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ENDORSED:

OCT 31 1990

By D. McINTYRE, Deputy

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO**

WELFARE RECIPIENTS LEAGUE,)
INC., KATHERINE GRAHAM, and)
MARY NORMAN,)

Plaintiffs and petitioners,)

vs.)

LINDA McMAHON, Director,)
California Department of)
Social Services,)

Defendant and respondent.)
_____)

No. 268972

STIPULATION OF SETTLEMENT AND
CONSENT DECREE PURSUANT
THERE TO

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. In this class action plaintiffs seek relief arising from defendants' alleged failure to assure uniformity in the enforcement and implementation of the applicable statutory and regulatory provisions governing Immediate Need Payments to applicants for Aid to Families with Dependent Children (AFDC). Additionally, plaintiffs have challenged the regulatory interpretation of the applicable Immediate Need statute, contending that the Department's regulation illegally denied such payments to applicants otherwise eligible therefor. Plaintiffs allege further injury results from the wrongful denial of Immediate Need in that when an applicant is determined to be in immediate need, the beginning date for the payment of aid will be earlier than it would otherwise be.
2. On February 4, 1982, this court entered a preliminary injunction enjoining enforcement of the challenged regulation and effectively required implementation of the predecessor regulation. This injunction was affirmed by the Court of Appeal, Third Appellate District, on January 29, 1988. Defendants' Petition for Review subsequently was denied by the Supreme Court.
3. The parties wish to settle this litigation including the relief to the class for the period preceding appellate review. The parties recognize that the class is owed substantial yet undetermined retroactive benefits. The parties further wish to minimize the complexity and cost of administering such benefits. The parties also recognize the problems caused by the failure of the current statutes governing Immediate Need Payments to establish priorities for issuing such payment advances. Finally, the parties recognize the problems caused when those applicants who, because they do not qualify for immediate need payments, do not have the beginning date of aid accelerated to the date of application. As a result, such persons may have their benefits begin up to 30 days after the date of their application. This delay

is permissible under federal law and required by current state statute.

4. This consent decree is entered into to settle the above issues. Chapter 1285, Cal. Stats. of 1989 was enacted to resolve such concerns but to be effective only if a settlement was reached in this litigation. The legislation will change the beginning date of aid for all applicants to the earliest day permissible under federal law which is usually the date of application. The bill also limits the payment of immediate need to those in specified situations that are emergencies. The immediate need payment, presently limited by statute to \$100, is doubled to \$200.

5. Pursuant to the provisions of this agreement, the retroactive relief in this lawsuit will be simplified so that each qualifying applicant family will receive a flat \$100 whether otherwise eligible for more or less, except that Katherine Graham, one of the named individual plaintiffs shall receive \$1,092.41 in settlement of her claim. Mary Norman has received relief pursuant to a separate administrative hearing.

I. Class Certification

6. For purposes of this consent decree, a class is certified consisting of all those persons who applied for and were granted AFDC between February 4, 1982 and April 21, 1988 and were wrongfully denied immediate need payments due to the application of EAS Section 40-129.28 and who had their beginning date of aid (for the application or applications at issue) delayed as a result of the wrongful denial.

The class is definite and ascertainable in that the members thereof can be identified from records in the control of defendant. The members of the class are numerous and it is impracticable to bring them all before the court. There is a well-defined community of interest among the members of the class in the questions of law and fact involved. The claims of the representative parties are typical of the claims of the class, and the

representative parties will fairly and adequately protect the interests of the class. Adjudication of the controversy as a class action is necessary to protect the rights of the class. The defendant has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final relief with respect to the class as a whole.

II. Binding Effect of Consent Decree

7. This consent decree shall be binding upon all class members and the Director of DSS, her agents, employees, successors in interest and the counties, county welfare departments, and their employees and agents.

III. Retroactive Benefits

8. All class members who make a claim within the time periods specified herein shall be entitled to a \$100 payment for each approved claim as a liquidated sum, except as provided in paragraph 5. If more than one claim is made for an incorrect denial of an immediate need payment, the first eligible claim returned to the responsible County shall be paid and any subsequent claim denied.

Notice of Retroactive Benefits

9. The defendant shall cause a notice to be mailed to all AFDC recipients on aid during a month to be agree to by the parties. The notice shall advise the addressee that he or she may apply for retroactive benefits if they are class members. The notice shall advise recipients how to file a claim with the responsible county welfare department.

10. The defendant shall also distribute posters, in English and Spanish, containing substantially the same information as the mailed notice, in sufficient numbers to post in each CWD office. The CWD's shall be required to display the posters during the claiming period beginning on a date specified by the defendant which shall be uniform throughout the state. There shall be a short statement on the notice and the poster in four languages (specified

below) advising in substance: "The county may owe you money. You may contact the welfare department for a translation of this notice or call [toll free number]."

11. Defendants shall provide posters to all County Welfare Departments and mail to an additional 300 addresses for which address labels are provided by plaintiffs. The defendant shall provide posters to all locations specified at least 10 days in advance of the deadline for posting by the County Welfare Departments.

12. Defendant shall make available up to \$30,000 for a summary or copy of the notice to be published in the newspapers or other media of plaintiffs' choice. Within 60 days after court approval of this consent decree, plaintiffs' counsel shall identify their choices.

13. The parties shall prepare and defendants shall distribute a joint press release to newspapers and the text of a public service announcement which defendant shall distribute to radio and television and broadcast and cable stations to be aired at the start of the claims period and 10-20 days prior to the end of the claims period.

Claim Forms

14. A uniform claim form shall be developed by the defendant and distributed by the county welfare departments to any person requesting it.

Form of Claim Forms

15. Claim forms shall be available in English, Spanish, Vietnamese, Laotian, Chinese and Cambodian. The claim form shall include a toll free number through which assistance in completing the form and other assistance may be obtained. Telephone assistance shall be available in each language specified above.

16. The claim form may request, but is not limited to, the following information from the filer:

- (1) Social security number,

- (2) the case name(s),
- (3) the case number, if known,
- (4) the county or counties,
- (5) the district office, if known, to which application for AFDC was made,
- (6) the approximate date(s) of the application(s),
- (7) whether the filer claimed he or she had a need for immediate assistance,
- (8) whether AFDC was granted,
- (9) whether immediate need or other assistance was granted,
- (10) the name or names of the dependent children,
- (11) what non-deferrable needs the family had which it could not meet or were not met by the county.

This information shall be provided under penalty of perjury.

17. If there is a record of receipt of AFDC and the county is unable to locate the case file or other documents, a statement certifying under penalty of perjury that AFDC was not received effective the date of application nor was an advance payment received and that any documents concerning the application in the claimant's possession have been provided to the County shall be sufficient proof of the validity of the claim.

Claim Period Time Lines

18. The defendant shall specify a uniform statewide 60 day claim period. Posters shall be prominently displayed throughout the claim period. The posters shall distinctly display the date beyond which claims shall not be accepted. There shall be no extension of the deadline to file a claim.

19. Should counties need additional information from the claimant or the claim form be too incomplete to process, the claimant shall have 30 days from the written county request to provide the additional information. To the extent possible the county shall complete the claim and process payment of the claim without requiring claimants to come in person to the welfare office.

20. Counties shall have 60 days to pay or deny the claim from the date the completed claim is received by the responsible county. In cases in which the claim form is incomplete the county shall request the missing items in writing within 30 days of receipt of the claim.

Responsible County

21. Each county in which the claimant was granted aid shall be responsible for granting or denying claims under Part III of this consent decree. The claimant may deposit the claim form with the local welfare department which shall forward the claim as soon as possible but no later than 30 days after receipt, to the county indicated on the form.

Preservation of Case Files

22. Defendant shall continue to instruct the county welfare departments not to destroy the case file of any person who is or may be a class member entitled to retroactive relief under the terms of this consent decree until all pending claims have been finally processed.

Treatment of Payment

23. Any payment received shall not be considered income in the month received, or resources in the month received or the following month, for purposes of grant calculation and eligibility under AFDC. To the extent permitted by federal law and regulations, the payment shall not be considered income or property in the Food Stamp Program. Payments

due and owing may be offset against outstanding overpayments, and not paid to the claimant, only if the overpayment occurred within three years prior to the date of entry of this Order.

Implementation of Regulations on Retroactive Benefits

24. The defendants shall begin the claims period no later than the first day of the seventh month following the effective date of the emergency regulations implementing Chapter 1285, Cal. Stats. of 1989.

Plaintiffs Review of Documents to Implement Retroactive Payments

25. The regulations, forms, posters and notices developed to implement the retroactive benefits portion of this settlement shall be developed in concert with counsel for plaintiffs. Defendant shall transmit all such documents to plaintiffs' counsel for review and comment as soon as administratively possible. Plaintiffs shall return comments on the documents, within 10 working days from receipt of such documents. In the event that plaintiffs' counsel objects to any such document, the parties shall attempt to resolve their disagreement. If they are unable to do so, plaintiffs may seek further relief from the Court upon five days notice to defendant. In that event, defendant shall not finalize the disputed document pending judicial review. If plaintiffs petition the Court for further relief the timeframes anticipated by this Consent Decree will be suspended. The suspense period may exceed in duration the period of time necessary for the Court to resolve what further relief, if any, the plaintiff shall receive. The parties agree that the timely operation of the retroactive benefits claims process is critical to full relief in this action. In the event of a delay under this paragraph defendants will make all good faith efforts to proceed with the claims process as rapidly as administratively feasible.

IV. Regulations on Prospective Relief

26. Defendants shall adopt emergency regulations implementing this Consent Decree with all due speed. Implementation of prospective rules shall be effective 30 days from the receipt by the Department of Social Services of notice of final court approval of this decree. For those applications for aid pending on the effective date of the emergency regulations, the beginning date of aid shall be the effective date of the regulations or the beginning date of aid under the regulations in effect on the date of application, whichever is earlier. However, the beginning date of aid for such applications shall not precede the date of eligibility.

27. (a) Plaintiffs and defendant agree that a substantial number of families that apply for AFDC face emergency situations of considerable financial urgency that would be diminished by prompt receipt of a partial advance payment of the aid to which they would be entitled when they are finally determined to be eligible for aid. The parties further agree that the basic purpose underlying Chapter 1285 is to establish an administrative and procedural structure to identify which applicants are entitled to such advance payments and to issue payments in the amounts and within the time periods established thereby.

(b) While many of the provisions of the statute grant no discretion to defendant, others do. Many of the specific provisions in the regulations attached as Ex. A constitute the exercise of discretion by defendant to achieve the purposes of the statute. However, it is not possible to determine with certainty if these regulations will best achieve those purposes. Therefore:

(c) Defendant shall adopt emergency regulations to implement the provisions of Chapter 1285 of California Statutes of 1989, and this order, in the form set forth as Exhibit A.

(d) Final regulations shall be adopted in essentially the same substantive form as

those set forth in Ex. A, except for such changes that are justified by a factual demonstration of substantial necessity and such changes that are otherwise required by changes in state or federal law, including federal regulations or other federal policies of general applicability in the United States, whether or not the policy is published in the Federal Register. The parties shall meet and confer regarding any changes made in the final regulations, in accordance with the procedures set forth in subparagraph (f).

(e) During the three year period after the date of the adoption of the regulations set forth in Ex. A as emergency regulations, amendments to the final regulations may be adopted only to improve the ability of defendant to further the purposes of Chapter 1285, supplemented by subparagraph (a) of this paragraph, except that any amendments otherwise required by changes in state or federal law, including federal regulations or other federal policies of general applicability in the United States, whether or not the policy is published in the Federal Register, may be made to conform therewith.

(f) During such three year period: (1) any proposed amendments shall be provided to counsel for plaintiffs no later than 14 days prior to any Departmental conference at which various bureaus are asked to agree that the proposed regulatory change may be finalized for publication; (2) Defendant shall share with counsel for plaintiffs all nonprivileged documents utilized within the Department which set forth the basis of the proposed changes. Defendant shall meet and confer with plaintiffs' counsel regarding such proposed amendments prior to the issuance of the notice of proposed rulemaking pursuant to Government Code §11346.4.

(g) Defendant shall promptly provide counsel for plaintiffs with copies of all correspondence between federal authorities and defendant where such correspondence is referred or responded to, in whole or in part, by the Welfare Policy Branch, or its successor,

directly relating to implementation and administration of Chapter 1285, of the Statutes of 1989.

(h) Notwithstanding subparagraphs (d) and (e), any amendments to immediate need regulations shall adhere to the following principles, for a period of four years following court approval of this consent decree (except for subparagraph (h)(1) and (j) of this paragraph, which shall be applicable without time limitation), except that any amendments otherwise required by changes in state or federal law, including federal regulations or other federal policies of general applicability in the United States, whether or not the policy is published in the Federal Register, may be made to conform therewith:

(1) At application, Defendant shall utilize a procedure which shall include several screening questions designed to elicit initial answers relating to the existence of an emergency situation. If an applicant's answers preliminarily indicate that such an emergency exists, the county welfare department shall initiate an interview to further evaluate eligibility for an immediate need payment without the need for a specific request for such payment by the applicant. At no time during the initial application process shall it be necessary for an applicant to be aware of or specifically request an immediate need payment to have a determination of eligibility for such payment made.

A parallel procedure shall be made available for applicants to request an immediate need payment subsequent to the submission of the initial application.

(2) Defendant's regulations shall not be amended in a manner that provides for less information regarding a referral to another public agency or community resource than that contained in the version set forth in Ex. A (§40-129.615).

(3) A resource shall not be considered to be liquid for purposes of Chapter 1285 of the Statutes of 1989 unless it is readily capable of conversion into cash or the

equivalent in time to meet the emergency situation.

(4) A Notice of Action informing an applicant that an immediate need payment has been denied shall clearly and prominently advise the applicant of the right to reapply for such a payment, and, where such Notice is hand-delivered, a Request for Immediate Need form, or other method, if forms are no longer used for applications, shall also be provided to the applicant.

(5) An emergency situation shall include, but not be limited to, those situations when an applicant's family does not have enough food to sustain the family for three days, or is unable to meet essential transportation needs such as those relating to food, medical care, or job opportunity, or lacks essential clothing such as clothing needed for inclement weather.

(6) A county shall not complete the immediate need section of the application nor the Request for Immediate Need form except at the applicant's specific request.

(7) Immediate need payments initially shall be made available to the applicant in person.

(8) All requests for an immediate need payment received during regular business hours shall be accepted on that date. In no event shall a person applying for aid be denied the right to request immediate need nor be asked to withdraw a request.

(9) When applications are subject to the 15-day period specified in Welfare & Institutions Code §11266(b), payment of aid shall be made as soon as is administratively possible after completion of verification.

(i) Defendant shall adopt a required-substitute permitted form for CWD use to inform applicants in making a choice between an immediate need payment and an expedited eligibility determination. Any substitutions sought by any county shall be governed by MPP

(j) If immediate need is denied because of referral to a community resource, the notice of action denying immediate need shall state this as the reason for denial. Also, the notice of action shall contain a message which instructs the applicant to return to the CWD for further processing of the immediate need request if the need is not met by the community resource, because in such case the applicant will be entitled to an immediate need payment of up to \$200, if still eligible. The notice of action shall be provided to the applicant before the referral is made.

VI. Monitoring and Reporting - Prospective Relief

28. Because one of the basic purposes of this decree is to bring about substantial statewide uniformity in the administration of immediate need, defendant shall collect from all county welfare departments information necessary to monitor activity under the regulations and this Order. Every three months each county shall provide the defendant with statistical information on the following:

- a. the number and percentage of applicants who requested immediate need payments (1) at the time of initial application and (2) while an AFDC application is pending;
- b. the number and percentage of applicants who were granted immediate need payments;
- c. for all cases subject to the 15 working day application processing requirement, the number and percentage of applications authorized (as defined in the Manual of Policies and Procedures §44-317.121) within 15 working days or less.

29. Defendant shall provide this information to counsel for plaintiffs promptly

after it is tabulated and analyzed. The data collection period shall last for 24 consecutive months and shall begin no later than the first of the month of the first regular calendar quarter following the effective date of the regulations governing immediate need promulgated pursuant to Welfare and Institutions Code § 11266 as amended by Chapter 1285 of the Statutes of 1989.

30. After the data for the first three calendar quarters is compiled and analyzed, the parties shall devise criteria for identifying those counties which report receiving applications for immediate need at a rate significantly below the median rate for all counties. The parties also shall devise criteria for identifying those counties in which immediate need applications are granted at significantly lower rates than the median rate for all counties.

31. The parties shall devise additional or different reporting requirements and other monitoring as necessary to assure that any statistical deviations do not result from systemic noncompliance with this Order or with the statute and regulations governing immediate need. A copy of all stipulations affecting monitoring and reporting shall be filed with the Court within 10 days after the stipulation is signed by the parties. In the event of disagreement over monitoring, plaintiffs may request a ruling by the Court.

32. The defendant shall provide plaintiff's counsel or other designee with copies of the statistical information received under paragraph 28 within 90 days after it has been received together with the statewide tabulation and analysis.

33. No later than 60 days prior to the expiration of the two year data collection period, the defendant and plaintiffs' counsel will meet and confer to consider the need for ongoing reporting requirements, including additional information if warranted.

34. The defendant shall designate administrative hearing decisions in which

immediate need is an issue by a specific "issue code" and shall, for thirty months from the effective date of this order, forward copies of all such decisions to plaintiffs' counsel on a quarterly basis.

35. Defendant shall instruct the County Welfare Departments to transmit copies of all directives, training materials, handbooks, memoranda, or other writings provided to County Welfare Department employees or applicants or recipients regarding immediate need benefits to plaintiffs' counsel when published and when amended for the term of the court's jurisdiction in this matter.

36. The defendant will collect data during one of the DSS regular recipient characteristic surveys each calendar year using a question which will identify the characteristics of the number of applicants who apply for and were granted or denied the immediate need payment after the effective date of regulations which implement Chapter 1285 of the statutes of 1989.

37. DSS shall effectuate the statistical information collection, analysis, and monitoring specified in this order and insure county compliance with this Order, the statute and regulations promulgated thereunder, as specified in Ex. B. This shall include on-site reviews as part of the Integrated Review and Improvement Study (IRIS) to monitor compliance with this consent decree for a three year period. All Counties will be reviewed at least once with the Counties designated as "large" by IRIS, but no fewer than the 10 with the largest caseloads, whichever is greater, being reviewed each year.

VII. Retroactive Benefits Reports

38. The defendant shall make two reports concerning the retroactive benefits and ongoing reports of the county implementation of the prospective regulations as required herein.

39. The defendant shall report to the Court and plaintiffs' counsel the number of claim forms received by the counties 90 days after the close of the filing period. A second report shall be filed with the court and provided to plaintiffs' counsel 180 days after the close of the filing period. This report shall state, for each county, the total number of claim forms provided to claimants; the number of claims received; the number of claims denied as untimely; the number of claims denied as incomplete; the number of claims denied because the claimant was not a member of the class; the number of all other denials; and the number of claims granted.

VIII. Continuing Jurisdiction

40. The court shall retain jurisdiction for four years to enforce or amend any provision of this Order and, if necessary, to modify or clarify any of its provisions or defendant's compliance with Chapter 1285 of the Statutes of 1989 upon noticed motion by counsel for either party.

IX. Other Matters

41. All claims raised by plaintiffs in their First Amended Complaint and their Supplemental Complaint which are not specifically addressed here are abandoned.

42. Within five days from the date that the court order approving this stipulation and decree becomes final, plaintiffs will dismiss their complaint with prejudice.

43. Attorneys fees and costs, if any, sought by plaintiffs will be the subject of separate negotiations, and proceedings, if necessary. Dismissal of the complaint will not prejudice any claim for fees, if such is made.

44. Defendant does not admit to any wrongdoing by entering into this stipulation.

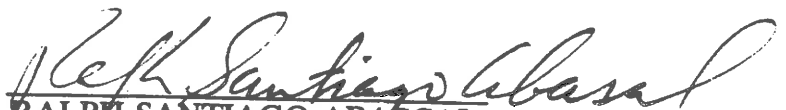
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DATED: 10/11/90


RALPH SANTIAGO ABASCAL
Counsel for Plaintiff Class

DATED: 10/11/90


GRACE A. GALLIGHER
Counsel for Plaintiff Katherine
Graham

DATED: 10 - 01 - 90


JOHN K. VAN DE KAMP, Attorney General
MICHAEL V. HAMMANG, Dep. Atty.
General
Counsel for Linda McMahon,
Director, Department of Social
Services

IT IS SO ORDERED.

DATED: OCT 31 1990

CECILY BOND
JUDGE OF THE SUPERIOR COURT

RECEIVED

OCT 14 1990

CCWRD

Adopt new Section 40-129 to read:

40-129 IMMEDIATE NEED

40-129

(a) Definitions

- (1) "Apparent Eligibility" means that the information provided on the Statement of Facts and information otherwise available to the county indicates that the applicant would be eligible for aid if the information on the Statement of Facts were verified.
- (2) "Applicant" means the person or family making, or on whose behalf is made, a request for AFDC by filing an application.
- (3) An "Emergency Situation" means one or more of the following exist:
 - (A) Lack of Housing - The applicant is homeless as defined in MPP 44-211.511.
 - (B) Pending Eviction - The applicant has received any type of eviction notice, including a three-day notice to pay or quit, evicting the family from its current residence.
 - (C) Lack of Food - The applicant does not have enough food to sustain the family for a period of three calendar days.
 - (D) Utility Shutoff Notice - The applicant has received a notice of termination of utility service or such service has been terminated.
 - (E) Transportation - The applicant is unable to meet essential transportation needs such as those relating to food, medical care, or job opportunity.
 - (F) Clothing - The applicant lacks essential clothing such as diapers or clothing needed for inclement weather.
 - (G) Other - The applicant has other emergencies of similar importance to the family's immediate health and safety.
- (4) "Home" means any location where a family resides.

(5) "Liquid Resources" means exempt and nonexempt items of value belonging to persons who would be included in the assistance unit which are immediately available and reasonably convertible to cash in time to meet the emergency situation.

(a) Liquid resources shall include but are not limited to cash, negotiable securities, and similar resources.

(b) Liquid resources do not include the cash surrender value of insurance policies, trust deeds, household items and furnishings, personal effects, motor vehicles, or real property.

(b) Eligibility for an Immediate Need Payment

(1) Eligibility for an Immediate Need payment exists when the applicant meets all of the following conditions:

(A) Is apparently eligible for AFDC.

1. An alien applicant who does not provide verification of his/her eligible alien status is not apparently eligible.

2. A woman with no eligible children who does not provide medical verification of pregnancy as specified in MPP 44-205.642 is not apparently eligible.

(B) Has an emergency situation, without regard to whether it could have been anticipated, which cannot be addressed by the issuance of food stamps or homeless assistance or by referral to a community resource as specified in MPP 40-129(f).

(C) Has resources that do not exceed the resource limitation as specified in MPP 40-129(b)(2).

(D) Has complied with the following technical conditions for AFDC:

1. At the time these regulations were promulgated, social security enumeration, application for unconditionally available income (including UIB), work registration of the principal earner who is exempt from GAIN due to remoteness and cooperation with the District Attorney in accordance with MPP 43-201.1 were the only technical conditions of eligibility.
2. AFDC and Immediate Need case processing shall continue pending the applicant's verification of his/her completion of any technical condition of eligibility required.

(2) Resource Limitation

- (A) When the emergency situation involves transportation, liquid resources must be less than the cost of the emergency.
- (B) When the emergency situation is a pending eviction, liquid resources together with income must be less than the rent owing.
- (C) For all other emergency situations, liquid resources must be less than \$100.

(3) If eligible, the Immediate Need payment is:

- (A) The amount of the grant to which the applicant family would be entitled for the month of application computed in accordance with MPP 44-315.5 or \$200, whichever is less.

(4) The family shall be eligible for a second Immediate Need payment when:

- (A) A second request is made; and
- (B) The applicant remains apparently eligible; and
- (C) The AFDC check has not yet been issued; and

(D) The family emergency continues or a new emergency has arisen; and

(E) The Immediate Need payment issued in the previous month was approved for an amount less than \$200.

(5) In no event shall the combined amount of the Immediate Need payments exceed \$200.

(c) Immediate Need Payment Requests

(1) A family may request an Immediate Need payment any time during the application process.

(A) The application process begins the date the county receives a completed application and continues until the AFDC application is approved and aid is issued or until the application is denied or withdrawn.

(2) At the time of application, every applicant shall be given the opportunity to request an Immediate Need payment by completing the Immediate Need section of the application.

(A) The county shall encourage applicants who indicate that they are in an emergency situation to complete the Immediate Need section of the application.

(B) If an applicant indicates verbally or in writing that he/she has an emergency situation, after the application has been submitted, the county shall provide the applicant with the Request for Immediate Need Payment (CA 4, 8/90).

(C) The Request for Immediate Need Payment (CA 4, 8/90) shall only be required for applicants who request an Immediate Need payment after the initial application.

(3) The county shall not complete the Immediate Need section of the application or the Request for Immediate Need Payment (CA 4, 8/90), except at the applicant's specific request.

(4) All Immediate Need payment requests received during regular business hours shall be accepted on that date.

(A) In no event shall any person wishing to file a request for an Immediate Need payment be denied the right to do so.

- (B) The county shall not ask an applicant to withdraw an Immediate Need payment request.
- (5) The applicant shall be given a copy of the application or the Request for Immediate Need Payment (CA 4, 8/90) when it is received by the county indicating the date of receipt.
- (d) The Immediate Need Interview
 - (1) If the applicant indicates on the initial application or the Request for Immediate Need Payment (CA 4, 8/90) that the family has an emergency situation as defined in MPP 40-129(a)(3), the county shall conduct an Immediate Need interview no later than the next working day following the date the Immediate Need request is received.

HANDBOOK BEGINS HERE

- (A) When feasible, the county should conduct the interview the same day the Immediate Need payment is requested, but no later than the next working day.

HANDBOOK ENDS HERE

- (B) The face-to-face interview shall be conducted in accordance with MPP 40-131.
- (C) During the Immediate Need interview, the county shall review:
 - (1) The completed Statement of Facts; and
 - (2) The application or, if applicable, the completed Request for Immediate Need Payment (CA 4, 8/90).
- (C) To the extent that it is reasonable for the county to expect the the applicant to do so within the Immediate Need timeframe, the applicant shall provide all documentation necessary to verify the family's eligibility for AFDC.
 - 1. The county shall not deny an Immediate Need payment because the applicant failed to provide verification/documentation of eligibility for AFDC except as required under MPP 40-129(b)(1)(A) or when such verification is in the applicant's possession.

(e) Action On The Immediate Need Payment Request

(1) A determination of eligibility for an Immediate Need payment shall be made no later than the next working day following receipt of the request.

(2) When eligibility to an Immediate Need payment exists:

(A) And eligibility for AFDC is verified within the immediate need time frame specified in MPP 40-129(e)(1), the county shall issue the regular aid payment to which the applicant is eligible in lieu of the Immediate Need payment.

1. The aid payment shall be issued in accordance with MPP 40-129(i).

(B) And eligibility for AFDC is not verified within the Immediate Need time frame, the county shall issue the Immediate Need payment in accordance with MPP 40-129(i) unless the emergency situation is pending eviction and the applicant has requested an expedited determination of eligibility in accordance with MPP 40-129(g).

(C) The county shall notify the applicant in writing in accordance with MPP 20-001.1.

(f) Referral to Community Resources

(1) The county shall have the option to refer the applicant to another public program or private resource to meet an emergency situation other than the need for shelter or food and the request for an Immediate Need payment may be denied, when all of the following conditions are met:

(A) During the application period not more than one referral is made and the referral, when made, is to meet no more than one need.

(B) The county has verified in advance that the specific need will be fully met by the public program or private resource by the end of the working day following the request for an Immediate Need payment. The case record shall be documented to show that the county has verified in advance that such need will be met.

- (C) The family has the mental and physical capabilities to travel to the public program or private resource. Counties will complete the referral with due regard to the situation of the family as a whole.
- (2) The county shall not refer the applicant to the public program or private resource when travel will create another emergency situation.
- (3) When a referral to another public program or private resource is made, the county shall provide the applicant the following information in writing:
1. The name, contact person, address and phone number of the public program or private resource, and
 2. The applicant's specific need that will be met by the referral to the public program or private resource, and
 3. If the other public program or private resource does not meet the applicant's need and the applicant returns within the Immediate Need timeframe and remains eligible for an Immediate Need payment, the payment will be issued no later than the next working day following the date the county received the Immediate Need request.
- (4) When the other public program or private resource does not meet the applicant's need and the applicant returns within the Immediate Need timeframe, the county shall provide the applicant with an Immediate Need payment, providing the applicant remains eligible.
- (5) When the other public program or private resource does not meet the applicant's need and the applicant returns after the Immediate Need timeframe, the county shall provide the applicant with a new Request for Immediate Need Payment (CA 4, 8/90).

(g) Expedited Determination of Eligibility

- (1) If the emergency situation is an eviction, and the applicant is found to be apparently eligible, the applicant shall be permitted to choose in writing either the Immediate Need payment or an expedited determination of AFDC cash aid eligibility when all of the following conditions are met:
 - (A) The applicant is in receipt of a notice of eviction, including a three-day notice to pay or quit; and
 - (B) The applicant has insufficient funds to pay the rent owing; and
 - (C) The applicant is currently residing in his/her home.
- (2) Before the applicant chooses between the two options, the county shall inform the applicant in writing of the information and verification known to be necessary to determine eligibility for aid.
- (3) The applicant's decision shall be documented in writing and retained in the case record.
- (4) The expedited eligibility determination shall be completed within three working days from the date of the Immediate Need payment request.
- (5) The county shall issue the Immediate Need payment no later than the third working day if the eligibility determination cannot be completed.

(h) Denial of the Immediate Need Payment Request

- (1) When eligibility for an Immediate Need payment does not exist:
 - (A) The Immediate Need payment request shall be denied and the applicant notified in writing in accordance with MPP 20-001.1. Where notification is hand-delivered, the Request for Immediate Need Payment shall also be given to the applicant.
 - (B) The AFDC eligibility determination process shall continue unless the family fails to meet financial eligibility or deprivation standards, in which case the AFDC application and the request for an Immediate Need payment may be denied concurrently.

- (C) A denial of an Immediate Need payment request shall not constitute a basis for denial of the application for aid.
- (2) The county shall deny the Immediate Need request in the following situations:
 - (A) The applicant is eligible for Immediate Need based on the need for food as defined in MPP 40-129(a)(3)(C) and the need for food has been met through the issuance of food stamps within one working day from the date of the Immediate Need request.

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1. In order for the request for an Immediate Need payment to be denied based on the issuance of food stamps to meet a food need, the applicant must be able to use the food stamps to feed the applicant and the applicant's family.
2. For example, a family is living in a hotel which prohibits the family from bringing food into the room. In this situation, the food stamps will not meet the family's need for food unless the food stamps can be used to purchase prepared meals at a location reasonably accessible to the hotel. If such prepared meals are not available, the request for an Immediate Need payment cannot be denied based on the issuance of food stamps.

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- (B) The applicant is eligible for an Immediate Need payment based on homelessness as defined in MPP 44-211.511 and a homeless assistance payment has been issued within one working day of the Immediate Need request.
- (C) The applicant is not apparently eligible in accordance with MPP 40-129(b)(1)(A).
- (D) The county has concluded, based upon all available information, that the applicant does not have an emergency situation.
- (E) The applicant is eligible for an Immediate Need payment based on an eviction as specified in MPP 40-129(a)(3)(B) and the applicant chooses an expedited eligibility determination for aid.

- (F) The need has been met through a referral to a community resource made in accordance with MPP 40-129(f).
- (G) The applicant is currently receiving AFDC or Refugee Cash Assistance.
- (H) The Immediate Need request was made by an individual being added to an existing assistance unit.
- (I) The Immediate Need request was made on behalf of a child placed in foster care.
- (J) The entire assistance unit is currently being sanctioned.
- (K) The county is unable to establish the applicant's eligibility in the following circumstances:
 - 1. The applicant fails or refuses to cooperate as specified in MPP 40-129(b)(1)(D) and 40-129(d)(1)(C).
 - 2. The applicant fails to keep the scheduled face-to-face interview.

(i) Payment Issuance

- (1) If AFDC eligibility has not been verified, the county shall issue the Immediate Need payment as follows:
 - (A) If the office where the Immediate Need payment request is received has in-house payment issuance capabilities for AFDC FG and U, then the immediate need payment shall be hand-delivered to the applicant in that office.
 - (B) If the office where the Immediate Need Payment request is received does not have in-house payment issuance capabilities, the applicant shall be given the choice of having the Immediate Need payment hand-delivered either at another specified location or to the applicant at the office where the application was filed.
 - (1) Hand-delivered at another specified location no later than the day following the date the request for Immediate Need is received by the county; or

- (2) Hand-delivered to the applicant at the office where the application was filed no later than the third working day following the day the county received the Immediate Need request.
- (3) When the applicant fails to pick up the payment, the county shall deposit it in the mail no later than the end of the next working day.
- (4) The applicant's choice of payment method shall be documented in the case record.

(j) Completion of the AFDC Eligibility Determination Process

- (1) When an Immediate Need payment has been issued, the county shall verify the applicant's eligibility for aid within 15 working days from the date of receipt of the Immediate Need payment request.
 - (A) The 15-working-day time frame shall apply to an Immediate Need request that was denied because the need was met by another public program or private resource.
 - (B) The 15-working-day time frame shall apply to an Immediate Need payment request that was denied because the emergency situation was a lack of housing and the need was met by the issuance of a homeless assistance payment.
 - (C) When the 15-working-day time frame cannot be met, the eligibility verification process continues.
- (2) If verification of eligibility is completed, and the applicant determined eligible, the county shall compute the aid payment in accordance with the beginning date of aid rules at MPP 44-317.13.
- (3) The amount of aid payment shall be the grant amount less any immediate need payment the county issued for that month.
- (4) The county shall issue the payment as soon as administratively possible.
- (5) When an Immediate Need payment has been issued, and the applicant family is determined to be ineligible for AFDC benefits, the application shall be denied.

When the applicant is found eligible, the following are beginning dates of aid:

.1 Basic Date of Aid Determination

.11 The beginning date of aid shall not precede the date of application. Aid shall begin on the date of application, or the date on which the applicant meets all conditions of eligibility, whichever is later.

.111 "The date of application" means the date on which the county receives a signed and dated application.

.112 "The date on which the applicant meets all eligibility conditions" means the date all linking and nonlinking factors of eligibility are met (see Section 40-107.3), even though verification or documentation of the eligibility condition is received at a later date. Technical conditions of eligibility as specified in MPP 40-129(b)(1)(D)(1) met at a later date are considered to be met on the date of application as long as it is completed by the date of authorization.

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(a) At the time these regulations were promulgated, social security enumeration, application for unconditionally available income (including UIB), work registration of the principal earner who is exempt from GAIN due to remoteness and cooperation with the District Attorney in accordance with MPP 43-201.1 were the only technical conditions of eligibility. If any new technical conditions of eligibility are established, this handbook section will be amended.

(b) Example: A family applies for AFDC on April 3. The county schedules the face-to-face interview on April 10. At that time the CWD determines that on April 3 the applicant had \$1200 in a bank account, but on April 6 the bank account was down to \$900. The beginning date of aid for this

family is April 6, since it was on that date that the family met the eligibility requirement for the AFDC Program.

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.113 The beginning date of aid for each member of the AU may vary.

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Example: A family applies for aid on September 1. The family consists of mother, her two children, her husband and their common child. The husband is the principal earner but does not have a connection to the labor force. He and their common child received three months of State-only AFDC-U within the last 12 months and will not be eligible to be aided again until September 16. All eligibility conditions were met as of the date of application. The beginning date of aid will be September 1 for mother and her two children and the husband and their common child will be added to the AU on September 16.

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.2 Aid Begins on a Specific Date

.21 For a pregnant woman with no other eligible children, the beginning date of aid shall be the date of application, providing the pregnant woman is eligible on that date.

.22 When the mother of a newborn is being aided as a pregnant woman under MPP 44-205.26 or is receiving a pregnancy special need payment under MPP 44-211.4 in the month of birth;

.221 aid for the otherwise eligible newborn begins on the date of birth, or the date all conditions of eligibility are met, whichever is later, even though verification or documentation of the conditions of eligibility is received at a later date; and

.222 aid for the otherwise eligible father begins on the date of the newborn's birth when he is living with the assistance unit on that date or the date the father meets all conditions of eligibility, whichever is later, even though verification or documentation of the conditions of eligibility is received at a later date.

.3 SAME

.4 SAME

.5 SAME

.6

.61 Transfer from Medically Needy to AFDC Cash Grant
Recipient

.611 The cash grant shall be paid from the date
all eligibility conditions are met.

.62 Transfers between AFDC (FG or U) and AFDC-FC

.621 SAME

.622 SAME

.63 (EA - Deleted)

.7 SAME

.8 Previously Denied Application is Approved

Aid shall be paid from the date it would have been paid in
accordance with the beginning date of aid regulations in
effect at the time the application was denied.

.9 SAME

.10 SAME

TECHNICAL CHANGES

41-440.23 - The principal earner, whether included or excluded from the assistance unit, shall be work registered in accordance with Section 42-625. Those federally eligible principal earners who are exempt from registration only because of remoteness (Section 42-630.6) shall be registered with EDD-JS unless exempt in accordance with Section 42-630. This requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. Those federally eligible principal earners who are exempt under any other exemption criterion in Section 42-630 do not have a work registration requirement.

41-440.24 - The AFDC-U principal earner, who is apparently eligible for UIB (see Section 44-103.115(a)), shall apply for and accept any unemployment insurance benefits (UIB) to which he/she is entitled, when referred to EDD by the county welfare department. When the principal earner does not meet this requirement, Federal AFDC-U deprivation does not exist for the family (see Section 44-206.25). This requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. See Section 44-103 for the requirements for pursuing UIB as potential income for principal earners who are not exempt from WIN registration.

44-103.212 - ...For taking all actions necessary to obtain unconditionally available income. For AFDC applicants, this requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid.

44-103.241 - ...Shall apply for and accept any UIB for which EDD determines he/she is eligible. For AFDC applicants, this requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. Any AFDC applicant or recipient who does not apply for or accept UIB for which he/she is eligible shall not be eligible for AFDC (also see Section 44-103.115), and...

EXHIBIT B
INTEGRATED REVIEW AND IMPROVEMENT STUDY
(IRIS)

The following task descriptions describe the IRIS review process for evaluating the immediate need process and activities at the county level for compliance with Chapter 1285 and this Order.

TASK DESCRIPTIONS

1. **Develop Review Module**--The review instrument will be based on the IRIS module concept. It will include comprehensive instructions on the scope of the methodology of the review. It will specify minimum review requirements including the number of cases reviewed, the scope of the systems evaluation and report items requiring validation. A case review instrument will be developed to capture/document mandated elements. Copies of the review module and the schedule for IRIS reviews will be provided to plaintiffs' counsel.
2. **Training** -- Each analyst will be briefed on the history of the Immediate Need issue and the methodology developed for the on-site review.
3. **Pre-field Preparation** -- Prior to each on-site review, the county's statistical reports required under paragraph 28 of this consent decree for the most current six months will be reviewed to determine Immediate Need activity. In addition, a random case sample list will be compiled and used for the case review.
4. **Case Review** -- The case review will focus on the Immediate Need eligibility determination and the number of days required to issue the Immediate Need. A standardized case review instrument will be used and results will be analyzed and used to focus the systems review.

5. Systems Review -- The systems review will encompass all aspects of Immediate Need including, but not limited to: (a) communicating Immediate Need availability to applicants; (b) identifying applicants in need of Immediate Need; and (c) issuing benefits within the prescribed time limits. The methodology will include a review of county written procedures, interviews with county staff and observation of county operations.
6. Report Validation -- The mechanism used by the county to collect, compile and report Immediate Need data will be reviewed and evaluated for consistency and accuracy.
7. Report Preparation -- The write-up will cover all mandated elements and identify those not in compliance and will be included in the county IRIS report in a separate section. A draft will be provided to all relevant DSS Bureaus and the county for input and concurrence. The final report will be issued within the normal IRIS report time frames. A copy of the final report will be provided to plaintiffs' counsel.
8. Corrective Action Plan Review -- This activity includes a review of written county corrective action plans. The proposed methodology and time frames will be evaluated and feedback will be provided to the county to facilitate plan approval. Corrective action plans and all related correspondence will be provided to plaintiffs' counsel at the completion of the review.
9. Pre-field Preparation for On-Site Corrective Action Plan Implementation Review -- Prior to the corrective action plan monitoring, the county's latest statistical reports required under paragraph 28 of this consent decree will be evaluated for changes. The county corrective action plan will be reviewed and used in planning the monitoring review.

10. Corrective Action Case Review -- The case review will focus on the Immediate Need eligibility determination, as specified in ¶5 above, and the number of days required to issue the Immediate Need payment. A standardized case review instrument will be used and the results will be analyzed and compared with the pre-corrective action case review results to evaluate any changes effected by the county's corrective action.

11. Corrective Action Systems Review -- The systems review will focus on the areas identified as deficient in the prior on-site review. The methodology will include a review of county written procedures, interviews with county staff and observation of county operations.

12. Post-Corrective Action Report Validation -- The mechanism used by the county to collect, compile and report Immediate Need data will be reviewed and evaluated if this was identified as a problem in the pre-corrective action review.

13. Corrective Action Monitoring Report Preparation -- The report will include all elements identified as deficient in the pre-corrective action review, the steps taken to correct the deficiencies and any additional action still needed. Copies will be provided to plaintiffs counsel.