

DEPARTMENT OF HEALTH SERVICES

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October 26, 1995

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

Letter No.: 95-60

ADDITIONAL QUESTIONS AND ANSWERS ON FORM MC 306, APPOINTMENT OF REPRESENTATIVE AND OTHER AUTHORIZED REPRESENTATIVE ISSUES

Ref.: All County Welfare Directors Letter (ACWDL) Nos. 95-43, 95-30 and 94-99

On December 20, 1994, the Department of Health Services (DHS) released ACWDL No. 94-99 which transmitted a copy of the required MC 306 **Appointment of Representative** form. On May 3, 1995, DHS released ACWDL No. 95-30 in a question and answer format regarding the use of the MC 306 as well as additional Authorized Representative (AR) issues. Since their release, additional questions have been submitted concerning the MC 306 and the role of the AR. Those questions and DHS's responses are presented in this letter.

Question 1: Should the County Welfare Department (CWD) accept an MC 306 if the applicant/beneficiary signed and dated the form several days before the AR signed and dated the form?

Answer: It is conceivable that an applicant/beneficiary may have decided to appoint someone to act as his/her AR, signed and dated the MC 306, and mailed the form to the individual designated as the AR for him/her to sign and date. This is acceptable. However, if the signatures/dates are more than a few days apart, there is a possibility that the applicant/beneficiary was coerced into signing the MC 306 or did not know the identity of the designated AR. The CWD must establish, to their satisfaction, that the applicant/beneficiary freely chooses the AR, understands his/her own responsibilities and rights, and understands what the authorization enables the AR to do on their behalf.

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All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 2

If the MC 306 has been signed and dated by the applicant/beneficiary more than two weeks before the AR signed and dated the form, the CWD should do the following:

- o If the applicant/beneficiary has a telephone, the eligibility worker (EW) should call the applicant/beneficiary to determine if he/she has knowledge of the individual/organization designated and has consented to that person/organization acting as the AR. The applicant's/beneficiary's responses shall be noted in the case summary.
- o If the applicant/beneficiary does not have a telephone or telephone contact cannot be made, the EW should send a letter to the applicant/beneficiary to confirm the designated AR.

In either case, if the applicant/beneficiary responds that he/she has not designated the individual or organization to act on his/her behalf, or responds that he/she was not given a choice in the designation, the EW should inform the applicant/beneficiary that the AR form is revoked. If she/he still wishes to designate someone to assist him/her another MC 306 will have to be submitted.

If no telephone contact is made with the applicant/beneficiary and no response is received by the date stated in the letter, the EW should deny or discontinue Medi-Cal based on loss of contact and an appropriate Notice of Action (NOA) should be issued. If the EW has sufficient information to grant the Medi-Cal application, it will be approved with a discontinuance NOA sent effective as of the end of the current month based on loss of contact.

Question 2: If the applicant/beneficiary and the AR do not sign the MC 306 on the same day, what is the effective date of the form?

Answer: The effective date is the later date when all signatures and dates have been completed.

Answer: The SAWS1 should be submitted by the applicant in person, if at all possible. The reason for this is that the CWD must make an appointment for the applicant to return for the face-to-face interview with the completed MC 210, supplemental forms, and the necessary verifications.

It prolongs the eligibility process if the CWD must use the mail to initiate the preliminary steps toward determining eligibility. Some exceptions, due to extenuating circumstances, should be made on a case by case basis. For example, if an applicant is unable to file in person, an application may be made by mail to protect the effective date or to ensure retroactive eligibility.

Question 7: Can the CWD refuse to accept a SAWS1 from anyone other than the applicant?

Answer: No. Regulations permit the applicant to file the SAWS1 or, if the applicant is unable to apply on his/her own behalf, for any reason, the following may complete and file the SAWS1:

- o The applicant's guardian/conservator or executor;
- o A person who knows of the applicant's need to apply; and
- o A public agency representative (Title 22, Section 50143).

The CWD **may not refuse** to accept the initial application (SAWS1) from anyone. However, as stated in previous ACWDLs, the applicant, if competent, must complete the MC 210, MC 306, attend the face-to-face interview and provide any other document or verification needed to establish eligibility.

Question 8: In ACWDL 95-30, question 10, it was indicated that DHS is considering a policy to sanction ARs found to be negligent or in willful violation of state/federal law, regulation or policy. Has DHS formulated what type of sanctions will be applied?

Answer: Yes. When DHS becomes aware of ARs, either individuals or groups, who are being negligent in their duties as AR, or found to be coercive or violating DHS' policy on an on-going basis, DHS will write a letter informing the AR of DHS' policy and advising them of the correct way to perform the AR function. Should complaints be received after that time, DHS will advise the CWD to refer the AR to the State Department of Justice for investigation. DHS will handle each instance on a case by case basis. DHS is continuing to explore a formal sanction process.

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 6

If you have any comments or questions on this subject, or would like our analyst to attend a regional meeting to discuss AR issues, please contact Gary Varner of my staff at (916) 654-5321.

Sincerely,

ORIGINAL SIGNED BY
TOM WELCH for
Frank S. Martucci, Chief
Medi-Cal Eligibility Branch