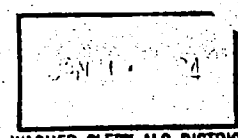


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RECEIVED



JACK L. WAGNER, CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK 2

Attorneys for Plaintiffs

JAN 14 1994

UNITED STATES DISTRICT COURT

JACK L. WAGNER, CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EASTERN DISTRICT OF CALIFORNIA

BY DEPUTY CLERK

11 GRETCHEN TAYLOR, on behalf of
12 herself and all others similarly
13 situated,

CIV-S-93-0033 GEB JFM

14 Plaintiffs,
15 vs.

STIPULATION FOR
SETTLEMENT

16 DONNA SHALALA, Secretary
17 of the Department of Health and
18 Human Services,

Defendant.

19 The parties to the above-captioned action, by and through
20 their respective counsel, hereby agree and stipulate as follows:

21 1. By entering into this Stipulation, the defendant
22 Secretary of Health and Human Services expressly does not concede
23 liability for any claims raised by the plaintiff or the plaintiff
24 class herein.

25 2. The final administrative decision of the Secretary dated
26 October 29, 1992, upholding the denial of plaintiff's May 1990
27 application for Supplemental Security Income benefits, shall be
28 vacated.

1 3. Plaintiff's May 1990 application for Supplemental
2 Security Income benefits shall be granted. Retroactive SSI
3 benefits shall be awarded to plaintiff pursuant to said
4 application, with an effective beginning date of January 1, 1991.
5 Said retroactive benefits shall be paid to plaintiff, as otherwise
6 eligible, for each and every month beginning January 1, 1991
7 through and including October, 1992. Said payments shall be
8 calculated without regard to the value of any "excess real
9 property" which was referenced in the administrative proceedings
10 herein.

11 4. The relief set forth in Paragraphs 6 and 7 herein below
12 shall constitute a full and final settlement of all other claims
13 raised in this action.

14 5. This settlement agreement expressly reserves the right of
15 any person whose SSI benefits have been or will be denied,
16 terminated or reduced, as a result of an alleged failure of the
17 Secretary to provide prompt and adequate notice of the conditional
18 benefits reimbursement agreement requirements, to bring an
19 individual complaint seeking increased and/or retroactive SSI
20 benefits, pursuant to the normal procedure for obtaining judicial
21 review of final administrative decisions of the Secretary, as
22 prescribed in 42 U.S.C. § 405(g).

23 6. The Secretary shall issue a transmittal updating SSA's
24 Program Operations Manual System (POMS) by the end of February
25 1994, with a revision of the "SSI SPOTLIGHT ON GETTING SSI WHILE
26 YOU TRY TO SELL EXCESS RESOURCES," which will contain language that
27 covers the points set forth in the item issued under paragraph 7
28

1 which describes said "Spotlight". Prior to final issuance of the
2 Spotlight, the Secretary shall submit the draft revisions to
3 plaintiffs' counsel for comment. An instruction will accompany the
4 revised "Spotlight" indicating that SSA's Field personnel should
5 photocopy the POMS version of the "Spotlight" and distribute it to
6 all individuals who might be eligible for SSI benefits under the
7 conditional payment provision. In addition, the revised
8 "Spotlight" shall immediately replace the unrevised version of the
9 "Spotlight." The "Spotlight" subsequently shall be translated into
10 Spanish and all other languages for which the "Spotlight" series is
11 made available. Copies of the revised "Spotlight" and the POMS
12 transmittal shall be served on plaintiff's counsel with a
13 certification that this provision of this paragraph has been
14 satisfied.

15 7. The Secretary shall, within 30 days of the date on which
16 judgment in this case is entered, issue a notice to all Social
17 Security field offices containing the language attached hereto in
18 Exhibit A. A copy of this notice shall be served on plaintiff's
19 counsel with a certification that the provisions of this paragraph
20 have been satisfied.

21 8. Judgment pursuant to the terms of this Stipulation shall
22 be entered in favor of the plaintiff, Gretchen Taylor, and against
23 the Secretary, and the matter remanded to the Secretary for
24 implementation of the terms of the stipulation.

25 DATED: January 12, 1994

LEGAL SERVICES OF NORTHERN
CALIFORNIA, INC.

NATIONAL SENIOR CITIZENS
LAW CENTER

By:

GARY F. SMITH
Attorneys for Plaintiffs

CHARLES J. STEVENS
United States Attorney

DATED: 1/13/94

By:

EDMUND F. BRENNAN
Assistant U. S. Attorney

DATED: 1-13-94

By:

ELIZABETH PRICE
Special Assistant U. S. Attorney

Attorneys for Defendant

ATTACHMENT A

REMINDER CONCERNING CONDITIONAL BENEFITS

As a result of litigation filed in the Eastern District of California, we are issuing this reminder concerning the requirement to explain conditional benefits to all individuals who may be eligible for them. The provision and its implications must be explained to any individual whose:

- * benefits are about to be denied or suspended due solely to excess nonliquid resources; and

- * liquid resources do not exceed 3 times the monthly federal benefit rate (FBR).

Conditional benefits should also be explained to any individual whose liquid resources only exceed 3 times the FBR by a small amount or individuals who could benefit from the provision if aware of it including individuals who ask about conditional benefits but have not filed an application.

POMS SI 01150.203B.1. requires that if an individual may be eligible if excess nonliquid resources were disposed of, but declines to take advantage of the conditional benefits provision when explained to him or her, the fact that the explanation was given and the individual's refusal, must be documented in writing and signed by the individual before his benefit claim is denied due to excess nonliquid resources.

When explaining the conditional benefits provision, be sure to explain the requirement to sign a written agreement (FORM SSA-8060-U3) with SSA and that the conditional benefits period can only begin when SSA accepts the agreement.

We also are revising the "SSI SPOTLIGHT ON GETTING SSI WHILE YOU TRY TO SELL EXCESS RESOURCES" in the near future by inserting language emphasizing to the individual that:

- * Conditional benefits cannot begin until you sign a written "conditional benefits agreement" and Social Security accepts the agreement.

- * The agreement is available at your local Social Security office - ask for more information.

Although claimants must be advised of the conditional benefits provisions prior to issuance of a denial notice, in addition any claimants whose applications are denied based upon excess nonliquid resources must receive a notice in the form set forth at POMS SI 01150.210.B.1, which again advises them of their right to

1 sign and submit a conditional benefits agreements. The current
2 automated notice used for denials due to excess resources contains
3 this advice. Make sure you include it in any manual notices you
4 prepare.
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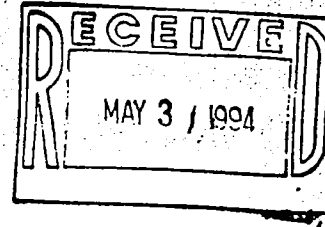
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Refer to:

Office of the General Counsel
Baltimore MD 21235

May 25, 1994



96

Mr. Gary F. Smith
Legal Services of Northern California
619 North Street
Woodland, California 95695

Re: Gretchen Taylor v. Shalala (E.D. CA No. CIV-S-93-0033 GEB
JFM)

Dear Gary:

Attached you will find copies of the notice that was sent to all Social Security field offices and the revised "SSI Spotlight on Getting SSI While You Try to Sell Excess Resources." The "Spotlight" was issued in February. The notice was sent out on May 25. The wording of the notice contains a few changes from that which you have seen previously. These changes are not substantive and were made primarily to attain editorial consistency with the previously-issued "Spotlight." If you have any questions, please feel free to contact me at (410) 965-3169.

Sincerely,

John M. Sacchetti
John M. Sacchetti

Attachments

13/24

Attention: All SSA Offices

97

SUBJECT: Stipulation of Settlement in the Case of
Taylor et al. v. Shalala

As a result of litigation filed in the Eastern District of California, we are issuing this reminder concerning the requirement to explain conditional benefits to all individuals who may be eligible (POMS SI 01150.200ff).

A. POLICY--GENERAL

The conditional benefits provision and its implications must be explained to any individual whose:

- ▶ benefits are about to be denied or suspended due solely to excess nonliquid resources; and
- ▶ liquid resources do not exceed 3 times the monthly Federal benefit rate (FBR).

Conditional benefits should also be explained to any individual whose liquid resources only exceed 3 times the FBR by a small amount or individuals who could benefit from the provision if aware of it including individuals who ask about conditional benefits but have not filed an application.

POMS SI 01150.203B.1. requires that if an individual may be eligible if excess nonliquid resources were disposed of, but declines to take advantage of the conditional benefits provision when explained to him/her, the fact that the explanation was given and the individual's refusal, must be documented in writing and signed by the individual before his/her benefit claim is denied due to excess nonliquid resources.

B. PROCEDURE

When explaining the conditional benefits provision, be sure to explain the requirement to sign a written agreement (FORM SSA-8060-U3) with SSA and that the conditional benefits period can only begin when SSA accepts the agreement.

NOTE: You have received a revised "SSI SPOTLIGHT ON GETTING SSI WHILE YOU TRY TO SELL EXCESS RESOURCES" emphasizing to the individual that:

- Your benefits cannot begin until after you sign a "conditional benefits agreement" and Social Security accepts the agreement.
- The agreement form is available at your local Social Security office - ask for more details.

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C. POLICY--NOTICE

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Although claimants must be advised of the conditional benefits provisions prior to issuance of a denial notice, in addition, any applicants whose applications are denied based upon excess nonliquid resources must receive a notice in the form set forth in POMS SI 01150.210B.1., which again advises them of their right to sign and submit a conditional benefits agreement. The current automated notice used for denials due to excess resources contains this advice.

IMPORTANT--Make sure you include it in any manual notices you prepare.

13/26

SSI SPOTLIGHT ON GETTING SSI WHILE YOU TRY TO SELL EXCESS RESOURCES

99

Can I get SSI if I have excess resources?

To get SSI, your countable resources must not be worth more than \$2,000 for an individual (or \$3,000 for a couple). Can I get SSI if I have more than that?

Yes; you may, but you must sell some of your countable resources. While you try to sell them, you may be able to get SSI.

What kinds of things can I sell?

You can sell the following types of things:

- Real property, such as land or a house that you don't live in; or
- Personal property, such as jewelry or a stamp collection.

How does this work?

- While you are trying to sell real property, you can receive SSI payments for up to 9 months.
- While you are trying to sell personal property, you can receive SSI for up to 3 months.
- And we may pay you even longer.

What do I have to do?

- Your benefits can not begin until after you sign a "conditional benefits agreement" and Social Security accepts the agreement.
- The agreement form is available at your local Social Security office—ask for more details.

What happens after I sell my real and/or personal property?

- You may continue to get SSI payments. See your local Social Security office to find out if your SSI payments will continue after the sale.
- You will also have to pay back any SSI payments up to the value of the excess resource which you received while trying to sell the property.

THIS INFORMATION IS GENERAL; TO FIND OUT IF IT APPLIES TO YOU OR FOR MORE INFORMATION, CONTACT YOUR LOCAL SOCIAL SECURITY OFFICE.

13/27