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September 28, 2001

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 249

TO: All Holders of the Medi-Cal Eligibility Procedures Manual

5S--SECTION 1931(b) PROGRAM

The Department submitted a State Plan amendment which was approved retroactively to May 1, 2001. This change will exempt all earned income of children when determining whether the principal wage earner is unemployed even though he/she is working 100 hours or more. Counties were asked to flag any cases that may be affected by this change. This change and other corrections and clarifications have been made in the updated pages. These changes are identified by a black line in the right margin.

Filing Instructions:

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If you have any questions, please contact Margie Buzdas of my staff at (916) 657-0726.

Sincerely,

Original signed by

Shar Schroepfer, Chief
Medi-Cal Eligibility Branch

Enclosures



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5S – SECTION 1931(b) PROGRAM

A. BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Public Law 104-193) established a new mandatory coverage group at Section 1931(b) of the Social Security Act. Section 1931(b) requires that Medi-Cal be provided to low-income families, who meet the provisions of the July 16, 1996, Aid to Families with Dependent Children (AFDC) State plan requirements for income, resources and deprivation, (subject to modification at State option). PRWORA also deleted many of the requirements for establishing deprivation based on unemployment.

Section 161 of AB 1542 (Chapter 270, Statutes of 1997) established the California Work Opportunity and Responsibility to Kids (CalWORKs) program and provided that it was to be implemented January 1, 1998. This law also provided that to the extent federal financial participation is available, the Department of Health Services shall extend eligibility for health care services under Medi-Cal to all recipients of aid under CalWORKs. This law adopted Section 14005.30 of the Welfare and Institutions (W&I) Code and also established Section 1931(b) only for families who met the former AFDC rules.

For purposes of establishing requirements for the Section 1931(b) group, the July 16, 1996, AFDC provisions have been modified as of January 1, 1998, to the extent possible as permitted by PRWORA, in order to align the Section 1931(b) program with CalWORKs. Therefore, former AFDC rules will be referred to as the Section 1931(b) rules.

B. PURPOSE OF THE SECTION 1931(B) PROGRAM

It is important to determine eligibility under the Section 1931(b) because:

1. Families that are discontinued from CalWORKs or Section 1931(b) due to excess earnings from employment or increased child/spousal support are eligible for either the Transitional Medi-Cal (TMC) or the Four-Month Continuing programs. Medically Needy (MN) persons are not.
2. Recipients may work over 100 hours and remain eligible if the family income is below the limit.
3. There are no time limits under this program. Families not eligible for CalWORKs because the time limit on their CalWORKs eligibility has expired may qualify for the Section 1931(b) program.
4. Families may choose to separately apply for the Section 1931(b) program because they do not wish to be CalWORKs recipients, or because they are not eligible for CalWORKs.
5. A family may not be eligible for CalWORKs but may be eligible for the Section 1931(b) program due to certain less restrictive AFDC rules no longer applicable to CalWORKs, but which continue to apply to the Section 1931(b) program. For example, families who have too much income to qualify for CalWORKs, but who have deductible child care costs, may qualify for the Section 1931(b) program.

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NOTE: Persons who are not eligible for CalWORKs such as those who are GAIN sanctioned, fleeing felons and aliens without satisfactory immigration status are eligible for Section 1931(b) without a separate determination, if other family members remain eligible for CalWORKs. Exceptions are non-needy caretaker relatives whose income is not considered by CalWORKs or a minor mother child living with a senior parent who is ineligible due the senior parent's income and/or resources, but the minor's baby is eligible for CalWORKs. These persons must have a regular 1931(b) determination.

C. IMPLEMENTATION DATES

New Applications: All new Medi-Cal applications for families and children are to be evaluated for the Section 1931(b) program beginning no later than January 1, 1999. As counties handle these cases, they are to be evaluated for current and future Section 1931(b) eligibility.

Ongoing Cases: Because CalWORKs was effective January 1, 1998, the new Section 1931(b) provisions also went into effect on January 1, 1998. For this reason, retroactive eligibility for all AFDC-MN, MI children, federal poverty level cases with infants and children and Aid Code 38 (Edwards) with or without a share of cost (SOC) must be evaluated back to January 1, 1998. This is important in the event eligibility for Transitional Medi-Cal needs to be established.

Counties shall complete their evaluation of Aid Code 38 cases for Section 1931(b) eligibility by April 30, 1999. Counties shall complete their evaluation of all other cases for Section 1931(b) within one year, i.e., no later than December 31, 1999.

Those MFBU's which had a SOC in a retroactive month but have no SOC for that month after the Section 1931(b) evaluation are entitled to:

1. Having future SOC amounts adjusted; or
2. Seeking reimbursement from the provider.

Please follow procedures outlined in Medi-Cal Procedures Manual Section 12-C (Processing Cases When a SOC Has Been Reduced Retroactively).

D. SECTION 1931(b) ELIGIBILITY REQUIREMENTS

Persons applying separately for the Section 1931(b)-Only program must first meet residency, age, deprivation, and family requirements. After these non-financial requirements have been met, persons must meet the income and property financial requirements.

DEPRIVATION

Unemployed Parent

The MN and Section 1931(b) program follows similar rules for determining the unemployed parent as the former AFDC program. The principal wage earner (PWE) is the parent who has earned the greater amount of income in the 24-month period immediately preceding either of the following: (1) The month of application, reapplication or restoration or (2) the date of a redetermination that a family's circumstances have changed in such a way as to meet the requirements for deprivation due to the unemployment of a parent. (See Section 50215(c). The only exception to this rule is if PWE is unemployed, becomes incapacitated, and then returns to work. The PWE is not redetermined. Section 1931(b) will continue to follow these rules. Therefore, if an absent parent returns to the home, deprivation may no longer exist if the PWE is not unemployed or a parent is not incapacitated.

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The deprivation rules for the Section 1931(b) program are the same as those for the medically needy (MN) program with the following exceptions:

1. The 100-Hour Rule:

The 100-hour rule requirement that the unemployed parent PWE work less than 100 hours in a month for unemployment to exist applies to applicants for Section 1931(b) and to applicants and beneficiaries applying for or receiving coverage under the AFDC-MN program. As of March 1, 2000, if the PWE works 100 hours or more, but the family's earned income is not more than 100 percent of the federal poverty level, the PWE is still determined to be unemployed. (AB 1107, Chapter 146, Statutes of 1999, Section 14008.85). Effective May 1, 2001, all earned income of the children in the family is exempt. Only the net nonexempt earned income of the parents or the parent and the parent's spouse will be counted.

The 100-hour rule does not apply to Section 1931(b) PWE recipients. A recipient for purposes of disregarding the 100-hour rule is a person who receives Section 1931(b) the month after the person became eligible as an applicant and who has no break in eligibility or change in deprivation. A recipient may begin working over 100 hours in the second month of receiving Section 1931(b) even if the family was never receiving CalWORKs. If the family did not return requested information from the county such as the MC 210E and did not have good cause for the termination to be rescinded, the PWE must be redetermined as he/she is not considered a recipient. For more information, see Article 5C.

2. Pregnant Woman in Her Last Trimester (Last Four Months)

A pregnant woman who has no other eligible children (but the unborn who when born would be deprived) may not be aided under the Section 1931(b) program until her last trimester which is defined by the CalWORKs program as the last four months of pregnancy. If the father of the unborn is living in the home, he may not be aided under this program until the baby is born and the baby is deprived. The father can be aided under the Medically Needy (MN) program because he has linkage. The spouse's income is counted in the Section 1931(b) Medi-Cal Family Budget Unit (MFBU) of the pregnant woman and the unborn, even though he is an ineligible member of that MFBU until the child is born. The unmarried father may opt out of the MFBU if he provides information (when required) to establish deprivation for the unborn. The unborn may be counted in the maintenance need prior to the last trimester if there are other deprived children. If the parents are not married and the woman is ineligible for Section 1931(b) after the baby is born due to excess income or property, Sneed rules apply. Continuous eligibility rules apply to both the pregnant woman and the infant up to age one. For more information on the MFBU, see Article 8G.

3. The Definition of a Child

Under Section 1931(b), children are only covered up to their eighteenth birthday except that children up to age 19 may be covered if they are attending school as discussed in the next sentence. As in the former AFDC program, a child 18 years of age is eligible only if he/she is enrolled as a full-time student (as defined by the school) in high school, or if he/she has not completed high school, is in a vocational or technical training program which cannot result in a college degree, provided he/she can reasonably be expected to complete either program before reaching age 19.

Pending

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4. Deprived Child With No Share of Cost

To be eligible for Section 1931(b), there must be at least one deprived child in the family who is eligible for any no cost Medi-Cal program i.e., PA, 1931(b), MN, MI, CE, CEC, Bridging, or the Percent programs. If the only eligible child has a share of cost (SOC), the parent is not eligible for Section 1931(b).

5. Essential Stepparent

A stepparent may be aided as an "essential person" in the Section 1931(b) program which is similar to rules under the former AFDC and the current California Work Opportunity and Responsibility to Kids (CalWORKs) program regardless of whether he/she has deprived children or non deprived mutual children of his or her own. His linkage may be based only on the fact he/she is a spouse of a parent who has a separate child deprived by an absent parent. The MN program only allows a stepparent to be linked if he/she is a spouse of a parent who has a separate child who is deprived by that parent's incapacity. However, regardless of whether or not the stepparent wishes to be aided under Section 1931(b), he is included in the budget unit as an eligible or ineligible person depending on his/her choice. The exception would be when only the separate children of the spouse wish to be aided. He would not be in the budget unit; however, his wife would deem some of her income to him and any mutual children. This is also similar to the MN program.

6. Adult Parent, Minor Child, and Caretaker Relative Living in the Home

The CalWORKs program will allow an otherwise eligible adult parent, his/her minor child, and a caretaker to all be aided when they reside in the same home. The parent is still financially responsible even if the caretaker has care and control. Therefore, we will follow those rules for the Section 1931(b) program. However, the MN program (Section 50085 of the California Code of Regulations) does not aid a caretaker relative if there is an adult parent and his/her minor child in the home.

MFBU COMPOSITION

The (Medi-Cal Family Budget Unit) MFBU, including unborns, for Section 1931(b) shall be the basic unit for persons considered in determining an individual's or family's eligibility and share of cost. Note: Sneede is applicable to the Section 1931(b) determination.

A family (or an individual, if Sneede applies) must pass both the property and income tests specified below in order to meet the financial eligibility requirements of Section 1931(b). More information about MFBU composition for Section 1931(b) will be provided in Section 8G.