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

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

July 2, 1987

TO: All County Welfare Directors
All County Administrative Officers

Letter: 87-35

REPAYMENTS FOR MEDI-CAL BENEFITS PROVIDED TO ALIENS APPLYING FOR AMNESTY OR SPECIAL AGRICULTURAL WORKER STATUS

Reference: All County Welfare Directors Letter 87-1

On November 6, 1986 Congress passed the Immigration Reform and Control Act of 1986 (IRCA, P.L. 99-603) which makes several important changes in the federal Immigration and Nationality Act. These relate to financial penalties for employers of persons known to be illegal aliens and a legalization program which will allow certain aliens who entered the U.S. illegally before 1982 or who qualify as "special agricultural workers" (SAWs) to have their alien status adjusted by the Immigration and Naturalization Service (INS) first to temporary and then to permanent residents. Until state law is changed, however, these changes will have no effect on how you handle eligibility determinations for Medi-Cal.

One aspect of the legalization program does involve you at the present time. Aliens, who believe they qualify for legalization and apply for an adjustment of status, must establish, to the satisfaction of INS, that they are not likely to become "public charges" if admitted to the U.S. as immigrants. Aliens can do this by advancing evidence of past employment and self-support without reliance on "public cash assistance." Up until now, however, it has not been clear whether Medicaid/Medi-Cal would be so considered. The final regulations to implement the amnesty and SAW provisions have answered the question by stating definitely that Medicaid will not be counted as public cash assistance (Federal Register, May 1, 1987, pages 16196 and 16207).

This means that aliens applying to INS for legalization will not routinely be required, as a condition of their status adjustment, to repay the Department of Health Services for Medi-Cal benefits received while they were still illegal aliens. If asked, your staff should inform all other amnesty alien/SAW applicants, beneficiaries and members of the public that Medi-Cal repayment will

not be required as a precondition for legalization of alien status in accordance with IRCA. (This supersedes information released to you in ACWD Letter 87-1). Anyone not satisfied with your staff's explanation should be referred to our Department's Medi-Cal Program Inquiry (MPI) Unit (714 P Street, Room 1650, Sacramento, CA 95814, (916) 445-0266).

Of course, anyone who wishes to make a voluntary repayment may call our Department's General Collection Section (toll-free) at (800) 238-3377 for instructions about how to do so.

Aliens who wish to obtain documentary proof that they received Medi-Cal benefits in the past in order to apply for legalization of status in accordance with IRCA should request from the MPI Unit a copy of the form which authorizes release of this information.

If you have further questions about the INS public charge exclusion, please call Tom Dickson of my staff. He can be reached at (916) 323-4124.

Sincerely,

Original signed by

Ricardo Bustamante, for
Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: December 1, 1988