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April 27, 2020

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 20-09  
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS  
ALL COUNTY HEALTH EXECUTIVES  
ALL COUNTY MENTAL HEALTH DIRECTORS  
ALL COUNTY MEDS LIAISONS

SUBJECT: PROVISIONS FROM THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (P.L. 116-136)

The purpose of this All County Welfare Director Letter (ACWDL) is to provide instruction to counties regarding treatment of unemployment benefits, recovery rebates, and additional provisions subsequent to the passage of H.R. 748, The Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-136. This bill amends the Internal Revenue Code of 1986 by providing emergency economic assistance to those affected by the novel coronavirus (COVID-19) along with providing tax provisions intended to stimulate the American economy.

### **BACKGROUND**

The CARES Act was signed into law on March 27, 2020, based on the federally declared National Emergency due to COVID-19. The Department of Health Care Services (DHCS) identified the sections of the CARES Act that introduce program and income provisions to provide temporary relief to individuals due to the economic impacts of the COVID-19 public health crisis. The following sections discuss the treatment of the newly introduced program and income provisions in the Medi-Cal budget calculation for programs that follow the Modified Adjusted Gross Income (MAGI) and Non-MAGI methodologies. The guidance in this letter is effective March 27, 2020.

Counties shall continue to follow the guidance outlined in Medi-Cal Eligibility Division Information Letter (MEDIL) [I 20-07](#) and [MEDIL I 20-08](#) regarding the 90- day delay in processing reported changes in circumstances that could result in negative actions during the COVID-19 public health crisis. Beneficiaries shall not be terminated from Medi-Cal for reporting increased income or property due to CARES Act Benefits unless

they specifically ask to be disenrolled from Medi-Cal. Please see MEDIL [I 20-07](#), MEDIL [I 20-08](#) and any subsequent COVID-19 updates on redeterminations and terminations.

Similarly, through the duration of the Executive Order, counties shall not take any negative action on a reported change that leads to less beneficial coverage, like moving a beneficiary to a premium aid code or issuing a share of cost. For existing beneficiaries that report changes as a result of the CARES Act, counties should document the information in the case file and delay applying any negative action resulting from the change until the conclusion of the delay period outlined in MEDIL [I 20-07](#), or as established by subsequent guidance.

### **Policy**

#### **Section 1102 of the CARES Act—Paycheck Protection Program**

Section 1102 authorizes the Small Business Administration (SBA) to provide loan guarantees for up to \$349 billion in loan commitments to fund a new “Paycheck Protection” program.

Before the CARES Act, a small business had to meet size requirements to be eligible for an SBA loan. The SBA size standards vary by industry and are generally based on the average number of employees or average annual receipts. Under the CARES Act, small businesses continue to be eligible under these standards. However, the CARES Act expands eligibility for loans to all businesses with no more than 500 employees. An eligible business may receive one covered loan, which the recipient may use for payroll costs; continuation of group health care benefits during periods of paid sick, medical, or family leave, or insurance premiums; salaries or commissions or similar compensation; interest on mortgage obligations; rent; utilities; and interest on outstanding debt.

These loans will be treated under regular business income and property rules for Medi-Cal. For MAGI Medi-Cal, the loan is not considered taxable income and is excluded from the eligibility determination. For Non-MAGI, loans are considered property, and business property is exempt for the eligibility determination. For Covered California programs, the loan is not considered taxable income and is excluded from the eligibility determination.

#### **Section 2102 of the CARES Act—Pandemic Unemployment Assistance**

Section 2102 provides for Pandemic Unemployment Assistance, which extends unemployment benefits to individuals who exhausted their unemployment benefits or

their Pandemic Emergency Unemployment Compensation, and whose households have been directly impacted by COVID-19 in one of the following ways:

- Being diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis;
- A member of the individual’s household has been diagnosed with COVID–19;
- The individual is providing care for a family member or a member of their household who has been diagnosed with COVID-19;
- A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work.
- The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency
- The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of COVID-19
- The individuals has to quit his or her job as a direct result of COVID-19
- The individual’s place of employment is closed as a direct result of COVID-19

This section also expands Pandemic Unemployment Assistance benefits to individuals that are generally not eligible for unemployment benefits such as:

- Self-Employed individuals
- Business owners
- Independent contractors
- Freelancers

Furthermore, Section 2102 extends the time period in which an individual can receive unemployment benefits from 26 weeks to 39 total weeks, starting with weeks of unemployment beginning February 2, 2020, through the week ending December 26, 2020, depending on when the individual became directly impacted by the pandemic

For MAGI and Non-MAGI Medi-Cal, these unemployment benefits received under Pandemic Unemployment Assistance will be counted as income (the taxable portion for MAGI) in the eligibility determination. These benefits are counted as property if retained into the following month for the purposes of Non-MAGI Medi-Cal eligibility determinations. For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Section 2104 of the CARES Act—Emergency Increase in Unemployment Assistance

Section 2104 provides for Federal Pandemic Unemployment Compensation, which is a weekly \$600 amount provided in addition to other unemployment benefits. Individuals will not need to do anything to receive this extra funding. The Employment Development Department (EDD) will automatically add the full \$600 to each week of current benefits that are paid every two weeks, as long as the individual is eligible for at least \$1 in a regular payment each week. Additionally, the \$600 weekly amount will be labeled on the individual's unemployment benefit award letter and their online EDD account. The first week the additional payments can be made is for the week ending April 4. Separate retroactive payments will be automatically issued soon to those who had an active claim that week, and the \$600 extra payments can continue to those who remain impacted and otherwise eligible for benefits through the week ending July 31, 2020.

For MAGI and Non-MAGI Medi-Cal, this \$600 additional weekly payment shall be disregarded and will not be counted in the income eligibility determination. Furthermore, the \$600 payment will also be disregarded as property for Non-MAGI Medi-Cal eligibility determinations, if retained after the month of receipt. For Covered California programs, the taxable portion is counted in the eligibility determination.

#### Section 2107 of the CARES Act—Pandemic Emergency Unemployment Compensation

Section 2107 provides for Pandemic Emergency Unemployment Compensation, which is a new 13-week extension of benefits paid for by the federal government when someone exhausts their regular state unemployment claim between March 29, 2020 and the end of 2020. An individual is deemed to have exhausted their benefits when:

- The individual received all regular compensation available based on employment or wages during their base period;
- The rights to such compensation have been terminated due to the expiration of the benefit year under which the rights to compensation existed;

For MAGI and Non-MAGI Medi-Cal, the unemployment benefits received under Pandemic Emergency Unemployment Compensation will be counted as income (the taxable portion for MAGI) in the eligibility determination. These benefits are counted as property if retained into the following month for the purposes of Non-MAGI Medi-Cal eligibility determinations. For Covered California programs, the taxable portion is counted in the eligibility determination.

Section 2113 of the CARES Act—Enhanced Benefits Under the Railroad Unemployment Insurance Act

Section 2113 provides to a qualified Railroad employee a one-time payment in the maximum amount of \$1200. An individual is eligible for the special CARES Act payment for registration periods for which (1) they are receiving Railroad Unemployment Insurance (RRUI) benefits or (2) they would be receiving RRUI benefits if they had not already exhausted RRUI benefits for benefit year 2019. The benefit year for 2019 began on July 1, 2019, and will end June 30, 2020.

For MAGI and Non-MAGI Medi-Cal, this one-time payment is counted in the month received. For Non-MAGI, if the payment is retained, it is considered property in the following month. Recipients of the RRUI can spend down or transfer in the month received to avoid excess property. For Covered California programs, the taxable portion is counted in the eligibility determination.

Please Note: The Railroad Board is **not** responsible for the payment of the one-time \$1200 economic impact payments. The Department of the Treasury will be responsible for making these payments.

Section 2114 of the CARES Act—Extended Unemployment Benefits Under the Railroad Unemployment Insurance Act

Section 2114 provides an extension in RR UI benefits through December 31, 2020 for individuals who received normal RR UI benefits during the period beginning July 1, 2019 and ending June 30, 2020.

For MAGI and Non-MAGI Medi-Cal, RR UI benefits are counted as income (taxable portion for MAGI) in the eligibility determination. These benefits are counted as property if retained into the following month for the purposes of Non-MAGI Medi-Cal eligibility determinations. For Covered California programs, the taxable portion is counted in the eligibility determination.

### Section 2201 of the CARES Act—Recovery Rebates for Individuals

Section 2201 provides for Recovery Rebates (also known as economic impact payments or stimulus payments) for individuals, which are one-time tax rebates up to \$1200 for each adult and \$500 for each child depending on a household's adjusted gross income.

For MAGI and Non-MAGI Medi-Cal, these Recovery Rebates are not counted as income in the eligibility determination. Furthermore, for Non-MAGI Medi-Cal, these rebates are exempt as property for 12 months from receipt of the benefit. For Covered California programs, these payments are disregarded and will not be counted in the eligibility determination.

### Section 2202 of the CARES Act—Special Rules for the Use of Retirement Funds

Section 2202 provides that individuals may make withdrawals from a tax-qualified retirement plan of up to \$100,000 in 2020 as a coronavirus-related distribution, without such distributions being subject to the additional tax that would typically apply to early distributions.

There are other provisions under Section 2202 regarding the treatment of distributions from retirement accounts that DHCS is still exploring. Additional guidance regarding these provisions is forthcoming. DHCS requests that counties reach out to the author of this ACWDL, should any specific questions regarding coronavirus-related retirement account distributions arise.

### Section 2203 of the CARES Act—Temporary Waiver of Minimum Distribution Rules for Certain Retirement Plans and Accounts

Section 2203 provides that minimum required distribution rules under Section 401(a)(9) of the Internal Revenue Code will not apply to certain defined contribution plans and individual retirement plans where the individual reached age 70 and a half in 2019 and, therefore, the required beginning date is in 2020.

Although these minimum distribution rules have been waived, retirement accounts shall still be considered unavailable property for Non-MAGI Medi-Cal programs, as outlined in [ACWDL 90-01](#) and [ACWDL 02-51](#).

Section 2204 of the CARES Act—Allowance of Partial Above the Line Deduction for Charitable Contributions

Section 2204 provides that tax filers who do not itemize their deductions are permitted to deduct from their MAGI up to \$300 in charitable contributions made by an eligible individual in tax years beginning in 2020. This section applies to those individuals seeking eligibility to MAGI-based Medi-Cal programs only.

Section 3504 of the CARES Act—Use of Supplemental Educational Opportunity Grants for Emergency Aid

Section 3504 provides for emergency financial aid grants to assist undergraduate or graduate students for unexpected expenses and unmet financial need as the result of a qualifying emergency.

For MAGI and Non-MAGI Medi-Cal, these financial aid grants are not counted as income in the eligibility determination. These grants are also exempt as property for Non-MAGI Medi-Cal pursuant to [ACWDL 94-06](#). For Covered California programs, the taxable portion of these grants is counted in the eligibility determination.

Section 3505 of the CARES Act—Federal Work-Study During a Qualifying Emergency

Section 3505 provides that Work-Study grants shall continue to be paid to individuals eligible prior to the emergency period but who are unable to complete their work assignment due to the emergency for a period of one year.

For MAGI and Non-MAGI Medi-Cal, these Work-Study grants (the taxable portion for MAGI) are counted as income in the eligibility determination. For Covered California programs, the taxable portion is counted in the eligibility determination.

Section 3702 of the CARES Act—Inclusion of Certain Over-the Counter Medical Products as Qualified Medical Expenses

Section 3702 provides that Menstrual Care Products are now included as Qualified Medical Expenses under Health Savings Accounts and Flex Savings Accounts. Effective immediately, CEWs shall treat menstrual care products as a qualified medical expense for any Medi-Cal program that allows such expenses including Share-of-Cost



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Medi-Cal and Principe v. Belshé. Counties should follow existing programs rules regarding the treatment of Qualified Medi-Cal Expenses.

Section 3812 of the CARES Act Extension of Spousal Impoverishment Protections

Section 3812 extends the Spousal Impoverishment Protections for Home and Community-Based Services (HCBS) from May 22, 2020, until November 30, 2020. For existing guidance, please refer to [ACWDL 17-25](#) and [ACWDL 18-19](#).

If you have any questions, or if we can provide further information, please contact Sara McDonald, by phone at (916) 345-8061, or by email at [Sara.McDonald@dhcs.ca.gov](mailto:Sara.McDonald@dhcs.ca.gov).

Original Signed By

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