

DEPARTMENT OF HEALTH SERVICES

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November 30, 1997



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

Letter No.: 97-53

ELIMINATION OF STATE-ONLY FUNDED NONEMERGENCY PREGNANCY-RELATED SERVICES FOR CERTAIN ALIENS PURSUANT TO THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (P.L. 104-193); BALANCED BUDGET RECONCILIATION ACT OF 1997 (BBA)

Ref.: All County Welfare Directors Letters (ACWDL) Nos. 91-99, 94-60, 96-62, 97-22 and 97-42

INTRODUCTION

In 1988, California enacted legislation which authorized Medi-Cal to use state-only funds to provide nonemergency pregnancy-related services to alien women without satisfactory immigration status. (W&I Code Section 14007.5 and Statutes 1988, Chapter 1441, § 1, subd. (g).)

On August 22, 1996, President Bill Clinton signed into law "The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 ("PRWORA"). This law revises the provision of welfare benefits and the services available to specific aliens. Regulation package R-60-96 implements PRWORA, as amended by the BBA, by eliminating state-only funded nonemergency pregnancy-related services from the restricted scope benefits available to aliens who are not described in federal law as eligible to receive such services.

This ACWDL applies only to state-only funded nonemergency pregnancy-related services. Instructions regarding full implementation of PRWORA will be provided in future ACWDLs.

WHO WILL NOT BE ELIGIBLE FOR NONEMERGENCY PREGNANCY-RELATED SERVICES

With the enactment of PRWORA, specifically Section 411, federal law ends most current state and locally funded public benefits, including, but not limited to, state-only funded nonemergency pregnancy-related services for aliens who are not:

- qualified aliens (including aliens who have been battered or subjected to extreme cruelty in the United States, aliens whose children have been battered or subjected to extreme cruelty in the United States, or an alien child whose parent has been battered or subjected to extreme cruelty in the United States)
- nonimmigrant aliens under the Immigration and Nationality Act (INA)
- aliens paroled into the United States for less than one year under Section 212 (d) (5) of the INA

This means that aliens who are not lawfully present in the United States are no longer eligible for state-only funded nonemergency pregnancy-related services. This ACWDL addresses state-only funded nonemergency pregnancy-related services for aliens who are not within the classes of aliens described above.

(See Section 50302.1 of the attached regulation package R-60-96 for a complete description of aliens who are designated as qualified aliens, nonimmigrant aliens under the INA, or aliens paroled into the United States for less than a year under Section 212 (d) (5) of the INA.) (This regulation is subject to change and approval by the Office of Administrative Law.)

EFFECTIVE DATE

Effective December 1, 1997, new applicants who are not in one of the three categories described above will **not** be eligible to receive state-only funded nonemergency pregnancy-related services. Effective January 1, 1998, current recipients of state-only funded nonemergency pregnancy-related services who are unable to document that they are in one of the three categories described above, will have their level of benefits reduced and will not be eligible to receive state-only funded nonemergency pregnancy-related services.

(Note: The Department plans to implement the regulations as of December 1, 1997, for applicants and for redeterminations, and as of January 1, 1998, for beneficiaries, as described above. However, there is a court hearing in this matter (Yvette Doe v. Wilson, Case No. 785153-7) in Alameda Superior Court on November 25, 1997, to determine whether the regulations may go into effect as of December 1, 1997; counties should not seek to implement the regulations until receiving further notice from the Department of Health Services (DHS). In the meantime, state-only funded nonemergency pregnancy-related services, including prenatal care, should continue for otherwise eligible, though undocumented women.)

Those aliens who are unable to document that they are in one of the three categories described above will only receive medical assistance under Title XIX of the Social Security Act for care and services that are necessary for the treatment of an emergency medical condition as defined in federal law (including labor and delivery), and state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered.

It is the expectation of the DHS that county systems will be changed to accommodate the new aid codes and that training for staff will occur no later than December 1, 1997. It is important that county changes are made expeditiously to avoid disruption in services to those individuals eligible for state-only funded nonemergency pregnancy-related services.

Eligibility processes and procedures remain unchanged.

NOTICE TO BENEFICIARIES

On or about December 15, 1997, a notice will be sent to all beneficiaries in affected aid codes (as of November 1997 MOE) instructing them to contact their eligibility worker immediately if they believe they are eligible to continue to receive state-only funded nonemergency pregnancy-related services because they are within one of the categories of aliens listed on page 2. **Do Not issue a Notice of Action to any beneficiary in an affected aid code until you are specifically directed to do so by the Department of Health Services.**

SYSTEMS CHANGES

In implementing these regulations, DHS will do special processing on MEDS. At renewal for the January month of eligibility (MOE), DHS will automatically convert any December eligibles on MEDS from the old aid code to the corresponding new aid code if counties have not already made the change for their ongoing eligible population. This will allow counties to focus first on making the changes necessary for reporting the new aid codes for new eligibility determinations.

Effective December 1, 1997, any alien with an application approval date of December 1, 1997, or later, who is **not** an alien who is listed in the three categories on page 2 will only be eligible for emergency services, including labor and delivery, and for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered. These aliens must be placed in new Aid Codes 5G, 5N, 5H and 5M (described in detail below under "Changes in Benefits for Certain Aid Codes").

CHANGES IN BENEFITS FOR CERTAIN AID CODES

AID CODES INVOLVING PREGNANT UNDOCUMENTED WOMEN

Aid Code 58

Aid Code 58 currently identifies those beneficiaries who are eligible for restricted scope Medi-Cal benefits with or without a share of cost. Infants, children, men and pregnant/nonpregnant women are in this aid code. It includes aliens who are undocumented, as well as nonimmigrant aliens lawfully admitted for a temporary period, such as aliens who are present in the United States under certain visitor and student visas (who can meet residency requirements). Some of these aliens may be aliens who are listed in the three categories on page 2. In these cases, the alien remains eligible for state-only funded nonemergency pregnancy-related services.

Through December 31, 1997, Aid Code 58 beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, all applicants with an application approval date of December 1, 1997, or later, who are aliens not lawfully present in the United States, will be placed in new Aid Code 5G. Aliens in Aid Code 5G are eligible for emergency care, including labor and delivery and for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered. New Aid Code 5G does not include any other state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, only applicants/beneficiaries who are lawfully present in the United States can be placed in Aid Code 58. These aliens are eligible for restricted scope Medi-Cal benefits with or without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

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Aid Code 5F

Aid Code 5F was established as a means to separately identify those undocumented pregnant women who are otherwise eligible for Aid Code 58 with or without a share of cost. Counties were previously instructed to begin implementation of 5F on October 1, 1994, as eligible undocumented pregnant women applied for Medi-Cal. We did not require counties to move all pregnant women immediately from Aid Code 58 into Aid Code 5F. Only those identified at redetermination were required to be changed.

Aid Code 5F currently provides the same restricted Medi-Cal services as Aid Code 58, including emergency and state-only funded nonemergency pregnancy-related services.

Through December 31, 1997, Aid Code 5F beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, all applicants with an application approval date of December 1, 1997, or later, who are alien women not lawfully present in the United States are only eligible to receive emergency services, including labor and delivery, and for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered. These aliens must be placed in new Aid Code 5N. Undocumented pregnant aliens in new Aid Code 5N are eligible for restricted scope Medi-Cal benefits with or without a share of cost (emergency care, including labor and delivery). New Aid Code 5N does not include any other state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, only those applicants/beneficiaries who are alien women lawfully present in the United States will be placed in Aid Code 5F. All aliens in Aid Code 5F are eligible for restricted scope Medi-Cal benefits with or without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 7C

This is the federal poverty level (FPL) program aid code for certain children born after September 30, 1983, who have not attained age 19 and whose family income is in excess of the maintenance need level (MNL) but does not exceed 100 percent of the FPL. Services covered under this aid code are emergency services, including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Through December 31, 1997, Aid Code 7C beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, all applicants with an application approval date of December 1, 1997, or later, who are aliens not lawfully present in the United States are only eligible to receive emergency services, including labor and delivery, and for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered. These aliens will be placed in new Aid Code 5M. Aliens in new Aid Code 5M are eligible for restricted scope Medi-Cal benefits without a share of cost (emergency care, including labor and delivery). New Aid Code 5M does not include any other state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, only those applicants/beneficiaries who are aliens lawfully present in the United States will be placed in Aid Code 7C. These aliens are eligible for restricted scope Medi-Cal benefits without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 48

Aid Code 48 provides pregnancy-related services, including family planning and postpartum services for any age female who is undocumented, as well as nonimmigrant alien women lawfully admitted for a temporary period, if family income is at or below 200 percent of the FPL.

Through December 31, 1997, Aid Code 48 beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

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Effective December 1, 1997, all applicants for Aid Code 48 with an application approval date of December 1, 1997, or later, who are not lawfully present in the United States are only eligible to receive emergency services, including labor and delivery, and for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered. These aliens will be placed in new Aid Code 5H. Aliens in new Aid Code 5H are eligible for restricted scope Medi-Cal benefits (emergency care, including labor and delivery). New Aid Code 5H does not include any other state-only funded nonemergency pregnancy-related services.

Effective December 1, 1997, only those applicants/beneficiaries who are lawfully present in the United States will be placed in Aid Code 48. These aliens are eligible for restricted scope Medi-Cal benefits. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 76 (Postpartum)

Aid Code 76 identifies undocumented alien women who are in the 60-Day Postpartum program. Under PRWORA, alien women who are not lawfully present in the United States are not entitled to nonemergency postpartum services. Counties may place only alien women who are lawfully present in the United States in Aid Code 76 on or after December 1, 1997.

RIGHT TO A HEARING

If an alien was previously eligible to receive state-only funded nonemergency pregnancy-related services and on or after January 1, 1998, is no longer qualified to receive such services because the alien is ineligible for such services under PRWORA, the alien has the right to request a hearing on the issue of immigration status or on the issue of whether a service requested by the alien falls within one of the exceptions provided by PRWORA. However, these restrictions do not limit or change the hearing rights provided under current law. Any alien whose application for Medi-Cal benefits is denied is entitled to a hearing.

NOTICES OF ACTION (NOA)

Counties must revise current NOA language for new applicants and continuing beneficiaries before December 1, 1997, to indicate that state-only funded nonemergency pregnancy-related services are no longer provided to applicants or beneficiaries who are ineligible for such services under PRWORA.

RETROACTIVE ELIGIBILITY

Up to three months of retroactive coverage continues to be available under the Aid Codes 58, 5F, 7C, 48, and 76, as provided in Title 22, California Code of Regulations (CCR), Section 50710. Benefits for those retroactive months occurring prior to December 1, 1997, will include state-only funded nonemergency pregnancy-related benefits.

COMPLETING THE SUPPLEMENTAL DECLARATION OF ALIENAGE AND IMMIGRATION STATUS (MC 13S)

To implement the requirements of PRWORA on December 1, 1997, please use the MC 13S to determine which aliens are eligible for state-only funded nonemergency pregnancy-related services. DHS intends to make the necessary revisions to the MC 13 as soon as possible and will eliminate the MC 13S at that time. In the meantime, all alien applicants are required to complete the MC 13S.

SECTION A

All alien applicants for Medi-Cal are required to complete SECTION A to indicate their alien status. Categories 1 through 7 in Section A (and a category for visa holders similar to category 8) are currently included on the MC 13. Aliens in category 7 are potentially eligible for emergency and state-only funded benefits under PRWORA.

Aliens in category 8 remain eligible for state-only funded nonemergency pregnancy-related services in accordance with established Medi-Cal policies and procedures. However, beginning on December 1, 1997, counties will be required to verify the alien status of aliens in category 8 using the established secondary Systematic Alien Verification for Entitlement (SAVE) system procedures.

Aliens in category 9 only qualify for emergency services, including labor and delivery (except as discussed below). Aliens in category 9 will remain eligible for state-only funded immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease, to the extent that these services are currently covered.

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SECTION B

Under federal law, battered aliens who meet certain specific requirements may be entitled to receive Medi-Cal services necessary to treat conditions related to the battery or cruelty. (See section 50302.1 (b)(8),(9), (10) and (c) of the attached regulation package R-60-96 for a complete description of battered aliens who are designated as qualified aliens.)

If an applicant or beneficiary answers "yes" to the question in Section B, counties are required to follow the battered alien identification and tracking instructions in ACWDL 97-42. Further instructions on services available to battered aliens will be provided in a future ACWDL.

SECTION C

All aliens applying for Medi-Cal are required to complete Section C of the MC 13S.

PRESUMPTIVE ELIGIBILITY FOR ALIENS

Presumptive eligibility for aliens still applies to all otherwise eligible aliens who indicate on the MC 13S that they are in an alien status that would make them eligible for full-scope Medi-Cal benefits. Aliens claiming to be in a satisfactory immigration status will be given a reasonable opportunity to provide the required documentation, as provided under Ruiz v. Kizer. If the alien does not provide the required documentation within the reasonable opportunity period, the county shall discontinue full-scope benefits and reduce services.

INS verification is required **prior** to granting eligibility to aliens who claim an alien status that would make them eligible for state-only funded nonemergency pregnancy-related benefits.

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If you have any further questions regarding this letter, please contact the appropriate analyst listed below:

Alienage/Pregnancy/
Battered Aliens

Marlene King (916) 657-0134
Linda Rahmeyer (916) 657-0398

MC 13S

John Zapata (916) 657-0725

Sincerely,

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

Enclosure

THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

You are receiving this notice because you may be eligible for Medi-Cal emergency and pregnancy-related services. In August 1996, federal law changed so that certain aliens may not get certain state-only funded pregnancy-related services (except for emergency services, including labor and delivery) under the Medi-Cal program. Private Medi-Cal providers and other providers of pregnancy-related services, may still give you pregnancy-related services at their expense if they wish, or at your own expense.

This change in the Medi-Cal program begins on December 1, 1997, for new applicants and for redeterminations, and on January 1, 1998, for current recipients. You will still be eligible for Medi-Cal nonemergency pregnancy-related services if you are in one of the three groups listed below **and** if you follow the steps listed on page 2 of this notice under the heading "Procedures":

1. You are a nonimmigrant alien. You are a nonimmigrant alien if you were allowed to be in the United States for a limited period of time and have a current and valid visa or another entry document. For example, if you have a student visa, a temporary visitor's visa, or a business visitor's visa, you are in this group. (These visas include B-1, B-2, E-1, E-2 and E-1 visas, and a number of other temporary visas).
2. You are one of the following:
 - a. An alien lawfully admitted for permanent residence.
 - b. An alien who has been granted asylum.
 - c. An alien who is a refugee.
 - d. An alien who was paroled into the United States.
 - e. An alien whose deportation is being withheld.
 - f. An alien who has been granted conditional entry.
 - g. An alien who is a Cuban/Haitian entrant.

and you have documents from the Immigration and Naturalization Service (INS) to show that you are in one of these categories.

3. You are an alien who has been battered or subjected to extreme cruelty in the United States, an alien whose child has been battered or subjected to extreme cruelty in the United States, or an alien child whose parent has been battered or

subjected to extreme cruelty or cruelty in the United States, and there is a substantial connection between the battery or cruelty and the need for benefits to be provided.

PROCEDURES:

1. If you believe that you are a member of one of the three groups described on page one of this notice (for example, if you believe you are in the United States with a current and valid temporary, nonimmigrant visa, or if you believe you are an alien who has been granted asylum), or if you are not sure whether you are a member of one of these three groups, contact (call or visit) your eligibility worker immediately. Tell your worker that you believe that you are still eligible for Medi-Cal nonemergency pregnancy-related services or you want to find out whether you are still eligible and set up an appointment to see your worker. Your worker will ask you to bring in documentation of your immigration status. You will be given 30 days to get this documentation and give it to your worker.
2. If you contact your eligibility worker before January 1, 1998, your Medi-Cal nonemergency pregnancy-related services will continue until a determination of your immigration status is made some time after your appointment. If you do not contact your eligibility worker before January 1, 1998, your Medi-Cal nonemergency pregnancy-related services will stop on that date. However, once you contact your eligibility worker, your eligibility for nonemergency pregnancy-related services will be restored the very next day and will continue until a determination of your immigration status is made some time after your appointment.
3. When you have your appointment with your eligibility worker, be sure to bring with you all documentation of your immigration status.
4. After your appointment with your eligibility worker, a determination of your immigration status will be made based on the documentation you bring in. Until the determination is made, your Medi-Cal nonemergency pregnancy-related services will continue.
5. Some time after your appointment, the county or your eligibility worker will notify you in writing about whether you were determined to still be eligible for Medi-Cal nonemergency pregnancy-related services. If you are determined to be ineligible because you are not a member of one of the three groups listed on page one, but you think that you really are in one of the groups or are still not sure whether you are, you may request a hearing by calling (800) 952-5253.
6. If you request a hearing, your Medi-Cal nonemergency pregnancy-related services will continue until a decision is made after your hearing. If you do not request a hearing, your Medi-Cal nonemergency pregnancy-related services will stop immediately and you may lose the right to go to court to get these services restored.

IMPORTANT NOTES:

1. If you have any questions about what this notice means, please call your eligibility worker as soon as possible. Your worker will try to answer any questions you may have.
2. This notice only deals with whether you may receive nonemergency pregnancy-related services under the Medi-Cal program. Private Medi-Cal providers may still give you pregnancy-related services at their expense, if they wish, or at your own expense.
3. Whether or not you are in one of the three groups listed on page one, Medi-Cal emergency services are still available to everyone who is otherwise eligible under the Medi-Cal program regardless of immigration status. In addition, you may still be eligible for state-only funded immunizations and testing and treatment of symptoms of communicable diseases.