



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



November 5, 2021

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 21-25
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY CONSORTIA MANAGERS
ALL COUNTY MEDS LIAISONS

SUBJECT: Interim Instructions for Collecting Applicant and Beneficiary Gender Identity
(Reference: All County Welfare Director Letter [\(ACWDL\) 17-38](#), Medi-Cal
Eligibility Division Information Letter [\(MEDIL\) 17-08E](#))

The purpose of this All County Welfare Directors Letter (ACWDL) is to provide guidance to counties on interim processes for collecting and recording gender in the Statewide Automated Welfare System (SAWS) of Medi-Cal applicants and beneficiaries who self-identify as non-binary. This letter also includes recommendations for counties to develop a process for storing gender pronouns in SAWS.

Background

Section 1557 of the Patient Protection and Affordable Care Act ([Title 42 of the United States Code, Section 18116](#)), in conjunction with Executive Order 13988 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation), states, in part, that Medicaid applicants and beneficiaries have a right to fair and equal treatment regardless of race, color, national origin, age, sex, sexual orientation, gender identity, or disability.

[California Government Code Section 11135\(a\)](#); [Title 2 California Code of Regulations section 11154\(i\)](#); and [California Civil Code section 51\(b\)](#) align with [Title 42 of the United States Code, Section 18116 – Nondiscrimination](#) and prevent discrimination on the basis of ethnic group identification, religion, sex, color, or a physical or mental disability.

Effective January 1, 2019, California signed into law the California Gender Recognition Act, [Senate Bill 179](#) (Chapter 853, Statutes of 2017) which creates a non-binary gender

category on California birth certificates, drivers' licenses, identity cards, and gender-marker change court orders.

Additionally the Department of Health Care Services (DHCS) is responsible for collecting data related to Sexual Orientation and Gender Identity (SOGI) under the [Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act, Assembly Bill 959 \(Chapter 565, Statutes of 2015\)](#).

DHCS is committed to enhancing the consumer experience through effective communication with Medi-Cal applicants and beneficiaries. Referencing individuals by their self-identified pronouns and gender identities ensures accurate and respectful communication. DHCS complies with Centers for Medicare and Medicaid Services (CMS) guidance and federal and state civil rights laws and is in the process of updating the paper Single Streamlined Application. Federal approval for the changes made to the paper and online applications, including gender category options and data collection, have been requested and updates to the Medi-Cal applications and systems to include a non-binary gender category will be made upon CMS approval.

DHCS recognizes that the collection of SOGI information in electronic health records is an important tool in identifying underserved groups and assessing access to services, satisfaction with medical care, measuring quality of care, and identifying health disparities in these populations.

In addition to the benefits of collecting SOGI information for understanding health outcomes, it is also important to recognize the mental benefits of using accurate gender markers. Mislabeling a person's gender identity has been shown to cause negative health outcomes and social stressors for this population. Therefore, this ACWDL provides a series of interim instructions and workarounds for counties to properly identify individuals and make certain that Medi-Cal applicants/beneficiaries are able to complete the application process or report a change and maintain all benefits for which they are entitled.

Collection of SOGI Data SAWS

An applicant/beneficiary's gender is a required data element when applying for Medi-Cal. However, the Medi-Cal Eligibility Data System (MEDS) only includes male or female gender selections at this time. Therefore, DHCS directs counties to collect and store required gender information and optional SOGI information received from applicants or beneficiaries in the following data fields in SAWS:

For counties that use the California Work Opportunity and Responsibility to Kids Information Network (**CalWIN**), optional SOGI information is collected and stored in the "Display Individual Demographics Summary" tab. This tab contains data fields that allow

County Eligibility Workers (CEWs) to record an individual's Gender at Birth (sex recorded in their Social Security record), Gender Identity, and Sexual Orientation.

For counties that use the California Statewide Automated Welfare System (**CalSAWS**), optional SOGI data is captured in the Individual Demographics Detail page. This page allows CEWs to collect and store information in data fields for Gender Identity, Birth Certificate Gender (sex recorded in their Social Security record), and Sexual Orientation.

CEWs are instructed to record gender pronouns, when available, in a case comment for accurate communication with Medi-Cal applicants and beneficiaries as the individual's information in the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS) and MEDS may not align with their self-identified gender identity due to the limitations of current state systems.

Until CMS provides a response regarding changes to state systems and forms, DHCS advises counties to use the following workaround to assist applicants and beneficiaries in completing the required gender field in MEDS.

MEDS Interim Process

When an applicant or beneficiary reports their gender as non-binary, CEWs are advised to follow the process below:

- Select the appropriate option (non-binary) in the optional gender identity field in SAWS and enter a case comment to indicate gender pronouns self-identified by the applicant/beneficiary, if they are provided.
- Advise the applicant/beneficiary that their gender identity will be accurately reflected in the optional SOGI information section of the county system, but the state systems can only accept male or female designations for gender at this time.
- If the applicant/beneficiary is unsure what to provide, ask them this follow up question "What sex is recorded in your Social Security record?" Currently, the only options on identity documents issued by the US federal government, such as U.S. Passport Books or Passport Cards, are "male" or "female." Explain that this is needed only as a workaround and their self-identified gender identity and pronouns are recorded in the optional SOGI information section of the county system and will be used and respected in their communications with the county.

November 5, 2021

- Counties shall reach out to DHCS for technical assistance in instances when the applicant/beneficiary does not provide gender information. The county shall not deny benefits for failure to provide gender.

Counties are encouraged to work with their SAWS to develop a consistent approach for recording self-identified pronouns in the case record for CEW's easy reference when working with applicants/beneficiaries.

- At a minimum, CEWs shall create a case comment in SAWS clarifying that the gender in MEDS is selected only as a workaround and direct CEWs to reference the self-identified gender identity information and pronouns from SAWS when addressing the individual.

Gender Neutral Designations

CEWs are reminded of the importance of utilizing gender identity information located in SAWS to address applicants/beneficiaries with their self-identified gender and pronouns either in person, or on the phone. When asking questions, CEWs must use neutral language to prevent misgendering an individual and provide an opportunity for applicants/beneficiaries to offer their pronouns. Some examples are as follows:

Instead of: "How can I help you sir/ma'am?"

Say: "How can I help you?"

Instead of: "Can you provide information about your wife?"

Say: "Can you provide information about your partner/spouse?"

Instead of: "Is she employed? Can you tell me about her income?"

Say: "Are they employed? Can you tell me about their income?"

Upon the completion of the CMS review, DHCS will advise counties of any future updates to MEDS, CalHEERS, or DHCS forms related to the collection of SOGI information and gender categories.

If you have any questions or require additional information, please contact Irene Hunter at (916) 345-8171 or by email at Irene.Hunter@dhcs.ca.gov.

Original Signed By

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