



California
Department of
Health Services

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Department of Health Services



ARNOLD SCHWARZENEGGER
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January 30, 2006

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 06-03
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY MEDS LIAISONS

SUBJECT: MEDI-CAL ELIGIBILITY 1115 WAIVER FOR EVACUEES OF HURRICANE
KATRINA
RE: (All County Welfare Directors Letters 89-92, 92-08,
05-30, 05-30e, and 05-31)

This letter is to advise counties that the federal Centers for Medicare and Medicaid Services (CMS) has approved California's Section 1115 Waiver Application to provide Medi-Cal coverage for Hurricane Katrina evacuees. The eligibility determination policy and procedures contained in this All County Welfare Directors Letter (ACWDL) supersede the eligibility determination policy contained in ACWDL 05-30 and ACWDL 05-30E for Hurricane Katrina evacuee applicants. The policy contained in this ACWDL does not apply to Hurricane Rita evacuees.

Counties are to continue to use aid code 65 for tracking Hurricane Katrina evacuee eligibles and to follow the instructions in ACWDL 05-30 and 05-30E for transmitting eligibility data to the Medi-Cal Eligibility Data System (MEDS). To properly track Hurricane Katrina eligibles, counties are to transmit the former address (apartment or house number, street address, parish/county, state and zip code) of all approved Medi-Cal applications for Hurricane Katrina to MEDS. This applies to new applications as well as prior applications. Counties who do not have complete home state address information must, at a minimum, specify the home state for all eligible Hurricane Katrina evacuees. Counties must review all previously enrolled Katrina eligibles placed in

Aid code 65 to ensure that there is a home state indicator. This information is essential for waiver reporting requirements and for claiming (California will receive the equivalent of 100 percent federal funding of the Medi-Cal services provided to Katrina evacuees with the funds derived from the home state of the evacuees).

Please follow the instructions below for determining the Medi-Cal eligibility of Hurricane Katrina evacuees under this waiver program. Counties are reminded that, as part of the eligibility determination process, if a Hurricane Katrina evacuee is ineligible for Medi-Cal under this waiver, counties are to evaluate the application under the regular Medi-Cal program without requiring the applicant to reapply. Counties must also review the eligibility of Hurricane Katrina evacuees previously placed in aid code 65 and place them in the appropriate aid code if they are not eligible for benefits under this waiver. Only persons eligible for benefits under this waiver should remain in aid code 65 and eligibility under aid code 65 must be limited to the eligibility period for Hurricane Katrina evacuees defined in this letter.

What is Hurricane Katrina evacuee status and the application period?

Evacuee status is a temporary eligibility status allowed by CMS under this waiver. This eligibility status is good for five consecutive months, for application dates beginning any time between August 24, 2005, and January 31, 2006. The period of August 24, 2005, through August 31, 2005, does not count toward the five-month consecutive eligibility period allowed under the waiver. **No applications may be approved under this waiver with an application date on or after February 1, 2006; evacuees who apply after January 31, 2006, must be evaluated under normal Medi-Cal rules and placed in the appropriate Medi-Cal aid code, if eligible.** The temporary eligibility period may be extended to a future date by CMS. The California Department of Health Services (CDHS) will contact counties in writing if the evacuee status period is extended beyond the five-month period defined in this letter.

Notice to Applicants

Counties must provide a notice of action to those Katrina evacuees who become eligible under the waiver, but would not have otherwise been Medi-Cal eligible under any of the seven eligibility groups of the waiver. Such notice must include information that the benefit period is for a five-month limited period, and if individuals want to continue receiving Medi-Cal benefits after the five months, they must reapply for eligibility under a permanent eligibility category. If the Katrina evacuee is eligible under regular Medi-Cal, then no notice is required and the evacuee will not have to reapply. At the

completion of the waiver period (May 31, 2006) and upon notice from the CDHS, counties must review all those cases in aid code 65 and assign them to the appropriate Medi-Cal aid code, if eligible, and issue necessary notices of action.

Eligibility Period

The five months of eligibility under the waiver include any months in which medical costs were obligated prior to the month of application, but no sooner than August 24, 2005, and any remaining months after the application month, up to five months of total eligibility, excluding August 2005. The final date of any waiver eligibility will be May 31, 2006.

Example of Eligibility period

If the evacuee applied on November 10, 2005, and had medical care in September, the five-month consecutive eligibility period would begin September 1, 2005, and end January 31, 2006. If the evacuee applied on November 10, 2005, and had no prior medical expenses, the five-month consecutive eligibility would begin November 1, 2005, and end March 31, 2006. Total eligibility months allowed per approved evacuee may not exceed five consecutive months.

How to determine evacuee status and eligibility

Evacuee status and eligibility can be established by self-attestation of displacement, income, and immigration status, but evacuees are required to cooperate in demonstrating evacuee and eligibility status. All Hurricane Katrina evacuee applications are to be processed (approved or denied) on an expeditious basis. If an eligible applicant is on-site when the eligibility determination is completed, counties must do an EW15 transaction to establish same day eligibility for access to care. Eligible Hurricane Katrina evacuees shall be provided with immediate proof of their Medi-Cal eligibility so they can obtain necessary health care services as soon as possible. When the EW15 transaction is processed concurrent with the eligibility determination, it should be followed immediately by an EW20 transaction to generate issuance of the Beneficiary Identification Card (BIC) and establish on-going eligibility for the five months authorized.

Hurricane Katrina Emergency Areas

To be eligible for Medi-Cal as a Hurricane Katrina evacuee, the applicant must be from an "emergency area" affected by Hurricane Katrina. The emergency areas are those geographic areas declared by the Federal Emergency Management Agency as

requiring individual assistance as a result of Hurricane Katrina in the States of Louisiana, Mississippi, and Alabama. The affected counties/parishes are listed below:

Louisiana:

Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana parishes.

Mississippi:

Adams, Amite, Attala, Claiborne, Choctaw, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Lowndes, Madison, Marion, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, Winston, and Yazoo Counties.

Alabama:

Baldwin, Mobile, Pickens, Greene, Hale, Tuscaloosa, Washington, Choctaw, Clarke, and Sumter Counties.

Other affected National Disaster States/areas could be added at a later date.

Hurricane Katrina Eligible Populations

The demonstration population will consist of evacuees who are:

- Children under age 19;
- Pregnant women;
- Individuals with disabilities;
- Low income Medicare recipients (QMB);
- Low income individuals in need of Long-Term Care; and
- Low income Parents of children under age 19.

The waiver does not cover adults without dependents between the ages of 19 and 64 who are not disabled.

Children under age 19:

For purposes of implementing this waiver in California, eligibility is based on the same income limits applied to children under the regular Medi-Cal program. The income limit for infants is up to and including 200 percent of the FPL. The income limit for children ages one to five inclusive is up to and including 133 percent of the FPL. The income limit for children ages six to 18 is up to and including 100 percent of the FPL.

Children with incomes greater than these levels are not eligible for the waiver. These children would be eligible for Medi-Cal with a share of cost and, therefore, should be referred to the Healthy Families Program. Children ages 19 and 20 are not covered under the waiver and must be evaluated under regular Medi-Cal rules.

Pregnant women:

There are two income levels for pregnant Hurricane Katrina evacuees, depending on their home state (up to and including 135 percent of the FPL in Alabama and up to and including 185 percent of the FPL in Mississippi and Louisiana). If a pregnant woman from Alabama has an income above 135 percent, or a pregnant woman from Mississippi or Louisiana has an income above 185 percent, she must be evaluated for regular Medi-Cal at the 200 percent level with any income disregard; she will not be in the waiver and will not be placed in aid code 65.

While California uses a disregard to allow pregnant women to have income up to 200 percent of the FPL, this disregard is not available in any of the states affected by Hurricane Katrina, so there is no income disregard for pregnant women who apply for Medi-Cal benefits under this waiver. Counties must determine income eligibility for Hurricane Katrina evacuees based on the FPL standards defined above without applying an income disregard. In addition, counties must review the eligibility of pregnant women previously placed in aid code 65 and redetermine eligibility based on the home state rules, removing all Hurricane Katrina evacuees from aid code 65 (and placing them in the proper aid code if they are eligible under California's Medicaid rules) if their incomes exceed the home state income limit.

Individuals with disabilities: Disabled persons may have income up to and including 300 percent of the Social Security Income. To determine Medi-Cal eligibility for Hurricane Katrina evacuees, 300 percent of SSI should be translated as follows:

- For the period ending December 31, 2005, the applicable income limit for a disabled individual is \$1737.
- For the period January 1, 2006, through December 31, 2006, the income limit for a disabled individual is \$1809.

Low Income Medicare Recipients: This is for evacuees who meet the Qualified Medicare Beneficiary (QMB) eligibility requirements, with an income up to and including 100 percent of the FPL.

Low-income individuals in need of Long-Term Care (LTC): Individuals who qualify as otherwise eligible Katrina evacuees under this ACWDL, and who meet the income eligibility requirements under this section, will qualify for Medi-Cal coverage for their LTC costs without a share of cost.

This eligibility determination is substantially different from the one normally used to determine an individual's eligibility for Medi-Cal coverage of the cost of his or her institutional care.

For purposes of determining the income eligibility of an individual who is a Katrina evacuee (pursuant to the terms of this ACWDL) for Medi-Cal coverage of his or her costs of long-term care, the following requirements apply:

1. Compute the individual's nonexempt income by subtracting from the individual's income any exemptions allowed under the Medi-Cal rules. This nonexempt income will be the Medi-Cal countable income used in this eligibility determination. (Medi-Cal income deductions are not applicable. *Net* nonexempt income is not used). An individual is eligible for free (no share-of-cost) Medi-Cal if their countable income, as determined under this paragraph, does not exceed the applicable income limits provided in the paragraph below.
2. The applicable income limit for this determination is as follows:

For the period ending December 31, 2005, the applicable income limit for a low-income individual in LTC is \$1737;

For the period starting January 1, 2006, through December 31, 2006, the income limit for a low-income individual in LTC is \$1809;

These income limits are 300 percent of the federal Supplemental Security Income (SSI) program amount for the applicable period).

3. For purposes of this Katrina waiver nursing home coverage determination, the “regular” income spousal allocation from an institutionalized spouse to a community spouse is not allowed.
4. All individuals, including married spouses being simultaneously evaluated for eligibility for Medi-Cal nursing home coverage under this waiver, must be evaluated in separate Medi-Cal Family Budget Units (MFBUs). Each individual being evaluated for nursing home coverage should be in his or her own MFBU.
5. The effective period for coverage of all Katrina waiver programs is discussed in another section of this ACWDL.
6. Katrina victims who do not qualify for (or who lose) Medi-Cal coverage of their nursing home costs pursuant to the special Katrina waiver rules described here, will then be evaluated for Medi-Cal coverage of their nursing home costs under the pre-existing, “regular” Medi-Cal rules of the Medically Needy share-of-cost program (wherein net nonexempt income, the spousal allocation rules, the \$35 Personal Needs Allowance, are used to determine eligibility).
7. Katrina waiver coverage of the nursing home costs of institutionalized individuals is limited to those individuals who are determined to be aged, blind, or disabled (ABD) and who are in their own MFBU. Individuals who are not ABD, but who are residing in a nursing home, will have their Medi-Cal coverage determined under “regular” Medi-Cal rules (without regard to the Katrina waiver). In addition, any individual who is not in a separate MFBU, such as an individual who is in a nursing home but is still in the same MFBU with their family members because they have been determined to be only temporarily absent from the household, will have their eligibility determined under regular (non-Katrina) Medi-Cal rules.

Low-income parents of children under age 19: The families who are eligible for the Section 1931(b) program will qualify for the waiver under this simplified eligibility criteria. In addition, the waiver includes provisions that allow other families to also be eligible under the waiver. Specifically, the waiver defines income as gross income and enables California to determine financial eligibility without using the income and resource methodologies of the AFDC (CalWORKs) or SSI program. Under this waiver, California has waived the California resource test criteria applicable to the applicant’s eligibility category. Without the resource requirements of the Section 1931(b) program, additional families may qualify for coverage during the five months temporary eligibility period. The eligibility will, therefore, be based on family income less than 100 percent of the federal poverty level, without regard to resources. Eligibility for these families may be

retroactive to August 24, 2005, with the five months temporary eligibility period beginning with the application month or the retroactive month, but not sooner than September 1, 2005.

Other Income related issues:

Income-In-Kind: Income-in-kind is exempt.

Other available income: There is no requirement to apply for other available income such as unemployment benefits.

Residency

Under this waiver, residency is established by an intent to reside in California temporarily during the five-month eligibility period. Verification of residency is by physical presence in California and self-declaration. After the five-month temporary eligibility period, hurricane Katrina evacuees who wish to continue to receive Medi-Cal benefits must meet the residency requirements of Title 22, California Code of Regulations (CCR), Section 50320.

Citizenship and Immigration Status

Establishing citizenship/nationality or eligible Qualified Alien status is a condition of Medi-Cal eligibility under this waiver. In order for Hurricane Katrina applicants to be eligible for full-scope Medi-Cal benefits, they must meet the federal requirements of “qualified alien” and not be subject to the five-year bar on federal full-scope eligibility. This means that the immigration status requirements for Katrina Evacuee applicants under this waiver are more restrictive than the immigration eligibility requirement used under the regular Medi-Cal program. For Hurricane Katrina evacuees, immigration status should be verified using the Systematic Alien Verification for Entitlement (SAVE) system whenever possible. But do not delay, deny or reduce eligibility to otherwise eligible Hurricane Katrina evacuees while waiting for immigration documents or SAVE verification.

Verification of Citizenship or Satisfactory Immigration Status

Citizens or nationals of the United States (U.S.) applying as Hurricane Katrina evacuees must:

- Complete either all citizenship questions on the Medi-Cal application form; or

- Complete the MC 13 form.

Non-Citizens applying as Hurricane Katrina evacuees must:

- Complete the MC 13 form.
- Provide evidence of their immigration status if they have it.
- Sign an affidavit declaring that their immigration documentation was lost in the hurricane if those documents are not available.

Below are the various categories of “qualified” and “nonqualified” aliens with the corresponding Medi-Cal benefit level they may receive, if they are otherwise eligible:

Persons in any of the following statuses are considered “qualified aliens” and may receive full-scope Medi-Cal as Hurricane Katrina evacuees regardless of their date of entry into the United States provided they are otherwise eligible:

- An asylee granted asylum under Section 208 of the Immigration and Naturalization Act (INA).
- A refugee admitted under Section 207 of the INA, including Amerasian immigrants admitted under the provisions of Public law 100-002.
- Cuban/Haitian Entrants.
- An alien who has had deportation withheld under Section 243 of the INA.
- Qualified aliens who also are (1) on active duty in the U.S. military, (2) an honorably discharged veteran, or (3) the spouse (including a surviving spouse who has not remarried) or unmarried dependent child of an honorably discharged veteran or individual on active duty in the U.S. military.
- Victims of a severe form of trafficking, in accordance with Section 107(b)(1) of the Trafficking Victims Protection Act of 2000, P.L. 106-386. (Although victims of trafficking are not included in the original list of “qualified aliens,” they are eligible for Medi-Cal to the same extent as refugees.)

Persons in any of the following statuses who entered the United States on or after August 22, 1996, are considered qualified aliens and are eligible, after five years in the United States (based on their date of entry), to full-scope Medi-Cal as Hurricane Katrina evacuees if they are otherwise eligible:

- A Lawful Permanent Resident who does not meet the veteran/ active duty requirements.
- Battered aliens, their children and parent of a battered alien child whose application with the INS has either been approved or is pending.

- Aliens paroled for at least one year under Section 212 (d)(5).
- Conditional entrants under 203(a)(7) of the INA in effect before April 1, 1980.

Persons who are not “qualified aliens” as defined above are not eligible for any benefits under the Hurricane Katrina Waiver. Persons who are not qualified aliens include, but are not limited to:

- Any of the Permanently Residing in the United State Under Color of Law categories that are not Qualified Aliens.
- Student/Diplomat/Tourist Visa holders.
- Undocumented immigrants.

Full-Scope Medi-Cal Eligibility for Hurricane Katrina Evacuee

All applicants who are U.S. citizens/nationals, and Children of U.S. citizens and Canadian-born native American Indians (with documentation), who are otherwise eligible under this waiver, are eligible to receive full-scope Medi-Cal. Hurricane Katrina evacuee applicants who are aliens, who meet the federal definition of “Qualified” Alien,” who are not subject to the five-year bar and are otherwise eligible, are eligible to receive full-scope Medi-Cal under this waiver. All other aliens, who do not meet the federal definition of “Qualified Alien” or who have been in the US for less than five years and are otherwise eligible, should be evaluated for eligibility under the regular Medi-Cal program and are not to be placed in aid code 65. Restricted Medi-Cal benefits are not covered under this waiver. Evacuees in a restricted scope immigration status must be considered for restricted scope Medi-Cal eligibility under regular Medi-Cal program rules.

Property

All real and personal property of Hurricane Katrina evacuees shall be exempt. There shall be no resource test under this waiver.

MFBU

Hurricane Katrina evacuees will be placed in their own separate MFBU from other family members.

Establishing Paternity

Eligibility may be determined for Hurricane Katrina evacuees without requiring applicants to comply with paternity cooperation requirements. Paternity cooperation is not a requirement for eligibility to Medi-Cal under this waiver.

Eligibility beyond Evacuee Temporary Status Period

At the end of the five-month temporary eligibility period, individuals must reapply for eligibility under the regular Medi-Cal program and must meet all Medi-Cal eligibility requirements to continue to receive benefits beyond the temporary eligibility period.

Redetermination

Hurricane Katrina evacuees who are not eligible for regular Medi-Cal, but are eligible under the waiver and wish to be determined eligible for regular Medi-Cal at the end of the temporary eligibility period must reapply for eligibility under a permanent eligibility category. Neither the Host State nor the Home State is obligated to redetermine eligibility before the termination of the temporary period, but either State may elect to redetermine whether the individual is eligible under a permanent eligibility category under its State plan.

Retroactive Eligibility

With the exception of the period starting August 24, 2005, through August 31, 2005, there will be no retroactive eligibility granted to Hurricane Katrina evacuee eligibles prior to September 2005. In addition, the total months of eligibility under the waiver (which must be consecutive) cannot exceed five months (excluding August 24 through August 31, 2005). No application for temporary eligibility determination for Medi-Cal benefits shall be accepted from Hurricane Katrina evacuees after January 31, 2006.

Fair Hearings

Hurricane Katrina evacuee applicants will not have Fair Hearing rights applicable to the five months of eligibility under the waiver. Fair Hearing rights are accorded to Hurricane Katrina evacuee applicants who apply for continued eligibility under one of the permanent categories of Medi-Cal.

Share-Of-Cost

There is no share-of-cost provision under Hurricane Katrina waiver. Hurricane Katrina applicants over the prescribed income limit are not eligible for benefits under the Hurricane Katrina waiver, however, they should be evaluated under regular Medi-Cal and be placed in the appropriate aid code without being required to reapply. Counties are not to use aid code 65 for Hurricane Katrina applicants found eligible under regular Medi-Cal.

If you have any questions, please feel free to contact Ms. Angela Ajise, Policy Analyst, at (916) 552-9523.

Original signed by

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