

DATE: April 14, 2023

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 21-03E  
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: PROVISIONS FROM THE CORONAVIRUS RESPONSE AND RELIEF  
SUPPLEMENTAL APPROPRIATIONS ACT, 2021

### **Purpose**

The purpose of this All Counties Welfare Director Letter (ACWDL) errata is to provide updated guidance to counties regarding resource disregards for certain payments authorized by Coronavirus Response and Relief Supplemental Appropriations Act for Non-Modified Adjusted Gross Income (Non-MAGI) Medi-Cal programs.

Updated guidance has been provided by CMS, COVID-19 Public Health Emergency Unwinding Frequently Asked Questions for State Medicaid and CHIP Agencies, Question 19:

<https://www.medicaid.gov/federal-policy-guidance/downloads/covid-19-unwinding-faqs-oct-2022.pdf>

Corrections to ACWDL 21-03 are recorded using the following:

- ~~strike through~~ for deleted language
- **underline and bolding** for adding new language

Below is the language from ACWDL 21-03, with the revisions located on pages 2, 3, and 4.

The purpose of this All Counties Welfare Director Letter (ACWDL) is to provide instructions to counties regarding treatment of unemployment benefits, recovery rebates, and additional provisions subsequent to the passage of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021, part of the H.R. 133, Consolidated Appropriations Act, Public Law No. 116-260. This bill extends sections of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and amends the Internal Revenue Code of 1986 by providing emergency economic assistance to those affected by the novel coronavirus (COVID-19) and creating tax provisions intended to stimulate the American economy.

## **Background**

The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 is part of the Consolidated Appropriations Act and was signed into law on December 27, 2020, based on the federally declared COVID-19 public health emergency (PHE). The Coronavirus Response and Relief Supplemental Appropriations Act extends many of the programs and income provisions introduced as part of the CARES Act to provide temporary relief to individuals due to the economic impacts of the COVID-19 public health crisis. While the treatment of income individuals receive through from the CARES Act provisions remains the same, changes were made to certain components of the program and income provisions (refer to [ACWDL 20-09](#) for CARES Act provisions).

Counties are reminded to continue to follow the guidance outlined in Medi-Cal Eligibility Division Information Letter (MEDIL) [I 20-25](#) regarding the delay in processing reported changes in circumstances that could result in negative actions during the COVID-19 PHE.

## **Policy**

### **Additional 2020 Recovery Rebates for Individuals**

Section 272 provides Recovery Rebates (also known as economic impact payments or stimulus payments) for individuals, which are one-time tax rebates up to \$600 per family member. The credit is \$600 per taxpayer (\$1,200 for married filing jointly), in addition to \$600 per qualifying child. The credit phases out starting at \$75,000 of modified adjusted gross income (\$112,500 for heads of household and \$150,000 for married filing jointly or a surviving spouse) at a rate of \$5 per \$100 of additional income over the threshold. Taxpayers without a Social Security number (SSN) are ineligible for this rebate, except for married couples filing jointly in which case only one spouse must provide a SSN. When a qualifying child is claimed by spouses filing a joint return, at least one spouse must have an SSN that is valid for employment for a qualifying child to be considered. If the return is not filed by married spouses filing a joint return, the taxpayer filing the return must have a SSN that is valid for employment for a qualifying child to be considered.

For Modified Adjusted Gross Income (MAGI) and Non-MAGI Medi-Cal, these Recovery Rebates are not counted as income in the eligibility determination. Furthermore, for Non-MAGI Medi-Cal, these rebates are **permanently** exempt as property ~~for 12 months from receipt of the benefit~~. For Covered California programs, these payments are disregarded and will not be counted in the eligibility determination.

### Pandemic Unemployment Assistance (PUA)

Section 201 extends unemployment benefits to individuals who exhausted their unemployment benefits or their Pandemic Emergency Unemployment Compensation (PEUC), and whose households have been directly impacted by COVID-19. It extends the time period in which an individual can receive unemployment benefits from 39 weeks to 50 total weeks, and allows individuals receiving benefits as of March 14, 2021 to continue through April 5, 2021, as long as the individual has not reached the maximum number of weeks.

For MAGI and Non-MAGI Medi-Cal, these unemployment benefits received under PUA will be counted as income (the taxable portion for MAGI) in the eligibility determination. These benefits are **permanently exempt as property**~~counted as property if retained into the following month~~ for the purposes of Non-MAGI Medi-Cal eligibility determinations. For Covered California programs, the taxable portion is counted in the eligibility determination.

### Pandemic Unemployment Compensation (PUC)

Section 203 extends pandemic unemployment compensation which is a weekly \$300 amount provided in addition to other unemployment benefits starting after December 26, 2020 and ending on March 14, 2021.

For MAGI and Non-MAGI Medi-Cal, this \$300 additional weekly payment shall be disregarded and will not be counted in the income eligibility determination. **The \$300 payment is considered permanently exempt as property for the purposes of Non-MAGI Medi-Cal eligibility determination.** ~~The Centers for Medicare and Medicaid Services clarified that the \$300 payment is counted as property if retained into the following month for the purposes of Non-MAGI Medi-Cal eligibility determinations. CEWs shall begin counting the \$300 as property for Non-MAGI effective with the release of this ACWDL. Beneficiaries can spend down or transfer in the month received to avoid excess property.~~ For Covered California programs, the taxable portion is counted in the eligibility determination.

### Pandemic Emergency Unemployment Compensation (PEUC)

Section 206 extends the Pandemic Emergency Unemployment Compensation to March 14, 2021 and allows individuals receiving benefits as of March 14, 2021 to continue through April 5, 2021, as long as the individual has not reached the maximum number of weeks. Additionally, it increases the number of weeks of benefits an individual may claim through this program from 13 to 24 weeks.

For MAGI and Non-MAGI Medi-Cal, the unemployment benefits received under PEUC will be counted as income (the taxable portion for MAGI) in the eligibility determination. These benefits are **considered permanently exempt as property** ~~counted as property if retained into the following month~~ for the purposes of Non-MAGI Medi-Cal eligibility determinations. ~~Beneficiaries can spend down or transfer in the month received to avoid excess property.~~ For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Mixed Earner Unemployment Compensation (New Provision)

Section 261 introduces a new provision that provides a federally funded \$100 per week as an additional benefit to individuals who have received at least \$5,000 a year in self-employment income but are disqualified from receiving PUA because they are eligible for regular state unemployment benefits. This will terminate on March 14, 2021.

For MAGI and Non-MAGI Medi-Cal, the unemployment benefits received under Mixed Earner Unemployment Compensation will be counted as income (the taxable portion for MAGI) in the eligibility determination. These benefits are **considered permanently exempt as property** ~~counted as property if retained into the following month~~ for the purposes of Non-MAGI Medi-Cal eligibility determinations. ~~Beneficiaries can spend down or transfer in the month received to avoid excess property.~~ For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Additional Enhanced Benefits under the Railroad Unemployment Insurance Act (RRUI)

This provision restores the federal supplemental benefit for unemployed railroad workers at \$600 instead of the original \$1,200 per registration period for registration periods beginning after December 26, 2020 and on or before March 14, 2021.

For MAGI and Non-MAGI Medi-Cal, this one-time payment will be counted as income in the month received. For Non-MAGI, if the payment is retained, it is considered property in the following month. Recipients of RRUI can spend down or transfer in the month received to avoid excess property. For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Extended Unemployment Benefits under the Railroad Unemployment Insurance Act (RUIA)

This provision provides an extension from 130 days to 185 days of unemployment benefits under the Railroad Unemployment Insurance Act (RUIA) for qualifying railroad workers. It also extends the availability of the 13 weeks of additional unemployment

benefits provided under the CARES Act. These weeks are not available to those whose extended benefit period begins after March 14, 2021. In addition, these weeks of additional benefits are not available for any individuals applying after April 5, 2021.

For MAGI and Non-MAGI Medi-Cal, RUIA benefits are counted as income (taxable portion for MAGI) in the eligibility determination. These benefits are counted as property if retained into the following month for the purposes of Non-MAGI Medi-Cal eligibility determinations. Beneficiaries can spend down or transfer in the month received to avoid excess property. For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Certain Charitable contributions deductible by non-itemizers and Modification of Limitations on Charitable Contributions

Sections 212 and 213 extend the allowable deductions for tax filers who do not itemize their deductions and permit deduction from their MAGI up to \$300 in charitable contributions made by an eligible individual in tax year 2021 and increases the maximum amount for those married filing jointly to \$600. This allows an individual to reduce their Adjusted Gross Income (AGI) when filing taxes that is used as the basis for MAGI Medi-Cal eligibility. Verification of these deductions would be required if the self-attested information provided by the beneficiary does not electronically verify. CEWs shall follow normal verification processes outlined in [ACWDL 14-18](#).

#### Paycheck Protection Program (PPP)

Section 276 clarifies that gross income does not include any amount that would otherwise arise from the forgiveness of a PPP loan. It also clarifies that deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven, and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness. The provision is effective as of the date of enactment of the CARES Act. The provision provides similar treatment for Second Draw PPP loans (see Section 311 for more information), effective for tax years ending after the date of enactment of the provision.

For MAGI Medi-Cal, the loan is not considered taxable income and is excluded from the eligibility determination. For Non-MAGI, loans are considered exempt business property for the eligibility determination. For Covered California programs, the loan is not considered taxable income and is excluded from the eligibility determination.

### Paycheck Protection Program Second Draw Loans (New Provision)

Section 311 of the Consolidated Appropriations Act provides a second loan from the PPP called a “PPP second draw loan.” This loan is for smaller and harder-hit businesses with a maximum amount of \$2 million.

These loans will be treated under regular business income and property rules for Medi-Cal. For MAGI Medi-Cal, the loan is not considered taxable income and is excluded from the eligibility determination. For Non-MAGI, loans are considered property, and business property is exempt for the eligibility determination. For Covered California programs, the loan is not considered taxable income and is excluded from the eligibility determination.

### Emergency Financial Aid Grants (New Provision)

Section 277 adds a provision to exclude any emergency financial aid grants that are received as part section 2201 of the CARES Act from gross taxable income.

For MAGI and Non-MAGI Medi-Cal, these financial aid grants are not counted as income in the eligibility determination. These grants are also exempt as property for Non-MAGI Medi-Cal pursuant to [ACWDL 94-06](#). For Covered California programs, these grants are not considered taxable income and are excluded from the eligibility determination

### Spousal Impoverishment Protections Extension

Section 205 extends the Spousal Impoverishment Protections for Home and Community-Based Services (HCBS) for beneficiaries who receive home and community-based services through fiscal year September 30, 2023 from the initial expiration date of December 31, 2020. All protections in place under this expansion remain in effect under the following guidance. For existing guidance, please refer to [ACWDL 17-25](#), [ACWDL 18-19](#) and [ACWDL 20-15](#). CalWIN Counties may refer to “BENDS 1725 Spousal Impoverishment Provisions” for workaround instructions.

### Emergency Rental Assistance

Section 501 provides emergency rental assistance to eligible households whose income meet the minimum income qualifications of being below 80% of the area median, have one or more household members who are at risk of experiencing homelessness and have one or more household members who qualify for unemployment benefits or experienced financial hardship caused by the pandemic.

Letter No.: 21-03E  
Page 7  
April 14, 2023

For MAGI and Non-MAGI Medi-Cal, emergency rental assistance is not taxable and is not counted as income in the eligibility determination.

If you have any questions, or if we can provide further information, please contact Candyce Flynn, by phone at (916) 345-8158, or by email at [candyce.flynn@dhcs.ca.gov](mailto:candyce.flynn@dhcs.ca.gov).

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