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Medi-Cal Eligibility Division Information Letter No.: I 19-02

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

SUBJECT: Reporting Potential Medi-Cal Overpayments and Fraud
(Reference: All County Welfare Directors Letter 17-37)

The purpose of this Medi-Cal Eligibility Informational Letter (MEDIL) is to remind counties of the process for reporting potential fraud and/or overpayments and computing overpayments. Guidance is provided in the Medi-Cal Eligibility Procedures Manual (MEPM) Article 16—Overpayments and Fraud.

In this MEDIL, Department of Health Care Services (DHCS) intends to clarify information contained in the MEPM Article 16 Sections A through G. Article 16H—Collection Responsibilities: DHCS Third Party Liability Branch and Article 16 I—Voluntary Payment of Excess Property will be addressed in future guidance.

Background

Federal law mandates that states have an electronic Asset Verification Program (AVP) that is limited to Aged, Blind, and Disabled (ABD) applicants/beneficiaries (Section 1940 of the Social Security Act (42 U.S.C. Section 1396w)). The AVP is designed to detect unreported assets for ABD applicants/beneficiaries who are not receiving Supplemental Security Income and/or State Supplementary Payment (SSI/SSP). As a result of the AVP, there has been an increase in the discovery of potential overpayments and the need for reminders and clarifications on policies and procedures for overpayments and fraud referrals. For more information on the AVP, please refer to All County Welfare Directors Letter (ACWDL) 17-37.

Article 16 of the MEPM provides information and procedures regarding computing, referring, and investigating potential Medi-Cal fraud and/or overpayments and recovering funds due to such overpayments. Potential beneficiary overpayments are defined in the California Code of Regulations (CCR), Title 22, Sections 50781 and 50781.5 along with Article 16A of the MEPM. Fraud is defined in CCR Title 22, Section 50782 and Article 16F of the MEPM.

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Clarification of Name Changes

At the time Article 16 of the MEPM was published, DHCS was known as the "*Department of Health Services* (DHS)." It should be clarified that any references to DHS in this publication are speaking of DHCS as it is named now. In addition, the "*DHS Investigations Branch*" is now known as the "*DHCS Investigations Branch* (IB)." The IB is part of the Audits and Investigations Division (A&I).

Computing Potential Overpayments, Forms Used, and Instructions for Completing Forms

Computing Potential Overpayments

The guidance provided in Article 16C of the MEPM—Computing Potential Overpayments—has not changed. Counties shall begin the process of computing potential overpayments by using the forms outlined in Article 16D of the MEPM. Potential overpayments can occur for a variety of reasons, such as increased Shares-of-Cost (SOC), excess property, and total ineligibility, unreported other health coverage, and fraudulently receiving a California Work Opportunity and Responsibility to Kids (CalWORKs) cash grant. Counties shall review for potential overpayments for both the Modified Adjusted Gross Income (MAGI) and Non MAGI Medi-Cal programs. Review this section of the MEPM and the examples provided prior to completing a potential overpayment referral.

As a reminder, pursuant to CCR Title 22, Sections 50153, 50180, and 50783, before calculating a potential overpayment for any Medi-Cal case, it is essential to consider the possibility that individuals in the case may be eligible for Medi-Cal through another program. For example, one or more members may be eligible for Medi-Cal with a SOC while other members may be eligible for MAGI Medi-Cal.

Since Medi-Cal programs can have different income or property rules, a potential overpayment for any Medi-Cal case may not apply to all individuals in that case. This could mean that no potential overpayment would even exist for some members. Therefore, counties shall determine if an individual has eligibility under any other Medi-Cal program before computing a potential overpayment and making a referral it to DHCS.

Forms & Instructions

Article 16D—Forms Required for Overpayment Referral Packages—references several forms that are used when calculating and referring potential fraud and overpayments to DHCS:

- *Medi-Cal Potential Overpayment Reporting Work Sheet Income or Other Health Coverage* (MC 224 A);

- *Supplemental Medi-Cal Potential Overpayment Reporting Work Sheet Income or Other Health Coverage* (MC 224 A-S);
- *Medi-Cal Potential Overpayment Reporting Work Sheet—Property Total Ineligibility or Ineligibility for a Specific Level of Services* (MC 224 B);
- *Supplemental Medi-Cal Potential Overpayment Reporting Work Sheet—Property Total Ineligibility or Ineligibility for a Specific Level of Services* (MC 224 B-S);
- *Confidential Medi-Cal Complaint Report* (MC 609).

The above-mentioned forms have not changed. Counties shall complete the County Worker sections of these forms prior to referring suspected fraud and calculating potential overpayments of $100.00 or more to DHCS. Counties shall complete the MC 224 A or MC 224 B, depending on the type of potential overpayment.

Article 16E—Instructions for Completing the Forms—provides step-by-step guidance on how to complete the above-mentioned forms. *Please note*: the examples of the overpayment forms provided in Article 16E are outdated. Please use the current version of each form, which are available from the Medi-Cal Eligibility Forms Directory on the DHCS website at http://www.dhcs.ca.gov/formsandpubs/forms/Pages/MCEDFormsMain.aspx. Revisions to these forms are forthcoming, as they currently do not reference the MAGI Medi-Cal program. In the meantime, please use these forms to initiate the calculation of any potential overpayments for both the MAGI and Non MAGI Medi-Cal programs.

The last form referenced in this section is the *Confidential Medi-Cal Complaint Report* (MC 609). Guidance presented in Article 16, along with ACWDL 94-75, requires the use of the MC 609 for all referrals regarding potential overpayments and fraud. This form is currently undergoing revisions and is not available from the Medi-Cal Eligibility Forms Directory on the DHCS website at this time. The most current version should accompany all referrals regarding potential overpayments and fraud until the revision is available. In order to obtain a copy of this form, please send an email request to Sara McDonald at Sara.McDonald@dhcs.ca.gov.

Presently, counties have expressed difficulty obtaining ‘usage reports’ to establish whether or not a potential overpayment exceeds the $100 threshold before referring the potential overpayment to DHCS. Usage reports are no longer required in order to refer a potential overpayment to DHCS. Medi-Cal usage reports are compiled by A&I and determine all claims (Fee-for-Service and Managed Care) paid within a user-defined timeframe as it relates to date of service. The report will also display, if applicable, the monthly capitated rate for the beneficiary. An investigator will notify the county whether or not there was Medi-Cal usage for the specified time-period of the potential overpayment as part of the communication process.

Department of Health Care Services Audits and Investigations Division (A&I)

Referrals for suspected fraud and referrals for potential overpayments are handled by the A&I's Intake Unit (Intake). Intake replaces the list of contacts that is outlined in Article 16F, pages 16F-2 to 16F-4 of the MEPM.

Because of this change, counties are no longer assigned to a specific investigator. Referrals are handled on a case-by-case basis and are not guaranteed an investigation.

Reporting Suspected Fraud and Potential Overpayments

Counties shall follow the referral process outlined below effective the date this guidance is published:

- Submit instances of suspected fraud and potential overpayments using the MC 609 and the MC 224 forms via secured email to Fraud@dhcs.ca.gov. If counties are unable to send a secure email, referrals may be submitted to Intake's RightFax number at (916) 440-5350.

- Forms submitted should be complete and accurate. Counties must include any documentation that is pertinent to the potential overpayment or the suspected fraud referral. This information includes but is not limited to:

    - Medi-Cal Application
    - Statement of Facts
    - Rights and Responsibilities
    - IEVS Abstract
    - Bank Records
    - Earnings Statement
    - Case Narrative

- Counties ***shall not*** use the online fraud referral form located at the Stop Medi-Cal Fraud website. This avenue for fraud referrals is meant for the general public ***only.***

Once a referral is submitted, counties can expect to receive a confirmation email with a referral tracking number after three business days. The response will be sent to the email address that sent the initial request. If a confirmation email is not received, please send an email to Intake at Intake.Escalate@DHCS.ca.gov.

If a referral is assigned to an investigator, the county will receive a separate email with an assigned investigation number. This number is different from the initial referral tracking number and will be used for the duration of the investigation. In the event that A&I needs to contact the county for further information, A&I requests that the individual submitting the

referral include their direct telephone contact number along with their email address. Do not list county call-center phone numbers on the referral.

If a referral *is not* assigned to an investigator, counties will receive an email informing them of the closure of the referral and the reasons for the closure.

In an effort to avoid future error, it is important to note that Intake is for Medi-Cal fraud referrals only. Fraud referrals related to the CalWORKs and/or CalFresh programs are to be sent directly to your specific county investigations office.

Overpayment Responsibility in Cases with Authorized Representatives

The guidance provided in Article 16G—Overpayment Responsibility in Cases with Authorized Representatives—has not changed.

There is no statutory or regulatory authority that enables DHCS to recover overpayments from individuals, law firms, or organizations that represent the applicant/beneficiary and have been named an Authorized Representative (AR) by signing an MC 306.

However, any AR who is suspected of intentionally and fraudulently providing false information to the county eligibility worker or “coaching” the applicant/beneficiary and such action results in an overpayment, should be referred to DHCS’s A&I Division for possible civil or criminal prosecution.

If you have any questions, or if we can provide further information, please contact Sara McDonald at (916) 327-0407or by email at Sara.McDonald@dhcs.ca.gov.

Original Signed By

Sandra Williams, Chief
Medi-Cal Eligibility Division