

DEPARTMENT OF HEALTH SERVICES

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SACRAMENTO, CA 94234-7320



March 31, 1993

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 93-23

SUBJECT: DRAFT EMERGENCY REGULATIONS TO IMPLEMENT VERIFICATION OF RESIDENCY

This letter provides counties with a draft of emergency regulations relating to verification of residency, (Enclosure 1), as promised in the March 4, 1992 letter to County Medi-Cal policy liaisons. Upon receipt of this letter, counties should immediately begin to prepare for the May 3, 1993 implementation of the final version of these regulations.

The enclosed draft regulations are also provided for your review and comment. Please provide all comments by Wednesday March 24, so that they may be considered for inclusion in the final version. The final emergency regulations may differ from the enclosed version depending on comments received. Final regulations will be forwarded to counties on April 1, 1993.

The new regulations will implement the residency provisions (Enclosure 2) of SB 485 (Chapter 722, Statutes of 1992), which require all Medi-Cal applicants to provide verification of their residency status. In requiring verification of residency, the new regulations will complement the existing Medi-Cal eligibility residency requirements of Title 22, California Code of Regulations, Section 50320 (California Residence--General), especially subsection (f) which addresses acceptance of a person's declared residency status unless there is evidence to the contrary.

Counties should continue to follow existing regulations in determining an applicant's eligibility for Medi-Cal until the new residency verification requirements take effect on May 3, 1993.

If you have any questions about the proposed regulations, or would like to provide comments, address them to John Zapata of my staff, at (916) 657-0725.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures.

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ENCLOSURE 1

File Name: Resreg3--(reg. pkg. disk)

Date/Time: March 12, 1993/11:35

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Amend Subsection 50169 (d) as follows:

(d) The following items shall be verified at each redetermination, restoration or reapplication:

- (1) Incapacity.
- (2) Legal responsibility for a child applying alone.
- (3) Refusal of the parent to apply for an 18 to 21 year old child.
- (4) Income, except income received from the United States Government which has previously been verified in accordance with the provisions of Sections 50167(a)(7)(A)1. through 5. or for which verification has been obtained from the appropriate government agency.
- (5) Status and Value of nonexempt property.
- (6) The continuing need for IHSS services.
- (7) Immigration status; provided, however, that in the case of applicants or beneficiaries who request or are receiving restricted Medi-Cal benefits only, immigration status shall not be verified.

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Amend Subsection 50169 (f) as follows:

(f) The following items shall be verified whenever there is a change:

(1) Blindness.

(2) Disability.

(3) Immigration status : provided, however, that in the case of applicants or beneficiaries who request or are receiving restricted Medi-Cal benefits only, immigration status shall not be verified.

(4) SSN, ~~except for an applicant for restricted Medi-Cal benefits, unless the applicant is an amnesty alien who is ineligible for full Medi-Cal benefits pursuant to Section 50301(b)(5):~~ provided, however, that in the case of applicants or beneficiaries who request or are receiving restricted Medi-Cal benefits only, the SSN shall not be verified.

(5) HIC number.

(6) A change in residency shall be verified whenever one of the following conditions exists:

(A) The applicant or beneficiary is absent from the state for less than 60 days and the county has evidence that the applicant or beneficiary has established residence in another state or country.

(B) The applicant or beneficiary is absent from the state for more than 60 days and meets the conditions of Section 50323 for maintaining California residency.

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50320. CALIFORNIA RESIDENCE - GENERAL

(a) California residence is a requirement for Medi-Cal.

(b) California residence shall be established by either of the following if the verification requirements of Section 50320.1 are met:

(1) ~~Physical presence; -if there is no present intention of leaving California; - unless the applicant maintains a home for himself or herself outside the State.~~ The applicant is physically present and is living in California at the time of application, with the intention to remain permanently or for an indefinite period.

(2) ~~Living in California at the time of application; - not receiving medical assistance from another state; - and having~~ The applicant is physically present, is living in California, and entered the State with a job commitment or to seek employment, whether or not currently employed.

(c) Children living with their parents shall have their residence determined as that of their parents, except that parents who do not meet the California residency requirements may establish California residence for their children if both of the following circumstances apply. The parents:

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(1) Intend for their children to remain in California on other than a temporary basis.

(2) Have made arrangements for the children to remain in California independent of the parents.

(d) Family members may establish separate residences without a break in marital or family ties. Only those family members who meet the requirements of this article shall be eligible for Medi-Cal.

(e) Once California residence is established it continues until residence is established in another state or country.

(f) A person's declaration on the MC 210 Statement of Facts (Medi-Cal), or on the Application for Cash Aid, Food Stamps, and/or Medical Assistance (SAWS 1), together with the evidence required in Section 50320.1, shall be accepted-as constitute proof of residence unless there is evidence to the contrary.

Note: Authority cited: Section 147, Chapter 722, Statutes of 1992 (SB 485), Sections 10725, 14007.1 and 14124.5, Welfare and Institutions Code.
Reference: Code of Federal Regulations Section 435.403.

50320.1 CALIFORNIA RESIDENCE - EVIDENCE

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(a) In addition to the person's declaration of residence on the MC 210 Statement of Facts (Medi-Cal), or on the Application for Cash Aid, Food Stamps, and/or Medical Assistance (SAWS I), California residence is not established unless both of the following conditions are met as required in Subdivision 50320(f):

(1) The applicant produces one of the following:

(A) A recent California rent or mortgage receipt or utility bill in the applicant's name. Rent receipts provided by a relative shall not be accepted as verification of residency.

(B) A current California motor vehicle driver's license or California Identification Card issued by the California Department of Motor Vehicles in the applicant's name.

(C) A current California motor vehicle registration in the applicant's name.

(D) A document showing that the applicant is employed in this state.

(E) A document showing that the applicant has registered with a public or private employment service in this state.

(F) Evidence that the applicant has enrolled his or her children in a school in this state.

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(G) Evidence that the applicant is receiving public assistance in this state.

(H) Evidence that the applicant has registered to vote in this state.

(I) Any evidence produced in accordance with subdivision b.

(2) The applicant declares, under penalty of perjury, that all of the following apply:

(A) The applicant does not own or lease a principal residence outside this state.

(B) The applicant is not receiving public assistance outside this state. As used in this subdivision, "public assistance" does not include unemployment insurance benefits.

(b) If an applicant declares under penalty of perjury, that he or she does not have one of the residency verification documents required in Subdivisions (a)(1)(A) through (a)(1)(H), the county shall consider, pursuant to Section 50320.2, any other evidence produced by an applicant to verify residency except those documents specified in subdivision 50320.2(b).

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Note: Authority cited: Section 147, Chapter 722, Statutes of 1992 (SB 485).
Sections 10725, 14007.1, and 14124.5, Welfare and Institutions Code.
Reference: Code of Federal Regulations Section 435.403.

50320.2 CALIFORNIA RESIDENCY--COUNTY VERIFICATION

(a) The county may request clarification of the applicant's residency if it determines that any information provided as part of his or her Medi-Cal application is inconsistent with the statement on the MC 210 Statement of Facts (Medi-Cal), or on the Application for Cash Aid, Food Stamps, and/or Medical Assistance (SAWS 1) that the applicant is a resident of California. Any additional information requested to clarify an applicant's residency must be requested in accordance with Section 50171.

(b) The following documents are unacceptable as verification of residency in the absence of other credible evidence to support the statement made on the MC 210 Statement of Facts (Medi-Cal), or on the Application for Cash Aid, Food Stamps, and/or Medical Assistance (SAWS 1):

(1) A declaration, affidavit, or other statement from the applicant, or any other person, that the applicant is a California resident.

(2) Receipts from a relative to show that the applicant is paying rent, or paying room, board, or other living expenses.

(c) The county may determine based upon a preponderance of evidence produced

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by the applicant, that the claim on the MC 210 Statement of Facts (Medi-Cal), or on the Application for Cash Aid, Food Stamps, and/or Medical Assistance (SAWS 1) is supported and that the applicant is a resident of California. If a preponderance of the credible evidence produced by the applicant does not support the applicant's claim of California residency, the applicant shall be determined not to be a California resident, shall be denied eligibility for Medi-Cal benefits, and shall be afforded all notification and fair hearing rights provided to any person denied eligibility for Medi-Cal.

(d) A denial of a determination of residency may be appealed in the same manner as any other denial of eligibility. The Administrative Law Judge shall receive any proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be granted unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state.

Note: Authority cited: Section 147, Chapter 722, Statutes of 1992 (SB 485), Sections 10725, 14007.1 and 14124.5, Welfare and Institutions Code.
Reference: Code of Federal Regulations Section 435.403

50321. Temporary Absence From the State.

(a) Residence shall not be affected by temporary absence from the State for less than 60 days or less. An absence of 60 days or less shall be presumed

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to be a temporary absence unless there is evidence to the contrary.

(b) An application, restoration, redetermination or reapplication from an applicant or beneficiary who is temporarily absent from the state for 60 days or less shall be accepted.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

50323. Absence From the State for More than 60 days.

(a) Absence from the state for more than 60 day shall be presumptive evidence of the applicant's or beneficiary's intent to change California residence to a place outside the State unless the person declares in writing both:

(1) An intent to return to California.

(2) The existence of one of the following circumstances:

(A) Illness or emergency circumstances which prohibit return to California.

(B) Family members with whom the applicant or beneficiary lives are California residents and are physically present in the State.

(C) The applicant or beneficiary maintains California housing arrangements.

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(b) Unless there is evidence to the contrary, California residence may be considered to be terminated when an applicant or beneficiary leaves California and then takes any of the following actions in another state:

- (1) Purchases, leases or rents a residence.
- (2) Becomes employed.
- (3) Obtains an out-of-state driver's license.
- (4) Applies for aid in another state.

(c) Medi-Cal shall be discontinued effective the last day of the month in which residence terminated, if the 10-day notice can be given. Otherwise, the discontinuance shall be effective the last day of the following month.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

50325. Death During Absence From the State.

A person who dies during an absence from the State shall be considered a resident if there is evidence that the requirements of Section 50321 or Section 50323 were met at the time of death.

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Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

50327. Persons Living on Land Leased or Owned by the United States.

Persons living within the boundaries of California on land leased or owned by the Federal Government shall be considered California residents.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

50329. Persons on Parole From Correctional or Other Institutions.

Persons on parole from correctional or other institutions may establish California residence.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

50331. No Change

50333. No Change

50334. No Change

50336. Other Persons in Out-of State Institutions

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(a) The director shall have the authority to determine the state of residency for a person who is living in an institution in another state when that state's medical assistance agency claims the person is a California resident.

(b) Applications for Medi-Cal on behalf of the persons specified in (a) shall be referred to the Director by the county department.

(c) The determination shall be made in accordance with federal Medicaid regulation 42 CFR 435.403, dated ~~October-15,-1979~~ as it read on May 3, 1993, and shall be based upon such factors as the person's age, competency, former state of physical presence, the residence of the person's parents or in accordance with an interstate agreement entered into by the Director and another state's medical assistance agency.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14007, Welfare and Institutions Code.

50338. Other Persons in California Institutions.

(a) Persons living in California institutions, other than persons specified in Section 50334 shall be considered California residents.

(b) Notwithstanding (a), the Director shall have the authority to determine the state of residence for persons in California institutions in accordance

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with federal Medicaid regulation 42 CFR 435.403, dated ~~October 15, 1979~~ as it read on May 3, 1993. The determination shall be based upon such factors as the person's age, competency, former state of physical presence and the residence of the person's parents or in accordance with an interstate agreement entered into by the Director and another state's medical assistance agency. The county department shall, upon request by the Director, obtain the information necessary for the determination to be made.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14007, Welfare and Institutions Code.

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SENATE BILL 485 (1992)

SEC. 66. Section 14007.1 is added to the Welfare and Institutions Code, to read:

14007.1. (a) The department shall adopt regulations for use by the county welfare department in determining whether an applicant is a resident of this state and of the county subject to the requirements of federal law. The regulations shall require that state residency is not established unless the applicant does both of the following:

(1) The applicant produces one of the following:

(A) A recent California rent or mortgage receipt or utility bill in the applicant's name.

(B) A current California motor vehicle driver's license or California Identification Card issued by the California Department of Motor Vehicles in the applicant's name.

(C) A current California motor vehicle registration in the applicant's name.

(D) A document showing that the applicant is employed in this state.

(E) A document showing that the applicant has registered with a public or private employment service in this state.

(F) Evidence that the applicant has enrolled his or her children in a school in this state.

(G) Evidence that the applicant is receiving public assistance in this state.

(H) Evidence of registration to vote in this state.

(2) The applicant declares, under penalty of perjury, that all of the following apply:

(A) The applicant does not own or lease a principal residence outside this state.

(B) The applicant is not receiving public assistance outside this state. As used in this subdivision, "public assistance" does not include unemployment insurance benefits.

(b) A denial of a determination of residency may be appealed in the same manner as any other denial of eligibility. The Administrative Law Judge shall receive any proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be granted unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state.