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TO: ALL COUNTY WELFARE DIRECTORS Letter No: 21-20
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MEDS LIAISONS

SUBJECT: PROPOSITION 22 GUIDANCE FOR TREATMENT OF APP-BASED
DRIVER'S HEALTHCARE SUBSIDY

The purpose of this All County Welfare Directors Letter (ACWDL) is to provide counties guidance on Medi-Cal policy for applicants and beneficiaries who are app-based drivers.

Background

On November 3, 2020, California voters passed Proposition 22, which created new provisions for individuals who earn income through providing driving services through phone applications such as Uber and Lyft. Proposition 22 recognizes app-based drivers' as "Independent Contractors." The new law mandates that app-based network companies that utilize independent contractors provide benefits to app-based drivers, which includes a quarterly healthcare subsidy.

Healthcare Subsidy and Treatment of Income

As of January 1, 2021, app-based network companies must provide healthcare subsidies directly to their independent contractors ([California Business and Professions Code §7454](#)). Independent contractors will receive a healthcare subsidy based on the number of hours they work on average over a calendar quarter. In addition, independent contractors may receive more than one subsidy if they work for more than one company as an independent contractor and each subsidy will count towards their total countable income for Medi-Cal. In order to receive this subsidy, independent contractors may be required by the company they contract with to enroll into a Covered California plan or any other plan that is not sponsored by an employer and that is not a Medicare or Medi-Cal plan. Independent contractors may have to provide proof to their companies prior to receiving a healthcare subsidy.

For Non-MAGI Medi-Cal eligibility determination purposes, per [20 CFR § 416.1110](#), the quarterly healthcare subsidy payment is considered earned income in the month received and may be apportioned over time per [22 CCR § 50517\(a\)\(4\)](#) for Non-MAGI Medi-Cal eligibility purposes. The payment, if retained, is countable property in the following month. As a reminder, individuals in the Aged, Blind, and Disabled Federal Poverty Level program and Medically Needy program can use health insurance premiums as an allowable deduction if paid by and purchased for any person in the family per [22 CCR § 50555.2](#). For information on how to complete eligibility determinations for individuals seeking eligibility to the 250% Working Disabled program, please refer to [ACWDL 19-12](#).

For MAGI Medi-Cal eligibility determination purposes, this subsidy is countable income in the Medi-Cal budget. Per the Internal Revenue Service (IRS) [Publication 5137](#), health care coverage is considered a “fringe benefit” and independent contractors must report any taxable fringe benefits. As this healthcare subsidy does not meet the criteria for tax-exempt fringe benefits per IRS [Publication 15](#), counties are to count this subsidy as income when determining MAGI Medi-Cal eligibility for independent contractors. Applicants and beneficiaries must provide adequate evidence of their change in income, such as proof of hours worked, Covered California documentation, or any other clear indicia of such changes in income, including a signed affidavit if no other proof is available.

When determining which budget period to use for determining eligibility, County Eligibility Workers (CEWs) must use the most beneficial budget period for an applicant or beneficiary, per [ACWDL 21-04](#). Since the healthcare subsidy is paid out quarterly and may fluctuate throughout the year, counties shall take the annual amount of subsidy received and average it over the year in the most beneficial budget period for that applicant or beneficiary. Averaging the subsidy income into annual income promotes continued coverage for MAGI Medi-Cal applicants and beneficiaries (see [ACWDL 15-06](#) for more guidance on fluctuating income).

In addition, if the beneficiary/applicant files taxes as self-employed, the health insurance premiums paid, including Covered California plans, may count as a “Self-employed health insurance deduction” (see the [Income and Deductions Chart](#)). As a reminder, once the household composition has been determined for each applicant (per [ACWDL 20-10](#)), CEWs must use the “[Whose Income Counts](#)” chart to determine how to include income and deductions for each household member.

As a reminder, CEWs should not provide beneficiaries or applicants with tax advice per [ACWDL 15-15](#).

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Health Care Subsidy Special Enrollment Period

In addition to the provisions granting a healthcare subsidy, the proposition also grants Covered California the ability to provide a Qualifying Life Event (QLE) to all independent contractors applying for coverage. Beginning February 1, 2021, a new QLE is available in the Special Enrollment Period dropdown menu in CalHEERS: “Newly qualifies for app-based driver stipend.” There are two new QLE reasons available for use in SAWS: for CalWIN, “New App-based Driver Stipend,” and for CalSAWS, “Newly qualifies for app-based driver stipend.” Both new and existing drivers may qualify for this QLE. For more information on the QLE, please refer to Covered California’s Policy Memo #M-21-1: “Proposition 22: App-Based Network Company Driver Stipend” located on the Covered California extranet site available to counties. For more information on the extranet site refer to [MEDIL I 16-13](#).

If you have any questions or require additional information, please contact Leejuan Camarena at (916) 345-8073 or by email at Leejuan.Camarena@dhcs.ca.gov.

Original Signed By

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