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State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
Governor

July 11, 2014

Medi-Cal Eligibility Division Information Letter No.: I 14-40

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS

SUBJECT: Senate Bill (SB) 35 (Padilla), Chapter 505, Statutes of 2012, and
the National Voter Registration Act of 1993 (NVRA)

(References: Medi-Cal All County Welfare Director's Letter (ACWDL)
No. 94-85, 95-36, 95-67, Medi-Cal Eligibility Division Information Letter
(MEDIL) 12-02, California Department of Social Services (CDSS) All County
Information Notice (ACIN) No.1.46-94, 1-56-95, 1-17-96, 1-09-09, I-01-12
and 1-04-13, and Public Law 103-31, Section 7, May 20, 1993)

The purpose of this informational letter is to remind County Welfare Departments (CWDs) of the statutory changes in effect as of January 1, 2013, following passage of SB 35 (Padilla) and to remind CWDs of their responsibilities under NVRA. SB 35 facilitates state compliance with the requirements set forth in NVRA and places additional requirements on voter registration agencies, county elections offices and the Secretary of State (SOS). The SOS updated Chapter 4 of the California NVRA Manual to reflect the new SB 35 requirements for designated voter registration agencies. In addition to the revisions to the California NVRA Manual, the SOS updated the Voter Registration Services for NVRA Public Assistance Agencies and Agencies Serving People with Disabilities training slides. The NVRA Manual and training materials are available on the SOS Website located at <http://www.sos.ca.gov/elections/nvra>.

The NVRA requires states to provide voter registration opportunities at all public assistance agencies, including CWD offices that accept applications and administer benefits and at all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities. These offices are known as voter registration agencies and include CWDs that provide assistance with programs such as CalFresh, California Work Opportunity and Responsibility to Kids, Medi-Cal, Women, Infants and Children nutrition program, California Health Benefit Exchange (Covered California), and In-Home Supportive Services. SB 35 provides SOS with the authority to communicate to these state agencies the requirements of, and best practices for

complying with NVRA, in addition to conducting a review of the voter registration agency's NVRA compliance.

All applicants and continuing beneficiaries must be given a voter registration card (VRC) and a NVRA Voter Preference Form, unless the applicant declines to register to vote in writing, at the time of application for services, renewal or recertification, and when a CWD is notified of an applicant or beneficiary's change of address. This also applies to an adult (e.g., a parent or guardian) applying for benefits or services on behalf of a child.

Under federal law, CWD offices designated as voter registration agencies are required to provide the following services to applicants or beneficiaries at initial application for services or assistance, renewal or recertification, and with a change of address. More information regarding these requirements is provided below. Failure to comply with NVRA or SB 35 may subject the individual(s) involved to civil and/or criminal penalties. Please be aware these services must be provided whether the transaction is conducted in person or remotely, for example via mail, phone, email or linternat:

- Distribute VRC.
- Accept completed VRCs if applicants or beneficiaries choose to return the VRC to CWD.
- Distribute Voter Preference Forms.
- Accept completed Voter Preference Forms.
- Provide assistance to applicants or beneficiaries in completing voter registration application forms to the same degree as is provided for the completion of the Medi-Cal application and forms, unless the applicants or beneficiaries decline such assistance.
- Send completed VRCs to the appropriate county elections officials within 10 days; however, if a voter registration agency receives a completed VRC within five days of the voter registration deadline (the 15th day prior to an election), the agency must transmit VRC to the county elections office within five days. VRCs are self-addressed with prepaid postage and it is recommended for CWDs to mail VRCs daily.
- Obtain VRCs from the county elections office and coordinate with county elections officials to ensure proper tracking of the NVRA VRCs.
- Inform applicants or beneficiaries that receipt of benefits is not linked in any way to the applicant or beneficiary's decision to register or not register to vote.

- Ensure that CWD employees do not seek to influence the applicants or beneficiaries decision to register or not register to vote, or the applicants or beneficiaries political party preference.
- Ensure that CWD employees note an applicant or beneficiary's name and date on the uncompleted form and file for future reference if applicants or beneficiaries do not complete the Voter Preference Form. The checkboxes may be left blank.
- Retain the Voter Preference Form for 24 months.

SB 35 codifies the above requirements and, in addition, requires CWDs and all other voter registration agencies to do the following:

- Notify the county elections official of each applicable county of the location of each of the voter registration agency's offices or sites within the county.
- Designate an agency employee to be responsible for the agency's compliance with the requirements of SB 35 and NVRA.
- Request VRCs from the applicable county elections official, as needed.
- Ensure a sufficient number of Voter Preference Forms and VRCs are available in all languages required under the Voting Rights Act.
- Ensure that each employee who may provide voter registration services receives a training annually on NVRA requirements and how to assist customers with voter registration.
- If an agency offers online benefits enrollment, renewal or recertification, or change of address forms, it must also offer an online Voter Preference Form and inform applicants or beneficiaries of the option to register to vote electronically on SOS's website.

SB 35 and Online Enrollment in Public Assistance Agency Benefits and Services

Under SB 35, a voter registration agency that allows applicants and beneficiaries to apply online for services or assistance, or submit a recertification, renewal or change of address, must set up a way for the consumer to submit a Voter Preference Form online and to register to vote on SOS's California Online Voter Registration (COVR) website. The Statewide Automated Welfare System consortia (CalWIN, C-IV, and LEADER) in coordination with SOS, have updated the online benefits enrollment websites to ensure compliance with this requirement of SB 35. The California Health Benefits Exchange is currently coordinating with SOS on implementing NVRA.

The benefits enrollment websites provide an electronic version of the Voter Preference Form and allow applicants and beneficiaries to respond electronically to the question of whether they would like to register to vote, automatically directing interested applicants and beneficiaries to COVR website to register to vote online. If applicants or beneficiaries do not respond to the voter registration question, the voter registration agency associated with the website must mail the applicants or beneficiaries a VRC.

Restrictions on Influencing Applicants or Beneficiaries

NVRA places restrictions on how staff may interact with applicants or beneficiaries when providing the opportunity to register to vote. Voter registration agency staff must not:

- Seek to influence applicants or beneficiaries' political party preference or party registration.
- Display any political preference or party allegiance.
- Make any statement to applicants or beneficiaries or take any action for the purpose or effect of which is to discourage applicants or beneficiaries from registering to vote.
- Make any statement to applicants or beneficiaries or take any action for the purpose or effect of which is to lead the applicants or beneficiaries to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

VRC Distribution

Public assistance agencies must distribute the California VRC, rather than the National Mail Voter Registration Form, in order to ensure county election officials can properly track and report the number of registrations coming from each public assistance agency. Below are procedures for obtaining California VRCs.

VRC Supplies

In California, SOS prints county specific VRCs that include a postage-paid envelope pre-printed with the county elections office address. To ensure proper tracking and reporting of NVRA voter registrations, CWDs must order all supplies of blank VRCs from their county elections office, and county elections officials must record the serial numbers of VRCs supplied to each agency office or site. For CWDs with multiple sites in a county, it is important that CWD staff identify the specific agency site and coordinate with county election officials to track VRCs.

Language Requirements

CWDs must ensure that each location has a sufficient supply of Voter Preference Forms and VRCs in all languages required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the Voting Rights Act. Please refer to SOS's October 13, 2011 advisory to county elections officials, which contains a copy of the current list by county of covered languages, published in the Federal Register on October 13, 2011 at <http://www.sos.ca.gov/elections/ccrov/pdf/2011/october/11088jlb.pdf>

- Voter Preference Forms: The Voter Preference Form may be downloaded and printed from SOS's NVRA website. All languages required in California counties under the Voting Rights Act are available at www.sos.ca.gov/elections/nvra/training/voter-preference-forms.htm
- VRCs: County elections officials maintain supplies of VRCs in each of the languages covered under the Voting Rights Act for that county.

Consumer Assistance

As stated previously, CWDs must provide applicants or beneficiaries with a VRC and a NVRA Voter Preference Form at the time of application for services, renewal or recertification, and when CWD is notified of a change of address. NVRA requires voter registration agencies to assist applicants or beneficiaries with filling out VRC, providing each person with the same degree of assistance in completing the voter registration application as is provided by the office in completing its own agency forms, unless the person declines assistance. When an agency provides services to a person with a disability at the person's home, the agency must also provide voter registration services at the person's home.

Below are examples of ways to assist applicants or beneficiaries with the Voter Preference Form and VRCs. Please note that the applicants or beneficiaries may choose not to complete the Voter Preference Form or VRC. Under SB 35, an applicant or beneficiary's failure to respond to the Voter Preference Form question of whether he or she would like to register to vote does not constitute a declination to register; the applicant or beneficiary must still be issued a VRC.

In-person transactions: CWDs shall make review of VRC and Voter Preference Form part of the agency's regular process for helping applicants or beneficiaries apply for benefits enrollment, renewal, recertification, and change of address. CWDs must ask the applicant or beneficiary to complete the Voter Preference Form. Agency staff should advise applicants or beneficiaries that assistance with filling out VRC will be provided if requested, but that he or she has the right to complete VRC without assistance. If the applicant or beneficiary chooses not to register to vote at the agency site, but still takes a

blank VRC home, CWD should ask applicants or beneficiaries to complete the Voter Preference Form.

Mail Transactions: If applicants or beneficiaries fail to complete or return the Voter Preference Form, CWD staff must follow up once to find out whether the applicants or beneficiaries would like to register to vote or if assistance is needed. CWDs are not required to complete Voter Preference Forms on behalf of the applicants or beneficiaries who choose not to return the form. In such instances, after following up with the applicants or beneficiaries, CWDs should include a blank Voter Preference Form with applicant's or beneficiary's name in their records.

Phone Transactions: Staff must ask applicants or beneficiaries who apply for services or benefits, renewal, recertification, or change of address by phone: "If you are not registered to vote where you live now, would you like to register today?" Agency staff must note the response on the preference form and if it is "yes" the agency must provide an opportunity to register to vote by sending applicants or beneficiaries a VRC by mail. Pursuant to SB 35, the voter registration agency must send applicants or beneficiaries a VRC if the either of the following occurs:

- 1) Requests a form to be mailed
- 2) Fails to respond to the question of whether the applicant or beneficiary would like to register to vote.

Internet Transactions: A voter registration agency that allows applicants or beneficiaries to apply online for benefits enrollment, including new, renewal, recertification or change of address transactions, must provide a Voter Preference Form online and offer applicants or beneficiaries the ability to register to vote on the SOS's COVR website at www.RegisterToVote.ca.gov . If applicants or beneficiaries do not respond to the electronic Voter Preference Form question "If you are not registered to vote where you live now, would you like to apply to register to vote today?" then they must be mailed a Voter Preference Form and a VRC. For tracking purposes, agencies should record the applicant or beneficiary's electronic Voter Preference Form decision.

Medi-Cal Applications through Covered California: SB 35 requires that the California Health Benefit Exchange (Covered California) implement the process and infrastructure to allow a person applying online for services, assistance, recertification, renewal, or a change of address, the opportunity to register to vote through the SOS's website. Covered California is currently developing a method for meeting this requirement through the California Healthcare Eligibility, Enrollment and Retention System (CalHEERS) online application portal and more information will be forthcoming. Pending the update to the CalHEERS online portal, Covered California is mailing interim notices and VRCs to applicants explaining their duty to provide applicants with the opportunity to register to vote.

Confidentiality

NVRA requires that voter registration agencies and elections offices keep information regarding applicants or beneficiaries decision to register or decline to register to vote, including Voter Preference Forms, as well as the identity of the agency through which a particular voter registered, confidential.

Annual Redetermination Process

This policy is consistent with current direction to CWDs regarding NVRA requirements for customers during the Annual Redetermination process. Joint CDSS/CDHS ACWDL No. 94-85 and MEDIL No. I-96-05 shall continue to apply.

Retention of the Voter Preference Form

CWDs must retain applicants or beneficiaries completed Voter Preference Form for two years. Counties may determine the manner in which the forms are to be filed within the agency, including electronically. SOS recommends that CWDs store the Voter Preference Form in a central, chronological file (e.g. case file), so that CWD staff can easily determine how many Voter Preference Forms are received in a given month, which can help demonstrate NVRA compliance.

NVRA Monitoring

CWDs are encouraged to develop internal evaluation processes for compliance with NVRA. Examples of monitoring include inspecting the informational packets provided to applicants or beneficiaries to ensure they include VRCs and NVRA Voter Preference Forms and including a check for Voter Preference Forms while auditing case files.

SOS and CDSS Quarterly NVRA Meetings

SOS conducts Quarterly NVRA meetings with county directors, CDSS, and CWDA representatives. The purpose of these meetings is to identify and resolve issues regarding NVRA compliance and to share best practices.

NVRA Reporting

CWDs must notify their county elections official of the location of each of the voter registration agency's offices or sites within the county. County elections officials track NVRA voter registration data and report data to SOS on a monthly basis. NVRA reports can be viewed on the SOS' website: www.sos.ca.gov/elections/nvra/reports/.

NVRA Coordinator

CWDs must appoint one staff person at each agency office to be in charge of NVRA compliance, which includes arranging staff training, ordering supplies of VRCs from the county elections office, and ensuring VRCs are submitted in a timely manner to the county elections office.

Annual Training

CWDs must ensure that each employee who may provide voter registration services complete an annual training on NVRA requirements and on how to assist applicants and beneficiaries with voter registration. CWDs should also ensure that new employees receive training prior to interacting with the public. Please refer to SOS' NVRA training webpage for the public assistance agencies presentation, which can be accessed at: <http://www.sos.ca.gov/elections/nvra/training/>.

Please call the Secretary of State at (800) 345-8683 if you have questions regarding the voter registration process. For questions regarding this MEDIL, please contact Lisa Jackson at (916) 552-9489 or by email at Lisa.Jackson@dhcs.ca.gov.

Original Signed By:

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