

DATE: June 23, 2023

Medi-Cal Eligibility Division Information Letter No.: I 23-26

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS

SUBJECT: Section 1902(e)(14)(A) State Fair Hearings Waiver Flexibilities

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to inform counties of the Centers for Medicare & Medicaid Services (CMS) approval of two temporary Section 1902(e)(14)(A) waiver unwinding strategies relating to state fair hearings requested by the Department of Health Care Services (DHCS) to assist in case processing during the Continuous Coverage Unwinding Period.

Background

CMS issued [State Health Official \(SHO\) letter #22-001](#), on March 3, 2022, which allowed states to apply for various flexibilities to assist with easing workloads and streamline case processing during the continuous coverage unwinding period. On April 25, 2022, California requested CMS approval to implement two waiver strategies under the authority of Section 1902(e)(14)(A) of the Social Security Act, surrounding state fair hearings.

On June 23, 2023, DHCS gained federal approval for two 1902(e)(14)(A) waivers to temporarily extend the timeframe both for Medi-Cal members to request a fair hearing and for state officials to take final administrative action on a fair hearing decision. The policy guidance below provides clarification to the temporary state fair hearing timeframe waiver policies.

Extended Timeframe for Medi-Cal Members to Request a Fair Hearing

If a Medi-Cal member does not agree with an eligibility determination made on their case, they typically have up to 90 days to request an eligibility-related fair hearing. This approved flexibility will temporarily extend the timeframe permitted for Medi-Cal members to request an eligibility-related fair hearing to 120 days from the date the notice of action is mailed. This temporary waiver applies to all requests for Medi-Cal eligibility fair hearings requested by members, in accordance with [42 CFR § 431.220 subpart E](#), and only applies to terminations of Medi-Cal eligibility, reductions in scope of Medi-Cal benefits (from full Medi-Cal benefits to limited Medi-Cal benefits), and increases in Medi-Cal member's share-of-cost.

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The temporary extension for Medi-Cal members to request a fair hearing is effective April 1, 2023 and remains effective until September 30, 2024.

Extended Timeframe to Take Final Administrative Action on Fair Hearing

In preparation of the anticipated volume of fair hearings, the second approved waiver temporarily extends the timeframe permitted for final administrative action on eligibility-related fair hearing requests. This authority only applies to fair hearing requests that include Medi-Cal terminations of eligibility, reductions in scope of benefits (from full Medi-Cal benefits to limited Medi-Cal benefits) and increases in member's share-of-cost. Note: only individuals receiving aid paid pending will have their fair hearing extended beyond the required 90 days.

The temporary extension for state fair hearings to take final administrative action on a fair hearing is effective April 1, 2023 and remains effective until February 28, 2025.

DHCS will provide further guidance when each temporary state fair hearing timeframe waiver expires.

If you have any questions, or if we can provide further information, please contact Janis Kimball, by phone at (916) 345-8060 or by email at Janis.Kimball@dhcs.ca.gov.

Original Signed By

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