

DEPARTMENT OF HEALTH SERVICES

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March 22, 2002



MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 262

TO: All Holders of the Medi-Cal Eligibility Procedures Manual

ARTICLE 22 C-3 DETERMINING PRESUMPTIVE DISABILITY (PD)

Enclosed is an update to Article 22 C-3 regarding changes in the PD categories used by the county welfare department (CWD). Effective February 19, 2002, certain categories involving the musculoskeletal body system have been eliminated or added. Changes occurred as a result of Social Security Administration's final ruling on the criteria for evaluating musculoskeletal disorders.

The new rules have changed **Category No. (1)** from "amputation of two limbs" to "amputation of both hands" and **Category No. (8)** "allegation of diabetes with amputation of a foot" has been removed from the list. The new PD chart now has 14 categories. The enclosed new PD chart reflects these changes. There has been no change to the other PD categories at this time.

As a reminder, State Programs-Disability and Adult Programs Division (SP-DAPD) is not limited to the PD chart and may grant PD on any disability case that meets their criteria. If the CWD encounters an applicant that has a severe medical impairment but does not meet PD criteria, the CWD may annotate the MC 221 (Disability Determination and Transmittal Form) asking SP-DAPD to consider PD.

Filing Instructions:**Remove Pages:**

Article 22
Pages 22C-3.1 through 22C-3.6

Insert Pages:

Article 22
Pages 22C-3.1 through 22C-3.6

All questions pertaining to PD should be directed to Mr. Terry Durham of my staff, at (916) 657-2701.

Sincerely,

Original signed by

Richard Brantingham
Acting Chief
Medi-Cal Eligibility Branch

Enclosures



MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

22C-3--DETERMINING PRESUMPTIVE DISABILITY

1. BACKGROUND

Presumptive Disability (PD) decisions temporarily grant Medi-Cal eligibility pending a formal determination by State Programs-Disability Evaluation Division (SP-DAPD). PD categories and documentation requirements are established according to federal regulations.

PD Requirements--County Welfare Departments (CWDs) May Grant PD When:

- The client has a condition that is listed in the "PD Categories" in Section 22C-3.6;
- The condition is verified by a doctor/medical source;
- There was no Title II or Supplemental Security Income (SSI) disability denial in the past 12 months (unless PD is based on a new medical condition not previously considered by Social Security Administration (SSA));
- The client is otherwise eligible; and
- PD is granted effective the month in which the determination is made that the disabling condition meets PD requirements. **Under no circumstance is the county to grant PD for any past months, i.e., retroactively.**

IMPORTANT: If the individual had a federal (i.e., Title II or SSI) denial within the past 12 months, the federal denial is binding on Medi-Cal until the determination is changed by SSA (i.e., through an initial application, reconsideration, hearing, or appeals council review). In such cases, the CWD cannot grant PD *unless* the individual alleges a new medical condition that was not previously considered by SSA and all of the PD requirements specified above are met.

REMINDER: Only SP-DAPD can grant PD for medical conditions that are not listed on the PD categories chart.

2. RESPONSIBILITIES OF THE CWD AND SP-DAPD

A. CWD

1. Impairment Check the PD "categories chart" on page 22C-3.6 to ensure the client's medical condition is listed. ***It must match the disability exactly.***
2. SSA denial Check for a prior SSA disability denial within the past 12 months. The CWD will need to contact SSA to determine if a prior SSA denial exists. If there is a prior SSA denial, the CWD cannot grant PD **unless** the client alleges a new medical condition that exactly matches a PD category **and** the new impairment was not previously considered by SSA.

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

If the client alleges a favorable SSA decision within the past 12 months, but a final SSA decision has not yet been made, the SSA decision was most likely an SSI PD. The CWD cannot use the SSI PD as a basis for a Medically Needy Only (MNO) PD.

The CWDs should only grant MNO eligibility based upon PD **IF** the applicant's condition fits a PD category and **IF** the applicant has medical documentation to verify this.

3. Medical Statement Provided

The client's doctor/medical source must verify the impairment on a signed and dated document.

If there is a delay in obtaining verification from the applicant or medical source, **DO NOT** hold the DAPD packet. The county must forward the packet to SP-DAPD as SP-DAPD can also grant PD.

4. MC 221

In Item 10 of the MC 221:

- Check the "PD approved" box, and
- Document the basis for the PD determination (i.e., impairment/medical condition) using only the impairments listed on the "PD Categories" chart.

5. Effective date

PD determinations shall be granted beginning in the month that the MC 221 is completed and medical verification is obtained.

Do not grant PD from the month of application, unless the required medical verification and the MC 221 are completed in the month of application.

Under no circumstance is the county to grant PD for any past months, i.e. retroactively.

6. Notice to client

Notify the client via a Notice of Action (NOA). Explain to the client that a determination of PD permits temporary Medi-Cal eligibility pending a formal decision by SP-DAPD.

7. Reference

Before sending the disability packet, review the "Presumptive Disability Checklist" on page 22C-6.13 to ensure accurate PD determinations.

B. SP-DAPD

1. CWD Notification

If CWD did not grant PD and SP-DAPD finds at any point in case development that a client meets PD criteria as shown in the PD chart, **OR** that available evidence indicates a strong likelihood that disability will be established on formal determination, the appropriate CWD liaison will be contacted by phone/fax.

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

2. MC 221 When SP-DAPD requests that CWD make a finding of PD, it will indicate in Item 16 of MC 221: "PD granted/denied; phoned/faxed to CWD liaison; received by (name of contact) on (date)". This remark will be initialed and dated.

If a PD decision is phoned to CWD, a photocopy of the MC 221 will be mailed to CWD liaison as verification that PD was granted/denied.

3. Formal Decision Made SP-DAPD will process case as quickly as possible to make a formal determination.

If disability is not established when a formal decision is made, SP-DAPD will indicate in Item 16 of MC 221: "Previous PD decision not supported by additional evidence."

C. PD IN URGENT CASE SITUATIONS

On occasion, CWDs or SP-DAPD may learn about a client who: 1) is in dire need of an immediate disability decision because of a **disabling** condition which will prevent work activity for 12 months or longer, **and** 2) cannot wait for a formal decision because the delay will pose significant problems to his/her functioning and well-being.

1. SP-DAPD Criteria to Grant PD for Urgent Case Requests

Prior to granting PD, SP-DAPD must evaluate specific criteria to ensure that the client will meet disability requirements when a formal decision is made. SP-DAPD must determine if the available evidence, short of that needed for a formal decision, shows a strong likelihood that:

- Disability will be established when complete evidence is obtained,
- The evidence establishes a reasonable basis for presuming the individual is currently disabled, and
- The disabling condition has lasted or is likely to last at least 12 months.

2. CWD Urgent Case Requests to SP-DAPD

CWDs may make an urgent case request to SP-DAPD after screening the case for the SP-DAPD PD criteria and ensuring that client is otherwise eligible. CWDs are urged to make the urgent case request via **fax** rather than mail to expedite SP-DAPD's consideration of a PD decision.

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

Four **examples** of urgent case requests that may be referred to SP-DAPD are as follows:

- a. *Client suffered massive head and internal injuries, is comatose, and needs an immediate Medi-Cal decision for transfer to a facility which specializes in head trauma. While client is expected to survive, client is expected to be dependent on a wheelchair for the rest of his life.*
- b. *Client has lung cancer which has spread to the spine and vital organs. Doctor states client is expected to live six to 12 months longer, even with treatment, and needs aggressive therapy immediately.*
- c. *Client has irreversible kidney failure caused by uncontrolled high blood pressure and is now on renal dialysis. Hospital records and doctors' outpatient notes include lab studies which confirm that kidney function has decreased over the past year and dialysis is required for client to survive. An immediate Medi-Cal decision is necessary to transfer client to an outpatient renal dialysis clinic.*
- d. *Client has severe diabetes. Doctor states a below knee amputation must be performed because of gangrene caused by poor circulation of both legs. Doctor sends reports from earlier hospitalizations, lab studies, progress notes, and a letter specifying the immediate need for a disability decision so that client can be hospitalized for surgery.*

3. CWD Actions

- a. CWD receives urgent case request from doctor/medical facility; CWD asks for **faxed** medical reports to verify severity of client's condition (e.g., hospital admission and/or discharge summaries, outpatient progress reports, x-ray reports, pathology reports, lab studies and other reports pertinent to the disability).
- b. CWD determines that client is **otherwise eligible** and screens request to ensure the SP-DAPD PD criteria will likely be met. CWD liaison **faxes** a full disability packet and medical reports to the following numbers:

Los Angeles Branch: FAX (800) 869-0188
Oakland Branch: FAX (800) 869-0203

Enter comment in Item 10 of MC 221: "Please evaluate for PD" and "Attention: Operations Support Supervisor". CWD fax number should be entered in Item 11 of MC 221.

- c. CWD should not delay sending packet prior to receipt of medical reports confirming severity of condition for urgent case request.

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

- d. CWD alerts SP-DAPD via phone/fax about an urgent case request if packet has already been sent and follows-up by faxing medical reports with an MC 222 (DAPD Pending Information Update Form). **Specify in Item 9 of MC 222: "Urgent Case Request-Medical Reports Attached and Packet Sent On (date). Please evaluate for PD."** Note: CWD must specify when requesting a PD evaluation in order for SP-DAPD to immediately initiate the process.

4. SP-DAPD Actions

- a. SP-DAPD immediately reviews request and ensures, via systems query, that client has not been previously denied by SSA. If more information is needed to reach a PD decision, the medical source is phoned and asked to fax additional medical reports.
- b. SP-DAPD strives to notify CWD liaison **by phone OR by faxing** a copy of the MC 221 within two working days, if possible, about its PD decision. If notification is made by phone, SP-DAPD mails a photocopy of MC 221 to advise CWD liaison whether PD is granted/denied. Item 16 of MC 221 shows: "PD granted/denied; phoned/faxed to CWD liaison; received by (name of contact) on (date)".
- c. SP-DAPD continues processing case as quickly as possible to make a formal decision. If PD was granted and disability is not established when a formal decision is made, Item 16 of MC 221 will show: "Previous PD decision not supported by additional evidence".

D. REMINDERS

1. The PD effective date is the month in which SP-DAPD makes its determination that client meets PD requirements.
2. PD is granted **prospectively** only i.e., the month in which the MC 221 is completed and signed medical verification is in file. **PD may be granted in the month of application IF the CWD obtains the required medical documentation and completes the MC 221 in the month of filing. Never grant PD retroactively.**
3. Before granting PD, client must be otherwise eligible.
4. PD cannot be granted if client is performing Substantial Gainful Activity (SGA). SGA is discussed in Article 22 C-2.
5. CWD should not delay sending packet to SP-DAPD pending the receipt of medical reports confirming severity of client's condition for an urgent case request.



MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

3. PD CATEGORIES

CWDs may grant PD when client meets any of the following conditions. SP-DAPD granted PDs are not limited to the categories shown below:

NO.	IMPAIRMENT CATEGORIES												
1	Amputation of both hands.												
2	Amputation of a leg at the hip.												
3	Allegation of total deafness.												
4	Allegation of total blindness.												
5	Allegation of bed confinement or immobility without a wheelchair, walker, or crutches, due to a longstanding condition—exclude recent accident and recent surgery.												
6	Allegation of a stroke (cerebral vascular accident) more than 3 months in the past and continued marked difficulty in walking or using a hand or arm.												
7	Allegation of cerebral palsy, muscular dystrophy or muscle atrophy and marked difficulty in walking (e.g., use of braces), speaking or coordination of the hands or arms.												
8	Allegation of Down's Syndrome.												
9	<p>Allegation of severe mental deficiency made by another individual filing on behalf of a client who is at least 7 years of age.</p> <p>For example, a mother filing for benefits for her child states that the child attends (or attended) a special school, or special classes in school, because of mental deficiency, or is unable to attend any type of school (or if beyond school age, was unable to attend), and requires care and supervision of routine daily activities.</p> <p>Note: "Mental deficiency" means mental retardation. This PD category pertains to individuals whose dependence upon others for meeting personal care needs (e.g., hygiene) and in doing other routine daily activities (e.g., fastening a seat belt) grossly exceeds age-appropriate dependence as a result of mental retardation.</p>												
10	A child is age 6 months or younger and the birth certificate or other evidence (e.g., hospital admissions summary) shows a weight below 1200 grams (2 pounds 10 ounces) at birth.												
11	Human Immunodeficiency Virus (HIV) infection. (See next page for details on granting PD for HIV infection).												
12	<p>A child is age 6 months or younger and available evidence (e.g., the hospital admission summary) shows a gestational age at birth on the table below with the corresponding birth-weight indicated:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Gestational Age (in weeks)</th> <th style="text-align: left;">Weight at Birth</th> </tr> </thead> <tbody> <tr> <td style="padding-left: 20px;">37-40</td> <td>Less than 2000 grams (4 pounds, 6 ounces)</td> </tr> <tr> <td style="padding-left: 20px;">36</td> <td>1875 grams or less (4 pounds, 2 ounces)</td> </tr> <tr> <td style="padding-left: 20px;">35</td> <td>1700 grams or less (3 pounds, 12 ounces)</td> </tr> <tr> <td style="padding-left: 20px;">34</td> <td>1500 grams or less (3 pounds, 5 ounces)</td> </tr> <tr> <td style="padding-left: 20px;">33</td> <td>1325 grams or less (2 pounds, 15 ounces)</td> </tr> </tbody> </table>	Gestational Age (in weeks)	Weight at Birth	37-40	Less than 2000 grams (4 pounds, 6 ounces)	36	1875 grams or less (4 pounds, 2 ounces)	35	1700 grams or less (3 pounds, 12 ounces)	34	1500 grams or less (3 pounds, 5 ounces)	33	1325 grams or less (2 pounds, 15 ounces)
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13	A physician or knowledgeable hospice official confirms an individual is receiving hospice services because of terminal cancer.												
14	Allegation of inability to ambulate without the use of a walker or bilateral hand assistive devices more than two weeks following a spinal cord injury with confirmation of such status from an appropriate medical professional.												

