

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
P.O. BOX 942732
SACRAMENTO, CA 94234-7320
(916) 657-2941



January 5, 1994

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

Letter No.: 93-89

INSTITUTIONAL STATUS--RETROACTIVE PERIOD OF NEW GUIDELINES

REF.: ACWDL Nos. 93-41, 93-42, and 93-46

The purpose of this letter is to inform you of the retroactive period of eligibility for the clarifying guidelines on eligibility of "inmates of a public institution" which were set out in All County Welfare Directors Letter No. 93-42 (attached).

The guidelines set out the criteria for determining Medi-Cal eligibility in cases involving institutional status. Previously, we had determined that an individual was ineligible from the date of arrest to the date of release. Now, it is from the date that the individual actually becomes an inmate of a public institution until he is released, paroled, or on probation.

Since these are guidelines which clarify the federal statute, there will be a retroactive period of one year previous to the date of the All County Letter No. 93-42 which was July 7, 1993. One year is the applicable limitations period for actions arising from the denial of eligibility. (Welfare & Institutions Code, Section 10962 and Code of Civil Procedures, Section 1094.5.)

When any case comes to your attention which resulted in a wrongful denial of Medi-Cal eligibility based upon institutional status or the final determination of ineligibility was made during the time period July 7, 1992 until July 7, 1993, please review for retroactive eligibility under the new guidelines in order to avoid any federal noncompliance action.

Issue retroactive Medi-Cal cards to those individuals who were wrongfully denied Medi-Cal. If the retroactive Medi-Cal card is to be issued more than one year after the month of service, follow the procedures in All County Welfare Director's Letter 91-103. Indicate on the Letter of Authorization that, as the reason for your request, that "An administrative error has occurred". Use "Retroactive Medi-Cal for non-institutional status at the State's request" for the description. Even though these cards are issued at DHS's request, it is necessary to use the administrative error category so that you can issue the LOA without forwarding it to DHS for signature. Use of the administrative error category on the LOA will not result in a county quality control error. (Title 22, CCR, Section 50746.)

Medi-Cal eligibility is now allowed for individuals for the following: House arrest; medical assistance prior to booking; work release; transfer to halfway house or residential treatment center before probation; community service; medical release; placement for treatment as probation requirement in a psychiatric hospital, residential treatment center, or as an outpatient. Review All County Letter Nos. 93-41, 93-42, and

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 2

93-46 for comprehensive clarification of the new federal guidelines regarding Medi-Cal eligibility of inmates in a public institution.

If you have any questions, please contact Ms. Elena Lara of my staff at (916) 657-0712.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

ORIGINAL SIGNED BY

DEPARTMENT OF HEALTH SERVICES

14,744 P STREET
PO BOX 942732
SACRAMENTO, CA 94234-7320



July 7, 1993

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

Letter No.: 93-42

MEDI-CAL ELIGIBILITY FOR INSTITUTIONAL INMATES

REF. ACWDL 93-10; ARTICLE 6, MEM MANUAL

The purpose of this letter is to clarify the meaning of the term "inmate" in the context of 42 Code of Federal Regulations (CFR) Section 435.1009 which defines an inmate of a public institution as a person who is living in a public institution (an institution that is the responsibility of a governmental unit but not a medical institution). For purposes of Medi-Cal eligibility, 42 CFR 435.1008 prohibits any federal financial participation (FFP) to "Individuals who are inmates of public institutions as defined in Section 435.1009; . . ."

The federal Health Care Financing Administration (HCFA) recently set out the following guidelines for determining Medi-Cal eligibility of "Inmates of a public institution":

THE FOLLOWING ARE CONSIDERED AN INMATE OF A PUBLIC INSTITUTION (ADULT OR JUVENILE) AND ARE NOT ELIGIBLE FOR MEDI-CAL:

1. An inmate in a prison.
2. An inmate of a county, city, or tribal jail.
3. An inmate in a prison or jail:
 - a. Prior to arraignment
 - b. Prior to conviction
 - c. Prior to sentencing
4. An individual who is incarcerated, but can leave prison or jail on work release or work furlough and must return at specific intervals.
5. Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated but for the medical emergency.
6. A minor in a juvenile detention center prior to disposition (judgment) due to criminal activity.

7. A minor placed on probation by a juvenile court on juvenile intensive probation with specific conditions of release, including residence in a juvenile detention center.
8. A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is part of the criminal justice system.

THE FOLLOWING ARE NOT AN "INMATE OF A PUBLIC INSTITUTION" AND ARE ELIGIBLE FOR MEDI-CAL:

1. An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.
2. An individual in prison or jail who transfers temporarily to a halfway house or residential treatment facility prior to a formal probation release order.
3. An individual released from prison or jail on probation, parole, or release order:
 - a. with a condition of home arrest
 - b. work release
 - c. community service
 - d. outpatient treatment
 - e. Inpatient treatment
4. Individuals released from prison or jail under a court probation order due to a medical emergency.
5. A minor in a juvenile detention center prior to disposition (judgment) due to care, protection or in the best interest of the child (e.g., Child Protective Services) if there is a specific plan for that person that makes the stay at the detention center temporary.

This could include those juveniles awaiting placement but still physically present in juvenile hall.
6. A minor placed on probation by a juvenile court on juvenile intensive probation with home arrest restrictions.
7. A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is not part of the criminal justice system.

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 3

8. A minor placed on probation by a juvenile court on juvenile intensive probation with treatment as a condition of probation:
 - a. in a psychiatric hospital
 - b. in a residential treatment center
 - c. as an outpatient

Title 22, California Code of Regulations, Section 50273, will be amended to reflect the above guidelines.

If you have any questions, please contact Elena Lara at (916) 657-0712.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care
Financing Administration

Refer to MCD-O-IRM

Region IX
75 Hawthorne Street
San Francisco, CA 94105

JAN 13 1992

Leonard J. Kirschner, M.D.
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Dr. Kirschner:

This is in reply to your letter dated December 20, 1991, in which you request guidance as to the application of the term "inmate" in the context of 42 CFR 435.1009. You ask whether persons described in the examples listed below are considered "inmates of a public institution" for purposes of title XIX. Our response is provided immediately following each example.

1. An inmate in a prison within the Arizona Department of Corrections.

Such a person is an "inmate of a public institution".

2. An inmate of a county, city or tribal jail.

Such a person is an "inmate of a public institution".

3. An inmate in a prison or jail:

- a. prior to arraignment.

Such a person is an "inmate of a public institution".

- b. prior to conviction.

Such a person is an "inmate of a public institution".

- c. prior to sentencing.

Such a person is an "inmate of a public institution".

4. An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.

Such a person is not an "inmate of a public institution".

5. An individual who is incarcerated, but can leave prison or jail on work release or work furlough, and must return at specific intervals.

Such a person is an "inmate of a public institution".

6. An individual in prison or jail who transfers temporarily to a halfway house or residential treatment facility prior to a formal probation release order.

Such a person is not an "inmate of a public institution".

7. An individual released from prison or jail on probation, parole, or a release order.

a. with a condition of home arrest.

Such a person is not an "inmate of a public institution".

b. work release.

Such a person is not an "inmate of a public institution".

c. community service.

Such a person is not an "inmate of a public institution".

d. outpatient treatment.

Such a person is not an "inmate of a public institution".

e. inpatient treatment.

Such a person is not an "inmate of a public institution".

8. Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated "but for" the medical emergency, or individuals released from jail under a court probation order due to a medical emergency.

The former are "inmates of a public institution", but the latter are not.

9. A minor in a juvenile detention center prior to disposition (judgement).

a. due to criminal activity.

Such a person is an "inmate of a public institution".

b. due to care, protection or in the best interest of the child (e.g., Child Protective Services).

Such a person is not an "inmate of a public institution" if there is a specific plan for that person that makes the stay at the detention center temporary. Otherwise, such a person is an "inmate of a public institution".

10. A minor placed on probation by a juvenile court.

a. on juvenile intensive probation with specific conditions of release, including residence in a juvenile detention center.

Such a person is an "inmate of a public institution".

b. on juvenile intensive probation with home arrest restrictions.

Such a person is not an "inmate of a public institution".

c. on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center.

If the secure treatment facility is a part of the criminal justice system, then the person is an "inmate of a public institution". Otherwise, such a person is not an "inmate of a public institution".

d. on juvenile intensive probation with treatment as a condition of probation.

1. in a psychiatric hospital.

Such a person is not an "inmate of a public institution".

2. in a residential treatment center.

Such a person is not an "inmate of a public institution".

3. as an outpatient.

Such a person is not an "inmate of a public institution".

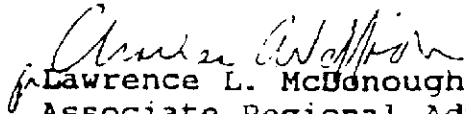
In your letter you refer to "inmates of a public institution" as "ineligible for Title XIX funds". This is a correct characterization. Although such persons may be eligible for title XIX, no title XIX Federal financial participation (FFP) is available for their medical care and treatment.

We are enclosing copies of the policy precedent material in our files per your request.

If you are still interested in other States' interpretation and application of 42 CFR 435.1009, we suggest you contact them directly.

Please have your staff contact Ian McLean of my staff if they have any questions. He can be reached at (415) 744-3593.

Sincerely,


Lawrence L. McDonough
Associate Regional Administrator
Division of Medicaid

cc: Rosada Gonzales
Arizona State Rep.