ATE OF CALIFORNIA–HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

EPARTMENT OF HEALTH SERVICES
4/744 P Street
Box 942732
ramento, CA 94234-7320
6) 657-2941

February 18, 1997

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

Letter No: 97-06

RESIDENCY OF HOLDERS OF BORDER CROSSING CARDS AND TEMPORARY VISAS

All County Welfare Directors Letters 95-47 and 96-27 and All County Information Notice I-96-21

The purpose of this All County Welfare Directors Letter is to provide new instructions for determining the residency of a Medi-Cal applicant or beneficiary who possesses a current and valid Border Crossing Identification Card (Border Crossing Card) or short-term visa. For Medi-Cal eligibility purposes, a Border Crossing Card is an identity document issued to an alien who is a resident of a foreign contiguous territory, or to an alien who has been lawfully admitted to the United States for permanent residence (LAPR). A short-term visa is any visa which allows entry for a period of less than one year.

In November 1996, the federal Health Care Financing Administration (HCFA) advised that if a person has a Border Crossing Card, a state may conclude that the person does not meet the residency requirement. HCFA concluded that because persons issued such cards are considered lawful visitors to the United States, these individuals would not be eligible for Medicaid. HCFA reasoned that an applicant with a Border Crossing Card would not have a bona fide intention to remain in the State permanently or for an indefinite period of time.

Therefore, effective as soon as possible, but not later than April 1, 1997, possession of a current and valid Border Crossing Card, or any current and valid visa that allows entry into the United States for a period of less than one year (including, but not limited to, B-1/B-2 visas) shall establish that the applicant or beneficiary possessing such a document is not a resident of California. This conclusion is reached when such a card or visa is issued based upon an alien's assertion that he or she is not a resident of the United States.

Accordingly, any applicant who applies for Medi-Cal and is known to possess a current and valid Border Crossing Card or short term visa must be denied eligibility for benefits on the basis that he or she is not a resident of California. Similarly, any current beneficiary who at the time of redetermination is determined to possess a valid and current Border Crossing Card or short-term visa must be immediately discontinued from Medi-Cal eligibility.

Denial of the application for benefits or a discontinuance of benefits for a person who holds a Border Crossing Card or short-term visa must be done in accordance with all Notice of Action and fair hearing requirements.

NOTE: Automatic denial or discontinuance of eligibility for benefits does NOT APPLY to an applicant or beneficiary who holds a Border Crossing Card and who is lawfully admitted for permanent residence. (See 8 U.S.C. § 1101 (a)(6).)

If you have any questions about the information in this letter, please contact John Zapata of my staff at (916) 657-0725.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch