

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814



October 16, 1987

TO: All County Welfare Directors
All County Administrative Officers

Letter: 87 - 55

RE: OBRA/IRCA IMPLEMENTATION INFORMATION

This letter is to provide an update to the counties about the federal Omnibus Budget Reconciliation Act of 1986 (OBRA), and the federal Immigration Reform and Control Act of 1986 (IRCA), and the status of implementation in this State. Information on new aid codes for OBRA/IRCA aliens and on updating the MEDS system will be contained in All County Welfare Directors Letter 87-56. Tracking of aliens will be required and is also discussed in that letter. The County Medical Services Program (CMSP) has provided information on that program in CMSP Letter 87-8.

BACKGROUND

OBRA spells out the Medicaid services to which undocumented aliens are entitled. It provides 50% federal financial participation (FFP) in the costs of emergency care to such aliens. IRCA was enacted to control immigration, and to establish an amnesty program and employer sanctions. It provides full FFP for the costs of allowable services provided to newly legalized aliens during the next four years, subject to a \$1 billion-a-year limit.

For Medi-Cal purposes, OBRA and IRCA extend limited and full-scope benefits to aliens who were not previously eligible. Refer to Attachment 1 which describes the OBRA/IRCA provisions, including alien classes and benefits, and the Systematic Alien Verification for Entitlement (SAVE) system.

COUNTY/STATE ACTION IN RELATION TO OBRA/IRCA

For now, counties are instructed to continue to use present procedures to determine eligibility for aliens. This means that all alien applicants, including those with satisfactory documentation, must complete a CA6. (NOTE: INS form I-688,

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Temporary Resident Card should be considered adequate documentation of satisfactory immigration status (SIS), but not the I-688A, Temporary Employment Authorization card.) For those without satisfactory documentation, the CA6 must still be forwarded to the Immigration and Naturalization Service (INS). Those aliens who complete the CA6, or have satisfactory documentation, and who are otherwise eligible will continue to receive full scope benefits. Those in the U.S. on a temporary visa will continue to be ineligible for any Medi-Cal benefits.

To implement the provisions of OBRA and IRCA, State law must be changed because we currently have no authority to limit scope of services to aliens. Proposed legislation, SB 175 (Maddy), is currently in the legislative process and will be acted upon when the Legislature reconvenes in January 1988. This legislation proposes to enact the OBRA and IRCA provisions, and may authorize services beyond those made available by those laws, specifically non-emergency pregnancy-related services to undocumented aliens. Such additional services would be fully funded by the State.

MISCELLANEOUS

Some aliens may be eligible to apply for Supplemental Security Income (SSI), and automatically receive Medi-Cal without applying at the county. We intend to track their eligibility for federal claiming purposes through the State Data Exchange (SDX) provided by the Social Security Administration (SSA).

Some aliens are asking counties for information that will show they did not receive Medi-Cal. Others want information showing they did receive Medi-Cal so as to document their presence in the United States since before 1982. In either event, counties should provide such information if it is available. When aliens want information about claims paid on their behalf, refer them to:

Department of Health Services
Medi-Cal Program Inquiry
714 P Street
Sacramento, CA 95814
(916) 445-0266
Calling hours: 10:00 a.m. to 12:00 p.m.
and 1:00 p.m. to 3:00 p.m.

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If you have any questions, call Sandra Bierer at (916) 324-4971,
or Tom Dickson at (916) 323-4124.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Attachments

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: June 1, 1988

OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (OBRA)

Medicaid benefits are unavailable to aliens not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (PRUCOL), unless:

1. Such care and services are necessary for the treatment of an emergency medical condition, and
2. the eligibility requirements for medical assistance under the categorically needy or medically needy programs are otherwise met.

Emergency medical condition means a medical condition (including emergency labor and delivery), manifesting itself by acute symptoms of sufficient severity (including severe pain), such that absence of immediate attention could reasonably be expected to result in:

1. placing the patient's health in serious jeopardy,
2. serious impairment to bodily functions, or
3. serious dysfunction of any bodily organ or part.

The effective date of OBRA is January 1, 1987. However, because state legislation is required, California has until January 1, 1989 to implement OBRA.

Aliens who do not file timely for temporary or permanent status under IRCA, or who have filed, but have not yet been granted temporary resident status, those without documentation, those with expired identification, those with temporary visas, or those who are deemed ineligible for amnesty, are eligible only for OBRA benefits. Page 5 of this attachment provides a chart of the classes and benefits available to OBRA eligibles.

IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

NOTE: The numbers in parentheses below represent the section of the Immigration and Nationality Act (INA) which define each category. Aliens may apply in more than one category for adjustment of status, i.e. for both Amnesty and SAW status. If more than one category is applied for, INS will select the INA category in which the alien will most likely qualify. Thereafter, the alien will be identified by the category.

See page 5 of this attachment for a chart of the classes and benefits available to IRCA eligibles.

Pre-1982 Amnesty Aliens (245A)

From May 5, 1987 to May 4, 1988, aliens who have lived in the U.S. illegally since before January 1, 1982 can apply for temporary resident status and work permits. After November 1, 1988, those aliens who were granted temporary resident status must apply for permanent resident status within one year in order to remain legally in the United States.

When alien status has been adjusted from illegal to temporary, only the aged, blind, or disabled, and children under 18 who meet Medicaid (Medi-Cal) requirements will be eligible for the full scope of benefits. Others, namely the AFDC-MN, children 18 or older, or MIA pregnant women will be entitled only to emergency and pregnancy-related services if otherwise eligible. After having resided legally in the U.S. for five years from the date they obtained temporary resident status, these aliens may receive the full scope of Medi-Cal benefits.

Special Agricultural Workers (SAWs) (210)

From June 1, 1987 to November 1, 1988, aliens who have lived in the U.S. and worked for at least 90 days in perishable crop agriculture in each of the three years prior to May 1, 1986 (Group 1 SAWs), or aliens under like circumstances who worked 90 days only in the 12 months prior to May 1, 1986 (Group 2 SAWs), may apply for temporary resident status.

Group 1 SAWs may apply for permanent resident status after one year in temporary status, while Group 2 SAWs may apply only after 2 years. Group 1 eligibles are limited to 350,000 persons. When the quota is filled, persons who would have been Group 1 eligible will fall into the Group 2 category. Medi-Cal benefits for both groups of SAWs are the same as those outlined above under Pre-1982 Amnesty.

Replenishment Agricultural Workers (RAWs) (210A)

From October 1, 1989 to September 30, 1994, the Secretaries of Agriculture and Labor may determine there is a shortage of domestic agricultural workers. If so, they can permit the importation of new alien farm workers who would be granted temporary resident status.

Replenishment workers who worked in agriculture in the U.S. in the three years prior to May 1, 1986 can apply for permanent residence status as early as three years after obtaining temporary status. ~~Other replenishment workers have to work in agriculture a minimum of 90 days a year for five years before they may apply for permanent residency.~~ Temporary replenishment

workers who do not continue to work in agriculture may be deported. Medi-Cal benefits are the same as those outlined above in Pre-1982 Amnesty.

Cuban-Haitian Entrants (212 (d)(5))

From November 6, 1986 to November 5, 1988 Cuban-Haitian entrants who were admitted to the U.S. as immigrants or asylees prior to January 1, 1982, and persons who received a Cuban-Haitian designation before November 6, 1986 are eligible to apply for immediate adjustment to permanent resident status (Status Pending). Cuban/Haitian entrants may receive the full scope of Medi-Cal benefits if otherwise eligible, both while their status is pending and after permanent resident status is granted.

Pre-1972 Amnesty (Updated Registry Aliens) (249)

From November 6, 1986 and forward, persons in an illegal status prior to January 1, 1972, who have lived continuously in the U.S. since that time, may apply for immediate adjustment to permanent residence status. When status has been adjusted from illegal alien to permanent resident status, these persons may receive the full scope of Medi-Cal benefits if otherwise eligible. Also, however, aliens who can show documentation sufficient to prove continuous residence in the U.S. prior to 1972, may be eligible for Medi-Cal benefits, even though they have not applied for or received an I-551.

Systematic Alien Verification for Entitlement (SAVE)

By October 1, 1988, states are required to have a SAVE system in place to verify residence status of aliens applying for Medi-Cal and other federal programs. States/counties must verify the immigration status of alien applicants with the Immigration and Naturalization Service (INS) through an automated or other system.

DOCUMENTATION FOR OBRA/IRCA ALIENS

Aliens who apply and pay the fee for an adjustment of status from illegal to lawful temporary resident status will receive, regardless of age, INS Form I-688 A, Temporary Employment Authorization card (red in color). This form is valid for six months (see Attachment 2). The alien category, e.g. pre-1982, SAW, is indicated on the card by the INA section. Undocumented aliens, visitors with temporary visas, and persons with this card are eligible for emergency care.

Aliens who have been granted lawful temporary resident status should present INS form I-688, Temporary Resident Card (green)

(see Attachment 2). The INA section will also be indicated on this card, which is valid for 32 months. Cuban/Haitians may be identified by INS Form I-94 while their application for permanent status is pending (see Attachment 3).

Under IRCA, Registry aliens (those who have lived in the country continuously since before January 1, 1972), Cuban/Haitians, and Amnesty/SAW/RAW aliens who are ABDs or children under 18 and who have an I-688, will be eligible for full scope benefits. Other Amnesty/SAWs/RAWs aliens will be eligible only for emergency and pregnancy-related care.

Aliens who have been granted permanent resident status should present INS form I-551, Alien Registration Receipt Card (see Attachment 4). All Cuban-Haitian and Registry aliens with this card receive full-scope benefits. It is unknown at this time what documentation will be carried by Amnesty/SAWs/RAWs who obtain permanent resident status. Amnesty/SAWs/RAWs who are not ABD or under 18 are eligible only for IRCA emergency and pregnancy-related services for 5 years from the date temporary resident status was obtained.

ALIEN ENTITLEMENTS

FEDERAL LAW	ALIEN CLASS	DOCUMENTATION	AID* CODE	BENEFITS AVAILABLE UNDER FEDERAL LEGISLATION
OBRA (PL 99-509)	Undocumented	None	58	Emergency care, including emergency labor and delivery
OBRA	Persons filing for temporary resident status	I-688A (Red)	58	Emergency care, including emergency labor and delivery
OBRA	Visitors, students, etc.	Temporary VISAS	58	Emergency care, including emergency labor and delivery
IRCA (PL 99-603)	Amnesty (245A) not ABD or child under 18. Temporary or permanent resident status, limited services for 5 years	I-688 (Green Temp) <u>DOC# Unknown</u> for Permanent	52	Emergency and pregnancy-related care
IRCA	SAWs (210), RAWs (210A), not ABD or child under 18. Temporary or permanent resident status, limited services for 5 years	I-688 (Temp) <u>DOC# Unknown</u> for Permanent	57	Emergency and pregnancy-related care
IRCA	Amnesty (245A) who are ABD or child under 18. Temporary or permanent resident status	I-688 (Temp) <u>DOC# Unknown</u> for Permanent	51	Full-scope
IRCA	SAWs (210), RAWs (210A) who are ABD or child under 18. Temporary or permanent resident status	I-688 (Temp) <u>DOC# Unknown</u> for Permanent	56	Full-scope
IRCA	Cuban-Haitian (Status Pending) (212)	I-94	**	Full-scope
IRCA	Pre-1972 Registry (249) or Cuban-Haitian with permanent resident status	I-551/Proof of cont. residence since 1972	**	Full-scope

* Aid Code in the process of being implemented in the MEDS system.

**Will not have special alien aid code. Use current aid codes.

GREEN

RED

TEMPORARY RESIDENT

U.S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

A 90204055 GONZALEZ, ELIESER

Signature: *Elieser Gonzalez*

05/12/87 12/02/51 582
Issue Date DOB CCM

12/07/89
EXPIRES

X
S
F

245A

FORM I-551 MAY 37

EMPLOYMENT AUTHORIZATION

U.S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

A 90204055 GONZALEZ, ELIESER

Signature: *Elieser Gonzalez*

05/12/87 12/02/51 582
Issue Date DOB CCM

11/11/87
EXPIRES

X
S
F

FORM I-551A MAY 37

YELLOW

I-688

I-688A

This card is issued to all aliens who are granted amnesty, or more specifically, "Temporary Resident" status. This same card is issued to both agricultural (SAWS) aliens as well as to those who qualify under the five year rule. (sec's 210 & 245A respectively) It will be supplanted by the standard form I-551 in the case of those aliens who eventually qualify for, and are granted Permanent Resident status.

Those temporary resident aliens who statutorily fail to qualify for, and are not granted permanent status, will be subject to deportation or expulsion from the United States.


Expired cards of any kind are not acceptable as proper identification and should be surrendered to INS as required by federal law.

This card is issued to all aliens who have met initial eligibility requirements and have a properly filed application for amnesty (Temporary Resident) status under consideration. The duration of validity for the I-688A is six months, within which time the applicant will either be granted or denied Temporary Resident status, retroactive to the date the application was filed.

The alien applicants who are denied will then be subject to deportation or expulsion from the United States.

All alien identification cards remain the property of the United States Government and must be surrendered to INS upon expiration or cancellation of the aliens right to be in, or remain in the United States.

ACTUAL SIZE →
OF CARD

EMPLOYMENT AUTHORIZATION			
U.S. DEPARTMENT OF JUSTICE	Immigration and Naturalization Service		
A-9054423	Name	DOB	DOB
		08/04/87	05/26/68
		DOB	DOB
		02/03/88	582
			DOB
			
X BEING GRANTED TO A TEMPORARY RESIDENT STATUS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY P.L. 99-603, SEC. 245A (OR SEC. 210 OR 210A) OF THE IMMIGRATION AND NATIONALITY ACT			

*Bearer entitled to reside and work
in the U.S. until card expires. Not eligible
for federally funded assistance programs
except as approved by P.L. 99-603 Sec. 245A
(OR SEC. 210 OR 210A)
(of the Immigration and Nationality Act)*

4/16/89 1/10/87

The person identified on the reverse is an applicant for Temporary Resident status under a provision of the Immigration and Nationality Act, as amended by P.L. 99-603. This document, presented during its validity period by the person to whom it was issued is a document of identity and employment eligibility required to be examined by an employer under Section 274A of the Act.

This document is evidence of alien registration and must be carried at all times and is VOID if altered.

FORM I-94 (ARRIVAL-DEPARTURE RECORD)

Family Name (Capital Letters) SANTOS	First Name MARIA	Middle Initial G	S-550
Country of Citizenship El Salvador	Passport or Alien Registration Number G 980356		
United States Address (Number, Street, City and State) 4900 Del Plaza Street, Fairfax, Virginia 22045			
Airline and Flight Number PANAM 507		Vessel of Arrival PASSENGER	
Number, Street, City, Province (State) and Country of Permanent Residence 35 Marion Street, San Salvador, El Salvador		Passenger Boarded at SAN SALVADOR	
Month, Day and Year of Birth May 13, 1948		250	
City, Province (State) and Country of Birth San Salvador, El Salvador		SEP 04 1979	
Visa issued at San Salvador, El Salvador		ADMITTED 8-2	
Month, Day and Year Visa Issued March 11, 1979		ENTER Nov. 4, 1979	

A NONIMMIGRANT ALIEN WHO
ACCEPTS UNAUTHORIZED
EMPLOYMENT IS SUBJECT
TO DEPORTATION

Surrender this copy
When Leaving
The United States
SEE REVERSE

FORM
I-94

Front—Actual Size

IMPORTANT NOTICE

- Retain this permit in your possession.
- The validity date of your visa does not mean you have permission to remain in the U.S. for such time.
- You are authorized to stay in the U.S. only until the date inscribed by the inspector on this form. To remain past this date, without permission from Immigration authorities, is a violation of law.
- WHEN YOU LEAVE THE UNITED STATES
 - By sea or air, surrender this permit to transportation line.
 - Over Canadian border, surrender this permit to Canadian Immigration Officer.
 - Over Mexican border, surrender this permit to United States Immigration Officer.

RECORD OF EXTENSIONS

To _____ Office _____

Office _____

Office _____

DEPARTURE RECORD

Port: _____

Date: _____

Carrier: _____

To: _____

(Country of disembarkation)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization ServiceARRIVAL-DEPARTURE RECORD FORM I-94 (REV. 4-1-79)
FORM APPROVED ONE NO. 43-80000

Reverse

Issued to aliens admitted temporarily and shows the date to which admitted and any extensions thereof. Generally, employment in the U.S. is not permitted unless the Immigration and Naturalization Service has endorsed the form to so indicate.

This card, Form I-551, has replaced the Form I-151. All aliens admitted after July 1, 1979, should possess a Form I-551. Both cards were issued between January 1, 1977 and July 1, 1979. The Form I-551 has the lawful holder's photograph, fingerprint, and signature on a white background. Superimposed over the entire card are fine salmon colored lines. Employment is permitted.