAIN 88 (Informing Poster) inconspicuous locations in all CWD offices, GAIN offices and Food Stamp issuance offices on the first day of the claim period.
 - (a) The TEMP GAIN 88 (Informing Poster) shall be displayed from January 15, 1995 until the close of business April 14, 1995.
 - (b) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).
 - .334 Provide TEMP GAIN 88 (Informing Poster) to all public and private colleges, which are known to CWDs to have enrolled current or former GAIN participants, by January 5, 1995.
 - (a) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).

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- (b) CDSS and/or CWDs cannot require public or private educational institutions to display the TEMP GAIN 88 (Informing Poster).

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- .335 Reproduce an adequate supply of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.
- .336 Mail a TEMP GAIN 85 (Claim Form) within five working days following a request by anyone who calls the phone number specified on the TEMP GAIN 84 (Informing Notice) and TEMP GAIN 88 (Informing Poster).
- .337 Give a TEMP GAIN 85 (Claim Form), immediately upon request during normal business hours, to anyone who goes to the office specified on the TEMP GAIN 84 (Informing Notice) and the TEMP GAIN 88 (Informing Poster) and requests a claim form.
- (a) CWDs shall maintain an adequate supply of the TEMP GAIN 85 (Claim Form) on hand for distribution to potential claimants.
- .338 Specify on the TEMP GAIN 85 (Claim Form) the address where claimants are to return the completed claim form.
- .4 Application for Corrective Underpayment
- .41 Potential Category 1 and Category 3 eligible claimants shall:
- .411 Complete and sign, under the penalty of perjury, a TEMP GAIN 85 (Claim Form).
- .412 Submit the TEMP GAIN 85 (Claim Form) on or before the end of the claim period to the responsible CWD.
- (a) If mailed, postmark must be no later than April 14, 1995.
- (b) During the claim period, claimants shall be permitted to resubmit a claim that was previously denied due to being incomplete.
- .413 Submit a completed TEMP GAIN 85 (Claim Form) to each responsible CWD if there was more than one responsible CWD.

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- .414 Provide necessary additional information, documentation or clarification upon request from a CWD.
- .42 CWD responsibilities. CWDs shall:
- (a) Stamp the TEMP GAIN 85 (Claim Form) with the date it was received by the CWD.
 - (a) If the date of receipt cannot be determined by a date stamp, the date of receipt shall be the date the claimant signed the TEMP GAIN 85 (Claim Form).
 - (b) Notwithstanding the date specified in .421 above, process all claim forms postmarked on or before April 14, 1995.
 - (c) If the TEMP GAIN 85 (Claim Form) is postmarked after April 14, 1995, issue NOA M50-024D (Deny Claim) within 30 days following the date of receipt of the claim.
 - (a) The CWD shall retain envelopes postmarked after April 14, 1995 to verify the date the claim was submitted.
 - (d) Retain all records which contain documents relevant to the Yslas v. Anderson Lawsuit for three years from the date CDSS submits the last expenditure report for federal reimbursement.
 - (a) Documents included are those used to determine eligibility for the class (including denials) and those used to determine the amount of corrective underpayments, including case records, payment records, assistance claims, reimbursement claims, claim verification and any other documents related to the Yslas v. Anderson Lawsuit.
 - (e) Determine the responsible CWD.
 - (a) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is the responsible CWD, the CWD shall process the TEMP GAIN 85 (Claim Form) in accordance with Section 50024.5.
 - (1) "Responsible CWD" is defined in Section 50-024.2r.(1).
 - (b) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is not the responsible CWD, the receiving CWD shall issue NOA M50-024D (Deny Claim) and forward the TEMP GAIN 85 (Claim Form) to the responsible CWD within 30 days from receipt of the claim.

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- (1) The receiving CWD shall inform the claimant on NOA M50-024D (Deny Claim) that the TEMP GAIN 85 (Claim Form) has been forwarded to the responsible CWD for processing.
- (2) The responsible CWD shall process the claim in accordance with Section 50-024.5.
 - (A) Notwithstanding Section 50-024.423, responsible CWDs shall process all claims that are forwarded from a receiving CWD, even if the claims are received from the receiving CWD after the end of the claim period.
- (3) If the responsible CWD cannot be determined, the receiving CWD shall issue NOA M50-024D (Deny Claim) within 30 days following receipt of the claim.
 - (A) The CWD shall indicate on the NOA that the claimant must file the claim with the responsible CWD.

.5 Processing Claim Forms

.51 For Category 1 and 3 eligible claimants, the responsible CWD shall review each TEMP GAIN 85 (Claim Form) for completeness. The TEMP GAIN 85 (Claim Form) shall be considered complete when the following information is provided by the claimant:

- .511 Answers to the qualifying eligible claimant questions on the TEMP GAIN 85 (Claim Form).
- .512 Claimant's case name(s) used during retroactive period.
- .513 Claimant's date of birth.
- .514 Claimant's social security number.
- .515 County or counties of residence during retroactive period.
- .516 Claimant's current mailing address.

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- .517 Claimant's signature.
- .518 The following information shall be provided by the claimant on the TEMP GAIN 85 (Claim Form) to the extent possible:
 - (a) The AFDC or GAIN case number.
 - (b) Phone number.
 - (c) Date(s) for which the claim is being filed.
 - (d) The name of the school or educational program.
- .52 If the claim is complete, as specified in Section 50-024.51, and the claimant meets the definition of a Category 1 or 3 eligible claimant, as specified in Section 50-024.2(c), the CWD shall complete processing the claim within 60 days after receipt of the claim.
 - .521 If the information on the claim form and in the case file is sufficient, the CWD shall calculate the corrective underpayment, in accordance with Section 50-024.7 and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified above.
 - (a) CWDs shall indicate on the NOA when the check will be issued if unable to issue the check for the corrective underpayment with the NOA.
 - .522 The corrective underpayment shall be equal to the amount of supportive services payments that were reduced or denied because the claimant received an educational grant or loan, plus interest, as determined in accordance with Section 50-024.74.
 - .523 In the absence of evidence to the contrary, CWDs shall accept self-certification from the claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
 - .524 The CWD shall verify documentation whenever authenticity is in doubt.
- .53 If the claimant is NOT an eligible claimant, the CWD shall issue NOA M50-024D (Deny Claim) within 60 days after the claim was received.

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- .531 The CWD shall preprint the GAIN 50 (6/92), (Your GAIN Hearing Rights), to the back of the NOA or attach a copy of the GAIN 50 to the NOA.

- .54 If additional information is needed the CWD shall issue NOA M50-024B (Request Claim Information) within 30 days after receipt of the claim.
 - .541 The CWD shall indicate on the NOA that claimants have 30 days from the date of the NOA to respond to the request for additional information.
 - .542 The CWD shall complete processing a claim within 60 days after receiving the additional information.
 - .543 If the claimant meets the definition of a Category 1 or 3 eligible claimant, the CWD shall calculate the corrective underpayment, in accordance with Section 50024.7, and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified in .542 above.
 - .544 The CWD shall issue NOA M50-024D (Deny Claim) if the additional information does not establish the claimant as a Category 1 or 3 eligible claimant.
 - .545 The CWD shall issue NOA M50-024D (Deny Claim) if the claimant does not respond within the time specified in .541 above.

- .6 Case Review - Category 2 Eligible Claimants
 - .61 CWDs shall identify all Category 2 eligible claimants, as defined in Section 50-024.2(c)(2).
 - .611 CWDs shall not require potential Category 2 eligible claimants to submit a claim form.
 - .62 If the information in the case file is sufficient and the participant meets the definition of a Category 2 eligible claimant, the CWD shall complete the case review, calculate the corrective underpayment and issue the corrective underpayment check with NOA M50-024A (Approve Claim) before April 14,1995.
 - .621 The corrective underpayment shall be equal to the amount paid by the Category 2 eligible claimant to the CWD under the promissory note for supportive services received during the retroactive period.

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- .622 The CWD shall indicate on the NOA when the corrective underpayment check will be issued if the CWD is unable to issue the corrective underpayment check with the NOA.
- .623 In the absence of evidence to the contrary, CWDs shall accept self-certification from the eligible claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .624 CWDs shall include interest, as specified in Section 50-024.7, in the calculation of corrective underpayments for eligible claimants not on aid at the time payment is authorized.
- .63 CWDs shall cancel the balance due on all promissory notes issued because a GAIN participant received an educational loan or grant.
- .64 If the information in the case file is not sufficient to complete the review and calculate the corrective underpayment, the CWD shall issue NOA M50-024C (Request Case Information) before February 14, 1995 to request the needed information.
 - .641 The CWD shall indicate on the NOA that participants shall have 30 days from the date of the NOA or until the end of the claim period, whichever is longer, to submit the needed information.
 - .642 The CWD shall complete the case file review and issue any corrective underpayment with NOA M50-024A (Approve Claim) within 60 days following receipt of the needed information from the participant.
 - .643 If the participant does not submit the needed information before the deadline specified on the NOA, the CWD shall discontinue its review of the case file and shall not make any corrective underpayments to the participant.
 - (a) The CWD shall note in the case file the reason why the review was discontinued.
- .7 Computation of Corrective Underpayments
 - .71 There is no minimum amount an eligible claimant may receive as a corrective underpayment.
 - .72 The claimant shall not be entitled to corrective underpayments for any portion of his/her supportive services payments that were previously repaid under another lawsuit.

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- .73 CWDs shall balance a corrective underpayment against an outstanding overpayment as follows:
- .731 CWDs shall balance corrective underpayments for child care services with outstanding child care overpayments as specified in Section 42-751.4.
- .732 CWDs shall balance corrective underpayments for transportation or ancillary services with outstanding transportation or ancillary services overpayments as specified in Section 42-751.4.
- .733 CWDs shall attempt to obtain the written agreement of the eligible claimant to balance a corrective underpayment and outstanding overpayment in the following instances:
- (a) A transportation or ancillary services corrective underpayment with a child care overpayment.
 - (b) A child care corrective underpayment with a transportation or ancillary services overpayment.
 - (c) A child care, transportation, or ancillary services corrective underpayment with an AFDC cash aid overpayment.
- .74 CWDs shall pay interest to those eligible claimants who are not on aid at the time payment is authorized. To pay interest, CWDs shall:
- .741 Begin interest in the month subsequent to the last month of the supportive services payment reduction or denial or the last month when payment for a promissory note was received.
- .742 Determine the month in which payment is authorized.
- .743 To determine the appropriate interest amount and corrective underpayment:
- (a) determine the Initial Interest Month (the month following the last month of the supportive services reduction or denial or the last month when payment for a promissory note was received),
 - (b) determine the Payment Authorization Month (the month the corrective underpayment will be authorized),

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- (c) determine the interest percentage factor on the "Interest Chart for Yslas v. Anderson Corrective Underpayments" (see handbook Section 50-024.745) where the Initial Interest Month and Payment Authorization Month dates meet,
- (d) multiply the amount of supportive services reduced or denied by the interest percentage factor, and
- (e) add the amount of supportive services reduced or denied to the interest to be paid to determine the corrective underpayment.

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.744 EXAMPLE: A CWD determines that an eligible claimant who is no longer on aid had her child care reduced \$300.00 from January 1, 1988 through April 30, 1988 because she received an educational loan.

To Calculate the Corrective Underpayment:

- (a) Initial Interest Month - May 1988
- (b) Payment Authorization Month - January 1995

Amount of Supportive Services \$300.00
 Reduced or Denied

- (c) Interest Percentage Factor X .4975
- (d) Interest To Be Paid +\$149.25
- (e) Corrective Underpayment \$449.25

.745 Interest Chart for Yslas v. Anderson Corrective Underpayments

Initial Interest Month	Payment Authorization Month					
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Oct-87	.5383	.5467	.5550	.5633	.5717	.5800
Nov-87	.5325	.5409	.5492	.5575	.5659	.5742
Dec-87	.5266	.5350	.5433	.5516	.5600	.5683

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	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-88	.5208	.5292	.5375	.5458	.5542	.5625
Feb-88	.5150	.5234	.5317	.5400	.5484	.5567
Mar-88	.5091	.5175	.5258	.5341	.5425	.5508
Apr-88	.5033	.5117	.5200	.5283	.5367	.5450
May-88	.4975	.5059	.5142	.5225	.5309	.5392
Jun-88	.4916	.5000	.5083	.5166	.5250	.5333
Jul-88	.4858	.4942	.5025	.5108	.5192	.5275
Aug-88	.4800	.4884	.4967	.5050	.5134	.5217
Sep-88	.4741	.4825	.4908	.4991	.5075	.5158
Oct-88	.4683	.4767	.4850	.4933	.5017	.5100
Nov-88	.4625	.4709	.4792	.4875	.4959	.5042
Dec-88	.4566	.4650	.4733	.4816	.4900	.4983

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Jan-89	.4508	.4592	.4675	.4758	.4842	.4925
Feb-89	.4450	.4534	.4617	.4700	.4784	.4867
Mar-89	.4391	.4475	.4558	.4641	.4725	.4808
Apr-89	.4333	.4417	.4500	.4583	.4667	.4750
May-89	.4275	.4359	.4442	.4525	.4609	.4692
Jun-89	.4216	.4300	.4383	.4466	.4550	.4633
Jul-89	.4158	.4242	.4325	.4408	.4492	.4575
Aug-89	.4100	.4184	.4267	.4350	.4434	.4517
Sep-89	.4041	.4125	.4208	.4291	.4375	.4458
Oct-89	.3983	.4067	.4150	.4233	.4317	.4400
Nov-89	.3925	.4009	.4092	.4175	.4259	.4342
Dec-89	.3866	.3950	.4033	.4116	.4200	.4283

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Jan-90	.3808	.3892	.3975	.4058	.4142	.4225
Feb-90	.3750	.3834	.3917	.4000	.4084	.4167
Mar-90	.3691	.3775	.3858	.3941	.4025	.4108
Apr-90	.3633	.3717	.3800	.3883	.3967	.4050
May-90	.3575	.3659	.3742	.3825	.3909	.3992
Jun-90	.3516	.3600	.3683	.3766	.3850	.3933
Jul-90	.3458	.3542	.3625	.3708	.3792	.3875
Aug-90	.3400	.3484	.3567	.3650	.3734	.3817
Sep-90	.3341	.3425	.3508	.3591	.3675	.3758
Oct-90	.3283	.3367	.3450	.3533	.3617	.3700
Nov-90	.3225	.3309	.3392	.3475	.3559	.3642
Dec-90	.3166	.3250	.3333	.3416	.3500	.3583

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Jan-91	.3108	.3192	.3275	.3358	.3442	.3525
Feb-91	.3050	.3134	.3217	.3300	.3384	.3467
Mar-91	.2991	.3075	.3158	.3241	.3325	.3408
Apr-91	.2933	.3017	.3100	.3183	.3267	.3350
May-91	.2875	.2959	.3042	.3125	.3209	.3292
Jun-91	.2816	.2900	.2983	.3066	.3150	.3233
Jul-91	.2758	.2842	.2925	.3088	.3092	.3175
Aug-91	.2700	.2784	.2867	.2950	.3034	.3117
Sep-91	.2641	.2725	.2808	.2891	.2975	.3058
Oct-91	.2583	.2667	.2750	.2833	.2917	.3000
Nov-91	.2525	.2609	.2692	.2775	.2859	.2942
Dec-91	.2466	.2550	.2633	.2716	.2800	.2883

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Jan-92	.2408	.2492	.2575	.2658	.2742	.2825
Feb-92	.2350	.2434	.2517	.2600	.2684	.2767
Mar-92	.2291	.2375	.2458	.2541	.2625	.2708
Apr-92	.2233	.2317	.2400	.2483	.2567	.2650
May-92	.2175	.2259	.2342	.2425	.2509	.2592
Jun-92	.2116	.2200	.2283	.2366	.2450	.2533
Jul-92	.2058	.2142	.2225	.2308	.2392	.2475
Aug-92	.2000	.2084	.2167	.2250	.2334	.2417
Sep-92	.1941	.2025	.2108	.2191	.2275	.2358
Oct-92	.1883	.1967	.2050	.2133	.2217	.2300
Nov-92	.1825	.1909	.1992	.2075	.2159	.2242
Dec-92	.1766	.1850	.1933	.2016	.2100	.2183

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	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-93	.1708	.1792	.1875	.1958	.2042	.2125
Feb-93	.1650	.1734	.1817	.1900	.1984	.2067
Mar-93	.1591	.1675	.1758	.1841	.1925	.2008
Apr-93	.1533	.1617	.1700	.1783	.1867	.1950
May-93	.1475	.1559	.1642	.1725	.1809	.1892
Jun-93	.1416	.1500	.1583	.1666	.1750	.1833
Jul-93	.1358	.1442	.1525	.1608	.1692	.1775
Aug-93	.1300	.1384	.1467	.1550	.1634	.1717
Sep-93	.1241	.1325	.1408	.1491	.1575	.1658

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- .75 For the purpose of determining continuing eligibility and the amount of assistance for the AFDC Program, CWDs shall not consider a corrective underpayment as income nor as a resource in the month paid nor in the following month.
- .76 For the Food Stamp Program, a retroactive corrective underpayment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC.
- .8 Statistical Reports
 - .81 CWDs shall submit the GEN 1172 (5/93) Court Case: Yslas v. Anderson-Report A no later than June 15,1995 to the CDSS Statistical Services Bureau.
 - .82 CWDs shall report data on the disposition of all claims received during the claim period, from January 15, 1995 through April 14, 1995.

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.83 The report specified in Section 50-024.82 above shall include:

.831 The total number of:

- (a) TEMP GAIN 85s (Claim Forms) mailed by CWD.
- (b) TEMP GAIN 85s (Claim Forms) handed out by CWD.
- (c) TEMP GAIN 85s (Claim Forms) received by CWD.
- (d) Claims approved.
- (e) Claims denied. CWDs shall include the number of claims denied for each of the following reasons:
 - (1) Untimely. Includes TEMP GAIN 85s (Claim Forms) received after the claim period.
 - (2) Not an eligible claimant.
 - (3) Claim sent to wrong CWD and receiving CWD was not able to determine the responsible CWD to which the TEMP GAIN 85 (Claim Form) should be forwarded.
 - (4) Claim sent to wrong CWD and receiving CWD forwarded to responsible CWD.
 - (5) Incomplete. Includes claims that are not complete, as specified in Section 50-024.51, and there is no forwarding address to obtain the additional information needed; and incomplete claims for which additional information was requested but not received before the deadline specified on the NOA.
 - (6) Other.

.832 Total dollar amount of corrective underpayments paid (including interest).

.833 Total dollar amount of overpayments offset with corrective underpayments.

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.84 The CWDs shall report to the CDSS Statistical Services Bureau the number of GAIN participants who agree to use their student financial aid to pay for their supportive services, participants who do not agree to use their financial aid to pay for their supportive services, and participants who rescinded their previous agreement to use their financial aid to pay for their supportive services.

.841 CWDs shall submit the above data on the GEN 1172 (5/93) Yslas v. Anderson-Report B, on a quarterly basis from July 1, 1994 through June 30, 1996.

NOTE: Authority: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Yslas v. Anderson, Sacramento County Superior Court, Case No. 365717, dated March 30, 1994; Yslas v. Anderson, Modification of Consent Decree, dated July 13, 1994; Yslas v. Anderson, Order Approving Modification of Consent Decree, dated September 26, 1994; and Yslas v. Anderson, Stipulation and Order, dated October 13, 1994; and Sections 11323.2 and 11323.4, Welfare and Institutions Code.

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.1 Background

On February 6, 1990, the Coalition of California Welfare Rights Organizations (CCWRO) v. Anderson lawsuit was filed with the Sacramento County Superior Court, challenging the California Department of Social Services' (CDSS) notice procedures for noncompliant Greater Avenues for Independence (GAIN) participants. Prior to October 1, 1990, GAIN regulations required counties to send a GAIN Appointment Notice to a noncompliant participant for cause determination. If the participant failed to respond to the notice, the case would go through the conciliation process without further notice to the participant prior to the imposition of sanctions.

On September 12, 1991, the Superior Court granted CDSS summary judgment, finding that the applicable GAIN regulations provided participants with adequate notice and a reasonable opportunity to appear. On January 4, 1993, the Court of Appeal ruled in favor of an appeal by CCWRO and reversed the decision of the Superior Court. The case was remanded to Superior Court for further proceedings.

On March 8, 1994, the Superior Court entered Judgment on the case as directed by the Court of Appeal. The CCWRO Judgment ruled that the procedure of imposing a conciliation plan and subsequent sanction without further notice to a participant who failed to respond to a GAIN Appointment Notice was not promulgated as a rule in accordance with the Administrative Procedures Act, Government Code Sections 11346-11347.5.

In addition to the counties that did not send additional notices to participants prior to imposing a conciliation plan and subsequent sanction, the Court also included in the Judgment those counties that sent an additional notice prior to conciliation. The Court ruled that the additional notice procedure used by these counties was invalid because it was not promulgated as a regulation in accordance with the Administrative Procedures Act.

The Judgment specifies that all mandatory GAIN participants who were mailed a GAIN Appointment Notice during the retroactive period, who failed to respond to the appointment notice, or an additional notice from the county, and whose Aid to Families with Dependent Children (AFDC) benefits were reduced solely as a result of their failure to participate in the GAIN Program for the reasons specified in the Appointment Notice are class members eligible for corrective underpayment.

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.2 Definitions

For the purpose of these regulations:

- a. Reserved
- b. Reserved
- c. (1) "Claim period" means the period from January 15, 1995 through April 14, 1995 during which a potential class member may file a claim under CCWRO v. Anderson.
- (2) "Class member" means all mandatory GAIN participants who were mailed a GAIN Appointment Notice from July 1, 1985 through September 30, 1990, who failed to respond to the Appointment Notice, or an additional notice from the county, and who were sanctioned solely as a result of their failure to participate in the GAIN Program for the reasons specified in the appointment notice.
- (3) "Corrective underpayment" means the retroactive payment of cash aid inappropriately withheld from a class member.
- (4) "CWD" means county welfare department.
- d. Reserved
- e. Reserved
- f. (1) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
- (2) "Four standard Asian languages" means Vietnamese, Laotian, Chinese and Cambodian.
- g. (1) "GEN 1172 (5/93) Court Case: CCWRO v. Anderson" (Court Case Statistical Report) means the form used by CWDs to report statistical data regarding the claims filed and paid under this lawsuit.
- h. Reserved
- i. Reserved
- j. Reserved
- k. Reserved

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- l. Reserved
- m. Reserved
- n. (1) "NOA" means a notice of action that is considered to be adequate within the meaning of Manual of Policies and Procedures (MPP) Section 22-021.
- o. Reserved
- p. Reserved
- q. Reserved
- r. (1) "Responsible CWD" means the county welfare department GAIN office that took an action on which a class member's claim is based.

(2) "Retroactive period" means the period from July 1, 1985 through September 30, 1990.
- s. Reserved
- t. (1) "TEMP GAIN 86 (11/94), Informing Notice" means the document mailed by the CWD to inform potential claimants of possible corrective underpayments resulting from the CCWRO Court Order.

(2) "TEMP GAIN 87 (1/95), Claim Form" means the document used by claimants to file a claim based on the CCWRO Court Order.

(3) "TEMP GAIN 89 (11/94), Informing Poster" means the document that is posted to notify potential claimants of possible corrective underpayments resulting from the CCWRO Court Order.
- u. Reserved
- v. Reserved
- w. Reserved
- x. Reserved
- y. Reserved
- z. Reserved

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.3 Informing Class Members

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- .31 CDSS Responsibilities. CDSS shall:
- .311 Print the TEMP GAIN 89 (Informing Poster) in English with bullets in the five standard languages.
 - .312 Provide CWDs with:
 - (a) A reproducible copy of the TEMP GAIN 86 (Informing Notice) in English with bullets in the five standard languages.
 - (b) Reproducible copies of the TEMP GAIN 87 (Claim Form) in English and the five standard languages.
 - (c) Copies of NOA messages in English and reproducible copies of NOA forms in English and the five standard languages.
 - (d) Reproducible copies of the TEMP GAIN 89 (Informing Poster) with bullets in the five standard languages.
 - .313 Mail copies of the TEMP GAIN 89 (Informing Poster) to legal aid and welfare rights organizations of plaintiffs' choice at least 10 days before the beginning of the claim period.
 - (a) Plaintiffs' counsel shall provide CDSS with the mailing labels not to exceed 300.

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- .32 Included CWDs
- .321 The following CWDs are identified as included CWDs. These CWDs shall fully implement the provisions of the Judgment:

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- (a) Alpine, Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo, and Yuba.

- .322 The following CWDs are not required to fully implement the notification and claim processing provisions of the Judgment.
 - (a) San Francisco, Santa Cruz, Sierra, and Tuolumne.
 - (b) If these excluded CWDs receive a TEMP GAIN 87 (Claim Form), they shall issue the M50-025D (Deny Claim) and forward the claim to the responsible CWD, if known.

- .33 CWD Responsibilities. Included CWDs shall:
 - .331 Reproduce an adequate supply of the TEMP GAIN 86(Informing Notice) in English with bullets in the five standard languages.
 - (a) On the TEMP GAIN 86 (Informing Notice), CWDs shall specify the county office address and phone number that potential claimants are to contact or call to obtain a TEMP GAIN 87 (Claim Form).

 - .332 Notify potential class members using one of the following methods:
 - (a) CWDs with the computer systems capability to identify GAIN participants who are potential class members shall conduct a computerized search and mail a TEMP GAIN 86 (Informing Notice) to each potential class member by January 5, 1995.
 - (1) CWDs shall maintain a record of all potential class members to whom notices were mailed.
 - (b) CWDs that do not have the capability to conduct a computerized search may choose to perform a manual case file search to identify GAIN participants who are potential class members and mail a TEMP GAIN 86 (Informing Notice) to each potential class member by January 5, 1995.

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- (1) CWDs shall maintain a record of all potential class members to whom notices were mailed.
 - (c) CWDs that do not have the capability to conduct a computerized search and who choose not to conduct a manual search shall send a TEMP GAIN 86 (Informing Notice) to all current AFDC recipients, via a CA 7 stuffer, by January 5, 1995.
 - .333 Place TEMP GAIN 89 (Informing Poster) inconspicuous locations in all welfare offices, GAIN offices and Food Stamp issuance offices the first day of the claim period.
 - (a) The TEMP GAIN 89 (Informing Poster) shall be displayed from January 15, 1995 until close of business April 14, 1995.
 - (b) On the TEMP GAIN 89 (Informing Poster), CWDs shall specify the county office address and telephone number that potential claimants are to contact or call to obtain a TEMP GAIN 87 (Claim Form).
 - .334 Reproduce an adequate supply of the TEMP GAIN 87 (Claim Form) in English and the five standard languages.
 - .335 Mail a TEMP GAIN 87 (Claim Form) within five working days following a request by anyone who calls the phone number specified on the TEMP GAIN 86 (Informing Notice) and TEMP GAIN 89 (Informing Poster).
 - .336 Give a TEMP GAIN 87 (Claim Form), immediately upon request during normal business hours, to anyone who goes to the office specified on the TEMP GAIN 86 (Informing Notice) and TEMP GAIN 89 (Informing Poster) and requests a claim form.
 - (a) CWDs shall maintain an adequate supply of the TEMP GAIN 87 (Claim Form) on hand for distribution to potential claimants.
 - .337 CWDs shall specify on the TEMP GAIN 87 (Claim Form) the address where claimants are to return the completed claim form.
- .4 Application for Corrective Underpayment
- .41 Claimants' Responsibilities. Claimants shall:
 - .411 Complete and sign under the penalty of perjury a TEMP GAIN 87 (Claim Form).

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- .412 Submit the TEMP GAIN 87 (Claim Form) on or before the end of the claim period to the responsible CWD.
- (a) If mailed, the postmark must be no later than April 14, 1995.
 - (b) During the claim period, claimants shall be permitted to resubmit a claim that was previously denied due to being incomplete when the claimant did not submit the necessary information within 30 days, as specified in Section 50-025.541.
- .413 Submit a completed TEMP GAIN 87 (Claim Form) to each responsible CWD, if there was more than one responsible CWD.
- .414 Provide necessary additional information, documentation or clarification upon request from a CWD.
- .42 CWDs' Responsibilities. CWDs shall:
- .421 Stamp the TEMP GAIN 87 (Claim Form) with the date received by the CWD.
- (a) If the date of receipt cannot be determined by a date stamp, the date of receipt shall be the date the claimant signed the TEMP GAIN 87 (Claim Form).
- .422 Notwithstanding the date specified in Section 50-025.421, process all claim forms postmarked on or before April 14, 1995.
- (a) If the TEMP GAIN 87 (Claim Form) is postmarked after April 14, 1995, issue NOAM50-025D (Deny Claim) within 30 days following receipt of the claim.
 - (b) The CWD shall retain envelopes postmarked after April 14, 1995.
- .423 Retain all records which contain documents relevant to the CCWRO lawsuit for three years from the date CDSS submits the last expenditure report for federal reimbursement.
- (a) Documents included are those used to determine eligibility for the class (including denials) and those used to determine the amount of corrective underpayments; including case records, payment records, assistance claims, reimbursement claims, claim verification and any other documents related to this lawsuit.

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.424 Determine the Responsible CWD

(a) If the CWD receiving the TEMP GAIN 87 (Claim Form) determines that it is the responsible CWD, the CWD shall process the claim form in accordance with Section 50-025.5.

(1) "Responsible CWD" is defined in Section 50-025.2r.(1).

(b) If the CWD receiving the TEMP GAIN 87 (Claim Form) determines that it is not the responsible CWD, the receiving CWD shall issue NOA M50-025D (Deny Claim) and forward the TEMP GAIN 87 (Claim Form) to the responsible CWD within 30 days from the date the claim was received.

(1) The receiving CWD shall inform the claimant on NOA M50-025D (Deny Claim) that the TEMP GAIN 87 (Claim Form) has been forwarded to the responsible CWD for processing.

(2) The responsible CWD shall process the claim form in accordance with Section 50-025.5.

(A) Notwithstanding Section 50-025.422, responsible CWDs shall process all claims that are forwarded from a receiving CWD, regardless of whether the responsible CWD receives the claim from the receiving CWD by the end of the claim period.

(3) If the responsible CWD cannot be determined, the receiving CWD shall issue NOA M50-025D (Deny Claim) within 30 days following receipt of the claim.

(A) The CWD shall indicate on the NOA that the claimant must file his/her claim with the responsible CWD.

.5 Processing Claim Forms

.51 The responsible CWD shall review each TEMP GAIN 87 (Claim Form) for completeness. The TEMP GAIN 87 (Claim Form) shall be considered complete when the following information is given:

.511 Answers to the qualifying class member questions on the TEMP GAIN 87 (Claim Form).

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- .512 Claimant's case name(s) used during retroactive period.
- .513 Claimant's date of birth.
- .514 Claimant's social security number.
- .515 Claimant's current mailing address.
- .516 County or counties of residence during retroactive period.
- .517 Claimant's signature.
- .518 The following information shall be provided by the claimant on the TEMP GAIN 87 (Claim Form) to the extent possible:
 - (a) The AFDC or GAIN case number.
 - (b) Phone number.
 - (c) Date(s) for which the claim is being filed.
- .52 If the claim is complete, as specified in Section 50-025.51, and the claimant meets the definition of class member specified in Section 50-025.2(c)(2), the responsible CWD shall complete processing the claim within 90 days after receipt of the claim.
 - .521 If the information on the claim form and in the case file is sufficient, the CWD shall calculate the corrective underpayment, in accordance with Section 50-025.6, and issue a check with NOAM50-025A (Approve Claim) within 45 days after the date payment is authorized.
 - (a) CWDs shall indicate on the NOA when the check will be issued if unable to issue the check for the corrective underpayment with the NOA.
 - .522 In the absence of evidence to the contrary, the CWD shall accept self-certification from the claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
 - .523 The CWD shall verify documentation whenever authenticity is in doubt.

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- .53 If the claimant is NOT a class member, the CWD shall issue NOA M50-025D (Deny Claim) within 90 days after the claim was received.
 - .531 The CWD shall preprint the GAIN 50 (6/92) Your GAIN Hearing Rights to the back of the NOA or attach a copy of the GAIN 50 to the NOA.
 - .54 If additional information is needed, the CWD shall issue NOA M50-025B (Request Claim Information) within 30 days after receipt of the claim.
 - .541 The CWD shall indicate on the NOA that claimants have 30 days from the date of the NOA to respond to the request for additional information.
 - .542 The CWD shall complete processing a claim within 90 days after receiving the additional information.
 - .543 If the claimant meets the definition of a class member specified in Section 50-025.2c.(2), the CWD shall issue the corrective underpayment in accordance with the procedures specified in Section 50-025.521.
 - .544 The CWD shall issue NOA M50-025D (Deny Claim) if the information does not establish the claimant as a class member.
 - .545 The CWD shall issue NOA M50-025D (Deny Claim) if the claimant does not respond within the time specified in Section 50-025.541.
 - .55 For the purpose of determining continued eligibility and the amount of assistance for the AFDC Program, CWDs shall not consider a corrective underpayment as income or as a resource in the month paid or in the following month.
 - .56 For the Food Stamp Program, a retroactive corrective underpayment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC.
- .6 Computation of Corrective Underpayments
- .61 There is no minimum amount a class member may receive as a corrective underpayment.
 - .62 The claimant shall not be entitled to corrective underpayment for any portion of the sanction amount which was previously repaid under another lawsuit.

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(Continued)

- .63 CWDs shall determine the length of the sanction period for which a class member, as defined in Section 50-025.2(c)(2), shall be entitled to recover withheld cash aid.
- .631 For sanctions applied before July 1, 1989, CWDs shall consider the end of the sanction period for which a class member shall be entitled to recover cash aid to be:
- (a) For a first financial sanction, the end of the three-month sanction period.
 - (b) For a second or subsequent financial sanction, the end of the six-month sanction period.
- .632 For sanctions applied on or after July 1, 1989, CWDs shall consider the end of the sanction period for which a class member shall be entitled to recover cash aid to be:
- (a) For a sanction resulting from a first instance of noncompliance without good cause, the date the sanction was cured, as specified in Section 42-786.22, or the end of the month following application of the sanction, whichever comes first.
 - (b) For a sanction resulting from a second instance of noncompliance without good cause, the end of the three-month sanction period specified in Section 42-786.23.
 - (c) For a sanction resulting from a third or subsequent instance of noncompliance without good cause, the end of the six-month sanction period specified in Section 42-786.24.
- .64 CWDs shall balance the corrective underpayment against an outstanding overpayment as follows:
- .641 The corrective underpayment shall be balanced with an AFDC overpayment as specified in Section 44-340.42.
- .642 The CWDs shall attempt to obtain a written agreement of the class member to balance a GAIN supportive services overpayment with the corrective underpayment.
- (a) If the class member does not agree to balance the corrective underpayment with his/her GAIN supportive services overpayment, the CWD shall issue the corrective underpayment to the class member in full.

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- .65 CWDs shall pay interest to those class members who are no longer on AFDC at the time of payment. To pay interest, CWDs shall:
- .651 Begin interest in the month subsequent to the end of the sanction period, as determined in Section 50-025.63.
 - .652 Determine the month in which the payment is authorized.
 - .653 To determine the appropriate interest amount and corrective underpayment:
 - (a) Determine the Initial Interest Month (the month following the end of the sanction period);
 - (b) Determine the Payment Authorization Month (the month the corrective underpayment will be authorized);
 - (c) Determine the interest percentage factor on the "Interest Chart for CCWRO Corrective Underpayment" where the dates from (a) and (b) meet;
 - (d) Multiply the amount of cash aid withheld during the sanction period by the interest percentage factor; and
 - (e) Add the cash aid withheld to the interest to be paid to determine the corrective underpayment.
 - (a) Determine the Initial Interest Month (the month following the end of the sanction period);
 - (b) Determine the Payment Authorization Month (the month the corrective underpayment will be authorized);
 - (c) Determine the interest percentage factor on the "Interest Chart for CCWRO Corrective Underpayment" where the dates from (a) and (b) meet;
 - (d) Multiply the amount of cash aid withheld during the sanction period by the interest percentage factor; and
 - (e) Add the cash aid withheld to the interest to be paid to determine the corrective underpayment.

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.654 EXAMPLE: A CWD determines that a class member who is no longer on aid was sanctioned from September 1, 1987 to November 30, 1987 at \$200.00 per month. Total cash aid withheld was \$600.00.

To Calculate the Corrective Underpayment:

- (a) Initial Interest Month - December 1987
 - (b) Payment Month - January 1995
- | | |
|--------------------------------|------------------|
| Total Cash Aid Withheld | \$600.00 |
| (c) Interest Percentage Factor | X.5266 |
| (d) Interest To Be Paid | <u>+\$315.96</u> |
- (e) Corrective Underpayment \$915.96

.655 Interest Chart for CCWRO Corrective Underpayments

Initial Interest Month	<u>Payment Authorization Month</u>					
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jul-85	.6958	.7042	.7125	.7208	.7292	.7375
Aug-85	.6900	.6984	.7067	.7150	.7234	.7317
Sep-85	.6841	.6925	.7008	.7091	.7175	.7258
Oct-85	.6783	.6867	.6950	.7033	.7117	.7200
Nov-85	.6725	.6809	.6892	.6975	.7059	.7142
Dec-85	.6666	.6750	.6833	.6916	.7000	.7083

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	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-86	.6608	.6692	.6775	.6858	.6942	.7025
Feb-86	.6550	.6634	.6717	.6800	.6884	.6967
Mar-86	.6491	.6575	.6658	.6741	.6825	.6908
Apr-86	.6433	.6517	.6600	.6683	.6767	.6850
May-86	.6375	.6459	.6542	.6625	.6709	.6792
Jun-86	.6316	.6400	.6483	.6566	.6650	.6733
Jul-86	.6258	.6342	.6425	.6508	.6592	.6675
Aug-86	.6200	.6284	.6367	.6450	.6534	.6617
Sep-86	.6141	.6225	.6308	.6391	.6475	.6558
Oct-86	.6083	.6167	.6250	.6333	.6417	.6500
Nov-86	.6025	.6109	.6192	.6275	.6359	.6442
Dec-86	.5966	.6050	.6133	.6216	.6300	.6383

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	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-87	.5908	.5992	.6075	.6158	.6242	.6325
Feb-87	.5850	.5934	.6017	.6100	.6184	.6267
Mar-87	.5791	.5875	.5958	.6041	.6125	.6208
Apr-87	.5733	.5817	.5900	.5983	.6067	.6150
May-87	.5675	.5759	.5842	.5925	.6009	.6092
Jun-87	.5616	.5700	.5783	.5866	.5950	.6033
Jul-87	.5558	.5642	.5725	.5808	.5892	.5975
Aug-87	.5500	.5584	.5667	.5750	.5834	.5917
Sep-87	.5441	.5525	.5608	.5691	.5775	.5858
Oct-87	.5383	.5467	.5550	.5633	.5717	.5800
Nov-87	.5325	.5409	.5492	.5575	.5659	.5742
Dec-87	.5266	.5350	.5433	.5516	.5600	.5683

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	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-88	.5208	.5292	.5375	.5458	.5542	.5625
Feb-88	.5150	.5234	.5317	.5400	.5484	.5567
Mar-88	.5091	.5175	.5258	.5341	.5425	.5508
Apr-88	.5033	.5117	.5200	.5283	.5367	.5450
May-88	.4975	.5059	.5142	.5225	.5309	.5392
Jun-88	.4916	.5000	.5083	.5166	.5250	.5333
Jul-88	.4858	.4942	.5025	.5108	.5192	.5275
Aug-88	.4800	.4884	.4967	.5050	.5134	.5217
Sep-88	.4741	.4825	.4908	.4991	.5075	.5158
Oct-88	.4683	.4767	.4850	.4933	.5017	.5100
Nov-88	.4625	.4709	.4792	.4875	.4959	.5042
Dec-88	.4566	.4650	.4733	.4816	.4900	.4983

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HANDBOOK CONTINUES

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-89	.4508	.4592	.4675	.4758	.4842	.4925
Feb-89	.4450	.4534	.4617	.4700	.4784	.4867
Mar-89	.4391	.4475	.4558	.4641	.4725	.4808
Apr-89	.4333	.4417	.4500	.4583	.4667	.4750
May-89	.4275	.4359	.4442	.4525	.4609	.4692
Jun-89	.4216	.4300	.4383	.4466	.4550	.4633
Jul-89	.4158	.4242	.4325	.4408	.4492	.4575
Aug-89	.4100	.4184	.4267	.4350	.4434	.4517
Sep-89	.4041	.4125	.4208	.4291	.4375	.4458
Oct-89	.3983	.4067	.4150	.4233	.4317	.4400
Nov-89	.3925	.4009	.4092	.4175	.4259	.4342
Dec-89	.3866	.3950	.4033	.4116	.4200	.4283

HANDBOOK CONTINUES

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(Continued)

HANDBOOK CONTINUES

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-90	.3808	.3892	.3975	.4058	.4142	.4225
Feb-90	.3750	.3834	.3917	.4000	.4084	.4167
Mar-90	.3691	.3775	.3858	.3941	.4025	.4108
Apr-90	.3633	.3717	.3800	.3883	.3967	.4050
May-90	.3575	.3659	.3742	.3825	.3909	.3992
Jun-90	.3516	.3600	.3683	.3766	.3850	.3933
Jul-90	.3458	.3542	.3625	.3708	.3792	.3875
Aug-90	.3400	.3484	.3567	.3650	.3734	.3817
Sep-90	.3341	.3425	.3508	.3591	.3675	.3758

HANDBOOK CONTINUES

HANDBOOK CONTINUES

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Oct-90	.3283	.3367	.3450	.3533	.3617	.3700
Nov-90	.3225	.3309	.3392	.3475	.3559	.3642
Dec-90	.3166	.3250	.3333	.3416	.3500	.3583
Jan-91	.3108	.3192	.3275	.3358	.3442	.3525
Feb-91	.3050	.3134	.3217	.3300	.3384	.3467
Mar-91	.2991	.3075	.3158	.3241	.3325	.3408
Apr-91	.2933	.3017	.3100	.3183	.3267	.3350
May-91	.2875	.2959	.3042	.3125	.3209	.3292
Jun-91	.2816	.2900	.2983	.3066	.3150	.3233

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.66 Class members shall not be entitled to more corrective underpayment than the amount of cash aid withheld during the sanction period, as specified in this section, plus interest, as determined in Section 50-025.65.

.7 Statistical Reports

.71 CWDs shall submit the GEN 1172 (5/93) Court Case: CCWRO v. Anderson no later than July 14, 1995 to the CDSS Statistical Services Bureau.

.72 CWDs shall report on the disposition of all claims received during the claim period, from January 14, 1995 through April 14, 1995.

.73 The report shall include:

.731 The total number of:

(a) TEMP GAIN 87s (Claim Form) mailed by CWD.

(b) TEMP GAIN 87s (Claim Form) handed out by CWD.

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- (c) TEMP GAIN 87s (Claim Form) received by CWD.
 - (d) Claims approved.
 - (e) Claims denied. CWDs shall include the number of claims denied for each of the following reasons:
 - (1) Untimely. Includes claim forms received after claim period.
 - (2) Not a class member.
 - (3) Claim sent to wrong CWD and receiving CWD was not able to determine the responsible CWD to which the TEMP GAIN 87 (Claim Form) should be forwarded.
 - (4) Claim sent to wrong CWD and receiving CWD forwarded to responsible CWD.
 - (5) Incomplete. Includes claims that are not complete, as specified in Section 50-025.51, and there is no forwarding address to obtain the additional information needed; and incomplete claims for which additional information was requested but not received before the deadline specified on the notice.
 - (6) Other.
- .732 Total amount of corrective underpayments paid (including interest).
- .733 Total amount of overpayments offset with corrective underpayments.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: CCWRO v. Anderson, Sacramento County Superior Court, Case No. 512491.

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.1 Background

On January 22, 1999, the Sacramento Superior Court approved a settlement agreement and entered the final judgment in Tyler v. Anderson.

The following provisions specify the applicable procedures in the issuance of retroactive payments to qualifying In-Home Supportive Services (IHSS) recipients, applicants and providers in compliance with the Tyler v. Anderson court order:

.11 The Lawsuit: Tyler v. Anderson is a class action lawsuit filed in 1993 against the California Department of Social Services (CDSS) and its Director. The suit challenged the CDSS policy of denying range of motion (ROM) exercises as a paramedical service in the IHSS Program. The case was certified as a class action lawsuit for all persons denied payment for ROM exercises due to the challenged policy from June 17, 1990 through March 31, 1994 under the IHSS Program. The lawsuit was settled on January 22, 1999 by a final Judgment in the Sacramento County Superior Court.

.12 The Final Judgment: The final judgment requires CDSS to make retroactive payments including prejudgment and postjudgment interest at the legal rate of 7 percent to class members for ROM provided but not paid for from June 17, 1990 through March 31, 1994 (the retroactive period) in 52 of 58 counties.

The Judgment excludes IHSS recipient/applicants and providers in six of the 58 counties: Amador, Calaveras, Fresno, Los Angeles, San Bernardino and Tehama. These counties continued to authorize ROM exercises during this time period. They are excluded in the lawsuit; however, they must comply with these regulations on posting the informational poster, providing notices, claim forms, assistance to claimants, and cooperating with CDSS in supplying case file information.

The Judgment requires that CDSS identify all IHSS recipients and providers from June 17, 1990 through March 31, 1994, determine the current mailing address from the IHSS Case Management, Information and Payrolling System (CMIPS) and update mailing addresses by using Medi-Cal records or if unavailable, by using the address matching services of the Franchise Tax Board.

CDSS will also develop a State Hearing process that will give the Tyler v. Anderson claim members the right to appeal any final decision on a claim.

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(Continued)

HANDBOOK CONTINUES

Assembly Bill 1773 authorized ROM in the Personal Care Services Program (PCSP) which are Medi-Cal covered IHSS Program services starting April 1, 1993. PCSP was not completely implemented until all IHSS recipients had annual assessments one year later; therefore, March 31, 1994 is the end date for the retroactive period.

- .13 Forms and Notices: The Judgment requires CDSS to develop and issue forms and notices explaining the right to claim retroactive benefits: Specifically, CDSS is required to have: 1) a recipient/applicant or provider claim form written in plain language in English and Spanish, and 2) a poster size notice not less than 17” x 22” in size with the contents of the notice and in a format that attracts attention when posted in a public space.

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.2 Definitions

These definitions apply to the Tyler v. Anderson implementation.

- (a) (1) “Applicant” means a person who applied for and was denied IHSS services during the retroactive period by any county except Amador, Calaveras, Fresno, Los Angeles, San Bernardino, and Tehama counties and met the IHSS eligibility requirements in MPP Section 30-755 or 30-780.
- (b) Reserved
- (c) (1) “CDSS” means the California Department of Social Services.
- (2) “Chiropractor” means a licensed chiropractor.
- (3) “Claim Form” means a Tyler v. Anderson Claim Form (TEMP 2185A) designed and issued by CDSS which includes claiming information and the Doctor’s Certification section.
- (4) “Claim Period” means the six (6) month period in which claimants may file a claim form for retroactive payment for Range of Motion (ROM) under the IHSS Program.
- (5) “Claimant” means a person who files a claim for a retroactive payment under the Tyler v. Anderson Class Action Lawsuit.

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- (6) “Class Member” means a claimant whom CDSS has determined eligible for a retroactive payment.
- (7) “CWD” means a County Welfare Department.
- (d) (1) “Days” Unless otherwise specified, all references to “days” in regard to time limits shall mean “calendar” days.
- (2) “Doctor” means a licensed physician.
- (e) Reserved
- (f) (1) “Forms” means forms that CDSS will use only in the Tyler v. Anderson lawsuit.
- (g) Reserved
- (h) Reserved
- (i) (1) “IHSS” means the In-Home Supportive Services Program.
- (2) “Interest” means prejudgment and postjudgment simple interest at the legal rate of 7 percent from the date of the first payment owed to the month before issuance of the retroactive payment.
- (j) Reserved
- (k) Reserved
- (l) Reserved
- (m) Reserved
- (n) (1) “NOA” means the Notice of Action sent to claimants by CDSS regarding claim determinations, as referenced in Section 50-026.
- (2) “NOA Time Period” means the 45-day time period.
- (o) Reserved
- (p) (1) “Provider” means a person who provided IHSS ROM exercises to an IHSS recipient/applicant at any time during the retroactive period.

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- (q) Reserved
- (r) (1) “Recipient” means a person who received IHSS at any time during the retroactive period except a person who received IHSS in Amador, Calaveras, Fresno, Los Angeles, San Bernardino, Tehama counties.

(2) “Retroactive Payment” means the amount due a class member, including interest, as determined by CDSS in the claims process.

(3) “Retroactive Period” is June 17, 1990 through March 31, 1994.

(4) “ROM” means the Range of Motion exercises.

(5) “ROM Prohibition Policy Period” means the payment period from June 17, 1990 through March 31, 1994.
- (s) (1) “State Hearing” means the Evidentiary Hearing provided for under Welfare and Institutions Code Section 10950 pursuant to MPP Chapter 22-000 by which a claimant may appeal a CDSS NOA.
- (t) Reserved
- (u) Reserved
- (v) Reserved
- (w) Reserved
- (x) Reserved
- (y) Reserved
- (z) Reserved

.3 Notification of Potential Claimants

.31 CDSS shall:

- .311 Develop and send the Tyler v. Anderson Notice and Claim Form to all persons who were IHSS recipients and providers during the period of June 17, 1990 through March 31, 1994, except those who were residing solely in Amador, Calaveras, Fresno, Los Angeles, San Bernardino or Tehama counties.

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- .312 Update the addresses of persons identified in Section 50-026.311 from the following sources:
- (a) The IHSS Case Management Information and Payrolling System (CMIPS) for current IHSS recipients and providers;
 - (b) Medi-Cal records;
 - (c) United States Postal Fast Forward software, or
 - (d) Addresses matching services of the Franchise Tax Board for all others.
- .313 Provide a sufficient number of Tyler v. Anderson posters and camera-ready copies of the Tyler notice and Tyler claim form, in plain language in English and Spanish to all CWDs and agencies designated by plaintiffs' counsel, including regional centers, independent living centers, area boards, and legal aid programs.
- (a) CDSS shall require CWDs to display the Tyler poster until the end of the six-month claim period in a prominent location in all offices where it may be seen by members of the public and to provide a notice and claim form to anyone asking about the case.
 - (b) CDSS shall request all other agencies to display the Tyler poster until the end of the six-month claim period in a prominent location and to provide a notice and claim form to anyone asking about the case.
- .32 CWDs shall:
- .321 Display the Tyler poster in a prominent location in all offices where it may be seen by members of the public during the entire claim period.
 - .322 Give a Tyler notice and Tyler claim form to anyone asking about the case.
 - .323 Provide assistance in the completion of the claim form to anyone asking and provide a copy of case file information relating to the provision of ROM to the recipients or their authorized representatives as required by Welfare and Institutions Code Section 10850.2.
 - .324 Cooperate with the CDSS in providing information deemed necessary to make a claim determination.

.4 Application for Retroactive Payments

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.41 Claimant Responsibilities

- .411 A claimant shall file a claim for retroactive payment on the Tyler v. Anderson claim form.
- .412 A claimant shall ensure completion of all parts of the Tyler v. Anderson claim form as follows: Part A by the claimant; Part B by the IHSS recipient/applicant getting ROM; Part C by the IHSS provider administering the ROM, and Part H by the physician or chiropractor. If assistance is needed, the claimant may call 1-877-508-1327 or contact their local CWD.
- .413 A claimant who is an IHSS applicant shall submit proof of meeting all other categorical and financial eligibility conditions for the receipt of IHSS during the relevant time period by completing the Tyler Supplemental Applicant Claim Form (TEMP 2185B) received from the CDSS.
- .414 A claimant shall mail the completed Tyler v. Anderson claim form to CDSS, 744 P Street, Mail Station 19-04, Sacramento, CA 95814, any time within the six-month claim period but not later than July 31, 2001. For purposes of the mailing deadline, the envelope must be postmarked no later than July 31, 2001, the last day of the claim period. Claims postmarked after this date are deemed untimely and will be denied.

.42 Claim Form

- .421 CDSS must stamp each claim form with the date the claim form is received.
- .422 The filing date for a claim is the postmark date on the envelope containing the Tyler v. Anderson claim form.
 - (a) If the postmark date is not legible, the original claim date will be three days prior to the CDSS received date.
- .423 If the filing date is after the claim period, the claim shall be denied.
- .424 CDSS shall retain all claim forms and envelopes received in accordance with regulations governing retention of records, which is three years.

.5 Claim Processing

- .51 Eligibility Conditions for Retroactive Payment

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.511 A claimant must meet the conditions listed below to be eligible for a retroactive payment for any month at any time during the retroactive period.

- (a) Recipient Claimant: The IHSS recipient was prescribed ROM by a doctor or chiropractor during the retroactive period, was not already at the state maximum and paid the provider for the ROM.
- (b) Provider Claimant: The IHSS provider performed ROM for the IHSS recipient or applicant and was not paid. The IHSS recipient or applicant who received the ROM was prescribed ROM by a doctor or chiropractor during the retroactive period and was not already at the state maximum. The IHSS applicant also met all of the categorical and financial eligibility conditions for the receipt of IHSS.
- (c) Applicant Claimant: The IHSS applicant met all of the categorical and financial eligibility conditions for the receipt of IHSS, applied for IHSS, was prescribed ROM by a doctor or chiropractor during the retroactive period, and paid the provider for the ROM.

.52 Claim Form Review

.521 CDSS shall determine eligibility/ineligibility and notify the claimant of its determination within 60 days of CDSS' receipt of a complete claim form.

If additional information is needed, CDSS shall notify the claimant on a Notice of Action (NOA) and request the information to be returned within 45 days. The 45-day period shall begin to run on the first day following the date of the NOA. The claim must be postmarked on the 45th day to be considered timely. The returned information shall be date stamped "received" and CDSS will notify the claimant of its determination within 60 days of CDSS' receipt of additional information.

.522 CDSS shall review each claim form submitted to determine if the claim form is complete. A claim form shall be considered complete when all the following requirements are met:

- (a) The following information requested in Part A must be completed as follows:
 - (1) Name: Last, first, middle initial
 - (2) Valid Social Security Number

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- (3) Birthdate
- (4) Indicate type of claimant
- (b) The following information requested in Part B must be completed as follows:
 - (1) Name: Last, first, middle initial
 - (2) Valid Social Security Number
 - (3) Birthdate
 - (4) Current address
 - (5) Current telephone number
- (c) If the person was an IHSS applicant and was denied ROM exercises, the following shall also be completed in Part B.
 - (1) The date applicant was denied IHSS
 - (2) County in which the application was denied
 - (3) Indicate each year the applicant received SSI/SSP
- (d) The following information requested in Part C shall be completed if claimant was an IHSS provider.
 - (1) Name: Last, first, middle initial
 - (2) Valid Social Security Number
 - (3) Birthdate
 - (4) Current address
 - (5) Telephone number

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- (e) Part D shall indicate the specific months and number of hours ROM were performed each month during the ROM prohibition policy period and in which county ROM was performed.
- (f) Part E shall indicate if the claimant was an IHSS provider, recipient or applicant and whether or not the claimant provider was paid by the IHSS recipient for ROM or the claimant recipient/applicant paid for ROM.
- (g) Part F shall show an original signature under penalty of perjury and the date the application was completed.
- (h) Part G shall indicate the name of the person who received ROM and a signed authorization for the doctor or chiropractor to release medical record information to CDSS.
- (i) Part H - Doctor or Chiropractor Certification: CDSS shall review each submitted Doctor or Chiropractor Certification for completeness to determine if the doctor has provided the following information necessary to further process the claim.
 - (1) A doctor's or chiropractor's statement that an IHSS recipient/applicant was prescribed ROM, the number of minutes per exercise and the number of times per week prescribed monthly during the ROM prohibition policy period.
 - (2) The following requested Physician Information has been provided:
 - (A) Name: Last, first, middle initial
 - (B) Valid License number
 - (C) Specialty
 - (D) Business address
 - (E) Telephone number
 - (F) Signed and dated by the doctor or chiropractor

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.523 When additional information is requested via a NOA and the information is returned within 45 days, each resubmitted claim form will be reviewed to determine if the claimant has provided all the necessary information to further process the claim. CDSS then has an additional 60 days to make a determination of eligibility/ineligibility.

.524 Claim Determination

CDSS may obtain additional information to verify the claim by obtaining information from the IHSS CMIPS, CWDs, Medical and Chiropractor Boards and other agencies related to the eligibility conditions for retroactive payment.

.525 Issuance of NOAs

(a) For each claim received for retroactive payments, CDSS shall mail a NOA within sixty (60) days after receiving the claim form. The NOAs shall contain, but not be limited to, the following information:

- (1) The month(s) determined eligible and/or ineligible for retroactive payments. The reason(s) for any months determined ineligible shall be clearly stated;
- (2) The amount of retroactive payments and prejudgment and postjudgment interest due for each year, if payments are claimed for more than one year during the retroactive period;
- (3) The computation of the monthly total and the grand total amount of retroactive payments and prejudgment and postjudgment interest due, and
- (4) A statement about the taxability of wages, withholding taxes, and deeming for SSI recipients whose providers are currently spouses or parents of minor children recipients.

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- (A) The required withholdings shall be deducted from the retroactive payment. Income taxes shall be withheld from all interest payments.

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- (b) Each NOA issued due to the claimant's failure to complete the claim form in its entirety shall specify those sections of the form, which were not completed as follows:
- (1) Each part of the claim form that is incomplete.
 - (2) The original claim form shall be returned with the NOA to the claimant to mail back after filling in the missing information. CDSS shall advise the claimant that he/she has 45 days from the date of the NOA to provide the additional information. The 45-day period shall begin to run on the first day following the date of the NOA. The claim must be postmarked on the 45th day to be considered timely. Failure to respond or provide the requested information within the 45-day period shall result in a claim denial.
- (c) Each NOA issued as a result of CDSS having incomplete/contradictory/adverse information shall include a copy of the incomplete/contradictory/adverse information and if available, shall advise the claimant that he/she has 45 days from the date of the NOA to provide additional information. Failure to respond or refute the incomplete/contradictory/adverse information within the 45-day period shall result in a claim denial.
- (d) For each claim denied in full or in part, the NOA shall clearly state the reason(s) why the claim was denied and a statement that the claimant has the right to appeal the denial.
- (e) For each approved claim in which the class member is currently an IHSS recipient, the NOA shall advise the class member that the payment received as a result of his/her Tyler v. Anderson claim may adversely affect his/her IHSS services, SSI eligibility or other aid program eligibility, and that there may be a tax liability. (See 20 CFR Sections 416.1100, .1111, .1201 and .1207a.)

.6 Calculation of Retroactive Payment

.61 Issuance of Payments

- .611 CDSS shall compute the amount of retroactive payments. The amount shall be calculated using the number of hours authorized for ROM each month multiplied by the county's applicable individual provider hourly wage during each month for which benefits are claimed.

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.612 CDSS shall issue payments monthly and mail payments on or before the 10th of each month or hold the payments for mailing on or before the 10th of the following month.

.613 Except when the time for mailing payments is extended by Section 50-026.612, CDSS shall mail payment to the claimant within 30 days after the date of the approval of the claim NOA.

.62 Prejudgment/Postjudgment Interest

.621 Prejudgment interest for retroactive payments shall be calculated at the following rates:

(a) Seven percent simple interest during the time period of June 17, 1990 through March 31, 1994, on the amount of benefits from the date the first payment should have been paid, until January 22, 1999, the date of the judgment.

.622 Postjudgment interest for retroactive payments shall be calculated at the following rate:

(a) Seven percent simple interest from the date of the judgment, January 22, 1999 until the last day of the month prior to payment.

.63 Share of Cost

.631 CDSS shall calculate the applicant's share of cost utilizing the current SSI/SSP payment standards when computing the amount of retroactive payments due.

.64 IHSS Statutory Maximum

.641 The amount of hours for ROM retroactive payments shall not exceed the applicable statutory grant maximum. Retroactive benefits shall only be awarded up to the amount which when combined with other IHSS services received during the period does not exceed the then applicable statutory maximum on the allowed IHSS hours. The IHSS statutory maximum during the ROM prohibition policy period is as follows:

Effective Date	Nonseverely Impaired	Severely Impaired
6/17/90 - 3/31/93	195 hours	283 hours
4/01/93 - 3/31/94	195 hours	If PCSP, up to 283 hours

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- (a) When the nonseverely impaired (NSI) recipient's weekly authorized services are increased by the ROM hours and this results in a total of 20 or more hours of services defining severe impairment, the recipient shall be reclassified from NSI to severely impaired (SI), with a subsequent State maximum of 283 hours per month.

.7 General Provisions**.71 Information Requirement**

.711 All information received and/or obtained in relation to the Tyler v. Anderson implementation, and all forms generated as a result of the implementation, shall be retained by CDSS in a Tyler case file for each claimant. These documents shall include, but are not limited to:

- (a) Completed Tyler claim form and any subsequent resubmittals;
- (b) Completed doctor's certification section and any subsequent resubmittals;
- (c) A copy of any NOA;
- (d) A copy of any correspondence with the CWDs in relation to a claim;
- (e) Any noted verbal communication with the CWDs in relation to a claim;
- (f) Any CMIPS records utilized, and
- (g) A copy of all other documents and records used in the determination of eligibility and computation of payments.

.72 State Hearings

.721 The right to a state hearing on any Tyler v. Anderson claim shall be granted only to Tyler v. Anderson claimants or their authorized representatives. A Tyler v. Anderson claimant may be the recipient, applicant or provider.

.722 A claimant has the right to appeal any final decision on a claim, including an award of less retroactive payment than claimed.

.73 Treatment of Lump Sum Payments

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.731 It will be the responsibility of the claimant in conjunction with the CWD to determine if the lump sum Tyler v. Anderson payments affect or do not affect the claimant's continued eligibility for certain other programs.

.732 CDSS shall send the CWD a monthly list of claimants who received ROM retroactive payments. The list shall include a breakdown of principal and interest payments and the total amount received.

.74 Overpayments

CDSS shall have the right to seek and recover overpayments in accordance with IHSS regulations at MPP Section 30-768.

.75 Reports

In compliance with the Tyler v. Anderson class action Judgment, the CDSS is required to issue the following reports:

.751 Bimonthly status report on all actions taken on the Judgment and include basic implementation records, including contracts with all agencies;

.752 Number of recipient and provider class members identified from IHSS payrolling system; the number with current addresses; the number of updated addresses through the Department of Health Medi-Cal; and the number of addresses updated through the Franchise Tax Board, and

.753 Monthly claim reports by county with the number of claims received, approved, denied, pending and the amount of wages and interest paid, the number of claims sent to individual class members and date(s) of mailing, number of envelopes returned undelivered for those with mailing addresses from IHSS payrolling system, Medi-Cal and Franchise Tax Board.

.8 Appendix - Tyler Forms

.81 The following forms will be used to process Tyler V. Anderson claims:

.811 Tyler Public Notice (Poster) - TEMP 2189 (10/00) (English/Spanish)

.812 Tyler Notice - TEMP 2185 (07/00) (English/Spanish)

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.813 Tyler Claim Form - TEMP 2185A (07/00) (English/Spanish)

.814 Tyler Supplemental Applicant Claim Form - TEMP 2185B (10/00) (English/Spanish)

.82 The Tyler Claim Form and Notice will also be available in Chinese, Russian, Cambodian and Vietnamese upon request by calling the toll free number established for Tyler v. Anderson.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10950, 12300, 12300.2, 12304, 12304.5, and 14132.95, Welfare and Institutions Code and Judgment Re: Tyler v. Anderson, Sacramento Superior Court Case No. 376230, dated January 22, 1999.

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Repealed by Manual Letter No. EAS-88-13, effective 10/3/88.

50-060	MAJOR v. McMAHON	50-060
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.1 Background

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On January 28, 1985, the San Francisco Superior Court approved a settlement agreement and adopted it as the final judgment of the court in the case of Major v. McMahan. The judgment invalidated MPP Section 46-325 to the extent this regulation was interpreted/applied to deny otherwise eligible disabled minors from receiving the SSI-SSP "nonmedical out-of-home care" benefit level because they were residing with nonparent relatives.

In compliance with the Major v. McMahan judgment, MPP Section 46-325 was amended (April 1, 1985) to enable otherwise eligible disabled minors residing with a nonparent relative to receive the SSI-SSP "nonmedical out-of-home care" payment rate. Additionally, the court ordered that retroactive benefits be paid to disabled minors in this class, who for any time after December 31, 1983 were otherwise eligible but were denied the SSI-SSP "nonmedical out-of-home care" payment rate solely because they were residing with a nonparent relative.

The following provisions specify rules and procedures applicable to the issuance of payments in conformance with this court order.

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.2 Informing Potentially Eligible Persons of the Availability of Major v. McMahan Payments

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.21 In order to notify the class of potentially eligible persons, the Department shall:

.211 Identify from the State Data Exchange, all individuals who meet the description of the Major v. McMahan class and who are potentially eligible for Major v. McMahan benefits.

.212 By April 1, 1985, send a written notice to all potentially eligible individuals, which specifies eligibility factors and application procedures and deadlines for Major v. McMahan benefits.

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.3 Application for Major v. McMahan Payments and Claims Processing

.31 Claimant Responsibility

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.311 Potentially eligible individuals shall apply for retroactive payments at the local Social Security Administration (SSA) office, within the 60-day period commencing April 1, 1985 and ending May 30, 1985.

(a) Extension of the mandatory 60-day application period.

(1) Applications for Major v. McMahan retroactive benefits received after May 30, 1985 shall be denied except where the applicant can show good cause for his/her failure to apply during the mandatory 60-day application period. "Good cause" shall be determined by the SSA.

(2) Provided the applicant can show good cause for not applying within the period specified in .311, his/her application for retroactive benefits will be accepted if filed with the SSA within 60 days after May 30, 1985 or before July 30, 1985.

.32 Social Security Administration (SSA)

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.321 Upon receipt of the claimant's application for Major v. McMahan benefits, the local SSA office will request from the county welfare department (CWD) certification that the disabled minor involved was eligible for the "nonmedical out-of-home care" payment rate within this Major v. McMahan retroactive period.

(a) In response to each Major v. McMahan application, SSA will send requests for certification (Form SSP-22) to the county welfare departments, which for control purposes, have been separately identified by the words MAJOR v. McMAHON in bold print at the top.

.322 As soon as administratively possible after receipt of the CWD's certification of applicable living arrangement [see .331(b)] the SSA will compute and issue the amount of Major v. McMahan retroactive payments to all claimants who were certified for the SSI-SSP "nonmedical out-of-home care" living arrangement during this period.

(a) The amount of retroactive benefits shall be, for each month of eligibility during the retroactive period, the difference between the SSI-SSP "nonmedical out-of-home care" rate and the "disabled minor" rate in effect for that month.

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- (1) For calendar year 1984, the difference is \$161 per month.
 - (2) For calendar year 1985, the difference is \$170 per month.
- .323 The SSA will make prospective payments to Major v. McMahan eligibles upon receipt of CWD certifications of applicable living arrangements.

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.33 CWD Responsibility

- .331 Within 13 working days of receipt of a request for certification (SSP-22) marked "Major v. McMahan" from the SSA, the CWD shall:
- (a) Determine the applicant's eligibility for the "nonmedical out-of-home care" level of benefits during any month(s) from January 1, 1984.
 - (1) The provisions of MPP Section 46-325.351 shall apply to requests for Major v. McMahan certifications in the same manner as for certification requests received on behalf of other SSI-SSP applicants/recipients.
 - (2) If a disabled minor child is found to be currently eligible for the "nonmedical out-of-home care" rate, he/she shall be presumed to be eligible for as much of the retroactive period as he/she was residing with the same relative.
 - (3) If the minor child is currently ineligible for the "nonmedical out-of-home care" rate, he/she shall be presumed to be ineligible for as much of the retroactive period as he/she was residing with the same relative.
 - (4) Presumptions in (2) and (3) above may be rebutted by the CWD or by the recipient. If the minor child was living with another nonparent relative during the retroactive period, he/she shall have the opportunity to present evidence regarding eligibility for the "nonmedical out-of-home care" rate in that home.

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- (b) Return the completed request for certification (SSP-22) to the SSA.
 - (1) CWDs shall maintain a copy of all completed Major v. McMahon certification requests (SSP-22) in an easily identifiable and retrievable manner for a period of six months, beginning April 1, 1985.
- .332 Within 30 calendar days of the receipt of a request for certification (SSP-22) marked Major v. McMahon from the SSA, the CWD shall send a written notice of action (Temp. 1624) to the Major v. McMahon applicant which:
 - (a) states the CWD's determination of the applicant's eligibility for the "nonmedical out-of-home care" level of SSI-SSP benefits; and,
 - (b) specifies the months the applicant was eligible for "nonmedical out-of-home care" benefits since January 1, 1984; and,
 - (c) informs the applicant of his/her right to request a state hearing regarding the CWD's certification or noncertification of the applicant's "nonmedical out-of-home care" living arrangement during any month since January 1, 1984. The state hearing of this issue shall be governed by MPP Division 22 regulations.