

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
D. BOX 942732
CRAMENTO, CA 94234-7320



January 19, 1990
Letter No: 90-11

TO: All County Welfare Directors
All County Administrative Officers

Subject: Hunt vs. Kizer Preliminary Injunction

Reference: All County Welfare Directors Letter No. 89-87, 89-111

Background:

On December 15, 1989, the U. S. District Court issued a revised Preliminary Injunction in the case of Hunt vs. Kizer requiring that the Department of Health Services (DHS) no longer impose any time limitations on medical expenses which Medi-Cal applicants or beneficiaries may use to meet their share of cost (SOC). As a result, we are rescinding all notices and instructions (All County Welfare Directors Letters 89-87) that have been issued to counties and to Medi-Cal beneficiaries since August 28, 1989, on this subject.

On January 16, 1990, the enclosed notice (Enclosure 1) was sent to approximately 154,000 persons who were eligible as of January 1990 to receive Medi-Cal with a SOC. This notice advises people that their Medi-Cal SOC will be adjusted to reflect the cost of any unpaid medical bills for which they are still legally responsible. County eligibility workers will be responsible to assist Medi-Cal applicants and beneficiaries with the use of their old medical expenses to meet their SOC.

County Procedures:

To comply with this revised court order, any Medi-Cal applicant or beneficiary coming into the county welfare department (CWD) must have any unpaid medical expenses evaluated for use in reducing a current, or future, month's SOC. This means applicants for, or recipients of, Medi-Cal having unpaid medical expenses for which they are still legally liable, regardless of when they were incurred, must be allowed to use these bills toward reducing their SOC in current and, if necessary, future months. A person is considered to be legally liable for the debt if:

1. the debt is less than four years old; or
2. there is a judgment; or
3. there is a contract extending the statute of limitations; or
4. any payment has been made on the debt within the last four years; or
5. there is an agreement to pay on the debt; or
6. there is other reasonable verification showing the person is still responsible for the debt.

Until final regulations are promulgated, eligibility workers should question bills older than four years and allow beneficiaries the opportunity to show that they are still liable for these bills.

Intake:

At intake the applicant must be informed of his/her right to use any old unpaid medical expenses to reduce his/her current and, if necessary, future months(s) SOC, regardless of when they were incurred. A copy of "Important Notice Hunt vs. Kizer Lawsuit" is included as Enclosure 2. This notice must be provided by the county welfare director to all persons who have applied for Medi-Cal and been approved since September 1, 1989, and to all future applicants.

Continuing:

Persons currently on Medi-Cal with a SOC may use their old unpaid medical expenses to meet a current or future months SOC so long as the entire bill has not previously been used to meet a SOC.

Required Documentation:

Medi-Cal eligibility workers must review the billing statements for old medical expenses from the medical providers to ensure that the required information is provided. If any of the items listed below are missing, the Medi-Cal applicant must contact the provider to obtain the information. The eligibility worker must explain what items are necessary in order to allow the bill to be used. Bills with any of the required items missing are not acceptable.

Bills being used to reduce an applicant's or beneficiary's SOC must have:

1. a current billing date (billing statement dated within 60 days of the date it is presented to the eligibility worker);
2. the provider's name and address;
3. the name of the person receiving the service;
4. the type of service;
5. the date of service;
6. the amount owed in the month for which it is being used to meet the SOC;
7. the provider federal tax identification number or provider license number or Medi-Cal provider identification number.

Adjusting the SOC:

When all of the necessary information is provided, the county workers shall complete an MC 176 M noting in the Underpayment Adjustment Box (Column III, Line 15) "OME" (Old Medical Expenses) and the amount of the adjustment. Make a copy of the bill for the applicant and retain the original in the case file. **Original bills are not to be returned to the applicant.**

Cases that will have a SOC changed for more than the current month must be flagged (either manually or on MEDS [REDETERM-MONTH]) so the counties will be alerted when it is necessary to readjust the reduced SOC. The share of cost must be recomputed prior to the 20th day of the last month in which the old medical expenses have been used to reduce the SOC. A ten day Notice of Action advising the beneficiary of the return to his/her previous SOC must be sent in the month prior to the change.

Denied Medical Bills:

When reviewing the medical bills to determine if the required information is included, note on each original bill either "Accepted - Hunt vs. Kizer" or "Denied - denial code (numbers 1-9) Hunt vs. Kizer."

Denial Codes:

1. Billing date not current or illegible.
2. Provider's name or address missing or illegible.
3. Name of the person receiving the service is missing or illegible.
4. Type of service not provided or illegible.
5. Date of service not provided or illegible.
6. Amount owed not provided or illegible.
7. Missing or illegible provider's federal tax ID #, license # or Medi-Cal ID #. (only one needed)
8. Failure to provide original bill.
9. Medical expenses were previously used to meet a SOC.

If the original bill appears to have been altered, the applicant must obtain from the provider an unaltered bill. An original bill means one prepared by the provider of services. If a bill is denied the original should be returned to the applicant or beneficiary.

Examples:

Example 1:

Ms. Adams has a SOC of \$100 each month. Currently, she must pay or obligate to pay this much each month toward your medical care before she receives a Medi-Cal card. Every month she pays approximately \$20 for prescriptions that are not paid for by Medi-Cal. Since this amount is less than her SOC (\$100), she was never able to meet her SOC which means she never actually received a Medi-Cal card. Now, as long as she still owes the bills after five months (\$20 a month for prescriptions times 5 months = \$100 SOC) she can submit all of the \$20 bills to meet her SOC for one month and receive a Medi-Cal card.

Example 2:

Mrs. Brown and her children have had a SOC of \$300 every month for the last two years. Her husband, Mr. Brown lives with her but he is not eligible for Medi-Cal. He has a \$3,000 hospital bill from three years ago which Mr. and Mrs. Brown still owe but which is not covered by insurance or any medical program. Now, Mrs. Brown and the children may use his bill to meet their SOC for 10 months (\$3,000 divided by \$300 a month = 10 months).

Example 3:

Mr. Clark has had a monthly SOC of \$120 for many years. For the past couple of years, he has been seeing a specialist doctor every month who charges him \$60 a visit because the doctor does not accept Medi-Cal. Mr. Clark still owes the doctor for two months of these \$60 bills. Now, he may meet his SOC by using two of these old doctor bills (2 times \$60 = \$120 SOC), no matter when they were incurred.

Questions concerning all aspects of this lawsuit should be directed to Kristi Allen at (916) 445-6855 (policy questions) or Frances Schurer at (916) 322-3463 (MEDS questions). Thank you for your continued cooperation.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: January 9, 1991

NOTICE TO HUNT VS. KIZER BENEFICIARIES- January 16, 1989

As a result of a recent U.S. District Court decision in the case of Hunt v. Kizer, you may now use your old unpaid medical bills, no matter when they were incurred, to meet your current and future months share of cost (SOC) for Medi-Cal.

You may have received a notice about this case earlier, but the recent court decision has changed the instructions. The earlier notice said that to meet your SOC, you could only use medical bills incurred before you applied for Medi-Cal. Now you can use bills incurred anytime, as long as you still owe them.

The new court decision in Hunt v. Kizer allows you to accumulate your unpaid medical bills from any prior month until you have enough to meet your SOC. To meet it, you can only use old bills for which you are still responsible. Then you can choose which month you want to meet your SOC and get a Medi-Cal card in. Here are some examples:

You have a SOC of \$100 each month. Currently you must pay or obligate yourself to pay this much each month for your medical care before you receive your Medi-Cal card. Every month you pay approximately \$20 for prescriptions that are not paid for by Medi-Cal. Since this amount is less than your SOC (\$100), you were never able to meet your share of cost which meant you never actually received a Medi-Cal card. Now, so long as you still owe the bills after five months (\$20 a month for prescriptions times 5 months = \$100 share of cost) you can submit all of the \$20 bills to meet your SOC for one month and receive a Medi-Cal card.

You and your children have had a SOC of \$300 every month for the last five years. Your husband lives with you but he is ineligible for Medi-Cal. He has a \$3,000 hospital bill from last year which you and he still owe but which is not covered by insurance or any medical program. Now, you may use his bill to meet your SOC for 10 months (\$3,000 divided by \$300 a month SOC = 10 months).

You have had a monthly share of cost of \$120 for many years. For the past couple of years, you have been seeing a specialist doctor every month who charges you \$60 a visit because he does not accept Medi-Cal. You still owe the doctor for many months of these \$60 bills. Now, you may meet your SOC in any particular month by using two of these old doctor bills (2 times \$60 = \$120 SOC), no matter when they were incurred.

If you have old medical bills which you still owe, you should take them in to your eligibility worker. Even if you have old medical bills which you were not allowed to use before to meet your SOC, you should take them in and ask your eligibility worker for help. Each bill must provide the following information:

- The current amount due.
- The name of the person who received the service, including any person for whose medical bills you are legally responsible.
- The name and address of the person (doctor, hospital, therapist, pharmacy, etc.) who provided the service.
- The type of service and the date of service.
- One of the following:
 - Provider Medi-Cal identification number.
 - Provider license number.
 - Federal tax identification number.

If you do not have all of this information, you should contact your eligibility worker for help. If you earlier submitted old unpaid bills but were told that you could not use them because they were incurred after you applied for Medi-Cal, you should take them back to your eligibility worker.

ALL PRIOR NOTICES ABOUT HUNT VS. KIZER ISSUED SINCE AUGUST 29, 1989, ARE HEREBY RESCINDED.

IMPORTANT NOTICE - HUNT VS. KIZER LAWSUIT

As a result of the recent U. S. District Court decision in the case of Hunt vs. Kizer, you may now be able to use your old medical bills to meet your current or future share of cost (SOC) for Medi-Cal. You may only use:

1. A bill that you are still legally responsible to pay; and
2. A bill which has not been used in its entirety to meet a previous SOC; and
3. A bill for which:
 - a. you received services less than four years before the month in which you are trying to use it to meet your SOC; or
 - b. you have judgment against you; or
 - c. you have entered into a contract extending its statute of limitations; or
 - d. you have made any payment on the debt within the last four years; or
 - e. you have agreed to pay on the debt; or
 - f. you have other reasonable verification showing you are still responsible for it.

In order to have your old medical bills considered the bill must meet the following requirements:

1. The bill must be current. (Billing date less than 60 days before the time you present it to your eligibility worker.)
2. The bill must show who provided the service, the provider's address and one of the following:
 - a. Provider Medi-Cal identification number; or
 - b. Provider license number; or
 - c. Provider federal tax identification number.
3. The bill must show the type of service received.
4. The bill must show who received the services.

Enclosure 2
Important Notice - Hunt vs. Kizer Lawsuit
Page 2

If you have an unpaid medical bill but some of this required information is missing from the bill, you may also submit an earlier bill for the same charge which provides the missing information.

If you have medical bills which you think may meet these requirements and you receive Medi-Cal with a SOC, please notify your county worker immediately for help.