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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-31

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: September 24, 1993

SUBJECT: Filing Unit: Social Security Benefits Received by Children
 and Their Parents

SUGGESTED
 DISTRIBUTION:

Public Assistance Staff
 Medical Assistance Staff
 Food Stamps Staff
 Staff Development Coordinators

CONTACT
 PERSON:

1-800-342-3715
 Income Support: Dottie O'Brien, extension 4-6853
 Medical Assistance: County Representative,
 extension 3-7581
 Food Stamps: County Representatives,
 extension 4-9225

ATTACHMENTS:

Attachment 1: Notice 1 - available on-line
 Attachment 2: Notice 2 - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
83 ADM-7	83 ADM-7	352-30	131-a	PASB	GIS 92
82 ADM-6				XII-E-3.1	IM/DC 035
93 INF-26				through XII-E-10.2	93 LCM-4
				FSSB	
				V-A	

I. Purpose

The purpose of this directive is; (1) to cancel 83 ADM-7, "Jackson v. Blum: Budgeting RSDI Received by Persons Living With Public Assistance Applicants/Recipients" and; (2) to state policy related to RSDI recipients who are required to be members of an Aid to Dependent Children (ADC) filing unit. RSDI means Social Security Retirement, Survivors, or Disability benefits. The term does not include SSI benefits.

II. Background

In 1983, a federal court, in a case entitled Jackson v. Blum, ordered special guidelines for budgeting households with members who were RSDI recipients. The court order permitted RSDI recipients to be excluded from the ADC household when such treatment produced a higher level of benefits. The Jackson injunction pre-dated federal filing unit regulations. The Jackson injunction prevented us from implementing the filing unit regulations for that group.

In GIS Message 92 IM/DC035, social services districts were informed that the injunction in the action, now referred to as Jackson v. Perales, was terminated.

Lists of cases that may have non-applying household members who would be required to apply because of this change were transmitted to social services districts with 93 LCM-4.

Included in 92 IM/DC 035 and in 93 LCM-4 were notices to effected households that, as part of the Jackson Stipulation, had to be given to effected households before any negative action based on this policy change could be taken.

III. Program Implications

Public assistance staff must identify cases where a person, who is otherwise required to be a filing unit member, is excluded because the person is an RSDI recipient.

Families with individuals who would otherwise be required to be filing unit members no longer can choose to exclude an individual because the individual receives RSDI benefits. This will result in lower public assistance grants for most effected cases. Some cases may become ineligible for public assistance.

IV. Required Action

A. Public Assistance

Children who are under age eighteen, who reside with and are blood related or adoptive siblings of an applying minor dependent child applying for or receiving ADC, must also apply for ADC and must be included in the filing unit regardless of whether they receive RSDI. The parent(s) of the RSDI recipient children must also apply.

The effected applicant and recipient households that come into the agency must be given Notice 1 (Attachment 1). Effected recipient households that are to be called into the agency to determine if a non-applying household member who receives RSDI benefits must apply must be sent Notice 2 (Attachment 2) along with their call-in letter.

Since no negative action may be taken against recipients effected by this policy until they have received the notice described in the above paragraph, no overpayments may be calculated relative to this policy for any period before notice was given.

Once it is established who must be included in the filing unit, then the needs, income (including lump sum payments) and resources of all filing unit members are considered to determine eligibility and degree of need.

The following examples will help to illustrate this policy.

1. RSDI and SSI Received

Mrs. Kane and Erin, her daughter by a previous marriage, receive ADC. Also living in the household are Mr. Donne and his 17 year old son, Jack Donne. Mrs. Kane is Jack's mother.

Mr. Donne and Jack have not been included in the filing unit since October, 1991 when their Social Security benefits started as a result of Mr. Donne's disability claim. In addition to Social Security, Mr. Donne receives a small amount of SSI.

The public assistance worker sent Mrs. Kane a letter to request that the family come into the agency. They also received Notice 2 as required. The worker found that in addition to Mrs. Kane and Erin, Jack must be included in the filing unit. Mr. Donne is not included in the filing unit since he receives SSI.

Persons who receive SSI have been and continue to be exempt from filing unit requirements.

Jack's Social Security income is counted against the public assistance needs for three.

2. Applicant Household

Mr. Rooney is applying for public assistance for himself and his son, Andy. Also in the household is Annie, his 15 year old daughter by a previous relationship.

Mr. Rooney does not want to apply for assistance for Annie because she receives Social Security Survivor's benefits. He believes that Social Security Administration rules prevent him from having Annie's money used for anyone else in the family.

The worker gives Mr. Rooney the required Notice 1 which explains that the Court and the Social Security Administration have ruled that it is proper for the RSDI recipient to be included in the filing unit and to have the RSDI benefit counted against the needs of the unit.

3. Non-Filing Unit Case

a. Mr. Stangle is applying for public assistance for himself only. Also in the household is his 14 year old son, Kevin who receives Social Security Survivor's Benefit. Mr. Stangle can apply for himself alone. Since there is no applying minor dependent child, there is no filing unit and Kevin is not required to apply.

b. Mrs. Owen receives public assistance for herself and her 5 year old nephew, Billy. Also in the household is Mrs. Owen's son, John. John receives Social Security Survivor's Benefits and is not on the public assistance case. At recertification, the worker reviewed the case and determined that John is not required to apply.

Billy is John's cousin. Because no sibling, half-sibling or adoptive sibling of John is applying for ADC, there is no filing unit and John is not required to apply.

4. Lump Sum Cases

Casey Bing lives with her mother and her half-sister. The family receives ADC. Casey has been determined eligible for Social Security Survivor's Benefits and a lump sum

retroactive benefit check was received this month. Casey's mother came into the agency to show the worker the check and to request that Casey be removed from the Public Assistance case. The worker gave Ms. Bing Notice 1 and explained that the lump sum payment had to be considered against the needs of the filing unit.

Families no longer have the option of deleting the lump sum RSDI recipient from the case and having the lump sum applied only to that individual.

Ms. Bing decided that she did not want her case closed, so she turned the RSDI lump sum over to the agency as repayment of past assistance. The Bing family remained eligible. Casey's ongoing RSDI benefit was budgeted against the family's needs.

B. Food Stamps

Food stamp household composition rules are unchanged. See the Food Stamp Source Book (FSSB), Section V-A.

C. Medical Assistance

For PA cases determined to be ineligible after adding a previously excluded individual with RSDI income to the filing unit, a separate determination must be done for MA.

In determining MA eligibility, RSDI income of legally responsible relatives must be budgeted. However, if a child under age 21 has RSDI income, the legally responsible relatives have the option of choosing not to apply for the child with RSDI income in accordance with Mehler v. Blum (see 82 ADM-6).

V. ADDITIONAL INFORMATION

The 9/92 version of the DSS-4148B, "What You Should Know About Social Services Programs" contains the required information from Notice 1 and Notice 2. Any applicant/recipient who has been provided with that version of the DSS-4148B does not also have to receive Notice 1 or Notice 2.

VI. EFFECTIVE DATE

The effective date of this directive is September 1, 1993 retroactive to August 13, 1992, the date of GIS message 92 IM/DC035.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

Notice 1

Dear Public Assistance Recipient:

This notice is on behalf of this agency and the Social Security Administration. Please read this notice carefully.

Changes in the law, and a court decision, may change the amount of public assistance benefits that you get. We are notifying you because someone in your household is getting Social Security benefits and is not on public assistance. Your public assistance amount will change if the person getting Social Security is:

- o Under the age of 18 and is the brother or sister of a child under 18 getting public assistance; or
- o The parent of a child receiving public assistance.

This person must now be part of your public assistance case. We will count the Social Security benefits as income for public assistance. In the past, these Social Security benefits were not counted as income.

We are doing this because the United States District Court lifted the injunction in Lashieka Jackson v. Perales. The court took this action after Congress and the Social Security Administration said that in addition to your spending the child's Social Security benefit for that child's needs, it is also permissible for you to spend the Social Security benefit on that child's parents, brothers or sisters if they are receiving AFDC benefits within that filing unit.

What this means is that Social Security benefits will be considered as income to the filing unit and can be used for basic household expense items such as food and shelter, in addition to providing for the child's immediate needs.

If you have any questions, please ask your worker.

IMPORTANT! YOU MUST RESPOND TO THIS NOTICE OR YOUR CASE MAY BE CLOSED

Dear Public Assistance Recipient:

This notice is being sent to you by us and on behalf of the Social Security Administration. Please read this notice carefully.

Changes in the law, and a court decision, may change the amount of public assistance benefits that you get. You must contact your worker by (date) to see if the changes in law apply to your family. If you do not contact your worker by this date, your case may be closed.

We are writing to you because someone in your household is getting Social Security benefits and is not on public assistance. Your public assistance amount will change if the person getting Social Security is:

- o Under the age of 18 and is the brother or sister of a child under 18 getting public assistance; or
- o The parent of a child receiving public assistance.

This person must now be part of your public assistance case. We will count the Social Security benefits as income for public assistance. In the past, these Social Security benefits were not counted as income.

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What this means is that Social Security benefits will be considered as income to the filing unit and can be used for basic household expense items such as food and shelter, in addition to providing for the child's immediate needs.

To find out what change will be made in your family's grant, you must meet with your worker.

The time and the date are on the attached letter. If you do not come in, your case may be closed.

If you have any questions, please call your worker.