



State of California—Health and Human Services Agency
Department of Health Care Services



DATE: February 28, 2023

Medi-Cal Eligibility Division Information Letter No.: I 23-12

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIASENS

SUBJECT: The Telephone Consumer Protection Act Requirements During the Continuous Coverage Unwinding Period

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to provide updated guidance regarding the Telephone Consumer Protection Act (TCPA) during the continuous coverage unwinding period.

Background: The TCPA generally requires a person to obtain express consent prior to initiating a call or text with an autodialer and/or using an artificial or prerecorded voice message absent an emergency purpose. (47 U.S.C. § 227.)

The Department of Health and Human Services (HHS) sought an opinion from the Federal Communications Commission (FCC) whether certain text messages and automated, pre-recorded telephone calls are permissible under the TCPA. Specifically, HHS requested the FCC clarify its understanding of how the TCPA relates to Medi-Cal and Children's Health Insurance Program (CHIP) contractors, such as local county offices, call centers, enrollment brokers, and managed care plans. HHS expressed concern that the potential for TCPA liability would prevent the important calls needed to remind beneficiaries to update their contact information, return renewal forms and/or follow-up with enrollment requirements during the continuous coverage unwinding period and beyond.

Updated FCC Declaratory Ruling

On January 23, 2023, [FCC Declaratory Ruling DA 23-62](#) confirmed that the TCPA's restrictions do not apply to calls placed by federal or state governments or their employees in the conduct of official business. The declaratory ruling noted federal and state governmental agencies are permitted to communicate with individuals via automated calls, text messages or prerecorded voice messages with individuals about health care program eligibility and redeterminations without the prior express consent of the called party.

While TCPA does not apply to automated and pre-recorded calls made by federal and state governments, the TCPA does apply to calls and texts made by contracted entities (e.g., local county offices and managed care plans) and prior express consent is required.

Prior Express Consent

The declaratory ruling clarified that an individual, who provides their telephone number on an application for governmental health care benefits, has given prior express consent to be called or texted at that number with information closely related to the application purpose. For example, Medi-Cal enrollees may receive automated calls and/or text messages to:

- Encourage beneficiaries to complete their annual renewal packet
- Remind the beneficiary to return required documents when the annual renewal packet is not received
- Explain how enrollees can enroll in another health care option when they are no longer eligible for Medi-Cal

Exemptions

Communication via email, direct mail, or a live operator is not subject to TCPA requirements.

Advertising and Telemarketing Requires Prior Written Consent

Calls or texts that contain advertising or telemarketing requires written consent from the called party. Counties must obtain written consent prior to making an autodialed or prerecorded call or sending an automated text that relates to advertising or telemarketing.

Revocations

A called party can revoke prior consent at any time using any reasonable method, including verbally or in writing. If a Medi-Cal enrollee revokes consent, no additional auto-dialed or pre-recorder calls or text messages can be sent and the “opt-out” request must be logged on the case record or file.

Reassigned Telephone Numbers

Calls made to telephone numbers provided by the called party may be subject to TCPA liability if the number has been reassigned from the person who provided consent. It is critical to ensure that Medi-Cal beneficiaries’ contact information is up-to-date and counties are encouraged to use the Reassigned Numbers Database

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(www.Reassigned.us) to verify whether a telephone number has been reassigned to another individual.

If you have any questions or require additional information, please contact Janis Kimball at (916) 345-8060 or by email at Janis.Kimball@dhcs.ca.gov.

Original Signed By

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