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February 5, 2020

To: ALL COUNTY WELFARE DIRECTORS Letter No 20 - 04  
ALL COUNTY ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALIST/LIASONS  
ALL COUNTY PUBLIC HEALTH DIRECTORS  
ALL COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: MEDICAL SUPPORT ENFORCEMENT UNDER THE AFFORDABLE CARE ACT  
References: Medi-Cal Eligibility Procedures Manual, Article 23, Medical Support Enforcement Program; Office of Child Support Enforcement Information Memorandum (IM-2008-03); All County Welfare Directors Letter No. 19-13.

The purpose of this letter is to provide counties with guidance on administration of Medical Support Enforcement (MSE) requirements after implementation of the Affordable Care Act (ACA). This guidance clarifies that:

- With the implementation of the ACA, MSE requirements may be met after conditional Medi-Cal eligibility is granted.
- County Welfare Departments (CWDs) must continue to follow MSE requirements for all Medi-Cal applicants when appropriate including applicants determined Medi-Cal eligible by the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS).
- Counties must request medical support information from applicants, beneficiaries, and persons acting on behalf of applicants or beneficiaries when required by current MSE policy.
- Counties must discontinue Medi-Cal benefits, with proper notice, when a beneficiary fails to cooperate with MSE requirements without good cause when required by current MSE policy. As a reminder, an applicant or beneficiary's refusal to cooperate shall not effect the eligibility of the child. If otherwise eligible, the child may be granted or continue to receive Medi-Cal.
- Counties must program the enclosed denial and discontinuance Notice of Action (NOA) snippets for MSE cases in the next available Statewide Automated Welfare System (SAWS) release.

## **Background**

Today, Federal law and regulations require applicants and beneficiaries to cooperate with MSE. Applicants and beneficiaries requesting Medi-Cal for minor children must cooperate with the state to establish parentage and identify possible medical coverage available to the child(ren) through a non-custodial parent.

Prior to implementation of the ACA, MSE compliance was required before counties granted eligibility. Individuals who failed to cooperate with MSE, without good cause, were denied Medi-Cal eligibility. Information concerning MSE is provided to applicants and beneficiaries at initial application and annual renewal via the Rights and Responsibilities (MC 219) form. MSE provisions require Medi-Cal applicants and beneficiaries to agree to the following:

- Assign to the state any rights to medical support and payments for medical care from a third party.
- Cooperate with the Local Child Support Agency (LCSA) in establishing parentage of a child born out of wedlock for which medical services are requested or claimed.
- Cooperate with the state in identifying and providing information to assist the state in pursuing any third party who may be liable in paying for care and services under the Medi-Cal program.

## **Post ACA MSE Requirements**

MSE requirements still apply to Modified Adjusted Gross Income (MAGI) and Non-MAGI cases when appropriate. With the implementation of ACA rules, approval of eligibility may not be delayed if the individual who must cooperate with MSE requirements is otherwise eligible for Medi-Cal. When eligibility is granted before MSE requirements are met, the CWD must follow up with the beneficiary for information necessary to satisfy the MSE requirement, in accordance with ACWDL 19-13. Do not wait until the next reevaluation to follow up with an individual who is subject to MSE requirements.

When a county determines that an applicant or beneficiary is required to comply with MSE requirements, the county must follow the “Application Process” and/or “Beneficiary Process” guidelines outlined in ACWDL 19-13. ACWDL 19-13 requires CWDs to:

- Request compliance with MSE, including the second contact process, ex parte review, and/or sending the MC 355. Allow 30 days for an applicant or beneficiary to respond to the MSE requirements. Electronic signatures, telephonic signatures, and handwritten signatures transmitted by electronic transmission must be accepted for MSE documents

- Take denial or discontinuance action where necessary; and
- Send appropriate and timely NOAs.

### **Good Cause for Waiving MSE Requirements**

Good cause exists for non-cooperation with MSE requirements when such cooperation is shown to be against the best interest of the applicant, beneficiary, child or children. In such cases, all activities to establish parentage or secure medical support are suspended until a final good cause determination is made by the CWD (Title 22, CCR § 50771.5). When an applicant or beneficiary claims good cause for refusal to cooperate, Medi-Cal may not be denied or discontinued until a good cause determination is made.

### **Good Cause Exemption**

In order to grant a good cause exemption from the medical support requirements, the applicant or beneficiary must show that one of the following conditions exists:

- There is an increased risk of harm associated with their case.
- The applicant and/or beneficiary is cooperating in good faith but is not able to identify or assist in locating the alleged non-custodial parent.
- Cooperation with MSE is anticipated to result in physical or emotional harm to:
  - The child for whom support is sought, or
  - The parent or caretaker relative with whom the child is living.

Alternatively, the county must grant a good cause exemption if they believe that proceeding to secure medical support information or to establish parentage would be detrimental for any of the following reasons (Title 22, CCR § 50771.5):

- The child was conceived as a result of incest or rape.
- The applicant/beneficiary is being assisted to resolve the issue of whether to keep or relinquish a child for adoption, and discussions have not exceeded 3 months.
- Legal proceedings for the adoption of the child are pending.
- Any other reason that would make efforts to establish parentage or establish, modify, or enforce a support obligation, contrary to the best interest of the child.

As a reminder, Title 22 of the CCR, Section 50185(d) requires that counties assist the applicant or beneficiary as necessary in complying with requests to gather information required in the application process or in the determination of continuing eligibility.

## **MSE Referrals to Child Support Services**

When an individual is subject to MSE requirements counties must inform them of available child support services and provide them with information about applying for those services. When necessary, the appropriate county agency must assist Medi-Cal applicants and beneficiaries with:

- Establishing parentage
- Obtaining child financial support
- Obtaining child medical support

The CWD may refer **appropriate** cases and any relevant information to the LCSA after a determination of Medi-Cal eligibility has been made. All of the following conditions must be met in order for the case to be considered appropriate for MSE referral to the LCSA:

- The custodial parent and child or children are receiving Medi-Cal.
- The parent has assigned all his/her rights and those of the child or children to medical support to the State.
- The parent does not have good cause for an exemption and has completed the required MSE questionnaire.

Pursuant to (Medi-Cal Eligibility Procedures Manual, Article 23, Medical Support Enforcement Program and Office of Child Support Enforcement Information Memorandum (IM-2008-03), inappropriate Cases to Refer to the LCSA Include:

- Cases for which the custodial parent has shown “good cause” for exemption from MSE requirements.
- Pregnant women cases until after the 60-day postpartum period
- Minor consent cases
- Transitional Medi-Cal Assistance cases
- “Child-Only” cases (Child-Only cases are Medi-Cal cases in which the child is the only Medi-Cal beneficiary in the case).
- Cases involving unmarried parents who reside together when both parents sign a Voluntary Declaration of Paternity
- California Alternative Assistance Program cases
- Cases in which the absent parent is deceased. (Sufficient substantiation is required.)
- Cases involving one or more minor parents. When either parent is a minor, the Declaration of Paternity does not establish paternity until 60 days after both minor parents are emancipated or 60-days after the eighteenth birthday of both minor parents, whichever occurs first.

- Undocumented children (Do not make referrals on undocumented children for either MSE or paternity establishment)

## **MSE NOA Requirements**

Per ACWDL 19-13, CEWs can now utilize SAWS to send MSE denial or discontinuance reasons to CalHEERS for non-compliance. The discontinuance and denial language is being provided in English and Spanish must be used when denying or discontinuing Medi-Cal eligibility for non-compliance with MSE. All remaining threshold language snippets will be provided as they become available in a subsequent Medi-Cal Eligibility Division Information Letter.

### Denial of Benefits

English Text: *"You do not qualify for Medi-Cal. This is because you refused to cooperate in Medical Support Enforcement (MSE), without good cause. This action does not affect the Medi-Cal benefits of your child(ren). If you have any questions about this action, or want to make a request to claim good cause for refusal to cooperate, please contact your Eligibility Worker."*

Denial of Benefits - Spanish Text: *"Usted no califica para Medi-Cal. Esto se debe a que usted se negó a cooperar en la aplicación de apoyo médico (Medical Support Enforcement (MSE)), sin una buena causa. Esta acción no afecta los beneficios de Medi-Cal de su(s) hijo(s). Si tiene alguna pregunta sobre esta acción o desea hacer una solicitud para reclamar una buena causa por negarse a cooperar, comuníquese con su trabajador de elegibilidad."*

Because conditional Medi-Cal eligibility must be granted before MSE requirements are met (if otherwise eligible), the MSE denial NOA snippet should only be needed in a combined snippet.

Example: When a parent subject to MSE requirements has not provided income verification (for someone not e-verified) and also has failed to comply with MSE, the NOA would include both denial reasons (failure to verify income and failure to comply with MSE).

### Discontinuance of Benefits

English Text: *"You no longer qualify for Medi-Cal. This is because you refused to cooperate in Medical Support Enforcement (MSE), without good cause. This action does not affect the Medi-Cal benefits of your child(ren). If you have any questions about this action, or want to make a request to claim good cause for refusal to cooperate, please contact your Eligibility Worker."*

All County Welfare Directors' Letter No.: 20 – 04  
Page 6  
February 5, 2020

Discontinuance of Benefits - Spanish Text: *"Usted ya no califica para Medi-Cal. Esto se debe a que usted se negó a cooperar en la aplicación de apoyo médico (Medical Support Enforcement (MSE)), sin una buena causa. Esta acción no afecta los beneficios de Medi-Cal de su(s) hijo(s). Si tiene alguna pregunta sobre esta acción o desea hacer una solicitud para reclamar una buena causa por negarse a cooperar, comuníquese con su trabajador de elegibilidad."*

Standard NOA requirements apply to these NOA snippets. For example:

- All MSE denial and discontinuance NOAs must include the appropriate Legal Authority Title 22, CCR § 50175, 50185, 50771.5 Welf. & Inst. Code § 14008.6.
- All MSE **discontinuance** NOAs for Failure to Respond/Cooperate must include the specified 90-day cure period language.
- All MSE denial and discontinuance NOAs must include the NA BACK 9 (ACA/MEDI-CAL) (MAGI and Non-MAGI) information.

### **Implementation Timeline**

The SAWS must program and implement the enclosed NOA language in the next available SAWS release. In the meantime, counties may continue to send the MSE NOAs that are currently automated by SAWS.

If you have any questions, or if we can provide further information, please contact Buck Harris by phone at (916) 345-8162 or by email at [Buck.Harris@dhcs.ca.gov](mailto:Buck.Harris@dhcs.ca.gov).

Sincerely,

Sandra Williams, Chief  
Medi-Cal Eligibility Division