

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814

(916) 445-1912



November 10, 1980

To: All County Welfare Directors

Letter No. 80-43

OVERPAYMENT -- STATE HEARINGS

This letter is for the purpose of clarifying the responsibilities of the counties and the State Department of Health Services' (DHS) Recovery Section respectively, for state hearings regarding overpayment issues. Over the past year, many comments have been received on this issue from counties, hearing officers and state Recovery Section staff and regulations and procedures were developed as a result.

Recently effective regulation, Title 22, CAC, Section 50953 provides that, in the state hearing process, "prehearing procedures and representation at the hearing shall be the responsibility of both the county and the Department (of Health Services) when the issue involves action or inaction by both the county and the Department." Overpayment issues involve actions by both the county and the Department: the county has made a determination that the Medi-Cal beneficiary has willfully failed to report required information, and the DHS Recovery Section has determined the amount of medical care that has incorrectly been paid for by Medi-Cal instead of the beneficiary.

While some counties may believe that the Recovery Section or the Department make further decisions as to whether willful failure exists, this is not the case. The Department does determine whether the matter should be handled as an overpayment collection action or as a prosecution for fraud. This determination is based upon the amount of funds involved and the degree and type of evidence available. All cases which are not to be treated as fraud matters are referred to the Recovery Section for determination of overpayment amount and issuance of the demand for repayment.

When the State Office of the Chief Referee receives a request for a Medi-Cal fair hearing and the issue is one of overpayment, notices to appear at the state hearing will be sent both to the county and to the local Recovery Section Office, along with copies of the claimant's request for a fair hearing. Automatic issuance of these notices to both agencies in all overpayment cases is a new procedure.

The county must be present at the hearing to represent the determination that willful failure existed in the particular case; and the Recovery Section will either be present or submit a position statement, representing the methods by which the amount of overpayment to be collected was determined. Since decisions which are adverse to the state/county action always require the Recovery Section to reduce or cancel the amount it is trying to collect from the beneficiary, compliance with such decisions will be the responsibility of the Recovery Section -- but both the county and the Recovery Section will receive copies of the final decision.

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We anticipate all parties involved with overpayment state hearings will benefit from the new notice process.

The overpayment fair hearing description in this letter will be included in the Medi-Cal eligibility Procedures Manual. Please contact your field representative should you have questions on any of the above information.

Sincerely,

ORIGINAL SIGNED BY

BARBARA V. CARR

Barbara V. Carr
Acting Chief
Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Field Representatives
Fair Hearing Administrators

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Expiration Date: May 31, 1981