STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

GEORGE DEUKMEJIAN, *Governor*

DEPARTMENT OF HEALTH SERVICES
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July 6, 1990
Letter No.: 90-67

TO: All County Welfare Directors
All County Administrative Officers

SUBJECT: IRCA/OBRA QUERIES AND POLICY

REFERENCES: ACWDLs 88-66, 88-68, 88-84, 88-87, 88-91, 89-04, 89-41 and 89-84

The purpose of this letter is to disseminate alien policy information requested by counties and to clarify issues raised during the implementation of Permanently Residing Under Color of Law (PRUCOL) procedures.

QUESTION #1:

Are U.S. citizens and aliens lawfully admitted for permanent residence eligible for restricted Medi-Cal benefits?

ANSWER:

No. While a court injunction prohibits you from asking restricted benefit applicants directly about their citizenship or immigration status, you may learn their status from other sources. If you learn an applicant is a U.S. citizen or alien lawfully admitted for permanent residence, deny restricted benefits. Likewise, you should deny restricted benefits to PRUCOL aliens or amnesty aliens who are aged, blind, disabled or under 18. Instead, these aliens may be eligible for <u>full</u> Medi-Cal benefits if they complete another Form MC 13, provide a Social Security Number (SSN) and, in the case of aliens, provide documentation of satisfactory immigration status (SIS).

This changes the policy we stated in ACWDL # 89-41, Question 19. At the time we thought that applicants claiming to be naturalized citizens who did not provide documentation of it could receive restricted benefits, but we were wrong.

QUESTION #2:

What should we do if we suspect that a U.S. citizen or an alien lawfully admitted for permanent residence is applying for restricted benefits instead of full benefits?

ANSWER:

It depends on what evidence you have that raises this suspicion. This could be a mistake on the applicant's part. If so, you can explain the rules so that the applicant realizes that it is to his/her advantage to apply for full Medi-Cal benefits. Or, having learned that the applicant has a SSN, U.S. birth certificate, benefits from another welfare program that excludes undocumented aliens, etc., you may suspect that he/she wants to prevent the detection of income or resources through IEVS by not giving you a SSN. If so, you can make a fraud referral to the Audits and Investigations Unit to determine the applicant's status, income, and resources.

QUESTION #3:

May we require the parents of a child applying for restricted benefits to give us their SSNs if they are not requesting Medi-Cal benefits for themselves?

ANSWER:

No. Pursuant to the court injunctions discussed in ACWDL 88-84 (Crespin v. Kizer), restricted Medi-Cal benefit applicants and members of their family or household are not required to supply SSNs. However, if a SSN is available to you from another source, e.g. a closed case file, a paycheck stub, etc., or if it is voluntarily provided to you, you must use it. Note in the case file how the number was obtained.

QUESTION #4:

Can alien parents request minor consent services for their alien child?

ANSWER:

No. Minor consent services are designed to help children obtain sensitive medical services without their parents' knowledge. Therefore, alien children must apply for themselves. If the parents apply so that their children receive such services, they must do so under the regular Medi-Cal program. This applies to citizen applicants as well.

QUESTION #5:

You have said that newborns must have a MC 13 completed as a condition of eligibility. How can we obtain a MC 13 for a newborn?

ANSWER:

When the mother applies for Medi-Cal benefits, she can complete a MC 13 for the unborn. Prior to birth, the name of the child is to be left blank but the mother can sign and date the form and check the level of benefits she will request once the baby is born. The rest of the information will have to be completed when the baby arrives. The mother should call the worker and provide any missing information about the baby. The worker can update the MC 13 and note in the case file that the mother provided the information by telephone.

QUESTION #6:

You told us to ask for verification of U.S. citizenship when an applicant claims it but was born abroad. Some elderly women, for example, claim U.S. citizenship by having entered the country and married a U.S. citizen before September 22, 1922. The problem is that they lack documentation of citizenship, cannot handle their own affairs, and there is no one who will help them search for misplaced documents or obtain new ones from INS. What should we do in such cases?

ANSWER:

Refer these cases to adult protective services so that an authorized representative (AR) can be appointed to take care of their interests. The AR should apply at INS for documentation on behalf of the applicant. The verification can be an INS fee receipt for replacement of documents, or an INS letter attesting to the applicant's U.S. citizenship or SIS. Applicants for full Medi-Cal benefits must document the citizen/immigration status they claim as a basis for eligibility. Failure to provide documentation within the prescribed timeframes makes them ineligible for any benefits.

QUESTION #7:

In connection with the preceding question, can't elderly foreign-born applicants who entered the U.S. many years ago obtain SIS through a "Registry" alien status adjustment?

ANSWER:

Certainly. Under immigration law, an alien who entered the U.S. before 1972, lived here continuously since then, and met other specified conditions can become a lawful permanent resident. It's up to these applicants, though, to claim SIS on this basis when it cannot be established that they became U.S. citizens.

QUESTION #8:

Can PRUCOL be sought for a deceased person?

ANSWER:

Yes.

QUESTION #9:

How can aliens from Poland, Afghanistan, Ethiopia or Uganda, who are granted extended voluntary departure (EVD) on a nationality group basis, be identified? (See ACWDL 89-43: NEW IRCA ALIENS and MEM Procedure 7A, page 6)

ANSWER:

By INS form I-94 or I-210 which states their EVD status and country of origin.

QUESTION #10:

How long should we retain INS SAVE responses and MC 13 forms in beneficiaries' Medi-Cal case files?

ANSWER:

Normal record retention rules apply for these documents. Pursuant to Section 50111, retention is usually three years from the date the case is closed. Since records are supposed to be kept for three years after the state submits its claim to the federal government, it is advisable to retain records for at least three years and six months. This is because provider billing tends to be later which means expenditure reports are not submitted until six months to a year from the month of service.

QUESTION #11:

Does INS sometimes extend the validity of the I-688A or I-688 card when it expires?

ANSWER:

Yes, INS has used three different stickers in cases where it needs additional time to decide whether to grant amnesty or to adjust the status of a lawful temporary resident:

Two of the stickers have been used on both cards and have reddish-orange print on a white background. They read, respectively:

INS Valid for One (1) Year from Expiration Date.

INS Valid for 90 Days from Expiration Date.

The third has only been used on I-688 cards held by Special Agricultural Workers and has reddish-orange print on a black background. It reads:

I-688 VALIDITY EXTENDED FOR ONE YEAR FROM DATE OF EXPIRATION.

If you encounter a recently expired I-688 card that does not have an extension sticker, initiate primary SAVE verification. Do not grant benefits until you receive INS' response.

QUESTION #12:

What Notice of Action should we use to reduce full benefits to restricted benefits?

ANSWER:

Use Form 239A to discontinue the beneficiary's full benefits and Form 239P to grant restricted benefits. Be sure to indicate the reason for the discontinuance of full benefits on the 239A. If you have automated forms, be sure they include both transactions and the reasons for the actions you are taking.

QUESTION #13:

Does an overpayment arise from the receipt of full benefits by an alien falsely claiming to have SIS who is later found to lack such status?

ANSWER:

Yes. Follow existing overpayment referral procedures.

QUESTION #14:

Sometimes we know the Alien Registration Number of applicants who have not provided an INS document (either because they only want restricted benefits or because they do not have one at that moment). Should we run the number through SAVE?

ANSWER:

Yes. Furthermore, if they want full Medi-Cal benefits, they are still required to present the actual documentation of SIS within 30 days. If they apply for restricted Medi-Cal benefits and SAVE tells you they have SIS, keep in mind the answer to question #1: U.S. citizens, aliens lawfully admitted for permanent residence, PRUCOL aliens and amnesty aliens who are aged, blind, disabled or under 18, are eligible for full Medi-Cal benefits but ineligible for restricted ones. In any event, remember to use the correct aid code.

QUESTION #15:

Are we required to seek PRUCOL for a person who is in a facility for the developmentally disabled and considered to be in a long-term care (LTC) status?

ANSWER:

Yes, if the facility where the patient is located is licensed as a medical facility (this includes skilled nursing and intermediate care facilities) and the person has been there for the month of admission and is expected to remain for at least one full month after the month of admission. If the person is an institutionalized spouse under draft regulation Section 50046.5 contained in ACWDL No. 90-01, however, the person need only be expected to remain for thirty consecutive days from the date of admission.

There may be facilities where individual beds are licensed as simply board and care beds or residential care beds. Individuals in these beds are not recipients of inpatient medical care and would not have LTC status nor would they be considered institutionalized spouses. PRUCOL would not be applicable to these individuals.

QUESTION #16:

Must IRCA aliens apply to the Social Security Administration for Medicare as a condition of Medi-Cal eligibility if they are aged, blind or disabled (ABD) (Aid Codes 51 or 56) and request full Medi-Cal benefits?

ANSWER:

Yes. Aliens who have been in the United States for a continuous five-year period, whether legally or illegally, and have obtained their lawful permanent residence status under IRCA, meet the residence requirements for Medicare. Refer these IRCA aliens to the Social Security Administration just as you would all other medically needy ABD Medi-Cal applicants.

QUESTION #17:

Must undocumented and temporary visitor aliens applying for restricted Medi-Cal benefits apply for Medicare as a condition of Medi-Cal eligibility?

ANSWER:

No. Undocumented and temporary visitor aliens are not lawfully admitted for permanent residence. Thus, they are not eligible for Medicare.

QUESTION #18:

Does receipt of LTC constitute linkage to the Medi-Cal program?

ANSWER:

No. We erroneously stated in ACWDLs 88-91 (Question 11) and 89-04 that the mere receipt of LTC constituted linkage to the Medi-Cal program. To be linked to Medi-Cal, an applicant must be: under 21 years of age, pregnant, aged, blind, disabled, or the parent of a child, included in the MFBU, who is "deprived of parental support or care".

Certain aliens in LTC, although not linked to Medi-Cal, may be eligible for state-only LTC benefits just as a U.S. citizen might. (See the next question). Under Aid Code 53, non-linked patients in LTC facilities receive State-only LTC services, but not the full scope of Medi-Cal benefits.

QUESTION #19:

Are non-linked aliens eligible for the State-only LTC Aid Code 53 benefits described above?

ANSWER:

Yes, the court injunctions issued in the Ruiz v. Kizer and Crespin v. Kizer lawsuits mandate that, if they are otherwise eligible (i.e. cooperative State residents who are below the personal and other real property limits, etc.) and are in a LTC facility when they apply for Medi-Cal benefits and claim to have SIS, they are eligible. If they do not provide proof of SIS within the 30-day time period, leave them in Aid Code 53. This situation will differ from regular Medi-Cal undocumented aliens in that you will not be required to seek PRUCOL for these non-linked aliens.

If there is a possibility that the applicant is disabled, you must still pursue a disability evaluation.

QUESTION #20:

Are there new developments we should know about?

ANSWER:

Yes. Eligibility workers are no longer required to sign the MC 13 in the County-Use Only box on the back of the form. We told you of this in ACWDL 89-33. Please revise the MC 13 Instructions Sheet to reflect this change.

The latest version of the MC 13 is the May 1989 version. It incorporates the above-mentioned change and is printed in a larger type face. Otherwise, it is the same as the November 1988 version which you should continue using until your supply is exhausted.

The PRUCOL Applicant and Beneficiary Notification Letters are available in the warehouse. The form numbers are MC 225 and MC 226. Both English and Spanish versions are available.

If we may be of further assistance, please contact Linda Hayes at (916) 323-5861, ATSS 473-5861.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants