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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

CIVIL ACTION NO.
94-30278-MAP

_____))
HENRY HUNTER,))

Plaintiff,))
1)

V.))
1)

JOSEPH GALLANT, in his))
capacity as Commissioner of))
the DEPARTMENT OF PUBLIC))
WELFARE,))
1)

Defendant,))
1)

V.))
1)

DONNA SHALALA, in her))
capacity as Secretary of))
the United States DEPARTMENT))
OF HEALTH AND HUMAN SERVICES,))
1)

Third Party Defendant.))
1)

SEIIRILEMENT AGREEMENT

The parties have reached an agreement in this matter. Therefore, on the condition that the Court so approves and orders, the parties hereby agree to the following:

1. The parties recognize that by letter dated December 12, 1994, the third party defendant, the Secretary of the United States Department of Health and Human Services (hereinafter "HHS"), issued a clarification of the federal interpretation of 42 U.S.C. 5 609 as it applies to the pending ~~Hunter, Hemmings~~ and Stackow cases, (which address the issue of AFDC eligibility of caretaker relatives whose only child(ren) is temporarily in foster care). In that letter, HHS has clarified that under 42

* . t *

U.S.C. 5 609, a caretaker relative who continues to meet all other eligibility requirements is eligible to receive AFDC benefits for his or her own needs even though the only dependent child(ren) is temporarily out of the home and receiving foster care maintenance payments so long as the relative continues to exercise care and control of the child in accord with 45 C.F.R. § 233.90 and state regulations governing temporary absence and the child is not providing categorical AFDC eligibility for another household at the same time. A copy of the letter is attached as Exhibit A and incorporated herein by reference.

2. The parties recognize that the defendant, Joseph Gallant, as Commissioner of the Department of Transitional Assistance (formerly the Department of Public Welfare, hereinafter 1'DTA^tI) has promulgated an amendment to the regulations at 106 C.M.R. 5 304.305, which became effective on August 1, 1995. This new--regulation reflects the clarification of 42 U.S.C. § 609 as communicated to the DTA in the December 12, 1994, letter from the HHS. Pursuant to that regulatory amendment, caretaker relatives who continue to meet all other AFDC eligibility requirements remain eligible for an AFDC grant for themselves even though their only dependent child(ren) is temporarily absent from the home and receiving foster care payments, so long as the caretaker relative continues to exercise care and control over the child(ren) in accordance with 106 C.M.R. § 303.230(A)(2) and the child is not providing categorical AFDC eligibility for another household at the same time. This

regulatory amendment is codified at 106 C.M.R.

§§ 304.305(E) (2)(b) and 204.305(E) (2) (b). A copy of this regulation is attached as Exhibit B and incorporated herein by reference.

3. The DTA has issued a state letter to its workers in all local offices advising them of this regulatory change.

4. The Court shall retain jurisdiction over this case until eighteen months from the date this Court accepts this agreement. The Court hereby stays all litigation in this case until that date, unless it is revived by the plaintiffs as set forth in y 10 below. No party may move the Court for further relief in this case, or otherwise request a lifting of the stay, except as outlined in 1 10 below. Nothing in this order constitutes a present adjudication that the procedures for retroactive relief as outlined herein and/or the regulation as amended at 106 C.M.R §§ 394.305(E) (2) (b) and 204.305(E) (2) (b) would, if litigated, be legally required. Plaintiffs' sole remedy during the pendency of this action in the event they do not agree that the retroactive procedures and/or the amended regulation is being properly implemented shall be to revive and resume the prosecution of this action as specified in 1 10 below. In the event the action is revived, the case shall be brought forward on an expedited basis, pursuant to a scheduling order to be established by the Court. Eighteen months from the date this Court accepts the agreement, the Court shall order dismissal of all remaining claims unless, as of that date, there is a motion

pending before the Court pursuant to fl 10 herein.

[5. omit]

6. This action shall cover a class of individuals as follows:

all caretaker relatives who between March 1, 1993, and July 31, 1995, had their AFDC benefits terminated based on the fact that their only dependent child or children were temporarily absent from the home and receiving foster care maintenance payments.

7. DTA agrees to the identification, notification and reimbursement procedures as detailed in subparagraphs (a) through (f) of this paragraph with respect to those members of the plaintiff class defined in paragraph 6, as follows:

(a) On or before August 15, 1995, DTA will run a computer search of its records of all AFDC cases terminated between March 1, 1993, and July 31, 1995, for the following action reasons: #36-"child or children in foster care", #47-"no eligible child in the home" and #43-"your childtren) are temporarily in the custody of DSS or another social service organization and you do not exercise care and control".

(b) On or before August 28, 1995, DTA will provide to the Department of Social Services (hereinafter ^{8t}DSS^{tf}) the list of all dependent children whose cases were identified in the computer search described in paragraph 7(a) so that DSS can conduct a cross-match of this list with its own computer records of children on whose behalf foster care payments were made during the period from March 1, 1993, to July 31, 1995. On or before August 28, 1995, counsel for DTA will send a letter of

confirmation to DSS with a copy to plaintiffs' counsel, outlining the scope, and start date and anticipated date for completion of the cross-match. Counsel for DTA will notify plaintiffs' counsel of any anticipated or actual delays in completion of the DSS cross-match beyond September 15, 1995, and will notify counsel when it receives the results of the DSS computer cross-match.

(c) No later than thirty (30) days from the date that the Court approves this agreement, or fifteen (15) days following DTA receiving the results of the computer cross-match from DSS, or October 6, 1995, whichever is later, DTA shall send a Notice, in both English and Spanish, substantially similar to that attached hereto as Exhibit C, to all members of the plaintiff class (hereinafter "class member"), identified pursuant to the procedures outlined in sub-paragraphs 7(a) and (b); this mailing shall be referred to as the "original mailing." For each class member so identified, the DTA will send the Notice to the most current address it has in its computer file. DTA shall mail all Notices identified in this paragraph in an envelope marked "please forward". If a Notice is returned with an address correction, DTA shall, within five working days, remail the envelope using the address correction provided. If a Notice is returned as undeliverable, the DTA will have no further obligation to attempt to notify the class member, but will provide plaintiffs' counsel with the name of the class member and his or her last known address. Within 15 days after the date of the original mailing, the DTA will provide to plaintiffs' counsel

this initial list of class members whose mail is undeliverable. Within 21 days after the date of the original mailing, DTA will provide counsel a list of additional class members whose Notices are undeliverable. Thereafter, the DTA will provide to plaintiffs' counsel, within five working days of the DTA receiving the envelopes back from the U.S. Postal Service, a list of any remaining class members whose Notices are undeliverable. Class counsel for the plaintiffs shall receive this information in her fiduciary capacity as attorney for the class members whose Notices are returned as undeliverable and shall not disseminate or otherwise use it except as necessary to attempt to locate those class members. The parties agree that the Notice attached as exhibit IIC¹ is meant to inform potential class members of the procedure by which they can have eligibility reviewed and is not intended to confer any legal rights upon the potential class members nor to be binding on the Department.

(d) DTA will post Notices substantially in the form of the attached Exhibit D, in both English and Spanish, in each local welfare office, advising recipients that they may be entitled to corrective AFDC payments if their only child(ren) was temporarily in foster care and of the procedures for obtaining the corrective benefits. The posters shall be posted no later than the date of the original mailing and shall be posted for forty five days from the date of the original mailing. At least one week before the original mailing is to occur, DTA will provide plaintiffs' counsel with 25 copies of the poster in

English and 25 copies of the poster in Spanish.

(e) To be eligible for a retroactive payment of AFDC benefits, the class member must either return the form at the bottom of the Notice as set forth in Exhibit C or otherwise make a written request for a retroactive payment. In either case, the DTA must receive the form or written request for a retroactive payment no later than forty five (45) days from the date of the original mailing. Those individuals responding to the posters in the local welfare offices as described in sub-paragraph 7(d) shall have 45 days from the date of the original mailing to apply for retroactive benefits on a form made available at the local welfare office. The amount of the retroactive payment shall be the amount of the AFDC benefits due to him or her for the period of time his or her only child(ren) was temporarily absent from the home and receiving foster care benefits and during which time the class member exercised care and control of the child(ren) in accordance with 106 C.M.R. 5 303.230 (A)(2) and was otherwise eligible for AFDC benefits so long as the child was not providing categorical AFDC eligibility for another household. If the DTA denies retroactive benefits to a class member in whole or in part, the class member shall have the right to both an administrative fair hearing under the DTA's fair hearing regulations set forth at 106 C.M.R. §§ 343.410 et seq. and subsequent judicial review pursuant to G.L. c. 30A. In the event the DTA denies retroactive benefits, in whole or in part, it shall notify the class member on a form substantially similar to

the one attached hereto as exhibit "E1".

(f) The DTA agrees to make a determination as to whether to approve or deny in whole or in part each class member's claim within 60 days of the expiration of the time period for returning forms pursuant to sub-paragraph (e).

(53) After the DTA has either approved or denied claims submitted by class members and the appeal limits have expired for requesting a fair hearing, the DTA agrees to pay the amount owed or proportionate share thereof, as described in paragraph 9 below, to each class member who has been approved, and who is not appealing the DTA's determination. For the purposes of calculating the proportionate distribution, the parties agree that it shall be assumed that any party appealing the denial or the amount of a retroactive refund will prevail either at the administrative level or in court, but said appealing party will be paid only, if he or she--in fact prevails. If after all of the appealing parties have exhausted their administrative and judicial remedies, there are appealing parties who have not prevailed, the amount reserved for said individuals shall be divided proportionately among those class members who have already been reimbursed, but were not paid in full. In no event shall any class member receive benefits in an amount greater than the amount of AFDC benefits that said class member would have received had the regulation in question been interpreted consistently with the December 12, 1994, HHS letter between March 1, 1993, and July 31, 1995. If such individuals cannot be

ated within a reasonable time, said amount shall revert to the JTA.

8. The defendant DTA shall provide the following information to the plaintiffs' counsel on the dates indicated regarding its implementation of the provisions of 1 7 above:

(a) within ten business days after the expiration of the response period described in (7(e), the number of notices re-sent by the DTA to a forwarding address;

(b) within ten business days after the expiration of the response period described in 1 7(e), the number of persons who filed a claim for retroactive.benefits;

(c) within ten business days after the expiration of the period described in 1 7(f), the number of requests for retroactive benefits that it approved in full, approved in part, denied in full, and the number of fair hearings requested;

(d) within ten business days after the period described in 1 7(g), the distributions made to class members pursuant to that provision; and

(e) in the event that the total, potential retroactive benefits exceed the cap of \$600,000.00 then within ten business days of receipt of the decision, the results of any fair hearing or judicial review.

9. The parties have agreed to the establishment of a monetary cap in the amount of \$600,000.00. If class members establish claims in excess of that amount, each class member shall have his or her retroactive payment reduced proportionately

to his or her claim.

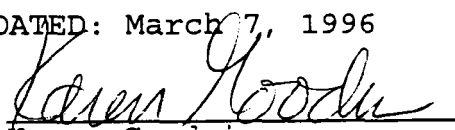
10. Individual claims of a breach of the terms of this agreement are to be addressed, if at all, through the state administrative and judicial procedures as outlined in 17(e) herein. In the event that a class member or class members believe that there is a systemic or widespread breach of this agreement, he or she, or his or her attorney, must first notify the DTA in writing of the alleged breach, and the basis for believing the breach is systemic or widespread, and the relief sought. In the event that the DTA does not cure the alleged breach to the satisfaction of the class member or class members within 30 days of receipt of said written notification, such class member or class members may then, and only then, apply to the Court for revival and resumption of the prosecution of this action in accordance with the time limitations delineated in (4. In such a case, the Court .-will set a reasonable, abbreviated briefing schedule in order to make a threshold determination of whether the alleged breach is "systemic or widespread." If the Court so finds, it will allow revival of the action. If not, the Court will not permit revival of the action. In the event the Court permits revival of the action because the alleged breach is systemic or widespread, it shall order the DTA to comply with the terms and conditions of this agreement until the Court rules on 1 the merits. Plaintiffs may not seek an Order of Contempt. In the event the plaintiffs revive this action under the terms of this paragraph and 14, all parties may make all arguments either

now or then available to it.


11. The defendant HHS agrees that it will provide federal financial participation to the DTA in amounts paid as retroactive benefits to class members as provided in 1 7 and amounts paid by the DTA as attorney fees and costs pursuant to 7 12, provided that the DTA meets all other requirements for federal financial participation in accordance with applicable statutes and regulations.

12. The parties agree that the plaintiffs are prevailing parties entitled to costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988. The fees are to be paid by the DTA to the plaintiffs' counsel. The DTA shall seek reimbursement from HHS for these fees in accordance with 11 11 herein. The parties shall attempt to reach agreement with respect to the amount and payment of the fees and costs. If the parties cannot agree by April 8, 1996, they will submit the issue to the Court for a decision. The time for the plaintiffs to file a motion for fees and costs is hereby extended to May 8, 1996.

DATED: March 7, 1996



Karen Goodwin
Assistant U.S. Attorney
1550 Main Street
Springfield, MA 01103



Patti A. Prunhuber
Attorney for Plaintiff
Western Mass. Legal Services
20 Hampton Ave., Suite 100
Northampton, MA 01060

Cynthia J. Gagné

Cynthia J. Gagné
Assistant Attorney General
436 Dwight Street
Springfield, MA 01103

APPROVED AND SO ORDERED BY THE COURT:

DATED:

March 7, 1996

q f & & f & ? &
Honorable Michael A. Ponsor
U.S. District Court Judge
District of Massachusetts
Western Division



DEPARTMLVTOF HEALTH& HUMANSERVICES

Administmdoa for
Children and Famiieri

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Qglon I
John p. KennsayEeasnl Bldg.
Government tinter
BortOn, MA 02203

Joeeph V. Gallant, Commissioner
Maesachusetts Departzww. of Public Welfare
600 Waehlington Street
Boston, m. 02111

Dear ComminnianAr Gallant:

TheP Administration for Childron and Pamilies (ACP) Xejonal
Office is writing to clarify thz **federal** interpretation of
srction 409 of the Social Eeourity Act (42U.S.C. 5609) as it
applies to the pending huntev, hemmlncra, and Stackow cases.

According to plaintfffs' sounsel, the Massachusetts Department: of
Public Welfare ha8 been citing section 409 as a basis for *refus-*
ing AFDC benefits to parents of children temporarily absent from
the home if tha children are receiving foster Care beneflt\$.
Advocates from the Western Massachusetts Legal SeFJICeS, Inc.
heve **oontzmted** tho 1?H9 Deputy Chief Counsel suggeststrng **that**
policy guidance on the 409 issue could resolve the above
litigation. We view thu so9 issue a6 a separate, narrower matter
from the ongoing, **larger fvtemporary absence^M** concerns.

Due to the complexity of the issue6, we will begin with some
background information, lncruding references to federal law and
regulations.

The ¹Omnibu6 Budget Reconciliation Act of 199011 (Public Law 101~
508,5 5052(a)) **added** a new section 409 to title IV-A. This
srction prohibits a child receiving federal, state or local
foster **care.maintenance** assistance or **federal, state or local**
adoptfon assistance fro1r, being regarded as a member of ;i family
for purpo6ea of determining the amount of benefits of the ftmily.

ACF issued an Action Transmittal (ACF-AT-94-5) on February 28,
1994, which provided policy for determining eligibility **for** the
relative **foster** parent when the **only** dependant child in the
household is receiving federal, state or local fdstor care
maintenance payments. **ACF** specified the federal position that
caretaker relatives of children recaiving foster care should be;
treated like caretaker relatives of children receiving SSI
benefit6 under the AFDC program. While tho child ia exluded from
the assistance unit for purposes of determining the amount of the
unit's AFDC benefits, **the child is 4ncluded** for **purpoooo** of
astablishing categorical eligibility based upon the **presence** in
the **household** of a needy, dependent child. To avoid any confu-
sion, **ACF** specified that the child can provide categorical eli-
gibility for only one AFDC hou6Ahold at a tima.

EXHIBIT A ^m

Pagn 2 - Commisoioner Gallant

Thus, as stated in the Acticon Transmittal, a relative within the **degree of relationship specified in Section 406(a)(1) of the Act** and **in** the regulation at 45 C.F.R, 5233.90(c)(1) (V)(A), who meets all **other eligibility** requirements, **must be considered eligible** to receive AFDC benefits **for his or her own** needs even though the **only dependent** child living **tr. the** relative's home hi receiving foster care maintenance payments. Section 409 of the Act, in other words, does not preclude APDC brnetffts for **the** Oaerwise eligible caretaker relative of a dependent child receiving foster care payrnmts.

As long a~ they satilify ~11 **other** AFDC requirements, this lntor-pretation of section 409 would also apply to specified relatives, **includinly** parents, who exercise the w Care and control over a temporarily absent child, aa **set out in** 45 C.F.R. S233.90 (0) (1) (VI ')

Generally, though, foster care is substitute care based upon re--moval of the child **from** his or her home, transfer **of** legal **custody**, and interruption of the parental responsibility for **care** and control of the child during the outside placement. *In such* situatone, **the** child would not **be viewed** as still living at home. with the parent or **original caretaker relative**, and AFDC would **not** be available for such individual's **needs**. However, **foatar-care** and substitute **care** arrangements vary, and in some situa-tions, it-may **be** that the parent **or** original caretaker relative-rrtains sufficient responsibility **for** the care and control of the child during the placement that such, child would still ba **viewed** aa living with thr parent or **orisinal** caretaker in his or bar original home and only temporarily **absent from** that home. We believe there situations, though, would be fairly **rare** and infrequent.

Given this g-eral federal policy guidance, states must define what constitutea **l~temporary ;Ihwwvze** from **home** in appropriate stats israncer . We recommend that the state's definition be ewitted for review to **mwnrrg?** compliance with **federal** policy. In-order to eetablirh whether a child wets the "living **with**" **rquirnmsnt**: for AFDC eligibility, tha statele AFDC atoff must determine : 1) whether the separation is **temporary**, u 2) *whether* thm original caretaker relative, **including** the **parent, in** continuing to exercise care and control of the child. Thin d&armination ia **baaad on the** facts of each came, and tihould *be,* documented in the *case* record pursuant to 45 C.F.R. 5206.10.'

(a) (a) - Howovor, ao noted, ACP **considers** that a child yunarally **is not still living** with his **or her original caretaker** relative **whan the child iE in an out-of-home** foster care placem@xIt.

Page 3 - ~~CnmiaFinner Gallant~~

We hope there explanations are helpful in clarifying the federal interpretation of section 409 of the Act. Please contact Stanley Gardner, Assistant Regional **Commissioner** for Family Security, at 565-2463 if you need further assistance.

Sincerely,

Hugh F. Galligan
for **Hugh F. Galligan**
Regional Administrator
Administration for
Children and Families

C.C. : **Nancy Nemon, OGC**
Naok Storrs, OFA

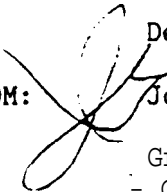


Commonwealth of Massachusetts
Inclusive Office of Health and Human Services
Department of Transitional Assistance
 600 Washington Street • Boston MA 02111

William F. Weld
 Governor
 Argeo Paul Celiucci
 Lieutenant Governor

State Letter 1067
 August 1, 1995

Gerald Whitburn
 Secretary
 Jose@3 6akM
 Commissioner

TO: Department Staff
 FROM:  Joseph Gallant, Commissioner
 RE: Grantee-Relative Eligibility for AFDC When Only Dependent
 - Child Receives Foster-Care Maintenance Payments

This State Letter transmits the following AFDC policy clarification:

If the only dependent child(ren) is receiving state and/or federal foster-care maintenance payments, a grantee-relative may constitute an assistance unit if: (1) the dependent child(ren) is considered temporarily absent from the home and the grantee-relative exercises care and control over the child(ren), and (2) the grantee-relative meets all other AFDC categorical and financial eligibility requirements.

However, both the foster parent and the grantee-relative may not concurrently claim to exercise care and control over the same child(ren) so as to constitute their own assistance units and the dependent child(ren) may not be included in the assistance unit.

This material is effective August 1, 1995.

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 None

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EXHIBIT B

- 0)** Whenever an application is made on behalf of a dependent child by a grantee-relative who is not the natural or adoptive parent, except for the dependent child in (C) below, this dependent child must be in the same assistance unit as the dependent child in 106 CMR 304.305(A) unless to do so would cause a particular child to become homeless or to endure undue hardship. In this instance the Department may waive this provision.
- (C)** Whenever an application is made on behalf of a dependent child living in the same household as his or her minor parent(s), as defined in 106 CKR 304.236, and the parent(s) of the minor parent(s), the assistance unit must be determined in accordance with 106 CtrR 304.320(B). See 106 CMR 304.236 for the determination of financial eligibility for the minor parent.
- 0)** Whenever an application is made for a pregnant woman, as specified in 106 CMR 303.110, the assistance unit must include the pregnant woman only. See 106 CMR 304.235(C) for the determination of financial eligibility for the pregnant woman.
- (E)** Despite the requirements of (A), (B), (C), or (D) certain persons are not to be included in the assistance unit because they are ineligible for APDC due to some other provision of the AFDC regulations. Ineligible persons include, but are not limited to, the following:
- (1) any person who is receiving SSI. However, if the only dependent child(ren) is receiving SSI, the natural or adoptive parent(s) or other relative as defined in 106 CHR 303.210 may constitute an assistance unit.
 - (2) a child for whom state and/or federal foster-care maintenance payments are being provided, including the child of the foster child when the foster-care maintenance payment includes the child. However, if the only dependent child(ren) is receiving state and/or federal foster-care maintenance payments:
 - (a) the foster parent who meets the AFDC categorical and financial requirements, may constitute an assistance unit;
or
 - (b) a grantee-relative may constitute an assistance unit if:
 - (i) the dependent child(ren) is considered temporarily absent from the home and the grantee-relative exercises care and control over the child(ren) in accordance with 106 CMR 303.230(A)(2), and
 - (ii) the grantee-relative meets all other AFDC categorical and financial eligibility requirements.

AID TO FAMILIES WITH DEPENDENT CHILDREN
FINANCIAL ELIGIBILITY

- (c) Both the foster parent as described in 106 CMR 304.305(E)(Z)(a) and a grantee-relative as described in 106 CMR 304.305(E)(Z)(b) may not concurrently claim to exercise care and control over the same child(ren) so as to constitute their own assistance units.
- (d) The dependent child(ren) may not be included in the assistance unit.
- (3) a child for whom state and/or federal adoption assistance is being provided, unless the exclusion from the assistance unit would result in lower AFDC benefits for the assistance unit. However, if the only dependent child(ren) is receiving adoption assistance, the adoptive parent(s) may constitute an assistance unit;
- (4) members of an ineligible assistance unit as a result of the lump sum income provision; and
- (5) an alien who is categorically ineligible.

These persons listed in (1), (2), (3), (4), and (5) are also excluded from the filing unit.

IMPORTANT NOTICE ABOUT YOUR AFDC BENEFITS

You may be entitled to an award of retroactive AFDC benefits for the period when your child or children were temporarily in foster care. Under the class action settlement in Hunter v. Commissioner of Department of Transitional Assistance, the Department may owe you money if your AFDC benefits were terminated because all of the children in your home were in foster care, and you continued to exercise care and control over them while they were out of your home.

To see if you qualify for these benefits, you must fill out and mail the form at the bottom-of this page to Local Office Quality Control Unit, Department of Transitional Assistance, 600 Washington Street, Third Floor, Boston, MA 02111, no later than May 20, 1996.

You may qualify for benefits if you show that you continued to exercise care and control of your children during their absence. This may include using your Department of Social Services (DSS) Treatment Plan and/or a statement from your DSS or other agency social worker describing the actual care and control that you had. Care and control depends on many factors, such as whether you and the child visited together, you bought clothes, shoes or other items for the child, and were involved in decisions about the child's placement, education or medical care.

You can call your local legal services office, or the attorney for the class, Patti Prunhuber, Western Massachusetts Legal Services at 1-800-639-1309 (in Franklin or Hampshire County) or 1-413-584-4034, if you have further questions about this procedure or whether you qualify for these retroactive payments.

YES, I want the Department to review my eligibility for retroactive AFDC benefits under the Hunter class action settlement.

Name: _____ SS# : _____

Address: _____

City/Town: _____ Zip Code: _____

Telephone Number: (- 1 - _____

Mail this form in the attached envelope no later than May 20, 1996.

IMPORTANT NOTICE ABOUT YOUR AFDC BENEFITS!

YOU MAY BE ENTITLED TO A REFUND OF PAST AFDC BENEFITS IF YOUR AFDC WAS TERMINATED BECAUSE YOUR ONLY CHILD OR CHILDREN WERE TEMPORARILY IN FOSTER CARE. UNDER THE CLASS ACTION SETTLEMENT IN HUNTER V. COMMISSIONER OF DEPARTMENT OF TRANSITIONAL ASSISTANCE, THE DEPARTMENT MAY OWE YOU MONEY IF YOUR AFDC BENEFITS WERE TERMINATED BECAUSE ALL OF YOUR CHILDREN WERE IN FOSTER CARE AND YOU CONTINUED TO EXERCISE CARE AND CONTROL OVER THEM WHILE THEY WERE OUT OF YOUR HOME. TO SEE IF YOU QUALIFY FOR THESE RETROACTIVE AFDC PAYMENTS YOU MUST FILE A WRITTEN REQUEST NO LATER THAN MAY 20, 1996, TO HAVE YOUR CASE REVIEWED. YOU CAN GET A FORM AT YOUR LOCAL WELFARE OFFICE.

YOU CAN CALL YOUR LOCAL LEGAL SERVICES OFFICE, OR THE ATTORNEY FOR THE CLASS, PATTI PRUNHUBER, WESTERN MASSACHUSETTS LEGAL SERVICES, AT 1-800-639-1309 (IN FRANKLIN OR HAMPSHIRE COUNTY) OR 1-413-584-4034, IF YOU HAVE FURTHER QUESTIONS ABOUT THIS PROCEDURE OR WHETHER YOU QUALIFY FOR THESE RETROACTIVE PAYMENTS.

EXHIBIT ' D '

DATE

NAME
ADDRESSNotification of Vzur Retractive AFDC Senefits Under the Hunter
Settlement

The Department has reviewed your request for retroactive benefits as part of the Hunter v. Deuartment of Transitionai Assistance class action settlement agreement.

The Department determined that:

- You are eligible to receive retroactive AFDC in the amount-of S. _____
- You are not eiigible to receive retroactive AFDC because:

you did not exercise care and control over your children) while in foster care during the period the class action covers.

you *were* not otherwise eligible for AFDC during the period the class action **covers**.

— you did not provide us with the information necessary to determine your eligibility. The following would be helpful: _____

...

— the Department has determined that your child(ren)'s absence from the home was or is **not** temporary.

— your child(ren) in foster care provided categorical eligibility for another household during the period the class action **covers**.

. other - specifically:

If you disagree with the **Department's** determination, .you may request a fair hearing. If you would like to request a hearing, please fill out the Hearing Request form on the back of this notice and return it to the address provided on the form. The form must be received by the **Department** within 90 days of the date on this notice.

If you have any questions, you may call the Department at (800) 221-4662 or the **attorney** for Hunter, Patti Prunhuber, **at Western** Massachusetts Legal Services, (800) 639-1309 (in Franklin or Hampshire County) or 1-413-584-4034.

EXHIBIT 'f=l' _____

NOTICE of REQUEST for a FAIR HEARING
Massachusetts Department of Transitional Assistance
Division of Hearings
P.O. Box 157, Boston, Massachusetts 02111

YOUR RIGHT TO APPEAL If you disagree with any action taken by the Department of Transitional Assistance, you have the right to appeal and receive a fair hearing before an independent referee. The Department must receive your request for a fair hearing no later than 90 days from the date on this notice.

HOW TO APPEAL If you wish to request a fair hearing, send this notice with the completed form to the Director of Hearings, 200 West Broadway, Boston, Massachusetts 02111. Please keep a copy for your records.

IF YOU ARE CURRENTLY RECEIVING ASSISTANCE READ THIS BLOCK You have 12 days from the date of the fair hearing to prepare your case. If you wish to have a fair hearing scheduled sooner, see Box A below. If you have good cause for not being able to attend the fair hearing, please contact the Director of Hearings at (617) 41-2500 or 1-800-82-2317. Please note that your hearing will be rescheduled. You will not appear at the fair hearing without good cause and may be dismissed of your appeal.

YOUR RIGHT TO BE ASSISTED AT THE HEARING You may be accompanied by an interpreter at your expense. You may wish to contact a local interpreter's office or community agency for assistance. Information about local legal services offices and other services provided by community agencies in your area can be obtained by contacting your local office. These agencies may provide advice on representation at no cost. If you are not fluent in English and wish to have the Division of Hearings provide an interpreter, please write that on this appeal request or call the Division of Hearings at (617) 41-2500 or 1-800-82-2317 at least one week before the hearing. You or your representative may subpoena witnesses, present evidence and cross-examine witnesses. The referee must make a decision on all evidence presented at the fair hearing. You or your representative will be permitted to see your case files before the fair hearing if you so desire. If you want to review your case files, schedule an appointment with your worker before the fair hearing.

I, _____, hereby request a fair hearing before a referee of the Division of Hearings. The reason I wish to request a fair hearing is _____

Name _____ SSN _____

Address _____ Telephone (____) _____

City/Zip _____ Date _____

Signature _____

My authorized representative is: Name _____

Address _____ Title _____

City/Zip _____ Telephone (____) _____

A. I request an expedited hearing.