

DEPARTMENT OF HEALTH SERVICES

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May 2, 1996

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

Letter No.: 96-20

QUESTION AND ANSWER UPDATE ON FORM MC 306, APPOINTMENT OF REPRESENTATIVE

Ref.: All County Welfare Directors Letter (ACWDL) Nos. 94-99, 95-43 and 95-60

Since the release of the MC 306 form, to be used when a competent individual delegates an Authorized Representative (AR) to assist in the application and redetermination process, the Department of Health Services (DHS), Medi-Cal Eligibility Branch (MEB), has received additional questions concerning the appropriate usage of the form. These questions and answers are presented in this letter.

Question 1: Should the county accept an MC 306 which has been altered? In this situation the AR has crossed out pre-printed text on the form and inserted new text which would allow the AR to receive copies of all notice of action and other correspondence.

Answer: No, the county shall not accept an MC 306 which had pre-printed text altered in any way. The MC 306 states "Required Form-No Substitute Permitted." If the form is altered, it is being "substituted" which is not permitted. Counties do not have the authority to accept altered or substitute forms. Those conditions have already been addressed in ACWDL 94-99. Only those items listed on the MC 306 are permitted.

Question 2: Should the county accept form MC 306 when the form has been signed and dated by the applicant months prior to being signed and dated by the AR?

Answer: The county is referred to ACWDL 95-60, Question no. 1. The county should contact the applicant to determine if, in fact, the applicant is aware that the AR is acting on his/her behalf and that the applicant has designated the AR. If the applicant reports that he/she is not aware of the AR or has not designated the AR the Eligibility Worker (EW) must revoke the MC 306. The applicant should be advised of the right to designate an AR of choice and be provided with an MC 306 for that purpose. On the other hand, if the applicant reports that he/she is aware of the AR and did designate the AR, the county should accept the form. However, the effective date of the form is the latest date that all signatures and dates have been completed.

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Question 3: If a beneficiary wants a neighbor to deliver information to the county or to see the EW to discuss how share of cost was determined, does the beneficiary need a MC 306?

Answer: No. However, the beneficiary should call and inform the EW that he/she would like the neighbor to see the EW. In addition, the beneficiary should write and sign a short note authorizing the individual to act on his/her behalf for that specific function and on that specific date.

Question 4: Can a designated AR review the case record without the applicant/beneficiary accompanying the AR?

Answer: No. The AR is only allowed to review the case record, without the applicant/beneficiary, when it is in conjunction with a State hearing. The case record is open to inspection by the applicant/beneficiary or his/her AR anytime prior to the hearing being held.

Manual of Policies and Procedures (MPP), Section 19-005.4, states that:

"The applicant/recipient or his/her attorney or authorized representative may inspect the case records including the entire case narrative relating to the applicant or recipient which are held by DSS, DHS, or any agency supervised by DSS (except for privileged communications)."

However, the inspection of the case record, other than by the applicant/recipient or an AR accompanied by the applicant/recipient, must be in conjunction with a State Hearing. The AR is not entitled to see the case record in lieu of the applicant/beneficiary at any other time.

Question 5: Is it the county's responsibility to prepare and provide a "conflict of interest" waiver when an AR represents both the applicant/beneficiary and the medical provider?

Answer: No. Any "conflict of interest waiver" is the responsibility of the AR and is not required by MEB. The county should not indicate that one is necessary to an AR who is representing both parties. Such a waiver statement is the AR's responsibility to prepare and provide *if the AR thinks that it is in his/her best interest* in those cases of double representation. (Refer to ACWDL 94-99, question no. 11).

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Question 6: Our county has the following situation:

An 18-year-old male was in a car accident and hospitalized in our county. An AR firm, which provided AR services for the hospital, had the 18 year old sign the MC 306 designating this firm as his AR. The AR forwarded the MC 306, SAWS1, and MC 210, etc to our county where the youth is hospitalized.

It was determined later that the 18 year old was visiting friends in our county, where he was injured, but that he actually lived with his parents in another county and was a dependent of his parents. The AR firm knew of this but refused to have the parents apply for Medi-Cal in their county, where the youth lived. In fact, the parents refused to apply.

Should our county accept the MC 306 and other forms and determine Medi-Cal eligibility?

Answer: No. The parents are responsible for their child and, if the parents wish to, must apply for him. Also they may designate an AR. The youth is not able to do so in this case because he is not the person responsible to apply for Medi-Cal. It also appears that the AR firm is attempting to act in lieu of the applicant's parents which is not permitted. The county should deny the application and refer the parents to the appropriate county welfare department if they would like to apply for benefits. The ARs intervention is denying the parents the right to choose whether or not to apply for Medi-Cal.

If the parents do apply in the county where their child is hospitalized, that county should accept the application, determine eligibility, and transfer the case to the other county.

Question 7: Are there any circumstances in which the county should send a copy of a notice of action (NOA) automatically to the AR?

Answer: Yes. Copies of all NOAs in conjunction with a hearing must be sent to the AR. Per MPP, Section 22-010.4:

"After a person or organization has been authorized to represent the claimant, the county, after notification of the authorization, shall send copies of any subsequent correspondence that it has with the claimant regarding the state hearing, to the claimant and the authorized representative simultaneously."

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In other situations, the counties must use good judgment to decide if a NOA should be sent to the AR at the same time it is sent to the applicant/beneficiary. If an applicant/beneficiary does not speak or read English and the county does not have NOAs in the individual's primary language, the county should send a copy of the NOA to the AR so that the applicant/beneficiary is not adversely affected due to circumstances beyond his/her control.

Counties are encouraged to submit questions concerning the MC 306 or authorized representative issues to Gary Varner of my staff at (916) 654-5321. Additional Question and Answer ACWDLs will be issued as the need arises.

Sincerely,

ORIGINAL SIGNED BY

FRANK S. MARTUCCI, CHIEF
Medi-Cal Eligibility Branch