

**DEPARTMENT OF HEALTH SERVICES**

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May 18, 1993

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

Letter No.: 93-29

SUBJECT: Final Draft of Emergency Regulations to Implement Verification of Residency

The letter provides counties with the final draft of emergency regulations (Enclosure 1) to implement verification of residency. The enclosed draft includes several changes from the version included in All County Welfare Directors Letter 93-23. The final draft:

- Adds a provision requiring verification of residency prior to approval of a Medi-Cal application;
- Removes the prohibition against accepting rent receipts from relatives to verify residency if the relative declares, under penalty of perjury, that the information on the rent receipt provided by the applicant is true and correct;
- Where applicable, requires verification documents to be current and to include the applicant's current address;
- Includes provisions clarifying that applicants, who have a principal residence outside the state that is exempt under the property requirements, can be found eligible if they meet the residency requirement; and
- Specifies that applicants who claim to be residents because they entered the state with a job commitment or to seek employment must provide evidence of that fact to the county.

Counties should immediately begin to prepare for implementation based on the enclosed draft. The final emergency regulations may differ from the enclosed draft depending on comments received and revisions necessary for final approval. Counties will be advised by Electronic Mail if further substantive changes are required.

The Department is developing forms for all declarations required by the proposed regulations and procedures for verification of residency. Camera ready copies of the forms and draft residency procedures will be provided to counties prior to implementation.

Counties should continue to follow existing residency regulations in determining an applicant's eligibility for Medi-Cal until the new residency verification requirements take effect on May 17, 1993.

All County Welfare Directors  
All County Administrative Officers  
All County Medi-Cal Program Specialists/Liaisons  
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If you have any questions or comments about the proposed regulations, you may call John Zapata of my staff at (916) 657-0725.

Sincerely,

ORIGINAL SIGNED BY  
Frank S. Maffucci, Chief  
Medi-Cal Eligibility Branch

Enclosure

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File Name-Resreq5--(reg. pkg. disk)  
Date/Time: April 21, 1993/8:06

ENCLOSURE 1

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Amend Section 50167 to add subsection (a)(10) to read:

(10) California residency shall be verified in accordance with Sections 50320.1 and 50320.2

Amend Subsection 50169 (d) to read:

(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.

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(6) The continuing need for IHSS services.

(7) Immigration status; provided, however, that the county department shall not require or request an applicant for or a beneficiary of restricted Medical benefits to disclose their citizenship or immigration status, birthplace, country of citizenship, alien registration number and/or alien admission number, date of first entry into the United States, or name upon first entry into the United States.

Amend Subsection 50169 (f) to read:

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

(1) Blindness.

(2) Disability.

(3) Immigration status; provided, however, that the county department shall not require or request an applicant for or a beneficiary of restricted Medical benefits to disclose their citizenship or immigration status, birthplace, country of citizenship, alien registration number and/or alien admission number, date of first entry into the United States, or name upon first entry into the United States.

(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 the county department shall not require or request an applicant for or a beneficiary of restricted Medical benefits to disclose whether they have a Social Security Number or what that number is.

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(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 claims to be a resident of California, and the county has evidence to the contrary pursuant to Section 50321(a).

(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.

Amend Section 50301.6(f) to read:

(f) The status of amnesty aliens who are eligible only for restricted Medi-Cal benefits because they are not aged, blind, disabled or under 18 years of age, shall be verified through the SAVE system; provided, however, that the county department shall not require or request an applicant for or beneficiary of restricted Medi-cal benefits to disclose their citizenship or immigration status, birthplace, country of citizenship, alien registration number and/or alien admission number, date of first entry into the United States, name upon first entry into the United States, or whether they have a Social Security Number.

Amend Section 50320 to read:

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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 with the intention to remain permanently or for an indefinite period.

(2) The applicant is physically present, is living in California at the time of application; -not receiving medical assistance from another state; and having 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:

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

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(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 SAWS 2 Statement of Facts, together with the evidence required in Section 50320.1, shall be accepted as proof of for purposes of establishing California 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.

Add Section 50320.1 to read:

50320.1. CALIFORNIA RESIDENCE - EVIDENCE

(a) In addition to the declaration of residence on the MC 210 Statement of Facts (Medi-Cal), or on the SAWS 2 Statement of Facts, California residence is not established unless both of the following conditions are met as

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required in Subdivision 50320(f):

(1) The applicant produces one of the following:

(A) A current California rent or mortgage receipt or utility bill in the applicant's name bearing the current address of the applicant. Rent receipts provided by a relative shall not be accepted for purposes of Section 50320.1(a)(1) in the absence of other credible evidence that supports a finding that the applicant is a resident of California pursuant to Section 50320(b) unless the relative declares under penalty of perjury that the information set forth on the rent receipt provided by the applicant is true and correct.

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

(C) A current and valid California motor vehicle registration in the applicant's name bearing the current address of the applicant.

(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.

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(F) Evidence that the applicant has enrolled his or her children in a school in this state. An applicant for minor consent services may provide evidence of his or her own enrollment in a school in this state.

(G) Evidence that the applicant is receiving public assistance other than Medi-Cal 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 maintain a principal residence outside this state. When an applicant is unable to make this declaration because he or she claims an out-of-state principal residence as exempt property under section 50425, the county shall consider any evidence provided by the applicant pursuant to Section 50320.2(c).

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

(b) If an applicant, including but not limited to homeless persons and

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migrant workers, 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).

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.

Adopt Section 50320.2 to read:

## 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 SAWS 2 Statement of Facts that the applicant is a resident of California.

(b) A declaration, affidavit, or other statement from the applicant, or any other person that the applicant is a resident of California is unacceptable as verification of residency in the absence of other credible evidence that supports a finding that the applicant is a resident of California pursuant to Section 50320(b).

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(c) When an applicant claims an out-of-state principal residence as exempt property under Section 50425, the county shall determine that such an applicant is a resident of California only if a preponderance of the credible evidence provided under Section 50320.1 supports a finding that the applicant is a resident of California pursuant to Section 50320(b).

(d) An applicant who claims to be a resident of California pursuant to Section 50320(b)(2) including but not limited to migrant workers, shall provide evidence that he or she entered the state with a job commitment or evidence that he or she entered the state to seek employment, whether or not currently employed. The county shall determine that such an applicant is a resident of California only if a preponderance of the credible evidence supports a finding that the applicant is a resident of California pursuant to Section 50320(b)(2).

(e) The county may determine that the claim on the MC 210 Statement of Facts (Medi-Cal), or on the SAWS 2 Statement of Facts is supported, and that the applicant is a resident of California if a preponderance of the credible evidence produced by the applicant supports a finding that the applicant is a resident of California. If a preponderance of the credible evidence produced by the applicant does not support the finding that the applicant is a resident of California, the applicant shall be determined not to be a resident of California, 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.

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(f) 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 either the applicant's intent to remain indefinitely in this state, or any other basis provided by the laws governing the Medi-Cal program for establishing residency for Medi-Cal eligibility.

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+

Amend Section 50321 to read:

50321. Temporary Absence From the State.

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

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Amend Section 50323 to read:

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.

(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:

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(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.

Amend Section 50325 to read:

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.

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

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Amend Section 50327 to read:

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.

Amend Section 50329 to read:

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.

Amend Section 50336 to read:

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 17, 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.

Amend Section 50338 to read:

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

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the state of residence for persons in California institutions in accordance with federal Medicaid regulation 42 CFR 435.403, dated ~~October-15,-1979~~ as it read on May 17, 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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