STATE OF CALIFORNIA–HEALTH AND HUMAN SERVICES AGENCY

GRAY DAVIS, Governor

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

September 16, 1999

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

Letter No.: 99-45

FINAL INSTRUCTIONS FOR IMPLEMENTING THE COURT ORDER IN LATINO COALITION FOR A HEALTHY CALIFORNIA V. BELSHÉ

Ref.: All County Welfare Directors Letter (ACWDL) Nos. 97-06 and 98-48

The purpose of this letter is to provide the counties with further instructions for complying with the final ruling in the case of Latino Coalition For A Healthy California v. Belshé. In compliance with a previous Court of Appeal ruling in this case, the Department of Health Services (Department) issued ACWDL 98-48, which instructed counties " . . . not to apply All County Welfare Directors Letter 97-06 in determining the residency of Medi-Cal applicants or beneficiaries." On February 4, 1999, the San Francisco Superior Court issued its final order in compliance with the Court of Appeal ruling.

In compliance with the appellate court ruling the Superior Court has ordered the Department to:

- inform counties that ACWDL 97-06 and all derivative directives flowing from that all county letter are void and of no effect;
- require counties, to the extent possible, to identify all individuals denied or discontinued from Medi-Cal benefits due to a determination of non-residency from February 18, 1997, through implementation of ACWDL 98-48 dated October 30, 1998, and to inform them of their right to apply for Medi-Cal benefits which were improperly denied because of the requirements of ACWDL 97-06;
- require counties to post public notices in public waiting areas.

This ACWDL provides counties with instructions for complying with these requirements. Counties must complete implementation of this ACWDL within 90 days of its issuance date. These instructions apply only to persons improperly denied or discontinued because of ACWDL 97-06. This letter does not apply to persons denied or discontinued for other reasons.

Identifying Affected Applicants and Beneficiaries

The requirement to directly notify persons who were erroneously denied or discontinued from benefits because of ACWDL 97-06 applies to all counties. Counties which do not have an automated notice of action system are required to manually notify affected applicants or beneficiaries.

All counties shall send a notice in English and Spanish (using the language in Enclosure 1) to every applicant or beneficiary who was denied or discontinued from Medi-Cal (between February 18, 1997 and the date the county actually implemented ACWDL 98-48) solely because he or she did not meet the California residency requirement for Medi-Cal eligibility, and who can still be identified and notified. Please note that counties need not send the enclosed notice to any person who was ineligible for a reason other than possession of a valid and current border crossing card or short-term visa (to the extent the county can identify them). Counties are required to send the enclosed notice in English and Spanish to all affected applicants and beneficiaries at their last known address within 90 days of the date of this ACWDL.

Affected applicants or beneficiaries whom the county is unable to notify, have up to and including December 31, 2000 to request a review of their case. When a person requests a review of their case, provide them with a copy of the notice language included in Enclosure 1. The signed notice must be returned to the county welfare department and retained as a record of the request. Review these requests as specified in this ACWDL.

Posting of Public Notice

Enclosure 2 includes the English and Spanish versions of a notice which all county welfare offices must reproduce and post in their office space designated as a public waiting area. Both the English and Spanish versions of this notice must be posted in public waiting areas until December 31, 2000.

Who is Eligible for a Review of Residency

Affected applicants and beneficiaries who receive a notice will have up to and including December 31, 2000 to request a reevaluation of their eligibility for Medi-Cal. Anyone who is not notified directly, but who wishes to claim benefits pursuant to this ACWDL will have the same deadline of December 31, 2000 to request a review of his or her case.

In order for a person to be eligible for a reevaluation of residency pursuant to this ACWDL, the following conditions must be met:

- Affected applicants or beneficiaries must request a review of their residency on or before December 31, 2000.

- Affected applicants or beneficiaries who were not notified directly by an individual notice from the county must request a review of their residency on or before December 31, 2000.

- The period for which benefits are sought must be during the time that ACWDL 97-06 was in effect in a county. ACWDL 97-06 was issued on February 18, 1997 and rescinded by ACWDL 98-48.

- Benefits must have been denied or discontinued solely because of possession of a valid and current border crossing card or short-term visa pursuant to ACWDL 97-06. Persons who could have been or were denied or discontinued from Medi-Cal for any other reason are not eligible for a review of eligibility pursuant to this ACWDL.

If an affected applicant or beneficiary is requesting a review based on an improper denial or discontinuance that occurred in another county, the two counties should work cooperatively to process the claim for retroactive benefits. If an applicant or beneficiary claims to be eligible for a reevaluation of residency pursuant to this ACWDL, but the county does not have a record of a past denial or discontinuance, the county must give the claimant an opportunity to establish eligibility for any benefits lost because of ACWDL 97-06.

Determining the Eligibility of Affected Applicants and Beneficiaries

In order to be eligible for a reinstatement of Medi-Cal benefits pursuant to this ACWDL, affected applicants and beneficiaries must have been denied or discontinued from Medi-Cal because of ACWDL 97-06 and must meet all eligibility requirements during the period for which Medi-Cal benefits are sought. This includes the Medi-Cal residency requirements in effect prior to ACWDL 97-06.

The California residency requirement for Medi-Cal eligibility is governed by Title 22, California Code of Regulations, Sections 50320 through 50338 inclusive. The evaluation of residency required in this ACWDL is governed by those regulations. This means that affected applicants and beneficiaries must provide evidence of residency (in accordance with those regulations) which addresses the period for which they are seeking Medi-Cal eligibility.

Section 50320 (f) of those regulations also provides that:

> "A person's declaration on the MC 210 Statement of facts (Medi-Cal) or on the SAWS 2 Statement of Facts, together with the evidence required in Section 50320.1, shall be accepted for purposes of establishing residence unless there is evidence to the contrary." (Emphasis added.)

This means that even applicants and beneficiaries who were denied or discontinued from Medi-Cal while ACWDL 97-06 was in effect because they possessed a valid and current border crossing card or short-term visa, will not always be found eligible for Medi-Cal after residency has been reviewed in accordance with this ACWDL. This is because under the regulations in effect prior to ACWDL 97-06, counties can deny eligibility for failure to meet California residency if there is sufficient evidence which contradicts an applicant's or beneficiary's claim that he or she was a resident while ACWDL 97-06 was in effect.

Possession of a valid and current border crossing card or short-term visa will not always be sufficient evidence on which to deny Medi-Cal for failure to meet the residency requirement. If a county believes, based on a review of all available evidence, that an otherwise eligible person meets the residency requirement despite possession of a border crossing card or visa, the county should grant eligibility.

Regardless of the outcome of a county's review of a person's residency in accordance with this letter, the county should note the basis for the residency determination in the case file. Persons who are denied eligibility for any benefits sought in accordance with this letter are entitled to all notice of action and fair hearing rights with respect to that review.

An affected applicant or beneficiary is not required to currently be a resident of California in order to seek a review of a denial or discontinuance of benefits during the period in which ACWDL 97-06 was in effect. If a county is unable to establish that the applicant or beneficiary was a resident of California for the period of time in question and there appears a reasonable

suspicion that an overpayment or fraud has occurred, the case should be referred to the Department of Health Services Investigations Branch for review.

Providing Benefits To Eligible Applicants/Beneficiaries

Counties must follow current procedures for providing retroactive eligibility to persons who are eligible for reinstatement of retroactive Medi-Cal benefits pursuant to this ACWDL. Counties are required to use the "Letter of Authorization/MC 180 process" when it becomes necessary for a provider to claim reimbursement for covered services provided over one year ago. Counties should indicate on the MC 180 that: "a court order requires that a card be issued."

If you have any questions regarding this letter, please call Mr. John Zapata of my staff at (916) 657-0725.

Sincerely,

ORIGINAL SIGNED BY

ANGELINE MRVA, Chief
Medi-Cal Eligibility Branch

Enclosures

ENCLOSURE 1

NOTICE TO INDIVIDUALS DENIED MEDI-CAL BASED ON BORDER-CROSSING CARD/SHORT-TERM VISAS

DRAFT NOTICE TO INDIVIDUALS DENIED
MEDI-CAL BASED ON BORDER CROSSING CARD/SHORT-TERM VISAS]

Name and Address

Date

Insert worker name, phone #, address

RE: IMPORTANT NOTICE, READ CAREFULLY, YOU MAY BE ABLE TO GET BACK MEDI-CAL BENEFITS

Dear _____:

We are providing you with this notice because in the past we may have denied your Medi-Cal application or stopped your benefits at anytime after February 18, 1997, because we determined you were not a resident of California. If we denied your application or stopped your benefits solely because you had a border crossing card or short-term visa, we were wrong. In a recent court case, Latino Coalition For A Healthy California v. Belshé, the court said that we may not deny or stop Medi-Cal to people just because they have a border crossing card or short-term visa. You have the right to prove that you live in California even if you have one of these documents.

Do you still want Medi-Cal? If so, you can ask us now to reopen your application and look at your eligibility again. We will not deny the application just because you have one of these immigration documents. We will grant your application if we find you met all of the eligibility requirements for Medi-Cal. If you were eligible, Medi-Cal may pay for medical services you received up to three months before the month when you first applied. If we deny your application again, you will have the right to appeal.

How can you get Medi-Cal? Just fill out the bottom of this form and send it back to the address at the top of the form. In approximately 45 days, your worker will either finish the review of your case or tell you what information you need to give us to complete your application. You must return this form on or before December 31, 2000, for us to reopen your case.

I, _____ request that my Medi-Cal application be reopened.

Date: _____ Signed: _____
Name

_____
Address

_____
Telephone number

Revised 9/1/99

NOTIFICACIÓN PRELIMINAR A INDIVIDUOS A LOS QUE SE LES NIEGA MEDI-CAL DEBIDO A QUE TIENEN EN SU PODER UNA TARJETA PARA CRUZAR LA FRONTERA/VISAS A CORTO PLAZO

ASUNTO: NOTIFICACIÓN IMPORTANTE. LEA DETENIDAMENTE. ES POSIBLE QUE PUEDA OBTENER BENEFICIOS RETROACTIVOS DE MEDI-CAL

Estimado(a) _____:

Le estamos enviando esta notificación, puesto que en el pasado, es posible que hayamos rechazado su solicitud de Medi-Cal o interrumpido sus beneficios, en cualquier momento después del 18 de febrero de 1997, ya que determinamos que usted no era residente de California. Si rechazamos su solicitud, o interrumpimos sus beneficios solamente porque usted tenía en su poder una tarjeta para cruzar la frontera o una visa a corto plazo, estábamos equivocados. En un reciente caso en los tribunales, conocido en inglés como *Latino Coalition For A Healthy California v. Belshé*, el tribunal dictaminó que no podríamos negar o interrumpir beneficios de Medi-Cal a las personas, sencillamente porque tienen en su poder una tarjeta para cruzar la frontera o una visa a corto plazo. Usted tiene derecho a probar que vive en California, aun si no tiene uno de estos documentos.

¿Todavía desea recibir beneficios de Medi-Cal? Si es así, usted puede pedirnos ahora que volvamos a considerar su solicitud y determinemos su elegibilidad de nuevo. No rechazaremos su soli-citud simplemente porque usted tiene uno de estos documentos de inmigración. Aprobaremos su solicitud si determinamos que usted cumple con todos los requisitos de elegibilidad para recibir beneficios de Medi-Cal. Si usted reunía los requisitos, es posible que Medi-Cal le pague por ser-vicios médicos que recibió, hasta un máximo de tres meses anteriores al mes en que usted solici-tó beneficios por primera vez. Si rechazamos su solicitud de nuevo, usted tendrá el derecho a apelar.

¿Cómo puedo obtener Medi-Cal? Simplemente llene la parte inferior de este formulario, y envíe-nosla a la dirección que aparece en la parte superior del formulario. En aproximadamente 45 días, su trabajador(a) concluirá el análisis de su caso, o le indicará qué información necesita pro-porcionarnos para completar su solicitud. Usted tiene que devolver este formulario el o antes del 31 de diciembre del 2000, para que nosotros volvamos a considerar su caso.

Yo, _____ solicito que mi solicitud de Medi-Cal vuelva a considerarse.

Fecha: _____ Firmado: _____

Nombre

_____

Dirección

_____

Número de teléfono

Revised 9/1/99 (Spanish)

ENCLOSURE 2

PUBLIC NOTICE TO INDIVIDUALS DENIED MEDI-CAL BASED ON BORDER-CROSSING CARD/SHORT-TERM VISAS

WE MAY OWE YOU MEDI-CAL BENEFITS UNDER A COURT CASE, LATINO COALITION FOR A HEALTHY CALIFORNIA v. BELSHÉ

At any time after February 18, 1997, did we deny or stop your Medi-Cal just because you had a border crossing card or short-term visa?

If so, we were wrong. You have the right to ask us to look at your eligibility again. We are not allowed to deny or stop Medi-Cal just because you have a border crossing card or short-term visa, if you meet all eligibility requirements. You have the right to prove that you live in California even if you have one of these immigration documents.

What should you do?

Tell your worker that you think you were denied Medi-Cal or it was stopped because of a border-crossing card or short-term visa and you want your application reopened under the Latino Coalition case. Your worker will give you a form to sign. You will get a new review of your case. Don't wait. You have only until December 31, 2000, to reapply.

Revised 9/1/99

ES POSIBLE QUE LE DEBAMOS BENEFICIOS DE MEDI-CAL, EN CONFORMIDAD CON UN CASO EN LOS TRIBUNALES CONOCIDO EN INGLÉS COMO *LATINO COALITION FOR A HEALTHY CALIFORNIA v. BELSHÉ*

En cualquier momento después del 18 de febrero de 1997, ¿le negamos o interrumpimos sus beneficios de Medi-Cal, sencillamente porque usted tenía en su poder una tarjeta para cruzar la frontera o una visa a corto plazo?

Si así fue, estábamos equivocados. Usted tiene derecho a pedirnos que volvamos a considerar su elegibilidad. Si usted cumple con todos los requisitos de elegibilidad, no se nos permite negar o interrumpir beneficios de Medi-Cal simplemente porque usted tiene una tarjeta para cruzar la frontera o una visa a corto plazo. Usted tiene derecho a probar que usted vive en California, aun si usted tiene uno de estos documentos de inmigración.

¿Qué debe hacer usted?

Dígale a su trabajador(a) que usted cree que se le negaron o interrumpieron los beneficios de Medi-Cal porque tenía una tarjeta para cruzar la frontera o una visa a corto plazo, y que usted quiere que su solicitud vuelva a considerarse, en conformidad con el caso conocido en inglés como *Latino Coalition*. Su trabajador(a) le dará un formulario para que lo firme. Su caso se analizará de nuevo. No espere. Usted tiene hasta el 31 de diciembre del 2000 para volver a solicitar los beneficios.