

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
ACRAMENTO, CA 95814
(916) 445-1912



August 31, 1982

To: All County Welfare Directors

Letter No. 82-49

ELIGIBILITY CHANGES REQUIRED BY AB 799 (PARENTAL RESPONSIBILITY AND ELIMINATION OF RETROACTIVE ELIGIBILITY FOR MEDICALLY INDIGENT ADULTS (MIAs))

This letter provides you with draft regulations implementing Sections 10 and 14 of AB 799 -- Parental Responsibility and Elimination of Retroactive Eligibility for MIAs with the exception of those MIAs residing in skilled nursing or intermediate care facilities. Following is additional information about these regulations.

A. Parental Responsibility

As stated in ACWD Letter 82-41, these regulations will require that a parent's income and property be considered in determining the eligibility of a child 18 years of age or over, regardless of where the child is living, if the parent claims that child as an income tax deduction. Clean up language, which is required before the parental responsibility regulations can be implemented, has been submitted to the Legislature. The State will inform you of the status of the clean up language as we receive word. Any comments you have on the attached parental responsibility regulations are solicited. Please direct your comments to Gerry Senini, 714 P Street, Room 1692, Sacramento, CA 94814 or call (916) 445-1912. The projected implementation date is October 1, 1982.

B. Elimination of Retroactive Eligibility for Medically Indigent Adults (MIAs)

This change eliminates retroactive eligibility for MIA beneficiaries except for those MIAs who reside in a skilled nursing or intermediate care facility sometime during the month of application and were residing in a skilled nursing or intermediate care facility sometime during the requested retroactive month(s). September 1, 1982, is the planned effective date for implementation. Below are some questions and answers regarding implementation of this regulation change to Title 22, (CAC), Section 50710.

1. Q. If a beneficiary is MIA in the month of application but was MN or MI child in the retroactive month(s) requested, is he/she eligible for retroactive coverage?
 - A. Yes. The eligibility record for the retroactive month(s) will contain the correct MN or MI child aid code.
2. Q. If a beneficiary is MN in the month of application but was MIA in the retroactive month(s) requested, is he/she eligible for retroactive coverage?
 - A. No.
3. Q. Can the Medi-Cal card issued for use of a person who resided in a skilled nursing or intermediate care facility in the requested retroactive month(s) be used to cover non-facility related services in the same retroactive month(s)?

- A. Yes, the Medi-Cal card covers the same benefits in the retroactive month(s) as it covers in the current and ongoing months.
4. Q. For how much of the month of application, and requested retroactive month, must the MIA person have resided in a skilled nursing or intermediate care facility to qualify for retroactive eligibility?
- A. One day or more.
5. Q. When will these regulations take effect?
- A. For applications taken on and after September 1, 1982; e.g. an affected MIA applicant in September would not be eligible for retroactive coverage for June, July, or August.
6. Q. Will a Medically Indigent child continue to receive retroactive eligibility?
- A. Yes. The adult family members will be ineligible members of the MFBU for the retroactive month(s).

Please contact your Medi-Cal Program Consultant should you need additional information.

Sincerely,

Original signed by

Madalyn M. Martinez, Chief
Medi-Cal Eligibility Branch

Attachment

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

50030. Child. (a) Child means a person under the age of 21 except that the following persons are considered adults in accordance with Section 50014:

(1) A person under the age of 21 who is now or has been married, unless the marriage was annulled.

(2) A person 18 to 21 years of age, who is not living in the home of a parent or caretaker relative.

(3) A blind or disabled MN person who is 18 to 21 years of age, living in the home of a parent and not currently enrolled in school.

(4) A person 14 to 18 years of age who is not living with a parent or caretaker relative and who does not have a parent, caretaker relative or legal guardian handling any of his/her financial affairs.

(b) An unborn is considered a child for Medi-Cal purposes.

(c) For purposes of Medi-Cal eligibility, a person who is claimed as a dependent by a parent in order to receive tax credit or as a deduction for state or federal income tax purposes, regardless of the person's age, is considered a child.

NOTE: Authority Cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: Section 14008, Welfare and Institutions Code.

50071. Persons Living in the Home. (a) Person's living in the home means all of the following:

(1) Persons physically present in the home;

(2) Persons temporarily absent from the home because of hospitalization, visiting, vacation, trips in connection with work, or because of similar reasons as limited by (d).

(3) Persons away at school or vocational training who will resume living in the home as evidenced by the person returning home for vacations, weekends and at other times.

(4) Persons living in the home or away from the home who are claimed as a dependent by a parent in order to receive tax credit or as a deduction for state or federal income tax purposes.

(b) A temporary absence is normally one in which the person leaves and returns to the home in the same month or the following month.

(c) Whether a person is living in the home while in LTC or board and care shall be determined in accordance with Section 50377.

(d) A child temporarily absent from the home in accordance with (a) (2) shall be considered to be living in the home as long as the parent continues to have responsibility for the care and control of the child. A parent continues to have responsibility for the care and control of a child until the court removes this responsibility or the parent voluntarily relinquishes it in accordance with Department of Social Services, Manual of Policies and Procedures, Division 30.

(e) An 18 to 21 year old or unmarried minor parent living on the parent's property shall not be considered to be living in the parent's home if ~~both~~ all of the following conditions exist:

(1) The 18 to 21 year old or unmarried minor parent does not receive any support from the parents.

(2) The building the 18 to 21 year old or unmarried minor parents lives in would be considered other real property of the parents.

(3) The child is not claimed by the parent as a dependent in order to receive tax credit or as a deduction for state or federal income tax purposes.

NOTE: Authority Cited: Sections 10725 and 14124.5, Welfare and Institutions Code.
Reference: Section 14008, Welfare and Institutions Code.

50123. County of Responsibility - Persons with a Family. (a) The county of responsibility for determining Medi-Cal eligibility for persons whose eligibility as MN, MI or Other PA is determined as part of a family, or based on family income, shall be either of the following:

- (1) The county in which the family's residence is located.
- (2) The county of physical presence if the family's residence is unclear.

(b) The county of responsibility for determining Medi-Cal eligibility for a family which includes an AFDC-MN or MI person living away from the home and who is claimed by the parent as a dependent in order to receive tax credit or as a deduction for state or federal income tax purposes shall be the county in which the parents live as determined in accordance with (a).

(c) The county of responsibility for determining Medi-Cal eligibility for a person who is claimed by a parent as a dependent or as a deduction for tax purposes and whose parent lives out of state shall be the county in which the person resides as determined in accordance with (a).

NOTE: Authority Cited: Sections 10554.1 and 14124.5, Welfare and Institutions Code
Reference: Sections 14008 and 14016(c), Welfare and Institutions Code.

Article 8. Responsible Relatives and
Unit Determination

50351. Responsible Relatives. (a) The responsibility of a relative to contribute to the cost of health care services of a Medi-Cal applicant or beneficiary shall be limited to spouse for spouse and parent for child.

(b) In determining Medi-Cal eligibility and share of cost, relative responsibility shall be determined in accordance with the following:

(1) Relative responsibility shall be spouse for spouse when the spouses are living together in the home.

(2) If one or both of the spouses is in LTC or board and care; the spouses income and property shall be considered available in determining each others eligibility and share of cost in accordance with the MFBU composition provision of Section 50377.

(3) If neither of the spouses is in LTC or board and care but the spouses are living apart, the spouses shall have their eligibility and share of cost determined as single persons the day following the separation, if it is known that the separation will not be temporary in accordance with Section 50071 (b).

(4) Relative responsibility shall be parent for child living in the parent's home and persons specified in (c), except that the parents shall neither be held financially responsible for, nor asked or required to contribute to or provide other health care coverage for the cost of health care services which the child may receive without parental consent.

(A) The health care services which a child may receive without parental consent are services related to:

1. Sexual assault.
2. Drug or alcohol abuse for a child 12 years of age or older.
3. Pregnancy or family planning.
4. Venereal disease for a child 12 years of age or older.

(c) Notwithstanding Section 50014(a)(4) and (5) and Section 50030(a)(1), (2) and (4), persons living in the home or away from the home shall be considered children for purposes of Medi-Cal eligibility, and the parent shall be a responsible relative when both of the following conditions exist:

(1) The person is applying as AFDC-MN or MI.

(2) The parent claims the child as a dependent in order to receive tax credit or as a deduction for state or federal income tax purposes.

~~(e)~~ (d) A Medi-Cal applicant or beneficiary shall not be required, as a condition of eligibility, to cooperate with any referral to or attempt by an agency to collect support from a responsible relative other than those specified in (b) and (c).

NOTE: Authority Cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: Section 14008, Welfare and Institutions Code.

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50355. Parents Not Claiming Children as Deductions or Dependents for Income Tax Purposes. (a) For purposes of Section 50351(c) eligibility, if a child who is living away from the home and who is not claimed as a deduction or dependent for income tax purposes applies for Medi-Cal benefits, the parent(s) of the child must submit a statement of intent that the child will not be claimed for tax purposes for the current calendar year.

NOTE: Authority Cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: Section 14008, Welfare and Institutions Code.

50373. Medi-Cal Family Budget Unit Determination, No Family Member in LTC or Board and Care. (a) The MFBU for a family with no family member in LTC or board and care shall be determined in accordance with the following:

(1) Family members who are PA or Other PA recipients, except for persons eligible for four month continuing eligibility, shall not be included in the MFBU.

(2) All family members living in the home, other than those specified in (1), shall be included in the MFBU in accordance with (4) whether or not they are eligible for, or wish to receive, Medi-Cal. Potential members of the MFBU may be excluded in accordance with Section 50381.

(3) All family members living in the home, except those children excluded from the MFBU in accordance with 50381, shall be considered in determining the program for which the persons included in the MFBU are eligible.

(4) For purposes of this section, AFDC-MN or MI persons who are claimed by the parent as a dependent in order to receive a tax credit or deduction for state or federal income tax purposes shall be included in their parents' MFBU.

~~(4)~~ (5) Once the potential members of the MFBU have been identified, the MFBU shall be determined in accordance with the following:

(A) Family members living in the home who are not PA or Other PA recipients.

1. Individual adult.
2. Individual, spouse.
3. Parent, children.
4. Both unmarried parents, mutual children.
5. Both unmarried parents, mutual children, separate children of either or both parents.

(B) MFBU

1. Individual adult.
2. Individual, spouse.
3. Parent, children.
4. Both unmarried parents mutual children.
5. Both unmarried parents mutual children, separate children except that when all the mutual children are excluded in accordance with Section 50381, each unmarried parent and that parent's separate children shall be in a separate

6. Parent, spouse, mutual children.

7. Parent, spouse, mutual children and/or, separate child of either or both parents.

8. Unmarried minor parent; children; the unmarried minor parent's parents and his/her spouse and/or children.

9. Unmarried minor parent; second unmarried parent; their mutual children; separate children of either or both; unmarried minor parent's parent(s) and his/her spouse and/or children.

10. Child living with the child's parents requesting Medi-Cal for minor consent services, whose application is being processed in accordance with Section 50147.1 (a) (3) (D), the child's children.

11. Sibling children if all other family members PA or Other PA.

12. Sibling children, caretaker relative.

6. Parent, spouse, mutual children.

7. Parent, spouse, mutual children, separate children or the parent and the separate children of that parent if the conditions of 50375 are met.

8. Two MFBU's:

a. Unmarried minor parent as an ineligible member, unmarried minor parent's children.

b. Unmarried minor parent, the unmarried minor parent's parents and his/her spouse and/or children (MFBU is determined in accordance with (3) through (7)).

9. Two MFBU's:

a. Unmarried minor parent as an ineligible member, second unmarried parent, separate children of either unmarried parents, mutual children.

b. Unmarried minor parent, the unmarried minor parent's parent(s) and his/her spouse and/or children (MFBU is determined in accordance with (3) through (7)).

10. Child and the child's children.

11. Sibling children.

12. Sibling children and caretaker relative, except that the caretaker relative may choose to be in his/her own MFBU.

13. Sibling children, care-taker relative, caretaker relative's spouse and/or children.

13. Two MFBUs:

a. Sibling children.

b. Caretaker relative and his/her spouse and/or children (MFBUs are determined in accordance with (3) through (7)).

14. Child in foster care.

14. Child.

15. Sibling children in foster care.

15. Each sibling child is in his/her own MFBUs even if placed in the same foster home.

16. Child detained or placed by a court or court designated agency under Welfare and Institutions Code, Sections 300 or 601.

16. Child.

17. Child not living with a parent or relative for whom a public agency is assuming financial responsibility in whole or in part.

17. Child.

18. Child not living with a parent or caretaker relative when parents or public agencies have been contacted to determine whether they will accept legal responsibility for the child, and the child is not claimed as a dependent by a parent in order to receive tax credit or as a deduction for state or federal income tax purposes.

18. Child.

NOTE: Authority Cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: Section 14008, Welfare and Institutions Code.

50604. Maintenance Need -- Family Members Maintaining Separate Residences with Eligibility Determined as a Single MFBU. (a) An MFBU which includes a child who maintains a separate residence from his/her parent(s) in accordance with Section 50351 (c) shall use a combined maintenance need to be calculated according to (1) through (3).

(1) In accordance with Section 50603, determine the maintenance need for the separate household of the child as follows:

(A) For one child living alone or one child sharing a residence with other persons not financially responsible for the child, use the AFDC payment level for one.

(B) For two or more children who are living together and who are claimed as tax deductions for dependents by the parent(s), use the AFDC payment level for the corresponding number of persons.

(C) For two or more children who live alone in separate residences, use the AFDC payment level for one for each child.

(2) Determine the maintenance need for the parent's household in accordance with Section 50603.

(3) Combine the maintenance need determined in (1) and (2). This is the total maintenance need for the entire MFBU.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code, Section 57(c), Chapter 328, Statutes of 1982.

Reference: Sections 14005.12, 14008 of the Welfare and Institutions Code.

50710

50710. Retroactive Eligibility. (a) In addition to the period of eligibility specified in Section 50703, an applicant shall be eligible for Medi-Cal in any of the three months immediately preceding the month of application or reapplication if all of the following requirements are met in that month:

(1) The county department determines that the applicant would have been eligible for one of the programs specified in Section 50201, except as specified in (c), had an application been made.

(2) The applicant received program covered services.

(3) The applicant was not previously denied Medi-Cal for the month in question, unless the application was denied for one of the following reasons:

(A) County error.

(B) The applicant's failure to cooperate, when that failure, or the applicant's subsequent failure to reapply, was due to circumstances beyond the control of the applicant.

(b) The request for retroactive eligibility shall be made in accordance with Section 50148 and shall be treated as any other application, except that persons applying on the basis of disability shall have their disability determined prior to determining retroactive eligibility.

(c) A person 21 years of age or older shall not be retroactively eligible as a medically indigent person unless the person was residing in a skilled nursing or intermediate care facility during any part of both:

1) The month of application.

2) The month for which retroactive eligibility is requested.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.
Section 57 (c), AB 799, Chapter 328, Statutes of 1982.

Reference: Section 14019.1, Welfare and Institutions Code.