STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, *Governor*

DEPARTMENT OF HEALTH SERVICES
4/744 P STREET
P.O. BOX 942732
SACRAMENTO, CA 94234-7320
(916) 657-2941

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TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 95-30

QUESTIONS AND ANSWERS REGARDING THE MC 306, "APPOINTMENT OF REPRESENTATIVE" FORM AND OTHER AUTHORIZED REPRESENTATIVE ISSUES

Ref.: All County Welfare Directors Letter (ACWDL) Nos. 94-99, 94-62, and 93-84

Since the issuance of ACWDL 94-99 which transmitted a copy of the required Appointment of Representative form (MC 306), the Department of Health Services (DHS) has received several questions concerning the forms usage. The purpose of this letter is to share the questions and responses.

Question 1: Why isn't the MC 306 time limited rather than event limited?

Answer: The MC 306 was never intended to be a case management tool. The MC 306 allows an Authorized Representative (AR) to assist the applicant/beneficiary up to the determination of eligibility and, if a hearing is requested, to the conclusion of the hearing process. Other family members or friends may certainly assist the beneficiary after eligibility has been determined if the need arises (see ACWDLs 93-84 and 94-99). Counties have not provided any examples of situations that would alter this policy. As stated in ACWDL Nos. 93-84 and 94-99, ARs are not permitted case management authority. Any other service that the applicant/beneficiary wants the AR to perform, such as obtaining information from third parties, must be arranged separately between the applicant/beneficiary, the AR, and the third party.

Question 2: Can more than one person be named as authorized representative (AR) on one MC 306?

Answer: No. Only one individual may be designated on each form. The reason for this is two fold. First, each AR must individually certify on the bottom of the form that they have not been suspended or prohibited from practice before the Social Security Administration, that they have not been previously disqualified as the applicant's representative, and that he or she is known to be of good character. In addition the individual named must accept the appointment. DHS is also concerned that the Medi-Cal applicant or beneficiary know who is being designated to act on his/her behalf.

The applicant/beneficiary has the right to revoke the MC 306 at any time. This would require that the entire MC 306 be revoked which would necessitate a new MC 306 form to be completed at a later date if another AR was to be designated.

Question 3: May photocopies or facsimiles (FAX's) of the MC 306 be accepted?

Answer: To facilitate the application process the eligibility worker may accept a photocopy or a FAX of the MC 306. However, the original document must be obtained within a few days. Counties must accept a photocopy of the MC 306 as the original if it has an original signature and date of both the applicant/beneficiary and the AR.

Question 4: May a firm that professionally acts as an AR reproduce the MC 306, adding the firms name permanently on the form, and enlarge the text for easier reading?

Answer: Yes, if the form is otherwise identical to the State version including the form number on the bottom. No deviation of the text is permitted and the format must be maintained.

Question 5: Which copy should be maintained in the case record?

Answer: While the form itself does not designate which copy should be kept by the county, the copy with the original signature must be included in the case record. The presumption is that the top copy of the form will be the county record with the remaining copies given to the applicant/recipient and the AR. Future printings of the MC 306 will specify the distribution.

Question 6: Is the county obligated to provide a supply of the MC 306 free of cost to businesses/individuals assisting applicants as an AR?

Answer: No. The county is obligated to have the form completed by an applicant/recipient when an AR is indicated. This normally would be provided to the applicant during the interview. The county is not required to provide an on-going supply of forms to anyone. DHS is currently formulating a policy and procedure to deal with forms supply to non-governmental organizations/individuals. An ACWDL addressing this matter will be issued in the near future.

Question 7: ACWDL 94-62 (Long-Term Care and Incompetent Medi-Cal Applicants) stated that the EW should decide an individual's competency to determine whether or not the individual may have an AR. Many doctors are refusing to provide a statement regarding an individual's competence, citing a legal conflict. How is the EW to determine an applicant's competency?

Answer: A formal statement by a physician is not required. The examples given in ACWDL 94-62 were offered as examples to help the EW decide if an AR is permitted to act for the applicant/beneficiary or not. The EW may simply accept a statement by family members that the individual is not capable of handling his/her affairs. The EW may call the facility and ask if the patient would be able to adequately complete an interview. Ultimately, if the EW cannot obtain sufficient information to determine competency, he or she may conduct a visit to the facility and make that determination based on observation. DHS does not require a formal certification of competency.

Question 8: May an applicant/beneficiary have an AR in another state or county?

Answer: Yes. The applicant/beneficiary is permitted to have anyone act as their AR as long as the MC 306 is completed and the applicant/beneficiary completes all required forms and attends any required face to face interview.

Question 9: If the applicant has an AR in another county, should the other county accept the SAWS 1 for the applicant and do a courtesy application?

Answer: For competent persons, no. The county of responsibility is the county of the applicant's residence. The AR may assist the applicant but the applicant still must have the application processed in his/her county.

Persons who are incompetent may have a family member or friend in another county start a courtesy application in that county. Questions concerning county of responsibility should be referred to Alice Mak at (916) 654-0573.

Question 10: What may the county do if the EW thinks that the AR is acting in a negligent manner?

Answer: If the county has reason to believe that an AR is not acting in the best interest of the applicant/beneficiary, the EW may contact the applicant/beneficiary to determine if he/she desires to have the AR continue to act on his/her behalf. However, no prejudice should be related to the applicant/beneficiary by county staff. The EW should only ask if the individual is satisfied with the actions of the AR. The applicant/beneficiary always has the right to revoke the individuals appointment.

If, however, the county has sufficient evidence of intentional negligence (such as questionable signatures, coercing the applicant/beneficiary into designating them as the AR, interfering in the applicant's free choice to apply for Medi-Cal, mis-statements or mis-information being provided to the county, etc.), the county should notify the Bureau of Medi-Cal Fraud at (916) 324-3696. Written complaints should be mailed to:

Bureau of Medi-Cal Fraud
Complaint Intake
1515 "S" Street, Suite 400
Sacramento, California 95814

DHS is currently considering a policy to provide for administrative sanctions which would remove individual ARs from any role in the Medi-Cal eligibility process.

Question 11: ACWDL 93-84 stated:

> If the county has a signed AR form on file, the county shall issue copies, on an "as requested" basis, of all Notices of Action (NOA) and other correspondence issued to the applicant during the application or fair hearing process.

Does this statement indicate that ALL correspondence, including speed-letters, informal requests for information, etc., must be provided to the AR?

Answer: No. Unfortunately this statement was not clearly worded in ACWDL 93-84. The intent of the above statement in ACWDL 93-84 is to communicate that the county must provide a copy of specific NOAs requested by the applicant or beneficiary to the AR. The counties are **not** obligated to provide copies of other informal or speed-letter types of correspondence that are not within the scope of an official NOA.

However, the county **is** required to provide copies of any correspondence that it has with an individual in regard to that individual's state hearing or request for state hearing to an AR if the applicant/beneficiary has provided notification that the individual is authorized to represent him/her. These copies are to be provided on a simultaneous basis to the applicant/beneficiary and the AR (see Manual of Policies and Procedures, Section 22-010.4).

Questions and comments concerning the MC 306 and/or the AR subject are welcome and encouraged. They should be directed to Mr. Gary Varner of my staff at (916) 654-5321.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch