



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



EDMUND G. BROWN JR.  
Governor

August 25, 2011

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 11-33  
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: DEEMED ELIGIBILITY AND CONTINUED ELIGIBILITY FOR INFANTS  
(Reference All County Welfare Directors Letters 91-66, 91-79, 98-32, 03-49,  
and 09-17)

The purpose of this Department of Health Care Services (DHCS) All County Welfare Director's Letter (ACWDL) is to modify and clarify deemed eligibility and continued eligibility for infant policy instructions to counties issued in ACWDLs 91-66, 91-79, 98-32, 03-49, and this letter supersedes ACWDL 09-17 in its entirety.

## BACKGROUND

### Continued Eligibility and Deemed Eligibility

Section 4603 of the federal Omnibus Budget Reconciliation Act of 1990 required states to adopt Title XIX, Section 1902 (e)(6) of the Social Security Act (the Act), to provide for the Continued Eligibility (CE) of pregnant women and infants up to age one when there is a change in family income. The CE program began on October 1, 1991, through the passage of Assembly Bill 99 (Chapter 278, Statutes of 1991). In addition to implementing CE, California included Section 1902 (e)(4) of the Act.

Section 1902 (e)(4) provides for automatic medical assistance (without application) to infants born to a woman eligible for and receiving medical assistance on the date of the infant's birth **provided that the infant continued to live with his/her mother and the mother remained eligible for medical assistance or would have remained eligible if still pregnant.**

ACWDL 03-49, issued on October 6, 2003, changed the terminology from CE to Deemed Eligibility (DE) to separate DE for infants from the other CE provisions under Medicaid.

On February 4, 2009, the President signed into law the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). CHIPRA reauthorized funding for the State Children's Health Insurance Program, expanded coverage to children, and changed the DE requirements for infants referenced in Title XIX of the Act. The changes in Title XIX by CHIPRA affected the provision of "deemed" eligibility found in Section 1902 (e)(4) of the Act. Section 113(b) of CHIPRA amended the automatic enrollment for children born to women receiving medical assistance under Title XIX, Section 1902 (e)(4) of the Social Security Act [42 U.S.C. 1396a (e)(4)] as follows:

"An infant born to a woman who was eligible for and receiving medical assistance (including coverage of an alien for labor and delivery as emergency medical services) on the date of the infant's birth, including retroactively, is deemed to have applied for medical assistance and to have been found eligible for such assistance for a period of one year."

This change allows a child born to a mother eligible for and receiving Medicaid, known as Medi-Cal in California, on the date of the birth to remain eligible until age one **without considering the infant's living arrangements (continuing to live with the mother) or the mother's eligibility status**. To conform to CHIPRA changes, DHCS issued ACWDL 09-17 on April 13, 2009, informing counties of the change in the federal provision for DE of infants effective April 1, 2009. ACWDL 09-17 also instructed counties to make the appropriate system changes, provide training, and update procedures pertaining to the change for deemed infants including procedures for the Foster Care program staff who oversee foster care placements of deemed infants.

The following sections of this letter provide updated eligibility clarification for DE and CE infants:

Section	1	<u>Conditions of DE</u>
Section	2	<u>Enrollment into Medi-Cal</u>
Section	3	<u>Retroactive Medi-Cal Eligibility</u>
Section	4	<u>Program Eligibility</u>
Section	5	<u>DE and the Continued Eligibility (CE) Program</u>
Section	6	<u>No Share-of-Cost vs. Share-of-Cost</u>
Section	7	<u>Reporting Requirements</u>
Section	8	<u>Changing County of Residence within California</u>
Section	9	<u>Activating DE for the Infant</u>
Section	10	<u>Approaching One Year of Age</u>
Section	11	<u>Rescinding DE for Infant Due to Loss of Contact</u>

Section 1     Conditions of DE

An infant born to a Medi-Cal eligible woman at the time of birth has DE for Medi-Cal until age one year and is not required to submit a separate application.

Title 22, California Code of Regulations (Title 22 CCR), Section 50262.3 (“Continued Eligibility Program for Pregnant/Postpartum Women and Infants”) provides that infants born to women eligible for and receiving Medi-Cal at the time of birth are automatically deemed eligible for one year **without a separate Medi-Cal application** or Social Security number (SSN).

Residency

California state residency is a federal requirement to receive Medi-Cal; therefore, as long as the infant resides in California, the infant meets the residency requirement to continue DE.

DE does not continue when an infant moves from the state of birth where the infant initially received DE in another state. When a Medi-Cal deemed eligible infant moves out of California to another state, the infant’s DE terminates. Likewise, when an infant with DE arrives from another state, the county shall not consider the infant Medi-Cal eligible under DE because the infant’s mother was not eligible for and receiving Medi-Cal in California on the date of birth.

Deficit Reduction Act of 2005

In addition to CHIPRA changing DE requirements for infants in Title XIX of the Act, it also made changes to the Deficit Reduction Act of 2005 (DRA) citizenship and identity requirements. Deemed infants are exempt from DRA citizenship requirements. Section 211 of CHIPRA Public Law 111-3 includes several provisions modifying the Medicaid requirement for documentation of citizenship. The new law clarifies that children born in the United States to a woman who is eligible for and receiving Medicaid on the child’s date of birth are deemed to have provided satisfactory documentation of citizenship/nationality and identity and may not be required to provide any additional documentation.

(Refer to ACWDL 09-27 for detailed information on DRA requirements.)

Section 2     Enrollment into Medi-Cal

The county may enroll infants by use of the Newborn Referral Form (MC 330), by telephone call, letter, facsimile information, or other contact with the county. The

information provided must include sufficient information for the county to link the infant to the mother's Medi-Cal Eligibility Data System (MEDS) record or to a county Medi-Cal case.

The minimum basic information required for the mother is the mother's Medi-Cal benefits identification card number or SSN. The required information for the infant is the infant's name, gender, and date of birth.

Once the county receives confirmation of the infant's birth, **the county does not need to request the items listed below** in order to enroll these deemed eligible infants, regardless of whether the mother has an active or inactive case at the time of enrollment, as long as the mother was Medi-Cal eligible on the date of the infant's birth.

1. Birth Certificates
2. SSNs
3. Income Documentation
4. Immigration Status Form (MC 13) and
5. Medical Support Questionnaires.

### Section 3     Retroactive Medi-Cal Eligibility

An infant can receive DE retroactively when one of the three months prior to the application month is the infant's birth month and the mother, parent, legal guardian, or responsible relative of the infant requests Medi-Cal coverage for that month. If the county determines that in the birth month, the infant's mother had Medi-Cal eligibility, then the county shall apply DE to the infant beginning in that retroactive month.

#### Example 1:

Mother applies for Medi-Cal on July 6, 2010, for herself and her infant. (The infant's date of birth was June 16, 2010). The mother indicates on her application that she has unpaid medical bills for May and June and requests Medi-Cal for May and June. The county approves Medi-Cal for July 2010 and ongoing. In determining her retroactive Medi-Cal eligibility, the county determined that she was not eligible in May but eligible for June. Because the infant's month of birth is in the retro month of June and the mother was Medi-Cal eligible in June, the infant has DE beginning in June.

#### Example 2:

Mother moves to California in July and applies for Medi-Cal on July 6, 2010, for herself and her infant. (The infant's date of birth was June 16, 2010). The mother requests Medi-Cal for retro months of May and June on her application. The county approves Medi-Cal for July 2010 and ongoing. In determining the mother's retroactive Medi-Cal eligibility, the

county determined that the mother was not eligible in May or June because she did not meet the California residency requirement. Because the infant's birth month is in the retro month of June and the mother was not Medi-Cal eligible in June, the infant does not have DE.

Example 3:

The mother applies for Medi-Cal on July 1, 2011, for herself and her infant. The infant's date of birth was May 28, 2011. The county approves Medi-Cal for July with a share-of-cost (SOC). The mother and infant have a SOC. In August, the mother requests Medi-Cal for April, May, and June. The county evaluates and finds the mother eligible for Medi-Cal with no SOC in each of the three retro months. The retro determination changes the infant from SOC to "deemed" eligible with no SOC beginning May 2011.

Example 4:

A mother applies for Medi-Cal on October 1, 2010, for herself and her infant. The infant's date of birth was June 16, 2010. The county approves Medi-Cal effective October 1, 2010, and ongoing. Several months later, the mother receives medical bills for July 2010. The mother requests retroactive Medi-Cal for July through September 2010 to cover the unpaid medical bills. The county determines the mother is not eligible for July but eligible for August and September. Because the infant's month of birth is June (which is not in one of the three retro months), the county could not approve DE for the infant, as the mother did not receive Medi-Cal in June.

Section 4     Program Eligibility

Under DE, the county confirms an infant's eligibility for Medi-Cal benefits on the basis of the mother's no cost or SOC Medi-Cal eligibility on the date of the infant's birth, with the exception that an infant receives full-scope benefits even if the mother has restricted scope benefits. Examples:

- If the mother was in the Medically Needy/Medically Indigent (MN/MI) program with a SOC that she met in the month of the infant's birth, the infant is in the MN/MI program with a SOC.
- If the mother is in the Income Disregard program, the infant is also in the Income Disregard program.
- If the mother is receiving Medi-Cal under the Supplemental Security Income/State Supplementary Payment (SSI/SSP) program, the Federal Breast and Cervical Cancer Treatment Program (BCCTP), or the Medi-Cal Inmate Eligibility Program

(MCIEP) and the mother has Medi-Cal eligibility in the month of the infant's birth, the infant is "deemed" eligible. Because the county does not have direct access or case responsibility for the mother's case record, the county shall follow the steps outlined in Section 9, Number 4, of this letter for establishing the Medi-Cal eligibility for this deemed infant.

#### Section 5 DE and the Continued Eligibility (CE) Program

As previously stated, Title 22 CCR, Section 50262.3 provides that infants born to women eligible for and receiving Medi-Cal at the time of birth are automatically deemed Medi-Cal eligible for one year without a separate Medi-Cal application or SSN. This regulation includes continued eligibility for (pregnant women) **and** infants up to age one, which provides that the infants shall remain eligible, regardless of any increases in the family's income.

The CE program only disregards increases in income, not decreases in the Medi-Cal family budget unit (MFBU) composition or maintenance need level (MNL) that result in a SOC. (Refer to ACWDL 91-79, question 14.)

#### Section 6 No SOC versus SOC

If the mother has no SOC Medi-Cal on the date of the infant's birth, the infant has DE with no SOC, regardless of the mother's scope of benefits. (i.e., restricted or full-scope)

##### Example 1: Mother eligible for no SOC Medi-Cal with restricted benefits

Mother is eligible only for no SOC pregnancy-related Medi-Cal with restricted benefits in the month of July 2010 and gives birth to an infant on July 17, 2010. Because the mother was Medi-Cal eligible on July 17, the infant has DE with no SOC until the end of the month in which the infant reaches age one.

##### Example 2: Mother eligible for no SOC Medi-Cal

Mother with no SOC Medi-Cal in the month of May 2010 gives birth to an infant on May 31, 2010. In July, the mother becomes ineligible for Medi-Cal and the county terminates her Medi-Cal. Because the mother had no SOC Medi-Cal on the day of the infant's birth, the infant continues with no SOC Medi-Cal under DE until the end of the month in which the infant reaches age one.

If the mother only has eligibility for Medi-Cal with a SOC in the birth month and meets her SOC in the birth month, the infant has DE with the same SOC as the mother. In

accordance with federal guidelines, an individual with a SOC is ineligible for Medi-Cal until the individual pays or obligates to pay his/her SOC. Therefore, unless the mother paid or obligated to pay her SOC in the birth month, the mother is not Medi-Cal eligible in that month and the **infant would not have DE for Medi-Cal.** The county shall verify the SOC obligation in MEDS prior to approving DE for an infant.

#### Example 3: Mother's SOC unmet in the birth month

A pregnant woman has employer covered medical insurance. Her medical insurance has a high co-payment and does not cover some medical expenses for labor and delivery so she applies for Medi-Cal. The county determines she is only eligible to Medi-Cal with a \$700 SOC. She delivers her infant and pays her employer insurance copayment of \$550. She does not meet or obligate to meet the remaining \$150 of her \$700 SOC in the birth month. Because she still has \$150 of her unmet SOC, the mother does not receive Medi-Cal on the date of the infant's birth. **Therefore, the infant is not entitled to DE.** **IMPORTANT:** A mother currently eligible for restricted benefits under the Income Disregard Program and full-scope Medi-Cal with a SOC does not have to meet the SOC for her infant to have DE. Enrollment in the Income Disregard Program entitles the infant to DE as long as the infant is otherwise eligible for deeming.

#### Example 4: Mother's SOC met in the birth month

In February 2010, a pregnant woman applies for Medi-Cal and the county finds her eligible for Medi-Cal with a \$350 SOC beginning February 2010. The woman delivers in July and meets her \$350 SOC for the birth month of July. Because the mother met or obligated to meet her \$350 SOC in the birth month, she is "certified" as meeting her SOC and therefore Medi-Cal eligible. The infant has the same SOC as the mother and **has DE** until the end of the month in which the infant reaches age one.

There will be circumstances during a deemed infant's DE period that the mother's SOC is reduced. When the mother has a lower SOC, the infant will also have a lower SOC.

#### Example 5: Mother's SOC reduced

A pregnant woman has eligibility for SOC Medi-Cal beginning February 2010 and ending January 2011. The woman delivers her baby in July and meets her SOC in that month. Her infant **has DE** with the same SOC amount as the mother until the end of the month in which the infant reaches age one. In August the mother's company furloughs its employees and the mother has a cut in pay. The mother's income goes down and she now has a lower SOC. The county shall also lower the infant's SOC. If the mother's income continues to go down prior to the infant reaching age one, the infant's SOC will also continue to go down. If the mother's SOC decreases to zero, the infant will have zero

SOC until the end of the month in which the infant reaches age one, even if the mother's income increases again and she goes from no SOC to SOC prior to the infant reaching age one because CE protects the DE infant.

Example 6: Mother Met Her SOC in the infant's birth month; and there is a change in the MFBU

A pregnant woman and her 18-year old child have Medi-Cal eligibility with a SOC beginning February 2010 and ending January 2011. The pregnant woman delivers in July and meets her SOC in that month. The infant **has DE with a SOC** until the end of the month in which the infant reaches age one. However, the 18-year old member of the MFBU moves out of the household the following month. The MFBU and the maintenance need level decrease but the income of the MFBU does not change. This change results in a higher SOC. The infant's SOC also increased because *the CE program only disregards increases in income, not the change in MFBU composition or MNL.*

#### Section 7 Reporting Requirements

Because all children under age 21 are exempt from the Midyear Status Report (MSR) reporting requirement, a deemed infant does not need to submit an MSR. However, the infant's parent or responsible caretaker must report any change in circumstance to the county within ten days. (Refer to ACWDL 08-56 for MSR requirements.)

#### Section 8 Changing County of Residence within California

A change in county residence within the state does not affect an infant's DE. When an inter-county transfer occurs, counties shall review the information contained in the case file from the former county and continue the infant's DE. If there are changes to the family's circumstances that may affect the deemed infant, the new county shall review and make the necessary adjustments.

(Refer to ACWDLs 03-12 and 04-14 for the Inter-County Transfer process and questions.)

#### Section 9 Activating DE for the infant

1. Open county case with mother only (pregnant women only cases).

Counties shall check MEDS to verify the mother's Medi-Cal eligibility on the infant's date of birth, including whether or not she met her SOC. If there was Medi-Cal eligibility on the infant's date of birth, the county shall add the infant to the mother's case.



2. Open county case with mother and other members (1931(b), MN, etc.).

County shall check MEDS to verify the mother's Medi-Cal eligibility on the infant's date of birth, including whether or not she met her SOC. If there was Medi-Cal eligibility on the infant's date of birth, the county shall add the infant to the case. When adding the infant to the case as an additional MFBU member, the change in family circumstances may require additional information. If there is a need for the county to obtain additional information to redetermine eligibility for the MFBU, the county must utilize the three-step SB 87 process.

3. CalWORKs Case

The California Department of Social Services addresses the immediate enrollment of Medi-Cal newborns without the full verification required by the CalWORKs program in All County Information Letter, I-03-46, dated September 24, 2003. This letter instructs counties to authorize CalWORKs cash aid and Medi-Cal immediately upon notification of the infant's birth, name, and gender.

4. No open county Medi-Cal case but the mother receives Medi-Cal through another program

When an individual receives Medi-Cal benefits through another program such as SSI/SSP, federal BCCTP, or MCIEP, counties do not have the mother's case record. When a pregnant woman in one of these programs delivers a baby, the infant has DE for Medi-Cal without a separate application and the deemed infants are eligible for no SOC Medi-Cal. The county may receive notice from the parent, legal guardian, responsible relative or authorized representative, or a notice of the infant's birth through a Newborn Referral form from the hospital. Because the county does not have direct access or case responsibility for the mother's SSI/SSP, BCCTP, or MCIEP case record, counties shall do the following to establish Medi-Cal eligibility for the deemed infant:

- Check MEDS to verify the mother's Medi-Cal eligibility on the infant's date of birth. If the mother was Medi-Cal eligible on the infant's date of birth, the infant has DE and the county shall establish a case with the mother as an ineligible person.
- If the county needs additional information, the county shall contact the individual requesting Medi-Cal for the infant. The county shall use the infant's date of birth to establish the application date.

Section 10 Deemed Infant Approaches Age One Year

Because deemed infants retain Medi-Cal eligibility until age one year, most changes in family circumstances do not affect the deemed infant's eligibility, except when the infant dies or moves out of state. Therefore, counties must complete a redetermination when the deemed infant approaches age one year. The county must utilize the SB 87 process as outlined in ACWDL 01-36 to determine ongoing Medi-Cal for the deemed infant.

The redetermination process will depend on the following situations:

1. Deemed infant is in an opened case with other MFBU members getting Medi-Cal.

When the county has a "deemed" infant in an open case with other MFBU members receiving Medi-Cal, the county shall include the infant as an eligible member of the MFBU. Once the infant reaches age one, the infant takes on the current eligibility of the MFBU and redetermination (RV) date of that case. If the county determined that the family has SOC Medi-Cal, the county shall review the infant's eligibility under the federal poverty level prior to establishing a SOC for the infant. If the infant has a SOC and the family income is below the Healthy Families Program (HFP) guidelines, the county shall follow the Bridging process and refer the infant to the HFP. (Refer to ACWDL 07-03, 07-09, and 08-58.)

2. Deemed infant is the only eligible individual in the Medi-Cal case.

Only eligible in the Medi-Cal case when mother receives Medi-Cal through SSI/SSP, BCCTP, or other Medi-Cal based program such as MCIEP

If the county established the deemed infant as the only eligible individual in the Medi-Cal case when the mother has SSI/SSP, BCCTP, MCIEP, or there are no other MFBU members receiving Medi-Cal, when the infant approaches age one, the county must determine ongoing Medi-Cal eligibility for the infant. There will be circumstances where there is no income or other information in the case for the infant other than the infant has DE. The county must follow the SB 87 process to obtain necessary information to continue the child's Medi-Cal. If all three steps of the SB 87 process are unsuccessful, and the county cannot complete the redetermination, the county shall discontinue the infant for failure to cooperate. However, if the county does have income information but is unable to obtain property information, the county could redetermine the child's eligibility under the asset waiver program.

Only eligible in a case when other members terminated

When the county terminated all MFBU members from Medi-Cal for reasons such as failure to provide information or noncooperation, etc., DE protects the infant from termination. In addition, the infant remains the only eligible person in the existing case until the end of the month in which he/she turns one year of age as long as he/she resides in California. Before the infant reaches age one, the county must follow the SB 87 process to obtain necessary information to continue the infant's Medi-Cal.

Example: The only person remaining as eligible in a Medi-Cal case is the DE child (parents failed to comply with RV). January 4, 2011, the child is one year old. In December 2010, the county initiates the SB 87 process to establish ongoing eligibility for the soon to be one year old. If all three steps of the SB 87 process are unsuccessful, and the county cannot obtain current income information, the county shall discontinue the infant for failure to cooperate. However, if the county does have enough income information but is unable to obtain property information, the county shall redetermine the child's eligibility under the asset waiver program.

Discontinued family reapplies during SB 87 process

If during the SB 87 process for the deemed infant, or at any time prior to the end of the infant's DE period, any discontinued family members wish to reapply for Medi-Cal, the county shall request a new application to obtain pertinent information to determine the family's eligibility. However, the county shall not delay the infant's eligibility determination if information is available for the infant to continue Medi-Cal under another program. Instead, the county shall grant the infant's eligibility without regard to the pending application of the other family member(s). When the county determines the family's new eligibility, the county adds the infant in the family's case as an eligible MFBU member with the same RV date of the family.

Section 11 Rescind DE for Infant Due to Loss of Contact

Title 22, CCR § 50175 (a) (6) states that eligibility shall be discontinued when, "The county department, after reasonable attempts to contact the applicant or beneficiary, determines that there is loss of contact."

When the county terminates a family with a deemed infant for loss of contact and later the family reestablishes contact, the county shall reinstate DE to the infant for any months discontinued due to loss of contact, unless the family lost California residency.

Example: 1

In December 2010, a Medi-Cal eligible family with a deemed infant vacated their residence and there was no contact with the county. In January 2011, the parents' MSR was due and the county received mail returned from the United States Postal Service, which showed there was no forwarding address. The county, after completing the SB 87 process and was not able to contact the family, terminated the case for loss of contact. On April 27, 2011, the family moved to reside in Arizona because of a job opportunity. The family established residency in Arizona in May but returned to reside in California in August 2011 because the business closed. The family contacts the county to reinstate their Medi-Cal benefits in August.

In this example, the county followed the appropriate SB 87 process and terminated the case for loss of contact. The family resided in California until April 27, 2010. Because the family retained California residency from December through April, the infant retains DE for those months. The county should reinstate DE to the infant for the months of December through April. When the family moved out of California, the deemed infant lost DE.

Example: 2

County has the Medi-Cal case with a mother and her two-month old deemed eligible infant. The mother takes off leaving her two-month old deemed infant with a relative. Because the relatives did not know the mother received Medi-Cal, they did not contact the county. The mother's eligibility worker sends information to the mother that requires a response. The mail returns to the county without a forwarding address and the county, after completing the SB 87 process, terminates the case for loss of contact.

After four months, the relative contacts the county to request Medi-Cal for the infant. The county finds that the infant received Medi-Cal as a deemed eligible infant under the mother's closed Medi-Cal case. The county shall reinstate DE to the infant under the old case for the months where there was loss of contact and continues the infant in that case until the end of the month in which the infant reaches age one. Once the infant approaches age one, the county shall follow the instructions in Section 10 of this letter that references what to do when the infant approaches age one.

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If you have questions regarding this letter or require additional information about DE of infants, please contact Sherilyn Walden at (916) 552-9472 or by email at [Sherilyn.Walden@dhcs.ca.gov](mailto:Sherilyn.Walden@dhcs.ca.gov).

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