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

DEPARTMENT OF HEALTH SERVICES
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December 19,1997

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

Letter No.: 97-64

CHILD/MEDICAL SUPPORT/PATERNITY DECLARATION

Ref.: Article 23, Medi-Cal Eligibility Procedures Manual

The purpose of this All County Welfare Directors Letter is to inform county welfare departments of the medical support changes in the Child/Medical Support Enforcement Program brought about by the Personal Responsibility and Work Opportunity Act of 1996 and the technical amendments contained in the Balanced Budget Act of 1997. The program requirements of such legislation are set forth in State Assembly Bills, AB 573 (Chapter 599, Statutes 1997) and AB 1542 (Chapter 270, Statutes 1997).

Set out below are the new program requirements for Child/Medical Support Enforcement. These changes will be included in the next revision of Article 23. They are effective on January 1, 1998, and should be implemented no later than March 1, 1998.

- **COOPERATION AND GOOD CAUSE**

  - For eligibility for medical services, an applicant or beneficiary shall cooperate in identifying the absent parent, securing medical support, and determining paternity. **The DA will make the determination of noncooperation, but the county welfare department will make the determination of good cause.**

- **MEDI-CAL NONCOOPERATION GUIDELINE**

  - Section 14008.7 was added to the Welfare and Institutions Code to state the policy that has been followed since the inception of this program. If an applicant/beneficiary does not cooperate without good cause with the requirement of identifying an absent parent, securing medical support, and determining paternity, then the applicant/beneficiary will be ineligible for Medi-Cal. If otherwise eligible, the child(ren) may be granted Medi-Cal or continue to receive Medi-Cal.

- **COOPERATION** - The District Attorney's (DA) Office shall have staff available in person or by telephone at every county welfare office and shall interview each applicant to obtain information necessary to establish paternity, and establish, modify, or enforce a support order. The DA shall make the determination of cooperation, and, in making this finding shall take into consideration:

  - The age of the child for whom support is sought;
  - The circumstances surrounding conception of the child;
  - The age or mental capacity of the parent or caretaker of the child for whom aid is being sought; and
  - The time that has elapsed since the parent or caretaker last had contact with the alleged father or absent parent.

  Cooperation includes the following:

- Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

- Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not appear.

- If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

- Providing any additional information known to or reasonably obtainable by the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

- A recipient or applicant shall not be required to sign a voluntary declaration as a condition of cooperation.

- **GOOD CAUSE** - Good Cause shall be determined by the county welfare department (CWD) prior to referring the applicant/recipient to the DA. Instructions regarding good cause and failure to cooperate in the CalWorks program are included in DSS All County Letter No. 97-65, which was released October 29, 1997.

- **GOOD CAUSE DETERMINATION REQUIREMENTS** - Good Cause may be determined if the following conditions exist:

  - Efforts to establish paternity or establish, modify or enforce a support obligation would increase risk of physical, sexual, or emotional harm to the child for whom support is being sought.

  - Efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of abuse to the parent or caretaker with whom the child is living.

  - The child for whom support is sought was conceived as a result of incest or rape. A conviction for incest or rape is not necessary for this paragraph to apply.

  - Legal proceedings for the adoption of the child are pending.

  - The applicant/beneficiary is being assisted to resolve issue of whether to keep or relinquish a child for adoption.

  - The applicant/beneficiary is cooperating in good faith but is not able to identify or assist in locating the alleged father or absent parent.

  - Any other reason that would make efforts to establish paternity or establish, modify, or enforce a support obligation contrary to the best interests of the child.

- **EVIDENCE TO SUPPORT GOOD CAUSE CLAIM**

  - Police, governmental agency, or court records, documentation from a domestic violence program, or a legal, clerical, medical, mental health, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse, physical evidence of abuse, or any other evidence that supports the claim of good cause.

  - Statements under penalty of perjury from individuals, including the applicant/beneficiary with knowledge of the circumstances surrounding the good cause claim.

- Birth certificates or medical, mental health, rape crisis, domestic violence program, or law enforcement records that indicate that the child was conceived as the result of incest or rape.

- Court documents or other records that indicate legal proceedings for adoption are pending.

- A written statement from a public or licensed private adoption agency that the applicant/beneficiary is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

- **WRITTEN AND ORAL INFORMING**

  - Written instructions and information about the Voluntary Declaration of Paternity must be given to each applicant/beneficiary who has a child born out of wedlock.

  - Oral notice of this program must also be given. The State Department of Social Services shall make available free of charge videotapes and other training materials.

For Information only:

- **$50 DISREGARD** - The first $50 of any amount of child support collected in a month in payment of the required support payment by the absent parent will be paid to the custodial parent and not considered as income or resources nor deducted from the amount of aid. This does not apply to foster children.

- **$10 PAYMENT FOR VOLUNTARY DECLARATIONS**

  - Each birthing hospital or entity which provides prenatal services may choose to enter into a written agreement with the DA for receipt of $10 for each Voluntary Declaration of Paternity filed with the State Office of Vital Records.

  - Each county welfare department may receive $10 for each Voluntary Declaration of Paternity filed with the State Office of Vital Records at the option of the DA. To ensure payment of $10 for each form filed, the county welfare department must enter into a written agreement with the DA.

- Statements under penalty of perjury from individuals, including the applicant/beneficiary with knowledge of the circumstances surrounding the good cause claim.

If you have 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