STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
CRAMENTO, CA 95814

March 17, 1986

To: All County Welfare Directors
County Administrative Officers

Letter No. 86-12

STATE HEARING REQUESTS - DISABILITY ISSUES

The purpose of this letter is to inform you of new procedures required in processing of state disability hearings and to transmit specific instructions for implementing those procedures. Revisions to the procedures portion of the Medi-Cal Eligibility Manual (MEM) Section 19 will be sent to you under separate cover (A draft of the procedure is attached.)

Background:

The Department of Health Services (DHS) is currently involved in litigation (Visser v. Kizer) over the timeliness of state hearing decisions involving Medi-Cal disability determinations. In response to this litigation, DHS is examining and revising certain procedures for state disability hearings in order to expedite these decisions and establish a more efficient state hearing process.

Under the current state hearing process, a claimant may file a request for a hearing with either the county welfare department (CWD), (in accordance with Saldivar v. McMahon) or the Office of the Chief Referee (OCR). In many cases, the basis for denial or discontinuance is not identified in the hearing request. A hearing is then scheduled and attended by the claimant, a hearing officer, and a county appeals worker. At the hearing the claimant presents his/her allegation of disability and the county appeals worker presents the county position. Once the issue of disability is established as the basis for the hearing request, the hearing officer must ask the claimant to complete the appropriate forms (i.e., a new MC 223, Statement of Facts Regarding Disability, and new MC 220s, Authorization for Release of Information) in order to obtain the Disability Evaluation Division (DED) file. The hearing is then postponed until either the files are received or a new evaluation can be performed by DED. Upon receipt of the DED file or DED's completion of the new evaluation, a second hearing must then be scheduled for the county appeals worker and the claimant to present their arguments.

This procedure is expensive and time-consuming for both the CWD and OCR, and imposes unnecessary case delays. OCR must schedule,

and the CWD must attend two hearings on the same issue. Even where DED finds the individual to be disabled and the CWD obtains a conditional withdrawal prior to the second hearing, county appeals workers will still have had to attend the initial hearing. Also, the necessity of attending two hearings imposes a considerable hardship on many claimants with physical and/or mental problems. Thus, the hearing may need to be again postponed until the claimant is able to attend.

Under the court order in Visser, it is necessary to avoid unnecessary case delays and postponements. Therefore, it is important that disability hearing cases be identified as quickly as possible so that the DED file and any other information required can be obtained prior to the date of the hearing.

The Department and OCR have developed procedures that require securing the necessary disability related information prior to the date of the hearing. A request for Reconsideration form (DHS 7062) has been developed, along with a cover letter, to be sent to each claimant requesting a hearing based on disability. This letter encloses new Authorization for Release of Information (MC 220) forms and instructions for completion of the MC 220 and DHS 7062. It also explains to the claimant the need for the information and provides a telephone number the claimant can call to request assistance or clarification. This set of forms, with the cover letter, is referenced as the disability reconsideration packet.

OCR has accepted the responsibility to prepare and send out the reconsideration packets and will provide a toll-free number for assistance to all claimants involved in disability hearings. However, hearing requests filed directly with the counties (pursuant to Saldivar v McMahon) on Medi-Cal disability issues must be identified for OCR. Therefore, it is necessary that each county review hearing requests and identify requests that involve Medi-Cal disability issues. We have attached a copy of the draft MEM Procedure Section describing the identification procedure to be followed. Please implement this new procedure by May 1, 1986.

Hopefully, this procedure will permit OCR to obtain the DED file and send out the reconsideration packet quickly and will minimize the workload imposed on county staff. It is anticipated that this process will significantly expedite the rendering of hearing decisions involving disability as the information necessary to review disability will already be present at the first hearing.

If you have any questions, please contact Toni Bailey at (916) 324-4953.

Sincerely,

ORIGINAL SIGNED BY

Doris Z. Soderberg, Chief
Eligibility Branch

attachment

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: August 30, 1986

19 A - Disability Hearing Requests

In order to conduct a State Hearing involving a disability issue, it is necessary for the Office of the Chief Referee to obtain the disability file from the Disability Evaluation Division (DED) and to contact the person requesting the hearing for additional medical or vocational information. If the necessary information is not gathered prior to the hearing, the hearing officer may have to postpone the hearing, resulting in an untimely decision.

Therefore, all Medi-Cal disability hearing requests made directly to the county pursuant to Saldivar v. McMahon must be identified. The following information must then be provided to OCR along with the hearing request:

1. The name of the person alleging disability (this may differ from the case name and/or the claimant's name).

2. The Social Security Number of the person alleging disability.

3. The birthdate (if available) of the person alleging disability.

4. The date of the denied application or the discontinuance.

OCR will then request the disability file from DED and updated medical information from the claimant. The information will be available at the hearing, thus avoiding unnecessary delays in issuing decisions.

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