

DATE: September 18, 2023

Medi-Cal Eligibility Division Information Letter No.: I 23-26E

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

SUBJECT: Errata to Medi-Cal Eligibility Division Information Letter (MEDIL) I 23-26

Purpose

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) errata is to provide updated guidance to MEDIL I 23-26 regarding approved state fair hearing flexibilities, specifically regarding the timeline extension for when a hearing is delayed beyond 90 days due to administrative delay. Guidance in this letter takes effect immediately.

Corrections to MEDIL I 23-11 are recorded using the following:

- ~~strike-through~~ for deleted language
- **underline and bolding** for adding new language

Below is the language from MEDIL I 23-26, with the revisions located on page 2-3.

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to inform counties of the Centers for Medicare & Medicaid Services (CMS) approval of two temporary Section 1902(e)(14)(A) waiver unwinding strategies relating to state fair hearings requested by the Department of Health Care Services (DHCS) to assist in case processing during the Continuous Coverage Unwinding Period.

Background

CMS issued [State Health Official \(SHO\) letter #22-001](#), on March 3, 2022, which allowed states to apply for various flexibilities to assist with easing workloads and streamline case processing during the continuous coverage unwinding period. On April 25, 2022, California requested CMS approval to implement two waiver strategies under the authority of Section 1902(e)(14)(A) of the Social Security Act, surrounding state fair hearings.

On June 23, 2023, DHCS gained federal approval for two 1902(e)(14)(A) waivers to temporarily extend the timeframe both for Medi-Cal members to request a fair hearing and for state officials to take final administrative action on a fair hearing decision. The

policy guidance below provides clarification to the temporary state fair hearing timeframe waiver policies.

Extended Timeframe for Medi-Cal Members to Request a Fair Hearing

If a Medi-Cal member does not agree with an eligibility determination made on their case, they typically have up to 90 days to request an eligibility-related fair hearing. This approved flexibility will temporarily extend the timeframe permitted for Medi-Cal members to request an eligibility-related fair hearing to 120 days from the date the notice of action is mailed. This temporary waiver applies to all requests for Medi-Cal eligibility fair hearings requested by members, in accordance with [42 CFR § 431.220 subpart E](#), and only applies to terminations of Medi-Cal eligibility, reductions in scope of Medi-Cal benefits (from full Medi-Cal benefits to limited Medi-Cal benefits), and increases in Medi-Cal member's share-of-cost.

The temporary extension for Medi-Cal members to request a fair hearing is effective April 1, 2023 and remains effective until September 30, 2024.

Extended Timeframe to Take Final Administrative Action on Fair Hearing

In preparation of the anticipated volume of fair hearings, the second approved waiver temporarily extends the timeframe permitted for final administrative action on eligibility-related fair hearing requests. This authority only applies to fair hearing requests that include Medi-Cal terminations of eligibility, reductions in scope of benefits (from full Medi-Cal benefits to limited Medi-Cal benefits) and increases in member's share-of-cost. Note: only individuals receiving aid paid pending will have their fair hearing **projected Adopted Date (PAD)** extended beyond the required 90 days.

A fair hearing may be delayed for various reasons by either party – the state or the individual requesting a hearing. Most commonly, delays occur at the request of the claimant to accommodate scheduling conflicts or other life circumstances, and if granted, the hearing timeline is extended a further thirty days. There may also be rare instances when a fair hearing is delayed due to administrative reasons – specifically, delays at the state-level in reaching a final decision on a eligibility-related fair hearing outcome. The fair hearing waiver timeline extension approval is only for situations where administrative delay has occurred and aid paid pending has already been provided to an eligibility-related fair hearing. The extended timeframe would also apply for postponements, continuances, and open records when there is a state-level administrative delay. This waiver does not apply to approved delays at the claimant's request.

Aid Paid Pending

Per [Manual of Policies and Procedures \(MPP\) 22-072.5](#), when an individual files a request for a state hearing prior to the effective date of the action taken as described in the Notice of Action, the individual will continue in their existing benefits. This process, aid paid pending (APP), continues throughout the hearing process until a decision is adopted and release, or when the claimant withdraws or abandons the request for a state hearing.

As described above, the extension of the final decision beyond the due date of 90 days only applies to individuals who filed a timely hearing and is receiving aid paid pending. This is to ensure that if, for any reason during the unwinding period, the fair hearing process exceeds 90 days due to an administrative delay by the state, the individual's Medi-Cal coverage will continue until final action is taken. As this process is largely automated and in existing business processes, counties are to continue with these existing processes to ensure APP continues throughout the fair hearing timeline.

For requests received after action has already been taken, the state will continue to take final administrative action on those cases within the 90 days as required under 42 CFR § 431.244, and counties will continue with existing business processes.

The temporary extension for state fair hearings to take final administrative action on a fair hearing is effective April 1, 2023 and remains effective until February 28, 2025.

DHCS will provide further guidance when each temporary state fair hearing timeframe waiver expires.

If you have any questions, or if we can provide further information, please contact Kathryn Floto, by phone at (916) 345-8067 or by email at Kathryn.Floto@dhcs.ca.gov.

Original Signed By

Theresa Hasbrouck
Chief, Policy Development Branch
Medi-Cal Eligibility Division
Department of Health Care Services