



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

July 2, 2021

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 21-12
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY MEDS LIAISONS

SUBJECT: TELEPHONIC SIGNATURES FOR AFFIDAVITS SIGNED UNDER
PENALTY OF PERJURY
(Reference: All County Welfare Directors Letter [19-17](#) and [21-04](#);
Medi-Cal Eligibility Division Information Letters [120-08](#), [120-18](#), and
[120-25](#))

PURPOSE

The purpose of this letter is to provide counties with updated requirements for Medi-Cal affidavits signed under penalty of perjury.

BACKGROUND

Federal and state regulations require separate verification of certain self-attested information at initial application, during a change in circumstance, and at annual renewal. The Code of Federal Regulations, Title 42, sections [435.940](#) through [435.956](#), and the California Code of Regulations, Title 22, section [50167](#), provide the requirements on what types of self-attested information must be separately verified. Additionally, the Modified Adjusted Gross Income (MAGI) [Verification Plan](#) provides guidance on eligibility information that may be self-attested by the applicant/beneficiary/Authorized Representative (AR) and the information that requires separate verification. Counties shall first conduct an ex parte review of available information, including an attempt to verify information electronically where possible, before requesting documentation from the applicant/beneficiary to verify the information provided.

In situations when verification is required but documentation to verify the information is unavailable, and all other verification attempts are unsuccessful, the California Code of Regulations, Title 22, section [50167\(c\)](#) provides that a signed and dated affidavit, under penalty of perjury, can be used to verify the information. [Section 4M](#) of the Medi-Cal Eligibility Procedures Manual, also provides for the use of a signed affidavit when documentation to verify the information is required but is unavailable and all other verification methods have been exhausted and have been unsuccessful, with the exception of Social Security number (SSN) verification. Additionally, the Federal Code of Regulations, Title 42, section [435.952\(c\)\(3\)](#) provides that counties may, on a case-by-case basis, permit self-attestation when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster. This exception does not apply if documentation is specifically required under Title XI or XIX of the Social Security Act, such as requirements for verifying citizenship and immigration status.

Previous guidance instructed counties that when an applicant or beneficiary uses an affidavit outside of a public health emergency (PHE), the written affidavit shall include the applicant's, beneficiary's, or AR's hand-written signature under penalty of perjury. Additionally, ACWDL [19-17](#) stated, "In the event that an individual must provide an affidavit signed under penalty of perjury for purposes of written verification, where electronic verification was not successful and other methods of paper verification are not available, the affidavit may not be signed telephonically." MEDILs [120-08](#), [120-18](#), and [120-25](#) permit telephonic signatures on affidavits during the PHE.

UPDATED GUIDANCE FOR AFFIDAVITS

Department of Health Care Services is updating guidance for affidavits based on recent guidance from the Centers for Medicare and Medicaid Services (CMS):

- Counties shall allow affidavits signed under penalty of perjury through any of the available means outlined in the Federal Code of Regulations, Title 42, section [435.907](#). The available means include online, by telephone, by mail, in person, and through other commonly available electronic means. Other commonly available electronic means include secure document uploads to the applicant/beneficiary's account, documents attached to emails, faxes, and any other electronic means used by counties.
- Counties shall allow telephonic and electronic signatures on affidavits, regardless of whether the affidavit is during a PHE.

This updated guidance for affidavits applies at initial application and any time eligibility is redetermined. This updated guidance does not change the requirement that an affidavit be the verification method of last resort, when written documentation is unavailable and all other attempts to verify the information are unsuccessful. Additionally, this updated guidance does not change the requirements that an affidavit may not be used to verify the SSN and citizenship/immigration status of an applicant/beneficiary. With the release of this ACWDL, the guidance in ACWDL [19-17](#) specific to written affidavits is obsolete. All other guidance in ACWDL [19-17](#) on telephonic and electronic signatures remains current.

PENALTY OF PERJURY REQUIREMENT

While there is no specific form that counties must use to collect an affidavit, the California Code of Civil Procedure, section [2015.5](#), requires that a penalty of perjury statement include a date and signature certifying agreement.

When accepting a telephonic signature under penalty of perjury for a signed affidavit, counties shall recite the below statement, or a statement in substantially the same form, when collecting and documenting the applicant/beneficiary/AR's telephonic signature.

"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

For more information about telephonic signature requirements, please see ACWDL [19-17](#).

ADDITIONAL TELEPHONIC SIGNATURE REQUIREMENTS FOR AFFIDAVITS

Counties shall follow the process below to accept an affidavit telephonically:

- Utilize the county's existing affidavit template and complete the affidavit with the information the applicant/beneficiary/AR provides;
- Inform the applicant/beneficiary/AR that their telephonic signature carries the same weight as a handwritten signature;
- Ask the applicant/beneficiary/AR to confirm that the information they provide is true and correct after reciting the penalty of perjury statement in the section above;
- Include "Telephonic Signature" and the date in the signature line;
- Retain a copy of the signed affidavit in the case record (according to county business processes);

All County Welfare Directors Letter No.: 21-12
Page 4
July 2, 2021

- Note in the case record that an affidavit was accepted by the applicant, beneficiary, or AR over the phone, what information was included in the affidavit, and the date the affidavit was accepted; and
- Mail a copy of the affidavit to the applicant/beneficiary.

As a reminder, a person who has authority to act on behalf of another individual may sign an affidavit. For example, a spouse, parent/guardian of a child, AR, or person with Power of Attorney may sign an affidavit on behalf of the person they have authority to act for.

If you have any questions, or if we can provide further information, please contact Alison Brown by phone at (916) 345-8078 or by email at Alison.Brown@dhcs.ca.gov.

Original Signed By

Sandra Williams, Chief
Medi-Cal Eligibility Division