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GOVERNOR

DATE: October 31, 2022

Medi-Cal Eligibility Division Information Letter No.: I 22-40

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS  
ALL COUNTY MEDS LIAISONS  
ALL CONSORTIA/SAWS PROJECT MANAGERS

SUBJECT: CLARIFICATIONS AND FREQUENTLY ASKED QUESTIONS  
REGARDING ACWDL 21-22

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to provide clarifications and responses to frequently asked questions (FAQs) regarding All County Welfare Directors Letter [\(ACWDL\) 21-22](#), which instructs counties on how to implement the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act for “eligible juveniles.”

The requirements of the SUPPORT Act extend the duration of the suspension of Medi-Cal benefits for “eligible juvenile” inmates of a public institution to remain in effect for the duration of their incarceration, as long as they remain otherwise eligible for Medi-Cal, and end on the date the individual is no longer an inmate of a public institution. ACWDL 21-22 supersedes ACWDLs 10-06, 14-26, and 14-26E regarding the policy instructions on:

- The suspension of Medi-Cal benefits for adult and “eligible juvenile” inmates upon incarceration in a public institution;
- Suspension noticing requirements;
- Annual redetermination requirements for “eligible juvenile” inmates;
- Activating Medi-Cal benefits upon release from the public institution; and
- Processing “eligible juvenile” inmate pre-release applications submitted to the County Welfare Department (CWD).

Section 1001(C) of the SUPPORT Act prohibits the termination of Medicaid eligibility for an “eligible juvenile” because the individual is an inmate of a public institution, but allows the suspension of benefits or coverage during the period the “eligible juvenile” is an inmate. An “eligible juvenile” is defined as an individual who is an inmate of a public

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institution (42 CFR § 435.1010), who was determined eligible for Medi-Cal either before or during their incarceration, per 42 USC §1396a(nn)(2), and is under the age of 21, or a former foster youth (FFY) who is under the age of 26 described in §1396a(a)(10)(A)(i)(IX). The requirements of Section 1001 apply only to “eligible juveniles” and no other inmates incarcerated in public institutions.

In addition to the clarifications and responses provided in this FAQ and ACWDL 21-22, please continue to reference other ACWDLs and MEDILs that DHCS has published regarding the suspension of benefits, annual redetermination, and pre-release applications for inmates.

For questions involving Former Foster Youths (FFY), please contact the Access Unit by email at: [FFY@dhcs.ca.gov](mailto:FFY@dhcs.ca.gov).

For questions involving Foster Care (FC), please contact the Access Unit by email at: [DHCSFosterCareProgram@dhcs.ca.gov](mailto:DHCSFosterCareProgram@dhcs.ca.gov).

If you have any questions or need further information, please email: [mciEPSupportact@dhcs.ca.gov](mailto:mciEPSupportact@dhcs.ca.gov).

Sincerely,

Original Signed By,

Sandra Williams, Chief  
Medi-Cal Eligibility Division

**Clarifications and Frequently Asked Questions Regarding  
ACWDL 21-22 Published October 28, 2021**

**Suspension of Medi-Cal Benefits for All Incarcerated Individuals**

If an individual is a Medi-Cal beneficiary on the date they become an inmate of a public institution, their benefits shall be suspended. Assembly Bill 720 requires counties to suspend rather than terminate Medi-Cal benefits for all inmates, regardless of age, who were Medi-Cal beneficiaries at the time they became inmates of a public institution.

Incarcerated Individuals Released with Conditions and Eligible for Medi-Cal

As described in 22 California Code of Regulations 50273:

(c) The following individuals are not considered inmates of a public institution and shall be eligible for Medi-Cal, provided that all other requirements for eligibility set out in this chapter are satisfied:

(1) An individual released from prison or jail on permanent release, bail, own recognizance (OR), probation, or parole with a condition of:

- (A) Home arrest
- (B) Work release;
- (C) Community service;
- (D) Outpatient treatment;
- (E) Inpatient treatment.

- Example 1: An individual who is released to home confinement does not meet the definition of an inmate in a “public institution” because a home is not considered a public institution, therefore, the individual is entitled to receive Medi-Cal benefits if otherwise eligible.

A Medi-Cal beneficiary with suspended benefits reports they have been released to home confinement (also known as home arrest) on 5/25/2022. The County will submit the EW 32 transaction to report the release date of 5/25/2022 and follow suspension rules to activate the Medi-Cal benefits.

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- Example 2: An incarcerated individual in county jail is subsequently released on probation, ordered to home arrest/home confinement, and to wear an ankle monitor. An individual in this circumstance is not considered an inmate of a “public institution” because a home is not considered a public institution, therefore is entitled to receive Medi-Cal benefits if otherwise eligible.

The County receives an application for an individual reporting to be on probation and on home arrest with an ankle monitor. The County will accept the application and follow standard Medi-Cal rules for the determination of eligibility.

- Example 3: An incarcerated individual who is granted reunification with their family/guardian over the weekend and must return to the institution to serve the remainder of their sentence is still considered an inmate of a “public institution” because it does not meet the criteria as described in 22 California Code of Regulations 50273.

An incarcerated beneficiary with suspended benefits reports they have been temporarily released on an overnight or weekend pass. The County will keep their benefits suspended in this circumstance.

The County shall exercise due diligence and follow Medi-Cal policy and procedures for verification purposes for release from incarceration. It is acceptable to take the verbal attestation of the beneficiary or the correctional facility statement as proof of release. If the beneficiary comes into the county office, calls into the office, or writes to the county, and reports that they are released from incarceration, the date they reported the change can be considered an attestation by the individual and can be used as the date of release if the actual date is unknown. However, if the release date that is given by the individual causes the County to have additional questions, the County can contact the jail and request additional information or can use the date the individual made contact with the county as the date of release.

Note: If there is an access to care issue, such as immediate need, where the beneficiary needs immediate medical services, the date the beneficiary is in the office, calls into the office, or writes to the office can be used as the reported release date to provide access to care until the record can be updated. Standard processing for immediate need should be followed.

### **Eligible Juvenile Definition under the SUPPORT Act**

An “eligible juvenile” is defined as an incarcerated individual, enrolled in Medi-Cal at the time of incarceration or during their incarceration, who is under the age of 21 or Former Foster Care Youth (FFY) up to age 26. Under the SUPPORT Act, the County Welfare Department (CWD) is required to suspend Medi-Cal benefits for the “eligible juvenile” for the duration of their incarceration.

### **Discontinuance Reason: Failure to Cooperate**

Discontinuances for Failure to Cooperate may be issued as a last resort, as long as the County sent the request for additional information to the most current address appropriately and followed Medi-Cal rules. If the County is aware that the inmate is incarcerated at a specific correctional facility and sends the request for information to an

address where the individual is not residing, the County cannot discontinue for Failure to Cooperate.

In scenarios involving an “eligible juvenile” that is part of a family case and claimed as a tax dependent, the County must send the request for additional information to the head of the household. If the County does not receive a response from the head of the household and the County has completed their due diligence to try and collect the requested information, they may discontinue the case for failure to cooperate.

### **Discontinuance Reason: Eligible Juvenile Does Not Meet Requirements for the Medicaid Eligibility Group**

If the “eligible juvenile” ages out of a program, (i.e. Adoption Assistance Program (AAP) and Kinship Guardianship Assistance Payment (Kin-GAP), the individual cannot remain in that aid code beyond the program’s requirements since the requirements are established by federal or state statutes. Federal and state statutes require the County to exercise due diligence when searching for other programs for the “eligible juvenile”, including, as a workaround and if applicable, putting the juvenile on their own case following current Medi-Cal rules. If the County has exhausted all other options, and the juvenile is still ineligible for any other program, the County may discontinue the juvenile. (SMD #21-002 Footnote 3, page 1)

- Example: The “eligible juvenile” enrolled in Medi-Cal under the Kin-GAP Program is a tax dependent on a family Medi-Cal case and is turning 20 years of age. The County will evaluate for eligibility for all other Medi-Cal programs,

following current Medi-Cal rules. If the County has evaluated for all other Medi-Cal programs, and the juvenile is still ineligible, the County can discontinue the individual following standard Medi-Cal rules for discontinuance.

**Discontinuance Reason: Eligible Juvenile Now Ineligible due to Family's Redetermination**

Page 11 of the ACWDL 21-22 states if the "eligible juvenile" is part of a household with other family members who are subject to the annual renewal policy, the "eligible juvenile" shall remain in suspended eligibility status for the remainder of the incarceration, regardless of the renewal outcome of the remaining family members.

However, Counties must determine whether or not the "eligible juvenile" is claimed as a tax dependent as this is the defining factor in whether or not they must undergo a redetermination. If the "eligible juvenile" is not claimed as a tax dependent, the County can place the individual on their own case, if applicable. Under the SUPPORT Act, annual redeterminations are not required for "eligible juveniles", therefore once an "eligible juvenile" is on their own case, the County can exercise due diligence to ensure

that the "eligible juvenile" does not undergo an unnecessary annual redetermination while they remain incarcerated.

- In situations where counties are unable to stop auto-renewal from occurring, a possible option would be to advance the annual redetermination date to the following year until the juvenile is released, or otherwise not eligible, if their county's technical and manual process allows for it.

If the "eligible juvenile" is claimed as a tax dependent and part of a family tax household that is determined ineligible (e.g. over income) at annual renewal, the County shall evaluate for eligibility for all other Medi-Cal programs, following current Medi-Cal rules.

- Example: The "eligible juvenile" is part of a family household, the minor is a tax dependent and the family has not reported otherwise. The County should follow standard Medi-Cal rules, and if the minor remains a tax dependent and not eligible for other Medi-Cal programs, then the County can discontinue the "eligible juvenile". (Refer to ACWDL 21-22, under Household Composition on page 8)

### **Minor Signs Their Own Statement of Facts and is a Tax Dependent**

1. What action should the County take when they receive a pre-release application signed by an “eligible juvenile” (as defined under the SUPPORT Act) who is a minor (an individual under the age of 18) and is a tax dependent?

Answer: The parent/guardian is required to sign the Statement of Facts for the minor. Page 14 of ACWDL 21-22 states that the Counties must work with their probation department or the juvenile court to ensure an application is processed appropriately.

- There are two pathways the County can take when the public institution applies on behalf of a juvenile that is under the age of 18 (minor) and a parent/guardian signature is required.
  1. The County can deny the application and treat it as a referral. If the County has information about the minor’s parent/guardian, the County can reach out to the parent/guardian.
  2. The County can contact the public institution (detention facility) and advise them the minor cannot legally sign the application and request for them to reach out to the parent/guardian to get a completed application with their signature.
    - The facility is in contact with the juvenile’s parent/guardian through the juvenile’s court case and may be in a better position to contact the parent/guardian and request that the parents apply for Medi-Cal on behalf of the minor.
    - Welf. & Inst. Code § 14029.5 applies when a juvenile receives a sentence of thirty (30) days or more to be served in a detention facility, camp, or other penal institution. See [ACWDL 07-34](#).

Counties are encouraged to collaborate and establish a communication process or plan with the public institutions and determine what works best for both the corresponding law enforcement agency and the County to ensure the processing of cases is completed efficiently.

2. Assuming the same facts as stated above in Question 3, except the minor's parent/guardian refuses to cooperate and/or sign the Medi-Cal application on behalf of the juvenile and the juvenile becomes a "ward of the court," how does the County handle the pre-release application?

Answer: When a minor becomes a ward of the court, it means that the court takes the control and responsibility away from the parents/guardian to oversee the care of the minor. California Rules of Court provision 5.790(h) addresses wardship orders and states that a court may make a reasonable order for the medical treatment of a child adjudged a ward of the court. Depending on the circumstances of the court's order in declaring the juvenile a ward, a judge is able to overrule a parent's decision to opt-out of Medi-Cal if it is in the best interest of the child under Rule of Court 5.790(h). Therefore, Counties should review the court's order and deal with each situation on a case-by-case basis for the processing of the pre-release application.

Example: The court declares the juvenile a ward of the court and sentences the juvenile to 60 days confinement in the juvenile detention center. Per Welf. & Inst. Code § 14029.5, the county juvenile facility attempts to obtain consent to apply for Medi-Cal benefits prior to the juvenile's release, but the parents refuse to cooperate and opt-out of coverage. Since the juvenile is now a ward of the court, the parents are no longer considered the legal guardian. The parents are deemed by the court to be unable to look after the juvenile's affairs. Either the court or a third party appointed by them will be responsible for making decisions that serve the best interests of the child. Since health coverage is in the best interest of the juvenile, the County can reasonably move forward with the processing of the pre-release Medi-Cal application without parental consent.

3. Assuming the example as stated above in Answer 4, whose income is used for determining eligibility for the juvenile?

Answer: Eligibility for the juvenile is determined based on the tax household and if the juvenile is claimed as a tax dependent. If the parents are not claiming the juvenile, and is not part of the household, and is a ward of the court, then Counties should follow non-filer rules and put the juvenile on their own case. (Refer to ACWDLs 21-22 and [20-10](#))



#### Expected Date of Release Extended

4. What action should the County take when the estimated date of release is moved to a later month?
  - Example: The County received a pre-release application on 04/2/2022 with the expected date of release on 05/27/2022. The County later found the expected release date was moved from 05/27/2022 to 09/18/2022.

Answer: As detailed in ACWDL 21-22 (Page 24, Question 3), if eligibility is established for the month of release and the release date changes to a later month, the County must follow current Medi-Cal suspension rules. Upon release from incarceration, the County will complete another EW 32 transaction to report the release date of 9/18/2022 to activate the Medi-Cal benefits.

#### Telephonic Signatures

5. Is a telephonic signature from an incarcerated juvenile who is not a tax dependent acceptable for a pre-release application?

Answer: Telephonic signatures are acceptable if the individual signing the application is 18 years of age or older. ACWDL 19-17 provides additional guidance on the validity of telephonic signatures. Counties can accept telephonic and electronic signatures for any Medi-Cal form that must be signed.

#### Notices of Action (NOA)

Historically, counties have been using the suspension NOAs in ACWDL 14-26 as a template without Medi-Cal (MC) Notice Numbers. As part of the SUPPORT Act implementation under ACWDL 21-22, the Suspension NOAs were updated to differentiate between adult and “eligible juvenile” inmates, per the SUPPORT Act definition of “eligible juveniles”.

DHCS has received MC Notice Numbers and is in the process of having the NOAs translated for county use. The Counties will have the ability to access the NOAs from the MEDS Home Web Site (MHWS). Once they are posted, a notification will be sent on the MHWS.

### 10-day Noticing Requirement of Suspension of Benefits NOA

1. Given the 10-day notice requirement for the suspension of Medi-Cal benefits for adult and “eligible juvenile” inmates, does the County need to delay the suspension to ensure the requirement is met?

Answer: No, the County shall not delay the suspension and should continue to report the incarceration, as the process for suspension of the Medi-Cal benefits remains the same. The new noticing requirement changes the effective date entered on the Suspension NOA and should read 10 days from the date the EW 32 transaction was submitted in MEDS, which is the same date as the mailing of the NOA. MEDS system changes are in place to automatically populate the Suspend Date as 10 days from the date of the EW 32 transaction, to adhere to the new requirement.

Example: The County is notified of incarceration and reports the Incarceration Date via EW 32 transaction in MEDS on 6/25/2021, MEDS auto-populates the Suspend Date as 7/5/2021, 10 days from the date of the EW 32 transaction. The Suspension NOA effective date is 7/5/2021.

2. Does the 10-day notice requirement of the Suspension NOA impact the restriction code in the Medi-Cal Eligibility Data System (MEDS) to indicate incarceration?

Answer: The 10-day notice requirement for suspension does not impact the incarceration restriction code. The restriction code is impacted by the incarceration date, not the suspension date. MEDS populates the 800 Restriction Code series within the month of incarceration.

- Example: On 9/1/2021, the County received notification of a beneficiary's incarceration date of 7/26/2021 and reported the incarceration in MEDS via the EW 32 transaction to suspend the benefits. MEDS will populate the incarceration restriction code beginning the month of July 2021. Refer to MEDIL I 20-05 for details.

### Mailing Address for Eligible Juvenile

3. Where does the County send the Suspension NOA for an “eligible juvenile” (as defined under the SUPPORT Act) who is a tax dependent on an active family household Medi-Cal case?

Answer: If the “eligible juvenile” is a tax dependent enrolled on a family Medi-Cal case, Medi-Cal rules apply, and the NOA should be mailed to the address of the head of household and/or authorized representative.

4. Where would the County send the Suspension NOA for an “eligible juvenile” (as defined under the SUPPORT Act) enrolled in Medi-Cal on their own case?

Answer: The NOA should be sent to the last known physical address in MEDS or the public institution, if known, where the “eligible juvenile” resides. If the institution address is unknown, then mailing the notice to the last known address in MEDS would be sufficient.

Note: Per State Medicaid Director Letter (SMD) #21-002, the County shall exercise due diligence to determine where the juvenile is located.