STATE OF CALIFORNIA--HEALTH AND WELFARE AGENCY PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P Street
P.O. Box 942732
Sacramento, CA 94234-7320
(916) 657-2941

July 8, 1997

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

Letter No.: 97-30

ALL COUNTY WELFARE DIRECTORS LETTER NOS. 96-73, 97-08, AND E-MAIL 97043

The purpose of this letter is to provide additional procedural instructions regarding use of the CS 909 form, Declaration of Paternity.

Upon application for Medi-Cal or redetermination, intact unmarried parents shall be informed of the availability of the Declaration of Paternity when they are informed about the requirements of medical support and their assignment of rights. They are to be given the option of signing the CS 909 in order to establish paternity.

The signed form CS 909 establishes paternity once it is filed with the Office of Vital Records. The original of this form is to be filed with the Office of Vital Records and a copy sent to the Family Support Division/District Atorney (FSD/DA). However, in the spirit of cooperation, you may work out what works best between you and your FSD/DA office. No referral of the case and no further documentation needs to be sent to the FSD/DA if the CS 909 has been signed and filed, and a copy sent to them.

When an unmarried parent applies for Medi-Cal for an intact family and informs you that they filled one out at the hospital, but does not have a copy, refer them to the FSD/DA. Their office can verify paternity establishment through the Office of Vital Records.

Enclosed for your information are Paternity Statistics for the State of California and a Summary of Changes Fact Sheet.

If there are any questions, please contact Ms. Elena Lara of my staff at (916) 657-0712.

Sincerely,

ORIGINAL SIGNED BY

FRANK S. MARTUCCI, CHIEF
Medi-Cal Eligibility Branch

Enclosures

ENCLOSURES

FFY96 Paternity Statistics

County	Total Decs 10/95-9/96	Paternities est by IV-D	Total Paternities	10/94-9/95 unwed births	Rate of Pat. Establishment
Alameda	383	4,434	4,817	6,639	73%
Alpine	4	17	21	1	2100%
Amador	34	145	179	88	203%
Butte	91	626	717	821	87%
Calaveras	3	563	566	28	2021%
Colusa	37	70	107	58	184%
Contra Costa	224	2,249	2,473	2,774	89%
Del Norte	37	133	170	126	135%
El Dorado	49	578	627	344	182%
Fresno	544	6,941	7,485	5,979	125%
Glenn*	0	125	125	0	100%
Humboldt	290	633	923	523	176%
Imperial	64	2,376	2,440	957	255%
Inyo	19	76	95	105	91%
Kern	169	5,148	5,317	4,704	113%
Kings	19	1,261	1,280	965	133%
Lake	45	420	465	153	304%
Lassen	4	107	111	90	123%
Los Angeles	4,869	44,962	49,831	70,780	70%
Madera	82	624	706	624	113%
Marin	39	698	737	324	227%
Mariposa*	0	74	74	0	100%
Mendocino	18	267	285	368	78%
Merced	38	2,597	2,635	1,195	221%
Modoc	0	41	41	21	195%
Mono*	1	23	24	0	100%
Monterey	431	2,893	3,324	2,130	156%
Napa	66	299	365	396	92%
Nevada	73	159	232	186	125%
Orange	1,941	14,431	16,372	13,563	121%
Placer	247	545	792	643	123%
Plumas	25	22	47	63	75%
Riverside	1,371	8,070	9,441	8,292	114%
Sacramento	664	8,361	9,025	6,812	132%
San Benito	83	192	275	181	152%
San Bernardino	1,283	7,693	8,976	10,756	83%
San Diego	529	16,460	16,989	13,201	129%
San Francisco	84	2,783	2,867	3,141	91%
San Joaquin	397	3,843	4,240	3,446	123%
San Luis Obispo	69	1,161	1,230	575	214%
San Mateo	107	5,117	5,224	1,394	375%
Santa Barbara	121	2,845	2,966	1,534	193%
Santa Clara	705	4,905	5,610	6,990	80%
Santa Cruz	118	770	888	892	100%
Shasta	124	634	758	627	121%
Sierra*	4	7	11	0	100%
Siskiyou	17	403	420	126	333%
Solano	459	2,442	2,901	1,800	161%
Sonoma	179	2,589	2,768	1,220	227%
Stanislaus	867	4,311	5,178	2,737	189%
Sutter	148	641	789	616	128%
Tehama	49	297	346	241	144%
Trinity	23	83	106	33	320%
Tulare	392	5,113	5,505	2,350	234%
Tuolumne	76	338	414	166	249%
Ventura	213	4,492	4,705	2,366	199%
Yolo	87	665	752	469	160%
Yuba*	11	313	324	0	100%
			0		
Statewide	19,145	178,065	197,210	184,613	107%

*No hospital in County

FFY 97 Paternity Statistics

County	Total Decs 10/96-9/97	Paternities est by IV-D	Total Paternities	10/94-9/95 unwed births	Rate of Pat. Establishment
Alameda	1532	4,434	4,817	6,639	90%
Alpine	16	17	21	1	3300%
Amador	136	145	179	88	319%
Butte	364	626	717	821	121%
Calaveras	12	563	566	28	2054%
Colusa	148	70	107	58	376%
Contra Costa	896	2,249	2,473	2,774	113%
Del Norte	148	133	170	126	223%
El Dorado	196	578	627	344	225%
Fresno	2176	6,941	7,485	5,979	152%
Glenn*	0	125	125	0	100%
Humboldt	1160	633	923	523	343%
Imperial	256	2,376	2,440	957	275%
Inyo	76	76	95	105	145%
Kern	676	5,148	5,317	4,704	124%
Kings	76	1,261	1,280	965	139%
Lake	180	420	465	153	392%
Lassen	16	107	111	90	137%
Los Angeles	19476	44,962	49,831	70,780	91%
Madera	328	624	706	624	153%
Marin	156	698	737	324	264%
Mariposa*	0	74	74	0	100%
Mendocino	72	267	285	368	92%
Merced	152	2,597	2,635	1,195	230%
Modoc	0	41	41	21	195%
Mono*	4	23	24	0	100%
Monterey	1724	2,893	3,324	2,130	217%
Napa	264	299	365	396	142%
Nevada	292	159	232	186	242%
Orange	7764	14,431	16,372	13,563	164%
Placer	988	545	792	643	238%
Plumas	100	22	47	63	194%
Riverside	5484	8,070	9,441	8,292	163%
Sacramento	2656	8,361	9,025	6,812	162%
San Benito	332	192	275	181	290%
San Bernardino	5132	7,693	8,976	10,756	119%
San Diego	2116	16,460	16,989	13,201	141%
San Francisco	336	2,783	2,867	3,141	99%
San Joaquin	1588	3,843	4,240	3,446	158%
San Luis Obispo	276	1,161	1,230	575	250%
San Mateo	428	5,117	5,224	1,394	398%
Santa Barbara	484	2,845	2,966	1,534	217%
Santa Clara	2820	4,905	5,610	6,990	111%
Santa Cruz	472	770	888	892	139%
Shasta	496	634	758	627	180%
Sierra*	16	7	11	0	100%
Siskiyou	68	403	420	126	374%
Solano	1836	2,442	2,901	1,800	238%
Sonoma	716	2,589	2,768	1,220	271%
Stanislaus	3468	4,311	5,178	2,737	284%
Sutter	592	641	789	616	200%
Tehama	196	297	346	241	205%
Trinity	92	83	106	33	529%
Tulare	1568	5,113	5,505	2,350	284%
Tuolumne	304	338	414	166	387%
Ventura	852	4,492	4,705	2,366	226%
Yolo	348	665	752	469	216%
Yuba*	44	313	324	0	100%
	0		0		
Statewide	76580	178,065	197,210	184,613	138%

*No hospital in County

SUMMARY OF CHANGES REGARDING THE VOLUNTARY DECLARATION OF PATERNITY ENACTED BY AB 1832
Effective January 1, 1997

The major changes include the following:

1. Requires that an unmarried father sign the declaration in order to have his name added to the birth certificate.

Code Section: Section 102425 of the Health and Safety Code

Reason for change: California is one of only three states that allows fathers to enter their name on the birth certificate without simultaneously accepting the responsibilities that go along with being a father. In other states, forty to fifty percent of unmarried fathers sign declarations of paternity as compared to California's current rate of ten percent. Other states report that the number one reason fathers sign the declaration is to get their names on the birth certificate. Many fathers in California have the misconception that having their name on the birth certificate legally establishes them as the child's father.

2. Allows a completed declaration of paternity, filed with the State Office of Vital Records and Statistics, to have the same force and effect as a judgment of paternity. The parents would have sixty days to rescind the declaration, two years to challenge with a blood test, otherwise it could be challenged later only for fraud, duress, material mistake of fact, or a finding that there was not a valid waiver of rights.

Code Section: FC 7573, 7575, 7644 and W&I 11350.4

Reason for change: This mirrors the proposed statute in federal welfare reform bills. The current state law allows fathers three years from the date the declaration was signed to file a written objection. This provision reduces that time to two years and additionally allows sixty days for the parent(s) to change their mind. Time limits are also set on challenges based on fraud, etc. (one year from date of discovery). The declaration, unless rescinded within sixty days, becomes a judgment without having to be ratified by a court. Currently many parents believe that when they sign the declaration, they have established paternity but have not because current law requires ratification by the court. With this change, in the great majority of cases, paternity will actually be established while protecting the right of parent to challenge the declaration for cause.

3. Requires that the declaration of paternity and informational pamphlets be revised to ensure that parents are fully informed of the rights they are waiving by signing the declaration and the consequences of admitting paternity.

Code Section: FC 7572 (b) and 7574 (e)

Reason for change: These due process protection warnings have been strengthened since the declaration will become a judgment of paternity without court ratification. The new language follows case law in this area to avoid constitutional problems. The language will no longer be specified in law and the wording will be changed to emphasize the positive.

4. Allows prenatal clinics to secure the declaration of paternity.

Code Section: FC 7571 (c) and 7571 (e)

Reason for change: Originally, the Federal government allowed payment only to the place of birth. They have revised their regulations to include prenatal clinics. It would be advantageous to be able to use the services of prenatal clinics for this purpose since the time spent in the hospital is so limited.

5. Requires that a hospital or prenatal clinic have a signed agreement with the DA in order to receive a $10 payment for each signed declaration.

Code Section: FC 7571 (c)

Reason for change: In drafting the original language, there was an oversight in not indicating that the Federal government requires the entity receiving the $10 payment to have a plan of cooperation with the DA.

6. Requires local vital statistics office, court family law facilitators (if AB 1058 passes), and county welfare offices to provide the declaration to unmarried parents upon request, witness the parents' signatures, and forward the declaration to the State Office of Vital Records and Statistics. Allows prenatal clinics to provide the same service at their option. Allows parents to execute the agreement on their own but requires that the form be notarized in that instance.

Code Section: FC 7571 (d) (e) and (f)

Reason for change: Expanding the number of opportunities and places where a parent can execute the declaration of paternity is a tactic that has been used successfully by other states to increase the number of declarations signed.

7. Specifies the procedure for parents to attempt to set aside the judgment and how the court should handle the paternity determination and deal with the order for support.

Code Section: FC 7575

Reason for change: A procedure is needed to deal with what happens to court ordered support when a voluntary declaration of paternity is challenged and how the issue of paternity should be resolved.

8. When the DA is pursuing paternity, a father should be given the option of signing a stipulation of paternity in addition to the current option of signing a declaration of paternity.

Code Section: W&I 11350.3

Reason for change: When the law was originally drafted, the Federal government required that the alleged father be given the opportunity to sign a declaration of paternity. They have relaxed their interpretation to give counties the option of using a stipulation instead of the declaration.

9. Minors are allowed to sign the voluntary declaration of paternity but it does not become a judgment until 60 days after they become an adult or become emancipated whichever comes first. Declarations signed by minors may not be used in evidence in the prosecution of statutory rape.

Code Sections: FC 7572 (b)(3), 7574 (e) (7), 7644 (e)

Reason for change: Due to the potential for prosecution for statutory rape and the law regarding minors assuming a legal obligation, the legal implications for minors signing this form had to be addressed.

10. A process for declarations signed prior to the law making declarations a judgment has been developed.

Code Sections: FC 7576

Reason for change: Declarations signed prior to this law change were not adequately apprised that the declaration would become a judgment.