STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

GEORGE DEUKMEJIAN, *Governor*

DEPARTMENT OF HEALTH SERVICES
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SACRAMENTO, CA 95814
445-1912

May 23, 1989

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 89 - 43

SUBJECT: NEW IRCA ALIENS

REFERENCE: ACWDLs 88-66, 88-84, 88-87 and 89-04

This is to inform you that a new group of aliens from Poland, Afghanistan, Ethiopia and Uganda qualify for amnesty under the Immigration Reform and Control Act (IRCA) of 1986 and, thus, for Medi-Cal.

Under Section 902 of Public Law 100-204 and related Immigration and Naturalization Service (INS) regulations (8 CFR 245a), certain aliens from Poland, Afghanistan, Ethiopia and Uganda may apply for adjustment to Lawful Temporary Resident (LTR) status under Section 245A of the Immigration and Nationality Act. These individuals were granted Extended Voluntary Departure (EVD) on a nationality group basis sometime during the 5-year period ending November 1, 1987. To qualify for LTR, they must have:

1. Entered the U.S. as nonimmigrants prior to July 21, 1984;
2. Applied for asylum prior to July 21, 1984;
3. Resided in the U.S. illegally since before July 21, 1984; and,
4. Been continuously present in the U.S. from December 22, 1987 through the filing of the application.

The application period for this new group of IRCA aliens ends December 22, 1989. They are estimated to number 25,000 to 30,000 nationally, a relatively small increment in IRCA LTRs.

The addition of this new group has raised an unusual policy aspect about amnesty aliens. Some, such as those with EVD status, have been Permanently Residing Under Color of Law (PRUCOL) prior to the grant of amnesty. Otherwise eligible PRUCOL aliens are entitled to full benefits. However, <u>once INS grants them LTR, IRCA controls the level of benefits to which they are entitled</u>. This last point deserves some elaboration. The earliest date at which IRCA benefit restrictions can apply to PRUCOL aliens who are not aged, blind, disabled, or under 18 is not the effective date of amnesty (the date when they applied for LTR); rather, it is the date they are notified that their amnesty application has been granted. Since neither you nor the aliens know whether amnesty will be granted, you have to assume that, if they had PRUCOL/EVD status when they applied for amnesty, they are entitled to full benefits until the LTR approval notice is received.

Watch closely for the expiration of EVD status. EVD lasts from thirty days to one year and can be renewed for from thirty days to one year. If these aliens are not granted LTR, they may still be considered PRUCOL if their EVD has not expired. The INS documentation for an EVD is an Arrival/Departure Record (I-94) with an accompanying Alien Voluntary Departure Notice (I-210). The I-94 and the I-210 contain an alien registration number which you must verify through the Systematic Alien Verification for Entitlements (SAVE) system. Once EVD expires, apply existing policy for their particular status.

The following examples of EVD applicants for full benefits may be helpful:

A. An otherwise eligible aged PRUCOL alien with EVD status valid until February 15, 1990 applies for both Medi-Cal and amnesty in April 1989. If amnesty were not granted, he would continue to receive full benefits until February 1990. Unless EVD were extended, he would revert to undocumented status and his benefits would be restricted.

B. Same facts as listed above, except that he is granted LTR on July 15, 1989 and informs you timely. Under IRCA rules, he would continue to be eligible for full benefits.

C. If the PRUCOL/EVD alien were 25 years old, not blind nor disabled, the answer in A. above would fit: his benefits should be reduced in February 1990. The reason is reversion to undocumented status, not IRCA restrictions given that they never came into play.

D. If the PRUCOL/EVD alien were 25 years old, not blind nor disabled, and you learned that he was granted amnesty on July 15, 1989, you would reduce his benefits as soon as possible because IRCA restrictions apply to him.

E. The PRUCOL/EVD alien is not aged, blind, disabled or under 18. At application, you learn that his EVD status has expired, but that he has been granted amnesty. He is subject to IRCA restrictions and entitled only to restricted benefits.

F. The PRUCOL/EVD alien is aged. His EVD status has expired, and his application for amnesty has not been adjudicated. Treat this applicant as you would an undocumented alien whose amnesty application has not been granted yet: issue restricted benefits, change them to full upon LTR approval.

Our previous IRCA instructions, including those about Crespin and Ruiz court injunctions, long-term care and renal dialysis cases, apply to these new IRCA aliens (see ACWDLs 88-66, 88-84 and 88-87). **TO BE ELIGIBLE, THEY MUST BE LINKED AND SATISFY PROPERTY, STATE RESIDENCE, COOPERATION, AND ALL OTHER REQUIREMENTS.**

INS issues the same documents to these new IRCA aliens as it did to previous IRCAs: I-688A (Employment Authorization), I-688 (Temporary Resident), and

I-551 (Resident Alien). Verify satisfactory immigration status through SAVE. Use the same aid codes you use for other IRCA aliens (See chart in ACWDL 89-04).

We are sure that, as in the past, you will come across policy questions we had not considered initially. Your letting us know about them is appreciated. It will help us to formulate and disseminate new policy on IRCA aliens. If we may be of further assistance, please call any of the policy analysts assigned to alienage.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: May 23, 1990