



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



GAVIN NEWSOM  
GOVERNOR

June 21, 2019

TO: ALL COUNTY WELFARE DIRECTORS Letter No: 19-17  
ALL COUNTY ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS  
ALL COUNTY HEALTH EXECUTIVES  
ALL COUNTY MENTAL HEALTH DIRECTORS  
ALL CONSORTIA/SAWS PROJECT MANAGERS

SUBJECT: TELEPHONIC OR ELECTRONIC SIGNATURE CAPABILITY  
(Reference: Medi-Cal Eligibility Division Letter [18-13](#); All County Welfare Directors Letter [14-06](#); California Department of Social Services All County Letter [17-57](#))

### Purpose

The purpose of this All County Welfare Directors Letter (ACWDL) is to provide counties with guidance on the methods of telephonic or electronic signatures that are available for use in the Medi-Cal program. In accordance with 42 Code of Federal Regulations (CFR), Sections [435.907](#), [435.916](#), and [435.923](#) and Welfare and Institutions Code Sections [14005.37](#) and [14014.5](#), the Medi-Cal program:

- Must accept applications, renewals, appointments of Medi-Cal authorized representatives (ARs), and reported changes in information over the telephone; and
- Must accept telephonically recorded and electronic signatures and handwritten signatures transmitted via any other electronic transmission for any form that must be signed for the Medi-Cal program.

The Department of Health Care Services (DHCS) is aware that not all counties currently have the capability to create an audio recording of a telephonic signature or collect electronic signatures. Therefore, this ACWDL provides counties with:

- Information regarding the telephonic and electronic signature mitigation strategy DHCS will submit to the Centers for Medicare and Medicaid Services (CMS) for information provided telephonically;
- Information regarding the hierarchy of acceptable telephonic or electronic signature methods and guidance on using the highest level of telephonic or

- electronic signature method available to the county for information provided telephonically; and
- Guidance on using additional methods of telephonic or electronic signatures that are currently available for use in either the CalFresh or Medi-Cal program.

### **Mitigation Strategy for CMS**

CMS has informed states that in the case of telephonic applications, states must have a process in place to assist individuals in applying by phone and be able to accept “telephonically recorded” signatures at the time of application submission. 42 CFR, Sections [435.916](#) and [435.923](#) also require that the submission of annual renewals and appointments of ARs, including individuals or organizations acting on behalf of an applicant or beneficiary, must be accepted over the telephone and must allow the same signature methods as are available for applications. “Telephonically recorded” means that counties must have the ability to create an audio recording of the telephonic signature and store it in the case file. More information regarding CMS requirements for telephonic signatures may be found [here](#).

As not all counties have audio recording capability, DHCS will develop and submit a mitigation strategy to inform CMS regarding existing county capability and the timeline for full implementation of telephonic recording capability in all counties.

DHCS expectation is that all counties will:

- Effective immediately, accept telephonic and electronic signatures for any Medi-Cal form that must be signed, including applications, application supplemental forms (e.g. Request for Tax Household Information (RFTHI)) renewals, renewal supplemental forms, or appointments of Medi-Cal ARs, even before audio recording and storage functionality is available, in full compliance with the guidance outlined in this ACWDL;
- Effective immediately, utilize the highest level of telephonic or electronic signature currently available to them when information is provided telephonically; and
- Have the capability to accept telephonically recorded signatures and store audio files in the case record when the three existing consortia systems are consolidated into the single California Statewide Automated Welfare System (CalSAWS).

Note: 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. Written verification is required per the Medi-Cal Eligibility

Procedures Manual (MEPM) [Section 4M](#) and the Modified Adjusted Gross Income (MAGI) [Verification Plan](#) approved by CMS. However, the written verification, including an affidavit, may be provided through common electronic means, such as email, fax, or upload.

### **Hierarchy of Telephonic or Electronic Signature Methods for Information Provided Over the Telephone**

The hierarchy of acceptable telephonic and electronic signatures available to counties is shown below. Effective immediately, when accepting information over the telephone as required by federal and state law, counties must utilize the “highest level” of method of telephonic or electronic signature that is available to their county without having to make any programming changes, depending on the preference of the individual providing the signature, following the hierarchy provided below. Counties cannot require a written signature to effectuate an application, renewal or AR appointment if an electronic or telephonically recorded or electronic signature is provided.

This means, per the hierarchy below, that if a county has audio recording capability available to them, the county must utilize the audio recording capability to capture the telephonic signature. If the county does not have audio recording capability, the county must utilize the next best signature method that is available to the county. However, if the individual providing the signature prefers a specific type of signature, counties must accommodate the individual’s request. For example, if an individual applies over the telephone but requests a pre-populated paper application be mailed to them for signature, after being informed of the multiple signature methods available, the county must allow the signature to be provided using the method preferred by the individual providing the signature.

#### **1. Telephonic Audio Recorded Signature**

When Medi-Cal forms are accepted over the telephone, the best available and highest level of signature that counties can collect is an audio recording that can be stored in the county’s case record and retrieved upon request. CMS requires that all states come into compliance with telephonic signature requirements by accepting audio-recorded telephonic signatures. Additionally, CMS provides the following two options for audio-recorded signatures:

- Recording the entire telephone process with the signature included; or
- Recording only the signature portion of each telephone call. When recording only the signature portion of the call, counties must record the portion of the call where the individual confirms that all information provided is true and correct

under penalty of perjury, where the individual provides their understanding that the oral signature holds the same weight as a written signature, and where the individual provides their oral signature.

Regardless of the option counties choose, counties must inform the individual of which portion of the call is being recorded and ensure they are able to store and easily access audio-recorded signatures in the case record.

## **2. Electronic Signatures**

When Medi-Cal forms are accepted over the telephone, the second highest level of signature that counties can collect is an electronic signature. The Uniform Electronic Transactions Act, [California Civil Code Section 1633.2](#), defines electronic signatures as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of this title, a “digital signature” as defined in [subdivision \(d\) of Section 16.5](#) of the Government Code is a type of electronic signature. Regardless of the type of electronic signature collected, counties must ensure that they are able to store and easily access a record of the electronic signature in the case record.

## **3. SAWS “Checkbox”**

When Medi-Cal forms are accepted over the telephone, the third highest level of signature that counties can collect is a SAWS “checkbox” confirmation that the applicant, beneficiary, or AR has telephonically agreed to and signed the information provided under penalty of perjury. The “checkbox” method of telephonic signature consists of the county eligibility worker (CEW) checking a box in SAWS, in the applicant/beneficiary’s case record, confirming that the applicant, beneficiary, or AR has telephonically signed that the information provided is true and correct under penalty of perjury. This method of signature does not meet the CMS requirements for what constitutes a telephonic or electronic signature. However, counties may continue to utilize this method of signature if it is the highest level of telephonic or electronic signature available to the county, until a higher level of telephonic or electronic signature becomes available, at which time the county must use the highest level of telephonic or electronic signature available.

#### 4. Documentation in Case Notes

When Medi-Cal forms are accepted over the telephone, the fourth highest level of signature that counties can collect is documentation in the applicant/beneficiary's case notes that the applicant, beneficiary, or AR has telephonically agreed to and signed the information provided under penalty of perjury. The "case notes" method of telephonic signature consists of the CEW documenting the following specific language in the SAWS, in the applicant/beneficiary's case record, confirming that the applicant, beneficiary, or AR has telephonically signed that the information provided is true and correct under penalty of perjury:

"[Applicant/Beneficiary/Authorized Representative] provided information necessary to complete an [application, annual renewal, appointment of authorized representative (applicant/beneficiary signature only), "specific form"] via telephone on [date/time]. [Applicant/Beneficiary/Authorized Representative] provided a telephonic signature agreeing that the [identify information] provided was true and correct to the best of their knowledge under penalty of perjury."

In addition to the specific language shown above, counties must add any other case narrative details regarding the telephone call as necessary following current county business practices. This method of signature does not meet the CMS requirements for what constitutes a telephonic or electronic signature. However, counties may continue to utilize this method of signature if it is the highest level of telephonic or electronic signature available to the county, until a higher level of telephonic or electronic signature becomes available, at which time the county must use the highest level of telephonic or electronic signature available.

Regardless of the signature method used, when accepting any form that must be signed over the telephone, county eligibility workers (CEWs) must recite the rights and responsibilities and declaration included **in that form** the county is using to collect the information. For example, if an applicant is applying over the telephone using the single, streamlined application (SSApp), the CEW must read the rights, responsibilities, and declaration statement, including penalty of perjury statement, included in the SSApp to ensure that all applicants using the SSApp receive the same information prior to signature regardless of method used. This does not mean CEWs must recite the entire MC 219 Rights and Responsibilities form. For purposes of obtaining a penalty of perjury statement, CEWs must recite the penalty of perjury statement on the form that is being signed.

Additionally, CMS requires that when accepting signatures over the telephone, counties must provide a confirmation receipt to the applicant or beneficiary documenting the information provided. The confirmation receipt must show the information the applicant, beneficiary, or AR provided, a copy of the attestations and rights and responsibilities included on the form signed, and the submission date of the signed form. For applications, annual renewals, and other forms, counties may utilize a printout of the information that was provided, including the rights, responsibilities and declarations that were used and the submission date, for purposes of the confirmation receipt. For AR appointments, counties must utilize the MC 380 Notice of Appointment of Authorized Representative and MC 382 Appointment of Authorized Representative as required by [ACWDL 18-26](#). Counties must document the information provided, the method of signature, the date of signature and that the confirmation receipt was provided in the case record. Counties must also be able to reproduce a copy of the confirmation receipt upon request.

### **Use of CalFresh Electronic Signature Requirements for Medi-Cal**

The Department of Social Services (CDSS) released All County Letter (ACL) [17-57](#), Electronic Signatures in the CalFresh and California Work Opportunity and Responsibility to Kids Programs, on June 9, 2017. The ACL provides guidance on the requirements that a signature must meet to be an electronic signature for CalFresh. These include:

- That the applicant/beneficiary must take an affirmative action to indicate concurrence, such as entering a Personal Identification Number or providing verbal affirmation;
- That the record of the signature must be maintained electronically and linked to the document to which the signature attests; and
- That the process put in place must constitute a legal signature in the State of California, as defined by the Secretary of State and the Uniform Electronic Transactions Act.

Additional guidance on the requirements for an electronic or telephonic signature for the CalFresh program can be found in CDSS ACL [17-57](#). For purposes of Medi-Cal, if a method of obtaining a signature meets the definition of an electronic or telephonic signature for CalFresh, the method also meets the definition of an electronic signature for Medi-Cal. Therefore, if counties have an existing solution available to them to accept electronic, including telephonically recorded, signatures for the CalFresh program, DHCS approves the usage of that functionality for Medi-Cal. For purposes of Medi-Cal, the signature must also be carried out under penalty of perjury, in accordance with 42 CFR Sections [435.907](#).

## **Use of Available Telephonic or Electronic Signature Methods**

DHCS has learned that many counties have capability to accept electronic or telephonically recorded signatures, which meet the requirements for CalFresh, as outlined in ACL [17-57](#). These methods include, but are not limited to:

- **Electronic Text Signature Solution.** The electronic text solution consists of sending a text to the applicant, beneficiary, or AR with a unique code. The applicant/beneficiary replies to the text and provides the unique code in order to affirm their electronic signature.
- **Electronic Email Signature Solution.** The electronic email solution consists of sending an encrypted email to the applicant, beneficiary, or AR with a link that directs them to a website where they can provide unique information to affirm their electronic signature.
- **Electronic Interactive Voice Response (IVR) Signature Solution.** The IVR solution consists of providing the applicant, beneficiary, or AR with a telephone number they can call where they can provide unique information to affirm their electronic signature.
- **Electronic Signatures Obtained by Having the Applicant, Beneficiary, or AR log into their Statewide Automated Welfare System (SAWS) Account.**
- **Telephonic Audio Recording**

DHCS is providing the guidance that:

- To the extent that counties have the ability to telephonically record and store an audio file of an individual's signature, counties must make the ability to sign telephonically available to Medi-Cal applicants, beneficiaries, and ARs.
- To the extent SAWS have already built electronic signature capability for the CalFresh program, SAWS shall make this functionality available for applicants, beneficiaries, and ARs of the Medi-Cal program within the next available SAWS release. Counties shall reach out to their SAWS representatives with any questions regarding the availability of electronic signature capability.
- To the extent that counties have the ability to collect electronic signatures within their SAWS system, counties must make the ability to sign electronically available to Medi-Cal applicants, beneficiaries, and ARs.

Except for the purposes of programming CalSAWS, this ACWDL is not intended to require that counties build new functionality to collect telephonically recorded or electronic signatures where none exists. This ACWDL is only intended to ensure counties are aware that they must make telephonic and electronic signature methods available to Medi-Cal applicants, beneficiaries, and ARs utilizing the hierarchy included

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within this ACWDL. As a reminder, counties must follow the requirements of Title 22 of the California Code of Regulations, [Section 50111](#) for purposes of case record retention, including the maintenance of the electronic or telephonically recorded signature within the case file.

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](mailto:Alison.Brown@dhcs.ca.gov).

Original Signed By

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