

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
D. BOX 942732
SACRAMENTO, CA 94234-7320



July 2, 1992

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No. 92-44

SUBJECT: EXPIRATION OF 5-YEAR MORATORIUM ON FEDERALLY FINANCED PUBLIC ASSISTANCE FOR IRCA ALIENS - IMPACT ON ELIGIBILITY FOR MEDI-CAL PROGRAM.

The purpose of this letter is to remind counties that the individual five-year moratorium period on federally financed public medical assistance for full-scope Medi-Cal benefits for aliens who were granted Temporary Resident Status (TRS) under the federal Immigration Reform and Control Act of 1986 (IRCA) began to expire on May 5, 1992. The full-scope benefits will be available only to those IRCA aliens who obtain lawful permanent resident (LPR) status from the Immigration and Naturalization Service (INS).

This letter is also to inform counties that the Department of Health Services (DHS) will not require that they search out and identify existing cases of IRCA aliens who are currently receiving restricted benefits and for whom the five-year moratorium period has expired. The DHS intends, instead, to mail out Medi-Cal card stuffers at six-month intervals informing IRCA aliens (i.e., Aid Codes 51, 52, 56, and 57) that their individual five-year moratorium periods may be expiring, and that once they have changed status to that of lawful permanent resident of the United States they may be eligible to apply for full-scope Medi-Cal benefits.

Alien applicants for full-scope Medi-Cal benefits must complete an MC 13 containing a declaration in writing, under penalty of perjury, which attests to his or her status as an alien in accordance with Title 22, California Code of Regulations (CCR), Section 50301.5. IRCA applicants for full-scope benefits with LPR status will now be aided under the appropriate aid code, i.e., the same as citizen applicants for full-scope benefits. Counties should follow current procedures for notifying applicants when the scope of benefits changes in accordance with Title 22, CCR, Section 50179.

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BACKGROUND:

Under the federal IRCA legislation, undocumented aliens who met certain requisite criteria were permitted to apply for amnesty, i.e., TRS, under one of the following three sections of the Immigration and Naturalization Act (INA):

1. Section 245A -- Pre-1982 alien.
2. Section 210 -- Seasonal Agricultural Worker (SAW).
3. Section 210A -- Replenishment Agricultural Worker (RAW).

IRCA restricted Medicaid services to emergency and pregnancy-related only for IRCA aliens who were not aged (65 years of age and older), blind, or disabled (ABD), or who were not under 18 years of age. IRCA also stipulated that full-scope services would be available to IRCA aliens only after a five-year moratorium period had expired and after they had become lawful permanent residents of the United States. Under IRCA's directive, aliens who fail to change status to that of lawful permanent resident revert automatically to the status of undocumented aliens.

MORATORIUM DATES:

The initial Temporary Resident Adjustment (TRA) Date, i.e., the date the IRCA alien paid his or her fee when originally applying for amnesty, was May 5, 1987; therefore, the first five-year moratorium period expired on May 5, 1992. The filing periods for aliens who applied for TRS under IRCA were May 1, 1987 through May 4, 1988. The filing period for SAW aliens only was extended to November 30, 1988. For individual IRCA aliens the expiration of the five-year moratorium period depends on individual TRA dates.

INS DOCUMENTS:

Evidence of lawful permanent resident status for the IRCA alien will typically be INS Form I-551, Alien Registration Receipt card. Codes appearing on the I-551 and other INS documents that identify IRCA aliens are:

1. W16, W26, and W36 for Section 245 aliens,
2. S16 and S26 for SAWS aliens, and
3. R16 and R26 for RAWs aliens.

On INS documents the TRA date is generally referred to as the "date of adjustment to temporary status". The TRA receipt for payment of the amnesty application fee is INS Form I-689.

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The INS has used two different versions of the I-551 during the time frame affecting IRCA aliens. The TRA date, which begins the five-year moratorium period, is shown on both versions of the I-551 on the back of the card as follows: "TEMP RES ADJ DATE - ", followed by the date.

If an IRCA alien presents any INS document having an expired date, the county should consider this evidence to be invalid. In that event, the county should request that the IRCA alien obtain an INS document with a valid date, or an INS receipt indicating that the alien has requested a new document.

THE SAVE SYSTEM:

Due to the large number of forged documents in circulation, counties should not accept an IRCA alien's documentation without verifying the document through SAVE.

The INS has instructed its SAVE status verifiers (i.e., those who provide responses to Form G-845 verification requests) to provide the county with the TRS-TRA date on individual requests IF THE COUNTY REQUESTS THIS DATE as part of the Form G-845 inquiry. Satisfactory Immigration Status is verified by the SAVE system as required by Title 22, CCR, Section 50301.6.

The INS Form G-845 does not provide a specific space for requesting the TRS adjustment date. The following suggestion is made for requesting the date, as a means of helping assure that your request is noticed and acted on:

At the top of the G-845, in the right column, is a large box headed -- "8.(Benefit)". The bottom 1/3 of the box provides a blank space which is an appropriate place to insert the following message:

Status Verifier: Please provide the date of adjustment to temporary resident status.

REDETERMINATION

At the time of the annual redetermination for those beneficiaries who are not receiving a full-scope Medi-Cal card, county staff shall check the case file for a copy of the I-689 Fee Receipt or other documentation that establishes the date of adjustment to TRS. If the county cannot determine a beneficiary's status prior to the face-to-face interview, the county shall inquire if the beneficiary has documentation showing TRS during this interview.

A new MC 13 is necessary at redetermination when the level of benefits requested or immigration status changes.

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MEDI-CAL STUFFER:

DHS anticipates sending a Medi-Cal stuffer within the next few months. We will send counties an E-Mail as soon as we know the exact month in which the stuffer will go out. This stuffer will inform IRCA aliens that their individual five-year moratorium periods may be expiring and explain how to determine the expiration date. The stuffer will also instruct IRCA aliens to contact the nearest INS district office if they petitioned for amnesty under IRCA of 1986 and have not yet heard from the INS. Lastly, the stuffer will remind IRCA aliens that it is their responsibility to see that their status is changed to that of lawful permanent resident alien, and that if they fail to do so, their level of benefits will change. The stuffer will be printed in English and Spanish. (See attached for stuffer language.)

Should you have any questions, please contact Marlene King of my staff, at (916) 657-0134.

Sincerely,
ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

IMPORTANT - READ CAREFULLY

If you are an alien granted temporary resident status under the federal Immigration Reform and Control Act of 1986 (IRCA), your initial five-year moratorium will expire on or after May 5, 1992. The date that you paid your fee when originally applying for amnesty will determine the expiration date of your individual five-year moratorium period. You must look at your amnesty fee receipt (INS Form I-689) to know when your five-year period ends. Once you have changed your alien status to that of lawful permanent resident of the United States, you may be eligible to receive full-scope Medi-Cal benefits. Contact your county social services agency to determine if you qualify for full-scope benefits. **It is your responsibility to provide valid Immigration and Naturalization Service (INS) documentation if you want to seek full-scope benefits.**

If you petitioned for amnesty under the Immigration Reform and Control Act and have not heard from the INS, contact the nearest INS district office for assistance.

Whether you are receiving restricted or full-scope benefits, it is your responsibility to see that your alien status is changed to that of lawful permanent resident. If you fail to do this, your Medi-Cal benefits may be reduced to those available to an undocumented person. In addition, you may lose Medi-Cal benefits you otherwise could get.