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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-3

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: January 24, 1991

SUBJECT: Fuel Allowances for Dependent Children Residing with Self-
 Maintaining Non-Legally Responsible Caretakers (McMullen v.
Perales, et al.)

 SUGGESTED

DISTRIBUTION:

Directors of Income Maintenance
 Public Assistance Staff
 Staff Development Coordinators

CONTACT

PERSON:

Bureau of Energy Programs
 1-800-342-3715, extension 4-9321

Bureau of Local Financial Operations
 Metropolitan Office - Mr. Marvin Gold, (212) 488-4517
 Upstate Office - Mr. Irid Gordon, 1-800-342-3715,
 extension 3-7581

Division of Medical Assistance - Alvin Conyers,
 1-800-342-3715,
 extension 3-5536

ATTACHMENTS:

Attachment A - List of All Attachments - available
 on-line.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
87 ADM-51		352.5		PASB	GIS Message
		352.29(e)		Section	90 IM/DC021
		352.31(d)(e)		XIV-B-2	GIS Message
		(f)			90 IM/DC027
		370.3			
		372			

I. PURPOSE

This is to advise you that in the matter of McMullen v. Perales, et al. Federal District Court has declared unconstitutional the Department's policy of denying fuel for heating allowances to dependent children in receipt of Aid to Dependent Children (ADC) and residing with self-maintaining caretakers who are not their parents or step-parents. As a result of the court decision and order, this Department and local social services districts are responsible for prospective action and for providing retroactive corrective payments back to April 1986.

II. BACKGROUND

In April 1986, this Department implemented a new energy policy as outlined in 86 ADM-11A (Statewide Energy Assistance Policy). One of the provisions of this policy stated that a fuel for heating allowance could not be provided to a self-maintaining grantee on behalf of dependent children in receipt of public assistance unless the grantee was a legally responsible relative. Legal responsibility was defined as spouse for spouse, a parent (natural or adoptive) for his/her children under 21, and a step-parent for his/her step-children under 21. Unless the grantee charged the child(ren) room and/or board, the case was provided with a shelter with heat included allowance. The shelter allowance was based on the amount that the grantee charged the child(ren) for shelter and not on the grantee's shelter costs. This policy was restated with the issuance of 87 ADM-51 (Statewide Energy Assistance Policy).

In response to this policy, this Department was sued on behalf of self-maintaining non-legally responsible caretakers of children in receipt of Aid to Dependent Children (McMullen v. Perales, et al.).

III. PROGRAM IMPLICATIONS

As a result of this court decision, districts must now treat legally and non-legally responsible self-maintaining grantees in the same manner in the provision of fuel allowances. Grantees must be provided fuel for heating allowances if they document that they are the tenants of record and customers of record for their residential heating bills.

The shelter allowances for those self-maintaining non-legally responsible grantees receiving separate fuel allowances will now be based on the actual shelter costs incurred by the grantees, up to the agency maximum.

Previously, the shelter allowance was based on the amount of shelter that the grantee charged the child(ren).

NOTE: Self-maintaining non-legally responsible grantees may choose to charge the dependent child(ren) room and/or board. In these cases, the room and/or board budgetary methods are followed.

Although the lawsuit and subsequent court order involved only those dependent children in receipt of ADC, the Department's new (prospective) policy of granting fuel allowances applies to dependent children in receipt of ADC, Home Relief (HR), PG-ADC (Upstate), or HR-PG (NYC) and residing with self-maintaining caretakers.

Dependent children are not considered members of the plaintiff class during any period of time during which they were classified as roomers and/or boarders in their caretaker's home.

IV. REQUIRED ACTION

A. Prospective Actions

1. Undercare Cases

At the next client contact or recertification, all undercare cases in which a self-maintaining non-legally responsible caretaker is the grantee on behalf of dependent children, and the children are not classified as roomers/boarders, must be reviewed to determine if a fuel for heating allowance should be provided. The local district must first determine if the grantee pays separately for heat. If the grantee is responsible for a heating bill, the grantee must document that they are the tenant of record and customer of record for the residential heating bill. In regard to the provision of a shelter allowance for shelter without heat, both legally and non-legally responsible grantees are budgeted in the same manner. As a result, non-legally responsible grantees must document their actual shelter costs. A shelter without heat allowance for actual shelter as paid by the grantee, up to the agency maximum, is provided.

2. New Cases

All self-maintaining non-legally responsible caretakers applying for PA on or after June 29, 1990 on behalf of dependent children are provided fuel for heating allowances when such applicants document that they pay for heat separately and are the tenants of record and customers of record. A shelter without heat allowance is provided based upon the documentation of the shelter costs paid by the applicant. The allowance is provided for shelter as paid by the grantee, up to the agency maximum.

Self-maintaining non-legally responsible caretakers may also choose to charge the dependent child(ren) room and/or board. In these cases, the budgetary method for room and/or board is followed.

3. Requests for Emergency Energy Assistance

In situations where the self-maintaining non-legally responsible grantee is receiving a separate fuel allowance on behalf of the dependent child(ren) and requests assistance to obtain non-utility heating fuel (i.e. fuel oil, propane) or to prevent disconnection of utility service (both heat-related and domestic only), the household is categorized as a PA household. As such, the case will be treated as a PA household in the manner outlined in the Statewide Energy Assistance Policy administrative directive (87 ADM-51).

B. Retroactive Corrective Action

1. In addition to prospectively implementing the new policy regarding fuel allowances for self-maintaining non-legally responsible grantees, the court order requires the following retroactive actions:

- a. identification and notification of those ADC cases, active during any time between April 1986 and July 1990, that may have been entitled to a separate fuel allowance but due to NYSDSS policy received the shelter with heat included allowance instead;
- b. review and recalculation of benefits for those ADC cases, active during any period between April 1986 and July 1990, where the self-maintaining non-legally responsible grantee pays (or paid) for heat separately and received the shelter with heat included allowance due to NYSDSS policy but should have been budgeted with a shelter without heat allowance plus a separate fuel allowance;
- c. provision of retroactive corrective benefits to those cases that warrant it.

2. Notices

NYSDSS produced and mailed the attached notices to both active and inactive ADC cases identified as containing a non-legally responsible grantee in receipt of ADC on behalf of dependent children.

The notice marked Exhibit A (Attachment I) was sent to active ADC cases in all districts except NYC on August 27, 1990.

The Exhibit B (Attachment II) notice was mailed to closed cases in all districts except NYC in late September.

NYC will be responsible for identifying and providing notices to both active and closed cases.

Two (2) listings have been provided to districts. One list identified active ADC cases which were mailed the Exhibit A notice. This list was sorted by office/unit/worker.

The second list identified inactive ADC cases which were mailed the Exhibit B notice.

The listings and mailings were generated based on the criteria that the ADC case was active at any time from April 1986 through July 1990, no individual with Relationship Code 01 (Applicant/Payee) was present and there was at least one individual with Relationship Code 08, 09, 13, 17, 20 or 22 (niece/nephew, grandson/granddaughter, other ADC eligible relationship, cousin, sister/brother, step-sister/step-brother).

Both listings included the case name and number and identified the first month and year that the above criteria were met.

3. Case Review

a. Active ADC Cases

- (1) Social services districts must review those ADC cases in which a self-maintaining non-legally responsible grantee is budgeted with a shelter with heat included allowance to determine if a retroactive corrective payment is due.
- (2) This review must be undertaken at the next recertification or client visit or upon request from the grantee, whichever occurs first.

b. Closed ADC Cases

- (1) ADC cases in which a self-maintaining non-legally responsible grantee received a shelter with heat included allowance on behalf of dependent children and which were active at any time during the period of April 1986 to July 1990 must be reviewed upon request from the former grantee.

4. Required Documentation

In order to receive a retroactive fuel allowance, grantees must document that they were the tenants of record and customers of record for the residential heating bills. Customer and tenant of record status must be documented for the entire period for which a retroactive fuel allowance is calculated.

Grantees must also document their actual shelter costs for the period of time covered by the recalculation of benefits.

A grantee whose ADC case was active at any time from April 1986 through September 30, 1987 must also document actual heating costs in order for a calculation of retroactive additional/excess fuel allowances to be made.

Although grantees are generally responsible for required documentation, some or all of the required documentation may already be in the case record or it may be necessary for social services districts to assist the client in those cases where the client's efforts to obtain the documentation have been unsuccessful and the client requests social services district assistance. Social services district assistance may be especially necessary in situations where the vendor and/or landlord are uncooperative. The attached sample letter may be used to solicit information from the vendor and/or landlord.

Tenant of record status and shelter costs may be documented by:

- o rent receipts
- o landlord statement(s)
- o leases
- o deeds
- o mortgage payment books
- o tax bills/receipts

Customer of record status may be documented by:

- o bills
- o receipts for bills
- o vendor statements
- o vendor printouts

NOTE: As utility company printouts often do not note name changes in the historical record, it may be necessary to use these printouts in conjunction with landlord statements in order to verify that the grantee has been the customer of record for the period covered by the printout.

Other forms of documentation may also be acceptable on a case by case basis. The documentation is considered acceptable if the district determines that reasonable proof of the customer and/or tenant of record status for the grantee is established.

Heating Costs

In order to calculate any additional/excess fuel allowances for which the grantee may be eligible, grantees must document heating costs for any period of time that the ADC case was active from April 1, 1986 through September 30, 1987.

NOTE: Grantees who are able to document the heating costs for only a portion of the time that the ADC case was active between April 1, 1986 and September 30, 1987 must have the additional allowance calculation based on the available documentation.

Some acceptable forms of documentation are: actual bills, receipts, vendor statements, vendor printouts.

5. Calculation of Retroactive Benefits

a. Fuel Allowances

- (1) Districts should first calculate the actual amount of the shelter with heat included allowances provided to the grantee.
- (2) Districts should then recalculate the budgets for shelter and fuel for the same period of time using the shelter without heat schedule plus the appropriate fuel allowance.

The shelter allowance is based on the actual shelter costs paid by the grantee, up to the agency maximum.

- (3) Districts must take into account changes in the grantee's shelter costs, fuel types, and number of dependent children in receipt of ADC which may have occurred during the time period.
- (4) Districts should be aware that the shelter schedule increased as of January 1, 1988. Attached are the shelter schedules in effect January 1, 1984 - December 31, 1987 and January 1, 1988 - present.
- (5) Districts should also be aware that the fuel allowance schedule increased effective October 1, 1987. Attached are the fuel allowance schedules in effect until September 1987 and the schedules effective October 1, 1987 - present.
- (6) The recalculated benefits based on the shelter without heat allowance schedule plus a separate fuel allowance are then compared to the actual amount of the shelter with heat included allowances received by the grantee.
- (7) Any underpayment must be provided to the grantee.
- (8) No recoupment is permitted, in accordance with the court order, when the recalculation results in an overpayment.

b. Additional/Excess Fuel Allowances

- (1) Prior to October 1, 1987, NYSDSS policy provided for the granting of additional and excess fuel allowances when the recipient documented that the monthly SA-6 fuel allowance was insufficient to meet actual heating costs incurred (86 ADM-11A).
- (2) Therefore, eligibility for retroactive additional/excess fuel allowances must be considered when shelter and fuel allowances are recalculated for those self-maintaining non-legally responsible grantees in receipt of ADC whose cases were active at any time between April 1, 1986 and September 30, 1987.
- (3) Districts must determine what portion, if any, of the grantee's actual heating costs incurred during any period that the ADC case was active between April 1, 1986 and September 30, 1987 would not have been met by the SA-6 fuel allowance.
- (4) Districts should first calculate the amount of fuel allowances that the grantee should have received for the period April 1, 1986 - September 30, 1987.
- (5) The grantee's actual heating costs for the same period are then calculated.

NOTE: Any domestic energy costs must be deducted in calculating heating costs. The July bill or combined HEA/SHEA are used to calculate domestic costs unless approved local methodologies for determining domestic energy costs were in existence during this period.

- (6) The heating costs are compared to the fuel allowances to which the grantee was entitled. If the heating costs exceed the fuel allowances, this amount is then added to the total amount of the recalculated shelter and fuel allowances.

NOTE: The McMullen order prohibits recoupment of any overpayment related to this recalculation. As such, local districts must not consider recoupment of any portion of a retroactive payment which represents an excess additional allowance even though the household cannot now document that they met the non-recoupable excess eligibility criteria as outlined in 86 ADM-11A.

c. Recalculation Worksheet

- o Districts may opt to use the attached worksheet in recalculating benefits.

6. Payment of Retroactive Benefits

- (1) All retroactive payments must be authorized within sixty (60) days of the individual's request for review or from recertification, whichever occurs first. However, all required retroactive payments must be issued by December 20, 1990.
- (2) Payments must be issued directly to the grantee on behalf of the dependent children. The payment cannot be applied against outstanding recoupments or vendorized.

These payments cannot be counted as income for PA or FS in the month that they are received. Any portion of the payment not spent or converted into an exempt asset will be counted as a resource beginning the second month after the payment is received.

7. Examples

The following examples illustrate the action necessary to process a request for a case review. Please note that it is not always client beneficial for the case to be budgeted with a shelter without heat allowance plus a fuel for heating allowance.

In addition, as illustrated in Example 2, not all cases will be entitled to a retroactive corrective payment even if the caretaker paid for heat separately and documents that he/she was tenant of record and customer of record.

Example #1

Mrs. Adams is in receipt of an ADC grant on behalf of her two grandchildren. When Mrs. Adams applied for this assistance in May 1988 she advised Erie County DSS that she charged her grandchildren \$300 per month for rent. As a result, Erie County DSS provided the children with a shelter with heat allowance of \$201, the maximum allowed.

In September 1990 Mrs. Adams contacts her IM worker to request a review of her case based upon the McMullen decision. Mrs. Adams is given an appointment and advised to bring her most current rent receipt and heating bill and to also bring copies of rent receipts/heating bills to document expenses for the period May 1988 to date.

Upon reviewing the documentation the worker notes that Mrs. Adams' rent has remained at \$200 since May 1988 and that she has continued to pay National Fuel Gas for natural gas heat. Based upon this information the ADC budget is changed to provide a \$182 shelter without heat allowance plus a \$54 fuel for heating allowance.

To calculate the retroactive corrective payment, the difference between the shelter with heat allowance is compared to the sum of the shelter without heat allowance plus the fuel for heating allowance.

Period of Time: May 1988 - September 1990
Total of 17 months

Monthly allowance actually provided:

\$201 shelter with heat allowance

Monthly amount which should have been provided:

\$182	shelter without heat allowance
+ 54	fuel allowance
<u>236</u>	

Monthly corrective payment:

\$236 - \$201 = \$35 per month

Total corrective payment:

\$35 x 17 months = \$595

This \$595 corrective payment is authorized as an underpayment adjustment.

In regard to the prospective action, the worker adjusts the ADC budget as of October 1, 1990 providing the \$182 shelter without heat allowance plus a \$54 fuel for heating allowance.

Recalculation Worksheet

Case Name Jane Adams

Number P54932

Date September 13, 1990

Recalculation Period: May 1, 1988 to September 30, 1990

Shelter Amount Received by Grantee:

Note: Shelter schedule increased as of January 1, 1988

From--To	Amount		Multiply by # of months for this budget		Total
5/88-9/90	\$201	x	17 Months	=	\$3,417

Recalculated Shelter/Fuel

From--To	Shelter Without Heat Schedule for 2		Fuel Allowance Type Natural Gas # 2	Total		Multiply by # of Months by this budget	Total
5/88 - 9/90	\$182	+	54	= \$236	x	17	= 4,012

Grand
Total
\$4,012

Additional/Excess Fuel Allowances

NOTE: only for period April 1986 - September 30, 1987

Total fuel allowances for which client is eligible
during period of _____ to _____ \$ _____

Total heating costs
for period of _____ to _____ \$ _____

NOTE: bills containing domestic usage costs must be adjusted by deducting
the combined HEA/SHEA or July bill.

Heating costs exceed fuel allowances by \$ _____

Total Amount Received by Grantee: \$ 3,417
Recalculated Amount \$ 4,012

NOTE: include any additional/excess
allowance amount for which the
grantee is eligible based on
the calculations in the preceding
section.

Grantee due retroactive benefits of \$ 595.00
Grantee received overpayment of \$

NOTE: recoupments prohibited by
McMullen court order

Example #2

Mrs. Mason is in receipt of an ADC grant on behalf of her two nieces. Since December 1985 Onondaga County DSS has provided a shelter with heat allowance which was based on the amount of shelter that Mrs. Mason charged the children (\$250). Currently, the children receive a shelter with heat allowance of \$235, the maximum allowed.

Mrs. Mason comes into Onondaga County DSS in September 1990. She provides a copy of her Section 8 lease, documenting that she has been the tenant of record since 1985. She also provides a printout from Niagara Mohawk (NiMo). The printout provides a history of the service at Mrs. Mason's address from April 1986 to present. The service is currently in Mrs. Mason's name. The worker can assume Mrs. Mason has been the customer of record since the lease specifies that she is responsible for heat and utilities and the NiMo printout shows continuous service at her address.

The worker first determines the prospective budget for Mrs. Mason.

Mrs. Mason's current rent is \$155 and she heats with natural gas.

\$155	shelter without heat allowance based on Mrs. Mason's actual shelter costs.
+ 54	natural gas heat allowance for 2
<u> </u>	
\$209	

Mrs. Mason had been receiving the maximum shelter with heat allowance for 2 of \$235.00 as she charged the children \$250 per month.

Her grant is then reduced by \$26, effective October 1, 1990.

Mrs. Mason has documented that her rent from December 1985 to May 1989 was \$149. In June 1989, the rent increased to \$155.

Mrs. Mason has also documented that her natural gas heating costs for the period of April 1, 1986 through September 30, 1987 were \$1,080.

The worker then recalculates Mrs. Mason's grant for the period April 1, 1986 through September 1990 using the Recalculation Worksheet.

Recalculation Worksheet

Case Name Mary Mason

Number P72006

Date September 17, 1990

Recalculation Period: April 1, 1986 to September 30, 1990

Shelter Amount Received by Grantee:

Note: Shelter schedule increased as of January 1, 1988

From--To	Amount		Multiply by # of months for this budget		Total
4/86 - 12/87	\$199	x	21	=	4,179
1/88 - 9/90	\$235	x	33	=	\$ 7,755
					<u>\$11,934</u>

Recalculated Shelter/Fuel

From--To	Shelter Without Heat Schedule for 2		Fuel Allowance Type Natural Gas # 2	Total		Multiply by # of Months by this budget	Total
4/86-9/87	\$149	+	\$20	= \$169	x	18	= \$3,042
10/87-5/89	\$149	+	\$54	= \$203	x	20	= \$4,060
6/89-9/90	\$155	+	\$54	= \$209	x	16	= \$3,344

Grand
Total
\$10,446

Additional/Excess Fuel Allowances

NOTE: only for period April 1986 - September 30, 1987

Total fuel allowances for which client is eligible
during period of April 1986 to September 30, 1987 \$ 360

\$20 x 18 = \$360

Total heating costs
for period of April 1986 to September 30, 1987 \$ 1,080

NOTE: bills containing domestic usage costs must be adjusted by deducting
the combined HEA/SHEA or July bill.

Total costs from NiMo printout \$1,620
July bill = \$30 x 18 months = 540
\$1,080 heating costs

Heating costs exceed fuel allowances by \$ 720 (\$1,080 - 360 = \$720)

Total Amount Received by Grantee: \$ 11,934
Recalculated Amount (\$10,446 + \$720) \$ 11,166

NOTE: include any additional/excess
allowance amount for which the
grantee is eligible based on
the calculations in the preceding
section.

Grantee due retroactive benefits of \$
Grantee received overpayment of \$ 768.00

NOTE: recoupments prohibited by
McMullen court order

8. Reporting Requirements

Districts must provide the Bureau of Energy Programs with the total number of cases and the total amount of the retroactive corrective payments paid no later than December 31, 1990.

V. FOOD STAMP IMPLICATIONS

Retroactive corrective payments issued as a result of the McMullen v. Perales, et al. court order are excluded as Food Stamp income in the month received. Any portion of the payment not spent or converted into an exempt asset is considered a resource beginning the second month after the payment is received.

VI. MEDICAL ASSISTANCE IMPLICATIONS

Retroactive corrective payments issued as a result of the McMullen v. Perales, et al. court order must be excluded as income or resources in the month received and the following month. Any amount retained beyond this period is a countable resource in determining Medical Assistance (MA) eligibility for the caretaker. Since the caretaker is a non-legally responsible person, these corrective payments are never considered in determining MA eligibility for the dependent children.

VII. SYSTEMS IMPLICATIONS

There are no systems implications to be addressed by this administrative directive.

VIII. EFFECTIVE DATE

All required prospective actions are effective June 29, 1990. All required retroactive corrective payments must be issued by December 20, 1990.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

Listing of All Attachments

- Attachment I Notice Regarding Corrective Payment for Fuel for Heating Allowances (Undercare Recipients) - available on-line.
- Attachment II Notice Regarding Corrective Payment for Fuel for Heating Allowances (Closed Cases) - available on-line.
- Attachment III Monthly Shelter Allowance Schedule (Effective January 1984) - not available on-line.
- Attachment IV Monthly Shelter Allowance Schedule (Effective January 1, 1988) - not available on-line.
- Attachment V Monthly Fuel for Heating Schedule (Effective until September 30, 1987) - not available on-line.
- Attachment VI Monthly Fuel for Heating Schedule (Effective October 1, 1987) - not available on-line.
- Attachment VII Recalculation Worksheet - available on-line
- Attachment VIII Sample Letter - Request for Information - available on-line

Exhibit A

NOTICE REGARDING CORRECTIVE PAYMENT FOR FUEL FOR HEATING ALLOWANCES

If you have questions or need help
call your worker at the _____ Department
of Social Services

General Number: _____

August 27, 1990

Dear PA Recipient:

Our records indicate that you currently receive Aid to Families with Dependent Children (AFDC or ADC) benefits on behalf of a dependent child and that you are a caretaker of such dependent child or children and have received such benefits for some or all of the period between April 1986 and July 1990. If the AFDC grant on behalf of the child or children who live with you did not include fuel for heating allowances and if you paid for your heating costs separately from your rent during some or all of this time period, you may not have received all of the public assistance that you should have for the time period since April 1986.

The child residing with you may be a member of the plaintiff class in a Court action entitled McMullen v Perales, 88-CV-977 (N.D.N.Y.). Under the terms of the Court's Order in this case, entered on April 13, 1990, you may be entitled to a corrective payment for fuel for heating allowances if you were incorrectly denied these allowances. You may be eligible for such allowances if you were the tenant of record for your dwelling unit and the customer of record for a heating bill for your dwelling unit and if the AFDC case for which you received benefits was not budgeted as a room and board case.

Any corrective payment you receive will not be counted as income for public assistance or food stamps purposes, but will be counted as a resource beginning the second month after the date of receipt of your corrective payment, unless you spend the money or convert it into an exempt asset.

We will make a determination of your eligibility for corrective fuel for heating allowances at your next recertification or next office visit. We can make this determination immediately if you prefer or at your next recertification or office visit. If you would like an immediate determination, please call your worker for an appointment.

Please bring or send the following documents to us when you come in for an appointment or when we contact you for recertification:

- (a) Receipts for fuel or utility payments from April 1986 to date.
- (b) Rent receipts or lease or documentation showing home ownership and expenses therefore from April 1986 to date.

If you are eligible for fuel for heating allowances for all or part of the time period April 1986 through July 1990, you will receive your corrective payment within 60 days of your recertification.

You always have the right to a Fair Hearing if you believe you have not received all of the benefits to which you are entitled. Remember, you must ask for a Fair Hearing within 60 days of the date the corrective payment and the notice of intent to change benefits or the notice that you are ineligible for benefits is mailed to you.

If you currently pay for your heating costs separately from rent, and you are a tenant of record and customer of record for your heating bill, and your heating bill does not apply to more than your own residential unit, the Court has ordered us to provide you with ongoing fuel for heating allowances. We will make this determination immediately if you prefer or at your next recertification or office visit. If you would like an immediate determination, please call your worker for an appointment.

The plaintiff class representative is represented in this case by the Public Utility Law Project, located in Albany (518-449-3375 or toll free at 1-800-255-7857); Legal Services of Central New York, located in Syracuse (315-475-3127) and Neighborhood Legal Services, located in Buffalo (716-847-0650). You may contact any one of these organizations if you have a question about your rights as a plaintiff class member in this case.

EXHIBIT B

NOTICE REGARDING CORRECTIVE PAYMENT OF FUEL FOR HEATING ALLOWANCES

Case Number:

General Telephone # for
Questions or Help:

Dear Former Recipient:

Our records indicate that you received Aid to Families with Dependent Children (AFDC or ADC) benefits on behalf of a dependent child and that you were a caretaker of the child or children and that you received such benefits for some or all of the period between April 1986 and July 1990. If the AFDC grant on behalf of the child or children who lived with you did not include fuel for heating allowances and if you paid for your heating costs separately from your rent during some or all of this time period, you may not have received all the public assistance that you should have for the time period since April 1986.

The child living with you may be a member of the plaintiff class in a court action entitled McMullen v. Perales, 88-CV-977 (N.D.N.Y). Under the terms of the Court's Order in this case, entered on April 13, 1990, you may be entitled to a corrective payment for the fuel for heating allowances if you were incorrectly denied these allowances. You may be eligible for such allowances if you were the tenant of record for your dwelling unit and the customer of record for a heating bill for your dwelling unit and if the AFDC case for which you received benefits was not budgeted as a room and board case.

If you think you may be eligible for a corrective payment because of this Court Order, contact your local social services office at the above telephone number. You will be required to document that you were the tenant of record for your dwelling unit and the customer of record for a heating bill for the dwelling unit. When you contact your local social services office, you will be told what documents you need to provide for us to determine if you are eligible for corrective fuel for heating payments.

If you are eligible for fuel for heating allowances for all or part of the time period April 1986 through July 1990, you will receive your corrective payment within 60 days of the time you provide us with the documents we request.

You always have the right to a Fair Hearing if you believe you have not received all the benefit to which you are entitled. Remember, you must ask for a Fair Hearing within 60 days of the date the corrective payment or the notice that you are not eligible for a corrective payment is mailed to you.

The plaintiff class representative is represented in this case by the Public Utility Law Project, located in Albany (518-449-3375 or toll free 1-800-255-7857); Legal Services of Central New York, located in Syracuse (315-475-3127) and Neighborhood Legal Services, located in Buffalo (716-847-0650). You may contact any one of these organizations if you have a questions about your rights as a plaintiff class member in this case.

Recalculation Worksheet

Case Name _____ Number _____

Date _____

Recalculation Period: _____ to _____

Shelter Amount Received by Grantee:

Note: Shelter schedule increased as of January 1, 1988

From--To	Amount	Multiply by # of months for this budget	Total
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Recalculated Shelter/Fuel

From--To	Shelter Without Heat Schedule for _____	Fuel Allowance Type _____ # _____	Total	Multiply by # of Months by this budget	Total
----------	---	---	-------	---	-------

Grand
Total
\$

Additional/Excess Fuel Allowances

NOTE: only for period April 1986 - September 30, 1987

Total fuel allowances for which client is eligible
during period of _____ to _____ \$ _____

Total heating costs
for period of _____ to _____ \$ _____

NOTE: bills containing domestic usage costs must be adjusted by deducting
the combined HEA/SHEA or July bill.

Heating costs exceed fuel allowances by \$ _____

Total Amount Received by Grantee: \$ _____
Recalculated Amount \$ _____

NOTE: include any additional/excess
allowance amount for which the
grantee is eligible based on the
preceding section.

Grantee due retroactive benefits of \$ _____
Grantee received overpayment of \$ _____

NOTE: recoupments prohibited by
McMullen court order

Request for Information

Dear _____,

A federal court decision has resulted in the requirement that this Department recalculate benefits for certain public assistance households.

In order to comply with this court order, we are requesting your assistance in obtaining information on shelter heating costs for _____ for the period of time of _____ to _____.

_____ has given permission for you to provide us with this information.

Any assistance that you provide will be greatly appreciated. Please contact _____ at _____ if you have any questions.

Sincerely,
