

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814



December 12, 1988

Letter 88-87

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS

SUBJECT: Ruiz v. Kizer and Crespin v. Kizer Preliminary
Injunctions; Aliens

REFERENCE: ACWD Letter 88-84

The temporary restraining orders mentioned in all-county welfare directors' (ACWD) letter 88-84 are now preliminary injunctions (Attachments A and B). Continue to adhere to the policy and procedures enunciated in that letter.

The court in Crespin v. Kizer has issued another preliminary injunction (included in Attachment B). It pertains to aliens who begin receiving long-term care (LTC) or renal dialysis (RD) services on or after October 1, 1988. For these individuals follow the same procedures as those that apply to aliens who were receiving LTC or RD under Medi-Cal on October 1, 1988. They were explained in ACWD letter 88-66, page 6, under the caption "Aliens Now Receiving LTC or Renal Dialysis Benefits."

Otherwise eligible aliens who apply for full benefits but do not claim SIS or who apply for restricted benefits are entitled to emergency and pregnancy-related services only.

You must not ask Medi-Cal applicants who only want restricted benefits about their citizenship, immigration status, birthplace, or social security number (SS No.) or that of any member of their family or household who is also applying for restricted benefits only or no benefits at all. This means that, on form MC210, Statement of Facts, items 3A ("List yourself and your spouse..."), and 3B ("List...unmarried children under 21..."), do not ask about their birthplace or social security number, and on item 6 ("ARE ANY OF THE PERSONS LISTED IN 3A OR 3B ALIENS?") do not list those who want restricted benefits only or no benefits at all. Do complete the above items for applicants for full benefits, but do not ask about their family or household members who are applying for restricted benefits only or no benefits at all. To know who in a case is applying for what level of benefits, you should complete the MC13s before the MC210.

Pursuant to these injunctions, we have revised form MC13 and its procedural instructions (see Attachment C). Please start using both immediately. We will give you a Spanish translation as soon as possible. Notice that the form now lists all possible categories of immigration status.

ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
Page 2

If you have any questions about the injunctions, please contact Renee Toirac at (916) 323-6954, ATSS 8-473-6954. Direct your questions about form MC13 and its immigration categories to Tom Dickson at (916) 324-4961, ATSS 454-4961.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: November 30, 1989

FILED

SUSAN B. DRAKE (California Bar No. 118485)
 CHARLES H. WHEELER (California Bar No. 122683)
 NATIONAL CENTER FOR IMMIGRANTS' RIGHTS
 1636 W. Eighth Street, Suite 215
 Los Angeles, California 90017

OCT 20 4 35 PM '88

CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIF.
 AT SACRAMENTO

SARAH E. KURTZ (California Bar No. 99881) BY
 PETER H. REID (California Bar No. 45808)
 LEGAL AID SOCIETY OF SAN MATEO COUNTY
 298 Fuller Street
 Redwood City, California 94063
 (415) 365-8522

DEPUTY

Attorneys for Plaintiff

LODGED

IN THE UNITED STATES DISTRICT COURT

OCT 16 1988

FOR THE EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

BY DEPUTY CLERK

SALATIAL RUIZ, a minor, by
 DOLORES RUIZ, his guardian ad litem,
 on behalf of himself and all
 others similarly situated,

Plaintiff,

v.

KENNETH KIZER, Director,
 Department of Health Services;
 DEPARTMENT OF HEALTH SERVICES,
 an Agency of the State of
 California,

Defendants.

No. CIV S 88-1272 MLS

~~PROPOSED~~ ORDER FOR
 PRELIMINARY
 INJUNCTION

Date: October 20, 1988
 Time: 2:00 p.m.
 Before the Hon. Milton
 L. Schwartz

1 The Court having considered the evidence and argument of
2 counsel, and it appearing to the Court that this is a proper
3 case for issuance of a preliminary injunction, the following
4 prohibitory injunction shall issue:

5 IT IS HEREBY ORDERED that, pending trial on the merits,
6 defendants and respondents ("defendants"), and their agents,
7 officers, employees and representatives, and all persons acting
8 in concert or participating with them, including employees of
9 county welfare departments, are hereby temporarily enjoined as
10 follows. Such persons may not, as to aliens seeking Medi-Cal
11 ^{and who are otherwise entitled to full-scope Medi-Cal benefits,}
coverage, delay, deny, reduce, or terminate full-scope Medi-Cal
12 benefits on the basis that the Immigration and Naturalization
13 Service (INS) has not verified that the individual has
14 satisfactory immigration status. This means that:

15 (a) Defendants may not delay, deny, reduce, or terminate
16 full-scope Medi-Cal benefits to applicants and current
17 beneficiaries who are otherwise entitled to full-scope benefits
18 and who claim satisfactory immigration status but have not had a
19 reasonable opportunity to obtain documents.

20 (b) Defendants also may not delay, deny, reduce, or
21 terminate full-scope Medi-Cal benefits to applicants and current
22 beneficiaries who are otherwise entitled to full-scope benefits
23 and whose status has not been verified by the INS.

24 IT IS FURTHER ORDERED that defendants will, ^{FORTHWITH} ~~within five~~
25 ~~hours of the issuance of this Order or as soon thereafter as~~
26 ~~possible, by telegram or night letter,~~ notify the counties and
27 county welfare directors ("counties") of this Order, and
28

1 instruct them to stop the implementation of, and rescind all
2 delays or denials of Medi-Cal made pursuant to, the policies
3 enjoined herein. ~~Counties shall be informed that, as to alien~~
4 ~~Medi-Cal applicants and current beneficiaries seeking full scope~~
5 ~~benefits, counties shall not delay, deny, reduce, or terminate~~
6 ~~full-scope Medi-Cal benefits on the basis that the Immigration~~
7 ~~and Naturalization Service has not verified that the individual~~
8 ~~has satisfactory immigration status; counties may not delay,~~
9 ~~deny, reduce or terminate full-scope Medi-Cal benefits to~~
10 ~~applicants and current beneficiaries who are otherwise entitled~~
11 ~~to full-scope benefits and who claim satisfactory immigration~~
12 ~~status but have not had a reasonable opportunity to obtain~~
13 ~~documents; counties also may not delay, deny, reduce or~~
14 ~~terminate full-scope Medi-Cal benefits to applicants and current~~
15 ~~beneficiaries who are otherwise entitled to full-scope benefits~~
16 ~~and whose status has not been verified by the INS.~~

17 IT IS FURTHER ORDERED that, as soon as practicable,
18 defendants shall issue an All-County Letter ~~to the same effect,~~ ^{Advising the}
19 ^{COUNTIES TO COMPLY WITH THE ABOVE ORDER,} and defendants shall consult with plaintiff's counsel in the
20 development of the All-County Letter.

21 IT ~~IS~~ FURTHER ORDERED that ~~defendants~~ shall train
22 officials and employees of county welfare offices to comply with
23 the provisions of this Order, and that ~~defendants~~ shall consult
24 with plaintiff's counsel in the development of the applicable
25 training materials.

1 IT IS FURTHER ORDERED that plaintiffs will be permitted
2 to proceed in this matter without posting bond or any other
3 security.

4 *

5 DATED: October 20, 1988

Frederic H. Schantz
UNITED STATES DISTRICT JUDGE

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8 * The September 30, 1988 order for provisional
9 class certification is continued in force and effect
10 unless and until modified or decertified by
11 further orders.
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PROOF OF SERVICE BY MAIL

I, Cynthia Gary, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action and am employed at 1636 West Eighth Street, Suite 215, Los Angeles, California 90017.

On this date, I served by mail a copy of the attached PROPOSED ORDER FOR PRELIMINARY INJUNCTION upon the defendants herein, by placing it in the United States mail, express delivery, with postage thereon fully prepaid, addressed as follows:

Dennis Eckhart, Deputy Attorney General
California Attorney General's Office
1515 K Street, P.O. Box 944255
Sacramento, California 94244-2550

Gregory Hollows, Assistant U.S. Attorney
United States Attorneys Office
650 Capitol Mall
Sacramento, California 95814

I declare under penalty of perjury that the foregoing is true and correct and was executed this 17 day of October, 1988, at Los Angeles, California.


CYNTHIA GARY

STEPHEN E. KUNFELDT
CONNIE DE LA VEGA
LEGAL AID SOCIETY OF ALAMEDA COUNTY
1440 Broadway, Suite 700
Oakland, California 94612
(415) 455-3833

SUSAN DRAKE
VIBIANA ANDRADE
NATIONAL CENTER FOR IMMIGRANTS' RIGHTS
1636 West 8th Street, Suite 215
Los Angeles, California 90017
(213) 487-2531

STANDLEY L. DORN
JANE PERKINS
NATIONAL HEALTH LAW PROGRAM, INC.
2639 South La Cienega Boulevard
Los Angeles, California 90034
(213) 204-6010

LUCY QUACINELLA
LEGAL SERVICES OF NORTHERN CALIFORNIA
Butte Regional Office
P.O. Box 3728
541 Normal Avenue
Chico, California 95927
(916) 345-9491

(See next page for other counsel)

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA

FATHER GEORGE CRESPIN, et al.,
Plaintiffs and Petitioners,
-vs-

KENNETH KIZER, et al.,
Defendants and Respondents.

CIVIL ACTION NO. 636715

~~RECEIVED~~ ORDER
FOR PRELIMINARY
INJUNCTION

DATE: October 27, 1988
TIME: 2:00 p.m.
DEPT: 19

ENDORSED
FILED

OCT 27 1988

RENE C. DAVIDSON, County Clerk
By: Elaine Garcia, Deputy

Attachment B
Personally
served
10/28/88
DKH

1
2 JAMES CARROLL
NANCY RIMSHA
3 SAN FERNANDO VALLEY NEIGHBORHOOD
LEGAL SERVICES, INC.
4 13327 Van Nuys Boulevard
Pacoima, California 91331
5 Telephone: (818) 896-5211

6 MELINDA BIRD
WESTERN CENTER ON LAW AND POVERTY
7 3535 W. 6th St., Second Floor
Los Angeles, California 90020
8 Telephone: (213) 487-7211

9 Attorneys for Plaintiffs and Petitioners,
except Father George Crespín and Alameda Health Consortium

10 STEPHEN SCHEAR
11 EAST OAKLAND COMMUNITY LAW OFFICE
1411 Fruitvale Avenue
12 Oakland, California 94601
Telephone: (415) 261-3664

13 Attorneys for Alameda Health Consortium

14 CAROLE RAIMONDI-PINEDA
15 1411 Fruitvale Avenue
Oakland, California 94601
16 Telephone: (415) 261-3664

17 Attorney for Father George Crespín
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1 The Court having considered the documents on file herein and
2 the argument of counsel, and it appearing to the Court that this
3 is a proper case for issuance of a preliminary injunction, the
4 following prohibitory injunction shall issue:

5 IT IS HEREBY ORDERED that, pending trial on the merits,
6 defendants and respondents ("defendants"), and their agents,
7 officers, employees and representatives, and all persons acting
8 in concert or participating with them, including employees of
9 county welfare departments, are hereby restrained and enjoined
10 from:

11 (1) Defining, covering or describing emergency services for
12 purposes of restricted Medi-Cal benefits for aliens more narrowly
13 than the definition stated in S.B. 175, Section 3, amending
14 Welfare and Institutions Code Section 14007.5(d);

15 (2) Requiring any applicant for Medi-Cal coverage of only
16 emergency medical or pregnancy related services to disclose
17 information concerning his or her citizenship or immigration
18 status or that of members of his or her family or household;

19 (3) Doing any of the following as to aliens seeking Medi-Cal
20 coverage of long-term care or kidney dialysis services after
21 October 1, 1988, and who did not receive Medi-Cal coverage of
22 such services on that date:

23 (a) Failing to initiate verification (including
24 secondary verification, if necessary) with the Immigration
25 and Naturalization Service ("INS") of such persons' status
26 as permanently residing in the United States under color of
27 law ("PRUCOL"), or otherwise possessing satisfactory
28 immigration status ("SIS");

1 (b) Failing to provide assistance in obtaining PRUCOL
2 status, or other SIS, that is ordinarily given to aliens
3 receiving Medi-Cal coverage of long-term care or kidney
4 dialysis services on or before October 1, 1988;

5 (c) Denying full-scope Medi-Cal coverage on the basis
6 of citizenship or immigration status while awaiting the
7 outcome of INS verification and the completion of all
8 applicable notice and hearing procedures;

9 (d) Denying coverage of medically necessary renal
10 dialysis services or long-term care services for patients
11 ultimately not found PRUCOL or otherwise possessing SIS, but
12 who are otherwise eligible for Medi-Cal;

13 (4) Implementing All County Letters 88-66, 88-68, and
14 related issuances directing implementation of S.B. 175, to the
15 extent such documents are inconsistent with paragraphs (1)
16 through (3), above. ~~without first promulgating appropriate~~
17 ~~emergency regulations.~~

18 IT IS FURTHER ORDERED that defendants will forthwith notify
19 the counties and county welfare directors and Medi-Cal field
20 offices and field office administrators of this Order, advise
21 them to comply with it, and instruct them to stop the
22 implementation of, and rescind all denials of Medi-Cal made
23 pursuant to the policies enjoined herein.

24 IT IS FURTHER ORDERED that, as soon as practicable,
25 defendants shall issue an All-County Letter and Field Instruction
26 Notice to the same effect, and shall consult with plaintiffs'
27 counsel in the development of these documents.

28 IT IS FURTHER ORDERED that, as soon as practicable,

1 defendants shall issue Provider Bulletins fully describing the
2 Medi-Cal coverage and procedures affected by this Order.

3 IT IS FURTHER ORDERED that plaintiffs will be permitted to
4 proceed in this matter without posting bond or any other
5 security.

6 IT IS FURTHER ORDERED that a true and correct copy of this
7 Order shall be served on defendants no later than 10/31/88,
8 and a proof of service filed with the Court no later than
9 11/4/88.

10
11 DATED: 10/27/88

DAWN B. GIRARD

JUDGE OF THE SUPERIOR COURT

1 Abbreviated Case Name: CRESPIN v. KIZER

2 Case No.: CIV NO. 636715-6

3 PROOF OF PERSONAL SERVICE

4 I declare that:

5 I am a citizen of the United States and a resident of
6 Sacramento County, California. I am over the age of eighteen
7 years and not a party to the within above-entitled action. My
8 business address is 515 - 12th Street, Sacramento, California
9 95814.

10 I personally served the within ORDER FOR PRELIMINARY
11 INJUNCTION on the parties in said action, by personally
12 delivering to and leaving with the following persons in the
13 County of Sacramento, State of California, on the date set
14 opposite their respective names, a true copy thereof, to-wit:

15 ✓Kenneth Kizer, M.D., DHS Director, 714 P Street,
16 Room 1253, Sacramento, CA 95814, on October 28, 1988;

17 Gray Davis, Controller, 300 Capitol Mall, 18th
18 Floor, Sacramento, CA 95814, on October 28, 1988;

19 Elizabeth Whitney, Treasurer's Office, 915
20 Capitol Mall, Room 110, Sacramento, CA 95814, on October 28,
21 1988.

22 I declare under penalty of perjury under the laws of
23 the State of California that the foregoing is true and
24 correct.

25 Executed on October 28, 1988, at Sacramento,
26 California.

27

28

crespin2 jp


JACKIE PORTER
Declarant

STATEMENT OF CITIZENSHIP, ALIENAGE, AND IMMIGRATION STATUS

Print Name of Applicant: _____

Date: _____

Print Name of Person Acting for Applicant: _____

Relationship to Applicant: _____

Section A: Medi-Cal Benefits to Citizens and Aliens

U.S. citizens may receive full Medi-Cal benefits if they meet all other program requirements.

Aliens may receive either full program benefits or benefits restricted to emergency and pregnancy-related services depending on their immigration status.

Federal and state law require that *full* benefits may be received only by aliens who are one of the following: lawful permanent residents; conditional resident aliens; aliens permanently residing in the U.S. under color of law (PRUCOL); aliens who have been granted amnesty who are also aged (65 or older), children under 18, blind, or disabled.

The following aliens may receive only *restricted* benefits (emergency and pregnancy-related services): undocumented aliens; aliens who have been granted amnesty who are *not* aged, blind, disabled, or children under 18; nonimmigrants with unexpired visas (students, visitors, etc.) or unexpired parole status.

Section B: Scope of Benefits Requested

The applicant is applying for: ☐ Full Medi-Cal benefits ☐ Restricted Medi-Cal benefits (emergency and pregnancy-related services only).

☐ Other (explain): _____

IF THE ABOVE-NAMED APPLICANT IS REQUESTING ONLY RESTRICTED BENEFITS, SKIP SECTIONS C, D, AND E

Section C: Citizenship and Alien Status

1. I, _____, state that the above-named applicant is:

☐ A citizen or national of the United States* ☐ An alien.

If the applicant is a citizen, where was he/she born? _____

*Nationals are persons who, though not citizens, owe permanent allegiance to the United States. Permanent residents of American Samoa and Swain's Island are nationals of the United States.

IF YOU ARE A CITIZEN OR NATIONAL OF THE UNITED STATES, GO DIRECTLY TO SECTION E.

2. Is the applicant a lawful permanent resident? ☐ Yes ☐ No

3. Is the applicant a conditional resident alien? ☐ Yes ☐ No

4. Has the applicant been granted amnesty? ☐ Yes ☐ No

5. If yes, under which Section (210, 210A, or 245A) of the Immigration and Nationality Act? (The number is on the front of the I-688 Temporary Resident Card.)

☐ The applicant is now a lawful temporary resident whose card was issued on this date: _____
☐ The applicant is now a lawful permanent resident.

6. If the applicant is an amnesty alien who is *not* aged, blind, disabled, or under 18 years of age, does he/she have another immigration status which would entitle him/her to full benefits? (Is the applicant, for example, a lawful permanent resident, conditional resident alien, or PRUCOL alien under one of the categories listed in question 7?) ☐ Yes ☐ No

If yes, what is the other status? _____

7. If the applicant would qualify for full Medi-Cal benefits as a *PRUCOL alien*, indicate the status category which entitles him/her to that classification:

- ☐ A conditional entrant admitted to the United States before April 1, 1980
- ☐ An alien paroled into the United States, including Cuban/Haitian entrants
- ☐ An alien subject to an Order of Supervision
- ☐ An alien granted an indefinite stay of deportation
- ☐ An alien granted an indefinite voluntary departure
- ☐ An alien on whose behalf an immediate relative petition (INS Form I-130; has been approved who is entitled to voluntary departure
- ☐ An alien who has properly filed an application for lawful permanent resident status
- ☐ An alien granted a stay of deportation for a specified period
- ☐ An alien granted asylum
- ☐ A refugee admitted to the U.S. since April 1, 1980
- ☐ An alien granted voluntary departure who is awaiting issuance of a visa
- ☐ An alien in deferred action status
- ☐ An alien who entered and has continuously resided in the U.S. since before January 1, 1972 who would be eligible for an adjustment of status to lawful permanent resident pursuant to INA Section 249 (eligible as a Registry alien)
- ☐ An alien granted a suspension of deportation whose departure INS does not contemplate enforcing
- ☐ An alien granted withholding of deportation pursuant to INA Section 243(h)
- ☐ An alien, not in one of the above categories, who can show that: (1) INS knows he/she is in the United States; and (2) INS does not intend to deport him/her, either because of the person's status category or individual circumstances.

Section D: Verification of Immigration Status

All alien applicants who request full program benefits must have their immigration status verified by the Immigration and Naturalization Service (INS). To assist us with this process, please provide the following information:

1. Social Security number: _____
2. Alien Registration number and/or Alien Admission (INS Form I-94) number: _____
3. Date the applicant first entered the U.S.: _____
4. Applicant's name when he/she first entered the U.S.: _____
5. Of what country is the applicant a citizen? _____
6. Where was the applicant born? _____

In addition, all aliens must present INS-issued alien registration or other documents which indicate a satisfactory immigration status for Medi-Cal purposes. If you do not have these documents with you or if they are unreadable, bring us receipts issued by INS which show you have applied for replacements. You will have 30 days to do this, or until your application is ruled on, whichever is longer. If none of the alien registration documents contains the applicant's photograph, you must show us an identity document which establishes that the applicant is the person named in the immigration documents.

Section E

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ANSWERS I HAVE GIVEN ARE CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE.

Applicant Signature: _____ Date: _____

Person Acting for Applicant (Signature): _____ Date: _____

FOR COUNTY USE ONLY

EW Signature: _____ Date: _____

Print EW Name: _____ County: _____

Action taken:

- ☐ None necessary.
- ☐ SAVE primary verification performed. Date: _____
- ☐ Document Verification Request (INS Form G-845) and copies of INS-issued documentation of satisfactory immigration status sent to INS. Date: _____
- ☐ List INS documents, including INS form numbers (if any), copied and placed in the case file: _____

☐ Person referred to INS to obtain replacements of documents. Date: _____

 MEDI-CAL ELIGIBILITY MANUAL

INSTRUCTIONS
 STATEMENT OF CITIZENSHIP, ALIENAGE AND
 IMMIGRATION STATUS, FORM MC13

One of these forms must be completed for every Medi-Cal applicant or beneficiary. Make certain that the applicant, or an adult MFBU member acting on his or her behalf, supplies all appropriate information. In cases where the applicant is a child, incapable, incompetent or deceased, the same person who signs the MC210 must complete the MC13.

Pursuant to court order, persons who are requesting only restricted services are required to give their name but cannot be questioned about their status as a citizen or an alien. This is why such applicants do not complete Section C, D or E of the form. Applicants requesting restricted benefits, if otherwise eligible, should be issued restricted-services Medi-Cal cards without further delay.

A different procedure is used for applicants for full benefits. These persons are asked to state whether they are citizens or aliens. Those who indicate they are aliens and claim to have an immigration status that would entitle them to full benefits have 30 days (or the time it takes to determine their eligibility, whichever is longer) to present documentation of satisfactory immigration status (SIS), which means INS alien registration or other INS-issued documents. During this period, such applicants, if otherwise eligible, receive full Medi-Cal benefits. They also receive full benefits during the time it takes INS to either verify the claim to SIS or to report that it is not substantiated.

The requirement that applicants for full benefits must submit original documents which establish SIS shall be considered to be met if the alien presents an INS application receipt for replacement copies of lost, stolen or unreadable documents or INS-issued documentary proof of lawful permanent resident or RUCOL status. In many cases, it will not be necessary to refer aliens to INS; you can, instead, simply ask them to bring in documents which they had left at home when they first applied.

County Use Only Section: The county worker should enter the requested information, check the applicable boxes, date and sign the form as indicated.

IRCA aliens can be identified from codings on their alien registration documents. Temporary Resident Cards (INS form I-688) contain the Immigration and Nationality Act section number on the front of the card: INA 210 = special agricultural worker (SAW), INA 210A = replenishment agricultural worker (RAW), INA 245A = pre-1982 entrant. Alien Registration Receipt Cards (INS form I-551) contain this information as one of the following codings in the "class" blank on the front of the card: S16 or S26 = SAW; R16 = RAW; W16, W26, or W36 = pre-1982 entrant.

Persons claiming to be U.S. citizens or nationals of the United States or to have a status which entitles them to full benefits who list a birthplace outside of the United States or its outlying possessions should be required to present documents which establish that they have been naturalized, have acquired or derived U.S. citizenship, are American Indians born in Canada, or are permanent nonimmigrants from Micronesia or the Marshall Islands. (See Procedures Section 7D).

If a secondary SAVE verification is necessary, copy all printed sides of the documents the alien presents and be sure that the copies you send to INS are readable.