State of California—Health and Human Services Agency
Department of Health Services

California Department of Health Services

ARNOLD SCHWARZENEGGER
Governor

February 13, 2004

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS

Letter No.: 04-02

SUBJECT: **INTERIM COMPLIANCE PROCEDURES IN RESPONSE TO BABY ARMANDO DOE v. CALIFORNIA DEPARTMENT OF HEALTH SERVICES LAWSUIT**

The purpose of this letter is to provide you with interim procedures to be used to comply with the court's order issued November 24, 2003, in response to a lawsuit filed by petitioners in the *Baby Doe v. California Department of Health Services* (DHS) lawsuit. This lawsuit addresses deemed eligibility for infants under one year of age who are pre-enrolled through the Child Health and Disability Prevention (CHDP) Gateway. The court order directs DHS and the counties to make their best efforts to identify infants who have been found presumptively eligible for Medi-Cal through the CHDP Gateway, who can be deemed eligible for regular Medi-Cal and to enroll them in Medi-Cal.

BACKGROUND

As you are aware from All-County Welfare Directors Letter (ACWDL) 03-33 (June 18, 2003), the CHDP Gateway is a new process that began July 1, 2003, that allows CHDP providers to pre-enroll children, who visit them seeking CHDP services, into temporary, full-scope, no-cost Medi-Cal based upon apparent eligibility for no-cost Medi-Cal or the Healthy Families (HF) program. The services are provided under the federal authority for Presumptive Eligibility for Children granted by Social Security Act, Title XIX, Section 1920A.

The CHDP Gateway serves children under age 19 years from families with self-reported income less than or equal to 200 percent of the federal poverty level. At the time of the visit, the data from the CHDP Gateway Pre-enrollment Application (DHS 4073) is entered into the Medi-Cal Eligibility Data System (MEDS) via an internet terminal or a point of service (POS) device and a MEDS file clearance is performed to determine whether a child is known to MEDS and is currently receiving Medi-Cal or HF benefits.

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Children not known to MEDS or not currently enrolled in Medi-Cal or HF are pre-enrolled through the Gateway and are immediately eligible for temporary, full-scope, no-cost Medi-Cal services (i.e., presumptive eligibility). They remain eligible for full-scope, no share-of-cost Medi-Cal services until the end of the month following the month of pre-enrollment. If the family or child submits an application for Medi-Cal/HF during that period, the services continue until the county or HF program completes an eligibility determination. Under federal law requirements, if no application is received, the services are terminated at the end of the second month.

Section 1902(e)(4) of Title XIX of the Social Security Act and Section 50262.3 of Title 22, California Code of Regulations provide that infants born to mothers who are eligible for and receiving Medi-Cal at the time of birth may be enrolled in Medi-Cal without an application as long as the infant resides with the mother in the birth month. These infants remain deemed eligible for Medi-Cal until age one as long as the infant continues to reside with the mother in California and the mother remains Medi-Cal eligible or would be eligible if pregnant. Current Medi-Cal Procedures require counties to make efforts to identify and enroll deemed eligible infants into Medi-Cal. Procedures Section 5H-C provides that if a pregnant woman does not report her infant's birth by the end of the expected birth month, the eligibility worker must contact the mother by the end of the following month.

Shortly after the July 1, 2003, implementation of the CHDP Gateway process, a lawsuit was filed by petitioners against DHS, claiming that the Gateway was illegal because it did not identify infants under age one who could be deemed eligible for Medi-Cal and enroll them in Medi-Cal under Section 1902(e)(4) of Title XIX of the Social Security Act and Section 50262.3 of Title 22 of California Code of Regulations.

Prior to the filing of the lawsuit, DHS began working on permanent modifications to the Gateway process so that, at the time of enrollment for presumptive eligibility through the CHDP Gateway, infants who meet the deemed eligibility criteria will be identified and enrolled as deemed eligible for Medi-Cal. One modification will be a revision to the DHS 4073 pre-enrollment application to gather enough identifying information about the infant's mother to link the infant to the mother's case. In the meantime, the court order directs DHS to implement interim procedures to identify children under age one, entering through the CHDP Gateway on or after August 1, 2003, who meet the deemed eligibility requirements, and to enroll them in the Medi-Cal program.

The following interim procedure will run concurrently with the CHDP process.

INTERIM PROCEDURE

In order to comply with the court order, DHS has developed the following procedure. These procedures will be used until the permanent modifications to the CHDP Gateway system are completed. Because the current DHS 4073 does not contain specific and unique identifying information about the infant's mother, the interim procedure to identify deemed infants could not be automated or completed at the State level without diverting staff from work on the permanent modifications. Therefore, DHS and the counties must make their best efforts to identify infants enrolled through the Gateway who can be deemed eligible for Medi-Cal and to enroll them in Medi-Cal as follows:

1. DHS will supply each county with a report containing a listing of all infants under the age of 1 who reside in the respective county who have pre-enrolled in CHDP Gateway. Two versions of this report will be available, a daily report and a date prompted report. The daily report will list the infants who were pre-enrolled on the previous business day. This report is refreshed daily with a list of newly enrolled infants. The date prompted report will allow the county to create a report of infants pre-enrolled during a specific period of time (e.g. prior days or entire months). This report will include only infants whose presumptive eligibility benefits have not been extended. If presumptive eligibility was extended, the infant's family submitted an application for the Healthy Families or Medi-Cal program and additional review is unnecessary.

   The reports will be available to county staff via the DHS Extranet in the Business Objects reporting system. The reports will, at a minimum, contain the following data:

   a. Infant's name,
   b. Infant's CIN
   c. Infant's address,
   d. Infant's gender,
   e. Infant's date of birth,
   f. Family's phone number
   g. Family's preferred spoken and written language,
   h. The name of person signing the DHS 4073 (parent or legal guardian), and
   i. The name of the infant's mother.

2. Each county is to download the report and conduct a Medi-Cal Eligibility Data System (MEDS) address file clearance and use its best efforts to link the infant to its mother's case.

3. If a reasonable match can be made, the county must determine whether the mother was on any federal Medi-Cal program on the date of the child's birth.

   a. The mother must have eligibility in a federal Medi-Cal program aid code.

   Note: Aid code 7N, which is designated as the Minor Consent program for pregnant minors, is now a federal program. Therefore, infants born to mothers in this aid code are not precluded from deemed eligibility.

   b. If the mother's only eligibility is share of cost, the share of cost must have been met.

4. If the county finds the mother's record on MEDS and the mother is eligible (as defined in 3 above) and the mother's current address on MEDS matches the infant's address on the CHDP Gateway report, the county can conclude that the infant resided with the mother at birth and deem the infant eligible for Medi-Cal.

5. If the county cannot find a match on MEDS for the mother living at the infant's address, check data files available to the county for information needed to establish deemed eligibility.

6. If deemed eligibility is established, the county must report the infant's eligibility to MEDS and provide a notice of action of approval to the infant's family.

7. Under federal law, the infant's presumptive eligibility through the CHDP Gateway is discontinued at the end of the month following the month of pre-enrollment. Therefore, to prevent a delay in coverage, counties must use their best efforts to make this determination before the end of the pre-enrollment (i.e., presumptive eligibility) period.

REINSTATEMENT

The court order further requires that the Department and the counties must make their best efforts to identify and enroll in Medi-Cal those infants who received presumptive eligibility benefits through the CHDP Gateway on or after August 1, 2003, and who can be identified as deemed eligible for Medi-Cal after their presumptive eligibility period ended. The order requires that the reviews and "reinstatements" be completed as soon as practicable.

Based on the court's order, the county must review the CHDP Gateway list of enrolled infants (using the date-prompted report) described in the Interim Procedure above, and identify those infants who have been terminated from Gateway without a county determination of deemed eligibility. The county must use its best efforts to identify the infants and determine whether they qualify for deemed eligibility. If, using the procedures outlined above, the county determines the infant can be deemed eligible, the child must be enrolled in Medi-Cal retroactively to the infant's date of birth.

SUMMARY

Until further notice, counties are to follow the above interim procedures, including those to identify and enroll in Medi-Cal those infants who were discontinued from Gateway presumptive eligibility coverage but who can be deemed eligible for Medi-Cal.

If you have further questions concerning this letter or the CHDP Gateway, feel free to call Marlene Ratner at (916) 552-9448 or Carl Miller at (916) 552-9447.

Original signed by

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Beth Fife, Chief
Medi-Cal Eligibility Branch