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9 Attorneys for Petitioner

10
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 IN AND FOR THE COUNTY OF SACRAMENTO
13

14
15 SAMUEL PETTY,

16 Petitioner,

17 vs.

18 ERNIE HAWKINS, Director, Sacramento
County Department of Revenue and Recovery;
19 COUNTY OF SACRAMENTO and BOARD
OF SUPERVISORS OF THE COUNTY OF
20 SACRAMENTO and the individual members in
their official capacities,

21 Respondents.
22

CASE NO. 99CS02277

STIPULATION FOR DISMISSAL OF
ACTION AND ~~PROPOSED~~ ORDER
THEREON

23 This stipulation is entered into by and between SAMUEL PETTY (hereinafter "Petitioner"),
24 LEGAL SERVICES OF NORTHERN CALIFORNIA ("LSNC"), WESTERN CENTER ON LAW
AND POVERTY ("WCLP"), attorneys for Petitioner, on the one hand; ERNIE HAWKINS,
25 Director, Sacramento County Department of Revenue and Recovery, THE COUNTY OF
26 SACRAMENTO, a political subdivision of the State of California (hereinafter "County"), and
27 BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO, on the other hand
28

1 ("Respondents"), for the purpose of settling matters in dispute between the parties regarding the
2 above entitled action.

3 WHEREAS,

4 1. On October 29, 1999, a Petition for Writ of Mandate was filed by Petitioner against
5 Respondents in Sacramento County Superior Court, Case Number 99CS02277 (hereinafter, the
6 "Action");

7 2. The Petition sought changes in the way the County attempts to recoup General
8 Assistance benefits from former General Assistance recipients. The Petition did *not* seek any
9 individual relief for Petitioner.

10 3. Petitioner's counsel state that Petitioner has since moved away from Sacramento County,
11 and cannot be located despite diligent efforts by his counsel. Petitioner's counsel also state that they
12 have authorization to settle the case on behalf of Petitioner and agree to submit to the Court for *in*
13 *camera* review proof of that authorization simultaneously with the filing of this stipulation.

14 4. Petitioner, through his counsel, and County have agreed upon a resolution of the Action.

15 NOW, THEREFORE, the parties hereto stipulate as follows:

16 1. Except as set forth in Paragraph 2, Respondents shall follow the Department of Revenue
17 and Recovery ("DRR") Policies and Procedures Manual General Assistance Policy and Procedures,
18 attached as Exhibit 1, and shall use the Financial Inquiry Form, attached as Exhibit 2, for no less than
19 30 months from court approval of this stipulation.

20 2. If, within 30 months of the order approving this stipulation, Respondents determine to
21 implement a new or revised DRR policy regarding collection of General Assistance which
22 Sacramento County has paid to an individual, Respondents shall provide Petitioner's counsel with a
23 copy of the revised or new policy at least 30 days prior to its implementation. Respondents shall not
24 implement any new or revised General Assistance collection policy during the 30-day notification
25 period. Respondents agree that Petitioner shall not be precluded from filing a petition for writ of
26 mandate/complaint for injunctive and other relief regarding the new or revised General Assistance
27
28

1 collection policy after the 30-day notification period, by reason of this stipulation or dismissal of this
2 action with prejudice.

3 3. Respondents shall pay \$5,000 to plaintiffs' counsel Western Center on Law and Poverty,
4 Inc., Federal Identification No. 05-2897721, in full satisfaction of all claims for costs and attorneys'
5 fees within 30 days after the order approving this stipulation.

6 4. Sixty days from the date of the entry of this stipulation, this action shall be dismissed
7 with prejudice. The Court retains jurisdiction to enforce this agreement.

8 5. This stipulation constitutes the settlement of disputed claims, and the execution thereof
9 shall not constitute nor imply the admission of any claims asserted in the Action.

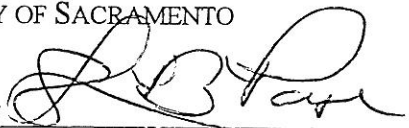
10 6. This stipulation may be executed in any number of counterparts, each of which when so
11 executed shall be deemed to be an original and all of which taken together shall constitute one and
12 the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by
13 facsimile shall be as effective as delivery of a manually executed counterpart of this Agreement.

14 7. This stipulation is contingent upon the Court's determination that Petitioner's counsel
15 have authority to settle this action and upon entry of the Court's order approving this stipulation.

16 IT IS SO AGREED:

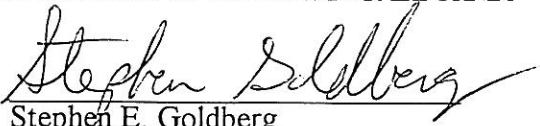
17
18 Dated: 12-20-02

COUNTY OF SACRAMENTO

19 By 
20 Steve Page, Supervisor
21 Risk Management.

22
23
24 Dated: 12/30/02

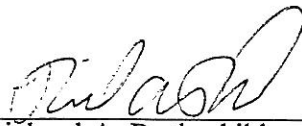
LEGAL SERVICES OF NORTHERN CALIFORNIA

25 By 
26 Stephen E. Goldberg
27 Attorneys for Petitioner
28

WESTERN CENTER ON LAW AND POVERTY

Dated: October 22, 2002

By

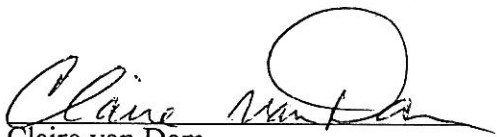

Richard A. Rothschild
Attorneys for Petitioner

APPROVED AS TO FORM:

SACRAMENTO COUNTY COUNSEL

Dated: December 9, 2002

By


Claire van Dam
Deputy County Counsel
Attorney for Respondent

ORDER

The Court, having determined that the Stipulation for Dismissal of Action is fair and reasonable, and that petitioner's counsel have authority to settle on behalf of their client, hereby approves the terms of the Stipulation.

Dated: DEC 31 2002

LOREN E. McMASTER

JUDGE, SUPERIOR COURT

G:\Public\CASE FILES\Open Cases\99.11 Petty\documents\pleadings\Petty stipulation.frm

General Assistance Policy and Procedures

Background	<p>Sacramento County General Assistance program (GA) provides assistance to indigents who are residents of the State of California and of Sacramento County whose needs are not otherwise met, who are not eligible for any other public assistance program, and who are actively seeking employment or are unemployable.</p>
Statutory Authority	<p>California Welfare and Institutions Code 17403 states, "If a person for the support of whom public moneys have been expended acquires property, the county shall have a claim against him to the amount of a reasonable charge for moneys so expended."</p> <p>Consistent with San Diego v. Muniz (1978) 22 Cal. 3d 29, GA shall not be considered a debt until it has been determined that the GA recipient has property over and above the necessary living expenses of the recipient and his/her family ("surplus of property").</p> <p>On March 1, 1999, Division of Revenue Recovery (DRR) Operating Resolution, Section V became effective which states: "GA Payments shall not be considered a debt until it has been determined that the GA Recipient has a "surplus of property" over and above his or her necessary living expenses.</p>
Financial Inquiry-Definition	<p>The term "Financial Inquiry" is defined as the process of requesting financial information from GA Recipients, either in writing or verbally or based on information available on the Recipient's income and statistical average household expenditures to determine if surplus property exists.</p>
Property-Definition	<p>The term "property" includes income and other property of any kind. The term "property" as applied to a Recipient shall also include the income or property of members of Recipient's immediate family unit.</p>
Surplus Property – Definition	<p>Surplus property shall mean that the Recipient has monthly income of at least \$100.00 (one hundred dollars) in excess of his/her necessary living expenses ("surplus property").</p>
Necessary Expenses – Definition	<p>Necessary expenses are based on necessities of life, which include housing, food, utilities, telephone, clothing, transportation, health care, household expenses, personal care products, childcare or child support and necessary work related expenses.</p> <p>DRR may compare the reported expenses with statistical average household expenses compiled by the US Department of Labor, Bureau of Labor Statistics, to verify expenses are necessary. If expenses appear unnecessary as to nature or amount, the Recipient may be requested to verify, explain or justify the necessity of the expense.</p>

General Assistance Policy and Procedures

GA Fraud Convictions and civil judgments

GA fraud convictions are referred to DRR as a criminal judgment and are excluded from the normal GA process. DRR will pursue these debts the same as any other criminal judgment. DRR will pursue civil judgments on GA in the same manner as any other civil judgment.

Process Description

When a GA case is closed, the Department of Human Assistance refers the charges to DRR for processing. DRR will generate an initial notification letter (GA-INI) to the Recipient to notify him or her that an account has been established and that he or she is requested to provide financial information.

If the Recipient provides financial information, DRR may request verification of the information provided or DRR may use its own information sources to determine if surplus property exists. DRR shall review the expense information provided by the Recipient to determine that the expenses are necessary in nature and amount.

If the Recipient fails to provide the information, DRR may use any information available to locate income or property, and use the Debt Determination Table of statistical average household expenses to determine if surplus property exists.

If surplus property exists, the debt will be established and the Recipient will be billed for GA received and set on a payment schedule.

If no surplus property exists, the account will be reevaluated for surplus property at a future date. If after a period of five years, surplus property has not been established, the debt may be adjusted from DRR's computer system. If it is thereafter established that the Recipient has acquired surplus property, the potential debt may be reestablished with DRR and converted into an actual debt.

DRR Computer Codes for GA Amounts

Prior to May 17, 1999, GA referrals to DRR were input as WGA1-GA Repayment, WGA2-GA Recovery (Investigation), WGA4-GA Overpayment (Civil), and WGA5-GA IRCA Billing.

As of May 17, 1999, GA referrals are input as EST1-Pending GA Repayment. The status code is "HGA" (Hold GA).

WGA1, WGA2, WGA4 and WGA5 dated prior to May 17, 1999 and EST1 are considered potential debts until surplus has been established.

Note: WGA8 and WGA9 are fraud convictions and not GA amounts, and therefore will be handled through the normal collection process.

General Assistance Policy and Procedures

Notices to Recipient

Once the GA amount is entered into DRR's computer system, a notice (GA-INI) is sent to the Recipient advising him/her that the amount has been sent to DRR for processing. The Recipient will be requested to complete a financial evaluation to assist in determining if the Recipient has surplus property allowing the amount to be converted into a debt.

Before any determination of surplus property, DRR will attempt to contact the Recipient to obtain actual income and expenses. This will be done either in writing, using letters GA-NP (no payment) or GA-PT (payment made) or verbally. If the written or verbal request is unsuccessful, then DRR may use any information available to locate income or property.

EST1 will not be included in the statement balance due. Once programming changes are implemented, statements will note potential GA amounts for informational purposes only. WGA1, WGA2, WGA4 and WGA5 will be included in the statement balance due once the amount has been established as a debt.

If Surplus Property Exists

Once the charge is determined to be a debt, the account must be updated using action code 876. This action code will update financial fields 87 and 90 to indicate the result and date of the assessment. This will change the status code to ACT (active) and add a collector note indicating the assessment was done. Refer the EST1 account to support desk *HA to be converted to WGA. When an actual debt is established with a Recipient it may be collected by DRR based on Departmental payment guidelines applicable to GA. If financial circumstances change which prevent the Recipient from meeting minimum guidelines for establishing the debt, proof will be required of the financial change and the collection of the GA debt will be suspended until surplus property exists again.

If No Surplus Property Exists

If a financial evaluation or other financial investigation reveals that the Recipient is incapable of or cannot, for whatever reason, earn or otherwise acquire sufficient income or property in excess of his or her necessary living expenses, the account will be reviewed annually to determine if surplus property exists. In these cases, enter Action Code 875, which will update financial fields 87 and 90 to indicate the result and date of the assessment, change the status code to HGA (hold GA) and add a collector note indicating the assessment was done.

If after a period of five years, surplus property has not been established, the debt may be adjusted from DRR's computer system using transaction code 540 and a status code of NAG (no ability GA).

General Assistance Policy and Procedures

If No Surplus
Property
Exists
continued

If the financial evaluation or other financial investigation reveals that the Recipient will not meet the criteria for surplus at any time, such as fixed income, then the account may be referred for adjustment as soon as the determination is made.

If it is thereafter established that the Recipient has acquired surplus property, the potential debt may be reestablished with DRR and converted into an actual debt.

Voluntary
Payments

If a Recipient does not have the surplus property at this time to establish a debt but wants to make voluntary payments, the charge would remain as EST1. The Recipient should be advised that no billing statements would be sent but that payments can be applied to the GA amount.

Unable to
Determine if
Surplus Exists

If DRR is unable to determine there is a surplus of property due to inadequate income and asset information, the account will be held for further investigation. The account will be evaluated using available information on the Recipients' income and statistical average household expenditures to determine if surplus property exists. The Recipient will also be sent periodic requests for financial information. If the investigation shows no surplus property, the account will be reviewed annually to determine if surplus property exists at a later time.

If Recipient Has
Other Assets

If it is discovered that the Recipient has acquired real property or has other valuable assets, but the guidelines are not met for surplus property based on income and necessary expenses, the account should be referred to the Legal Unit Supervisor to determine if the matter should be referred to County Counsel for evaluation to determine if the property should be considered as surplus property.

If Surplus exists
and Unable to
Collect

Once a GA charge is converted to a debt and then becomes uneconomical to collect or illegal to pursue, the charge should be written off. If the charge has not been converted to a valid debt, the charge will be adjusted to a zero balance.

General Assistance Policy and Procedures

Agreement to Reimburse and Grant of Lien

When an individual requests GA, he or she is required to sign an Agreement to Reimburse and Grant of Lien (Lien). Prior to January 1, 1998, all Agreements to Reimburse and Grant of Lien were recorded at the Sacramento County Clerk Recorder's Office. The Lien is only valid as to property owned by the Recipient before or during the period of time the GA was received.

If a Recipient is attempting to purchase property, the Title Company will contact DRR for a payoff amount. These Liens do not affect property that the Recipient is attempting to buy. DRR will provide a Partial Release of Lien as to the new property allowing the Recipient to purchase the property without having a Lien in effect as to that property.

Effective January 1, 1998, the Lien is only recorded by DRR if the Recipient owned property at the time of requesting assistance or during the period while receiving assistance. When there is no property, the signed Agreement to Reimburse and Grant of Lien serves as a promissory note to repay the GA once surplus property has been established and the amount has been converted to a debt.

Paid Debt and Release of Lien

If a GA debt is paid or settled in full and a Lien has been previously recorded, a Release of Lien should be requested by referring the account to the *SR desk. A Release of Lien will be prepared and sent to the Recipient. If GA is written off or adjusted, any existing Lien will not be released.

Bankruptcy Filed

If bankruptcy is filed and no debt has been established, the charge will be removed using a 540-transaction code and status code of NAG. If bankruptcy is filed and a debt has been established, the charge will be written off using a 554-transaction code and a status code of W/O.

Questions

See your supervisor if you have any questions about this procedure.

General Assistance Policy and Procedures

Use the following total expenses based on household content to assist in determining if General Assistance payments should be converted to a debt **when actual expense information is unavailable**. This table lists the total average expenses for the necessities of life according to household content. Allowed expenses include necessary housing, food, utilities, telephone, clothing, transportation, health care, household expenses and personal care products, child care or child support and necessary work related expenses. To determine whether a General Assistance recipient has surplus property, find the household size and deduct the "total allowed expenses" figure from the individual's net monthly earnings. If there is at least \$100 left over after allowed expenses, then there is sufficient surplus property to warrant collection. Individual expenses are listed in the complete table on the next page.

STATISTICAL AVERAGE HOUSEHOLD EXPENSES

	1 Adult	2 Adults	1 Adult & at least 1 child under 18	2 Adults & 2 children (oldest child under 6 yrs)	2 Adults & 2 children (oldest child 6 to 17 yrs)
Housing	483	566	480	761	753
Food	112	261	240	318	362
Utilities & telephone	136	225	197	225	268
Clothing	49	121	94	173	206
Transportation	236	416	230	497	471
Health care	80	234	95	146	175
Household expenses	35	83	44	83	82
Personal care products	28	52	42	53	60
Child care or child support	Use client's reported expenses - ask for verification if necessary				
Necessary work related expenses	Use client's reported expenses - ask for verification if necessary				
TOTAL ALLOWED EXPENSES	1,159	1,958	1,422	2,256	2,377

* The figures above were derived from the U.S. Department of Labor, Bureau of Labor Statistics for the calendar year 1997 (increased by the 1998/99 Consumer Price Indices to reflect inflation). The BLS releases new figures periodically. Use the most current figures DRR has available.

**The transportation figure above is based on vehicle ownership. Other forms of transportation, such as carpool or public transportation are also considered necessities of life.

IMPORTANT NOTE: These figures are the *average* expenditures for households of these sizes. In other words, be flexible when making your determination. For families of different composition, see your supervisor.

General Assistance Policy and Procedures

DEFINITIONS OF LISTED EXPENSES

HOUSING = Owned dwellings + rented dwellings + other lodging

Owned dwellings includes interest on mortgages, property taxes and insurance, refinancing and prepayment charges, ground rent, expenses for property management/security, homeowners' insurance, fire insurance and extended coverage, expenses for repairs and maintenance contracted out, and expenses of materials for owner-performed repairs and maintenance for dwellings used or maintained by the consumer unit.

Rented dwellings includes rent paid for dwellings, rent received as pay, parking fees, maintenance, and other expenses.

Other lodging includes all expenses for vacation homes, school, college, hotels, motels, cottages, trailer camps, and other lodging while out of town.

FOOD refers to the total expenditures for food at grocery stores or other food stores and food prepared by the consumer unit on trips. It excludes the purchase of nonfood items.

UTILITIES, FUELS, AND PUBLIC SERVICES includes natural gas, electricity, fuel oil, wood, kerosene, coal, bottled gas, water, garbage and trash collection, sewerage maintenance, septic tank cleaning, telephone charges, and other public services.

CLOTHING = Men's/boy's apparel + women's/girl's apparel + apparel for children under 2 + footwear

Men's and boys' apparel includes coats, jackets, sweaters, vests, sportcoats, tailored jackets, trousers, slacks, shorts and short sets, sportswear, shirts, underwear, nightwear, hosiery, uniforms, and other accessories.

Women's and girls' apparel includes coats, jackets, furs, sportcoats, tailored jackets, sweaters, vests, blouses, shirts, dresses, dungarees, culottes, slacks, shorts, sportswear, underwear, nightwear, uniforms, hosiery, and other accessories.

Apparel for children under 2 includes coats, jackets, snowsuits, underwear, diapers, dresses, crawlers, sleeping garments, hosiery, footwear, and other accessories for children under 2.

Footwear includes articles such as shoes, slippers, boots, and other similar items. It excludes footwear for children under 2 and special footwear used for sports such as bowling or golf shoes.

TRANSPORTATION = Vehicle purchases + vehicle finance charges + gasoline and motor oil + maintenance and repairs + vehicle insurance

General Assistance Policy and Procedures

DEFINITIONS OF LISTED EXPENSES continued

Vehicle purchases (net outlay) includes the net outlay (purchase price minus trade-in value) on new domestic and imported cars and trucks.

Vehicle finance charges includes the dollar amount of interest paid for a loan contracted for the purchase of vehicles described above.

Gasoline and motor oil includes gasoline, diesel fuel, and motor oil.

Maintenance and repairs includes tires, batteries, tubes, lubrication, filters, coolant, additives, brake and transmission fluids, oil change, brake adjustment and repair, front-end alignment, wheel balancing, steering repair, shock absorber replacement, clutch and transmission repair, electrical system repair, exhaust system repair, body work and painting, motor repair, repair to cooling system, drive train repair, drive shaft and rear-end repair, tire repair, other maintenance and services, and auto repair policies.

Vehicle insurance includes the premium paid for insuring cars, trucks, and other vehicles.

HEALTH CARE = Health insurance + medical services + drugs + medical supplies

Health insurance includes health maintenance plans (HMO's), Blue Cross/Blue Shield, commercial health insurance, Medicare, Medicare supplemental insurance, and other health insurance.

Medical services includes hospital room and services, physicians' services, service of a practitioner other than physician, eye and dental care, lab tests, X-rays, nursing, therapy services, care in convalescent or nursing home, and other medical care.

Drugs includes prescription and nonprescription drugs, internal and respiratory over-the-counter drugs.

Medical supplies includes topicals and dressings, antiseptics, bandages, cotton, first aid kits, contraceptives, syringes, ice bags, thermometers, sunlamps, vaporizers, heating pads, medical appliances such as braces, canes, crutches, and walkers, eyeglasses, and hearing aids, rental and repair of medical equipment.

General Assistance Policy and Procedures

DEFINITIONS OF LISTED EXPENSES continued

HOUSEHOLD EXPENSES = Other household expenses + Housekeeping and garden supplies

Other household expenses includes housekeeping services, gardening and lawn care services, coin-operated laundry and dry-cleaning (non-clothing), termite and pest control products, moving, storage, and freight expenses, repair of household appliances and other household equipment, repair of computer systems for home use, reupholstering and furniture repair, rental and repair of lawn and gardening tools, and rental of other household equipment.

Housekeeping and garden supplies includes laundry and cleaning supplies, cleaning and toilet tissues, stationery supplies, postage, miscellaneous household products, and lawn and garden supplies.

PERSONAL CARE PRODUCTS includes products for the hair, oral hygiene products, shaving needs, cosmetics and bath products, electric personal care appliances, other personal care products, personal care services for males and females.

CHILD SUPPORT includes payments designated for the support of a minor child under an agreement of divorce or separation.

CHILD CARE includes payments for the care, supervision and guidance of a child or children, unaccompanied by parent, guardian or custodian, on a regular basis, for periods of less than twenty-four hours per day, in a place other than the child's or the children's own home or homes.

NECESSARY WORK RELATED EXPENSES include those expenses incurred by the employee necessary to carry out specific duties of the job. These may include cost of uniforms, tools or license fees that are not otherwise reimbursed to the employee.

COUNTY OF SACRAMENTO
Division of Revenue Recovery

Account Number: .
X-reference:
Case Number:
Account Balance:

This letter serves as notification that the Department of Human Assistance has transferred your General Assistance records to this office. You recieved aid in the above referenced amount and signed a document wherein you agreed to repay the County for all aid when you have financial ability to do so.

The County of Sacramento is not currently billing for the General Assistance payments you received. We require your assistance at this time to determine whether you currently have the financial ability to begin repaying the General Assistance.

Please complete the Financial Inquiry on the back of this notice and return it to this office no later than 14 days from the above date. You may be asked to provide verification to determine that the reported expenses are necessary in nature and amount. If we have not recieved your response by the date stated, we may use information that we can obtain on your income and statistical average household expenditures to determine financial ability.

NOTE: Information relating to your receipt of GA benefits is kept confidential.

Should you have any questions, you may contact our office at (916) 875-7500 to speak to a representative. Be sure to use your account number when contacting our office.

Sincerely,

Division of Revenue Recovery

10669 Coloma Road Rancho Cordova CA 95670
Telephone: (916) 875-7500 FAX: (916) 875-7664

FINANCIAL INQUIRY

HOUSEHOLD MONTHLY NECESSARY EXPENSES

a. Rent or house payment (circle one):	\$	f. Clothing:	\$
b. Utilities (gas, electric, telephone):	\$	g. Car payment/bus fare:	\$
c. Food:	\$	h. Necessary work related expenses:	\$
d. Necessary personal care and household products:	\$	i. List child support or childcare below:	\$
e. Insurance (health, auto):	\$	1.	\$

HOUSEHOLD INCOME

Your gross income (circle one): Monthly Bi-weekly, Weekly, Hourly	\$	Length of time with present employer:	
Your net income (circle one): Monthly, Bi-weekly, Weekly, Hourly	\$	Number of people in household Children _____ Adults _____	
Employer's Name:		Other household income (circle one): Monthly, Bi-weekly, Weekly, Hourly	\$
Employer's Address:		Source of other household income: :	
Employer's phone number:		Home phone number:	

FINANCIAL INFORMATION

Bank or Credit Union:	Other accounts, trusts, annuities:
Bank address and branch:	Other assets (ie; cars, property, stocks, bonds):
City, State, Zip Code:	1.
Account number (circle one): checking savings	2.
Balance:	3.