



DATE: August 31, 2023

Medi-Cal Eligibility Division Information

Letter No.: 23-42

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

SUBJECT: APPROVAL OF ADDITIONAL SECTION 1902(e)(14)(A) WAIVER  
FLEXIBILITIES: UNCONDITIONALLY AVAILABLE INCOME AND STABLE INCOME  
RENEWAL WAIVER

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to instruct counties on the Centers for Medicare & Medicaid Services (CMS) approval for additional Section 1902(e)(14)(A) temporary waiver request strategies requested by the Department of Health Care Services (DHCS) to assist during the continuous coverage unwinding period.

### Background

On June 13, 2023, CMS published additional “Strategies to Prevent Procedural Terminations” that states may request to assist in addressing the challenges as part of the transition to routine operations. CMS can authorize these strategies under Section 1902(e)(14)(A) of the Social Security Act (“1902(e)(14)(A) Strategies”).

On June 16, 2023, DHCS requested CMS approval of the waiver to temporarily suspend the requirement to apply for certain other benefits” (also referenced as “unconditionally available income”) during the unwinding period. Additionally, on July 21, 2023, DHCS requested additional CMS approval of the waiver to allow for the redetermination of individuals with stable income without further verification of income. These 1902(e)(14)(A) strategies will further protect beneficiaries from inappropriate terminations and reduce state administrative burden:

On August 25, 2023, CMS approved DHCS’ Section 1902(e)(14)(A) waiver requests detailed above. This MEDIL outlines the select flexibility strategies that were approved. DHCS will release further guidance on any other flexibilities pending approval, if and when CMS approves them. The temporary flexibilities were effective August 1, 2023 and will continue throughout the continuous coverage unwinding period. The temporary flexibilities, described below, applies to all Medi-Cal and Children’s Health Insurance Program populations.

## **Suspension of Requirement to Apply for Unconditionally Available Income**

Per [42 CFR § 435.608](#) as a condition of eligibility, Medi-Cal applicants and members are required take all necessary steps to obtain any benefits to which they are entitled, unless they can show good cause for not doing so. This policy is referenced as 'unconditionally available income' and is detailed, along with examples, in [ACWDL 19-13](#). Since Medi-Cal eligibility is granted before other benefit requirements are met, counties must follow up with the Medi-Cal applicant member for verification that the income has been applied for. If this requirement is not met, the member may risk discontinuance.

This waiver authority allows counties to suspend, as a condition of Medi-Cal eligibility, the requirement of the Medi-Cal applicant or member to apply for certain other benefits, such as unemployment, disability, or Veteran's benefits to which they are entitled to. This waiver will assist in temporarily reducing the workload for county eligibility staff who otherwise must follow up with applicants or Medi-Cal members to confirm they have the requirements to apply for other benefits thereby simplifying the eligibility determination, minimizing procedural terminations for individuals who are eligible if not for the requirement to apply for other benefits.

This temporary authority is effective August 1, 2023, and will remain effective through the end of the unwinding period.

## **Stable Income Waiver Flexibility**

As another strategy to reduce procedural terminations and alleviate burdens on both beneficiaries and counties, DHCS requested that CMS provide authority under section 1902(e)(14)(A) of the Act to temporarily renew Medi-Cal eligibility for individuals with only Title II or other stable sources of income.

For Medi-Cal purposes, stable income is any income that is identified as:

- Expected to continue indefinitely (without known end date or not tied to conditions such as employment),
- Generally not fluctuating (aside from Cost-of-Living Adjustments (COLA)).

During the continuous coverage unwinding period, the stable income waiver will assist counties in streamlining case processing for members that have reported and continue to report stable sources of income. This flexibility allows counties to temporarily complete the income determination for ex parte annual renewals during the continuous coverage unwinding period without requesting additional income information, documentation, or signed affidavit when:

- The most recent income determination (either at initial application or most recent renewal) was no earlier than 12 months prior to the beginning of the COVID-19 Public Health Emergency (i.e., March 2019); and
- The individual had only the following sources of stable income at the most recent determination:
  - Title II Social Security income,
  - Pension income,
  - Retirement income (i.e., annuities, deferred compensation),
  - Disability payments (i.e., worker's compensation or private sources),
  - Alimony or child support payments,
  - Fixed distributions of dividends or interest, or non-retirement related fixed annuities, and
- No contradictory information is on file.

For instances where there is conflicting information on file such as the county can see that a Medi-Cal member has other sources of non-stable income that are countable in their eligibility determination, the county must continue to follow normal business processes and request for a reasonable explanation or income verification to resolve the discrepancy or verify income if not electronically or administratively verified.

#### *Stable Income Waiver Flexibility Examples*

##### *Example #1: Married Couple Medi-Cal Renewal Self-Attesting to Stable Income as Only Source of Income*

- Spouse A and Spouse B apply for Medi-Cal on January 2021, and self-attest to Title II Social Security Income.
- Income was verified by the county eligibility worker along with all other non-financial components.
- Spouse A and B are found eligible to Non-MAGI ABD-FPL Medi-Cal program.
- The continuous coverage unwinding period begins and Spouse A and Spouse B have an annual renewal due December 2023.
- The only source of income on file is a stable source of Title II Social Security Income and no changes have been reported, nor any other conflicting information is found on file.

Outcome: After review of the case, the county eligibility worker is able to apply the stable income waiver and the property asset waiver found in [MEDIL 23-19](#), and the county is able to complete the renewal without any further verification needed.

*Example #2: Married Couple Medi-Cal Renewal Self-Attesting to Mix of Stable Income and Employment Income*

- Spouse C and Spouse D apply for Medi-Cal on November 2020.
- Spouse C self-attests to Title II Social Security Income, and Spouse D reports employment at a local business receiving an average over 100% FPL monthly.
- Income was verified by the county eligibility worker along with all other non-financial components.
- Spouse C and D are found eligible to Non-MAGI ABD-FPL Medi-Cal program.
- The continuous coverage unwinding period begins and Spouse C and Spouse D have an annual renewal due October 2023.
- The sources of income on file is a stable source of Title II Social Security Income, along with employment income (non-stable income) that was not able to be electronically verified.

Outcome: After review of the case, since there is non-stable income being counted for both individuals, the county must follow usual business practices to verify the employment income through reasonable explanation (if applicable) or requesting manual verification. The property asset waiver found in [MEDIL 23-19](#) is able to be applied and property verification is not requested.

**Documentation of Section 1902(e)(14)(A) Waivers**

In conjunction with standard application or renewal case notes, counties must ensure that proper narratives are included within the SAWS case file when any of the Section 1902(e)(14)(A) waivers are applied to a Medi-Cal member or household. Counties must ensure the case narratives describe what flexibility was applied and for whom. Templates are available via [MEDIL I 23-06](#).

DHCS will provide additional guidance when the Section 1902(e)(14)(A) waivers end.

If you have any questions, or if we can provide further information, please contact Kathryn Floto by phone at (916) 345-8076 or by email at [Kathryn.Floto@dhcs.ca.gov](mailto:Kathryn.Floto@dhcs.ca.gov).

Original Signed By,

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