§ 50761. Other Health Care Coverage -General.

A beneficiary with other health care coverage is not entitled to receive health care benefits and services under the Medi-Cal schedule of benefits until the other health care coverage available has been exhausted or denied for lack of service coverage. This requirement shall not, however, apply to beneficiaries covered under Medi-Cal capitated contracting arrangements except to the extent permitted under a contract.

§ 50763. Beneficiary Responsibility -Other Health Care Coverage.

(a) An applicant or beneficiary shall:

(1) Apply for, and/or retain any available health care coverage when no cost is involved.

(2) Report to the county department any entitlement to other health care coverage at the time of application, reapplication, or redetermination; and report any change in entitlement no later than 10 calendar days from the date the beneficiary was notified of the change by the employer or insurer. The report shall include name of carrier, policy and group numbers, and termination date, if available.

(3) Utilize other available health care coverage prior to utilizing Medi-Cal coverage.

(4) Report to the county department services received as the result of an accident or injury as specified in Section 50771 (b), and report the information specified in Section 50771(d)(2).

(5) Provide current other health care coverage billing information to the provider at the time the service is received. This information shall include the name of the other health care coverage, policy and group numbers, and termination date, if available.

(b) Compliance with the other health care coverage requirements of subsection (a) (l) shall be a condition of receiving Medi-Cal covered benefits to the party responsible for the acquisition or continuance of such health care coverage, and shall not interfere with Medi-Cal benefits provided to the remaining family unit..

§ 50765. County Department Responsibility -Other Health Care Coverage.

(a) The county department shall:

(1) Determine the other health care coverage in effect or available to an applicant or beneficiary upon each determination or redetermination of Medi-Cal.

(2) Code the other health care coverage using the coding system prescribed by the Department.

(3) Provide information regarding the beneficiary's other health care coverage to the Department in the manner, form and frequency requested.

(4) Notify the Department that the beneficiary's other health care coverage has lapsed or will lapse no later than five working day's following the receipt of such information.

§ 50769. Department Responsibility -Other Health Care Coverage.

(a) On the Medi-Cal card of beneficiaries who have other health care coverage, the Department shall place an indicator code to give notice to providers and beneficiaries that other health care coverage must be utilized prior to billing the Medi-Cal program.

(b) The Department's fiscal intermediary shall, as directed by the Department, deny provider claims submitted for beneficiaries who have other health care coverage unless the claim is accomplished by a notice of denial of non-coverage of service, termination of coverage, or partial payment which is less than the Medi-Cal schedule of benefits for the service or benefit provided. A provider of service may submit a copy of the original notice of denial or explanation of benefits letter from the other health care coverage. This notice or letter is valid for a period of one year from the date the service was denied. The notice or letter must be accompanied by a completed Medi-Cal claim form for the same service provided to the beneficiary as indicated on the notice or letter.

(c) When Medi-Cal payment has been made before the other health care coverage has been identified, the Department shall recover payments from the parties having a legal obligation.

§ 50771. Recovery of Third Party Payments.

(a) A beneficiary shall reimburse the Department for any payment received for health care services which were paid by Medi-Cal, if the payment received by the beneficiary is made by either of the following:

(1) A federal or state program.

(2) A legal or contractual entitlement.

(b) A beneficiary who receives health care services as a result of an accident or injury caused by some other person's action or failure to act shall furnish the Department with an assignment of rights to receive payment for those services, if those services will be billed to Medi-Cal. If the beneficiary is unable to make the assignment, the beneficiary's guardian, attorney or the person acting on the beneficiary's behalf shall do so.

(c) The Department may file a lien against the property of a beneficiary if the beneficiary fails to comply with the requirement in (b).

(d) The county department shall provide the following written information to the Department of Benefit Payments concerning a beneficiary who may meet the conditions of (b).

(1) The name and address of the beneficiary.

(2) The name and address of the:

(A) Attorney handling the case.

(B) Insurance carriers responsible for payment.

§ 50771.5. Determination of Good Cause for Refusal to Cooperate.

(a) Good cause exists when cooperation is against the best interest, as specified in (b) and (c) below, of an applicant, beneficiary, or child for whom application is made or Medi-Cal received. These regulations shall not preclude the county welfare department from contracting with the district attorney for assistance in the investigation of good cause claims.

(b) Good cause exists if the applicant's or beneficiary's cooperation in securing medical support and payments, establishing paternity, identifying and providing information concerning liable or potentially liable third parties is reasonably anticipated to result in serious physical or emotional harm;

(1) To the child for whom support is to be sought;

(2) To the parent or caretaker relative with whom the child is living as specified in (d) below.

(c) The county believes that proceeding to secure medical support or establish paternity would be detrimental to the child for whom such support would be sought because at least one of the following circumstances exists:

(1) The child for whom such support is sought was conceived as a result of incest or forcible rape;

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) The applicant or beneficiary is currently being assisted by a public or licensed private social service agency to resolve the issue of whether to keep the child or relinquish him/her for adoption, and the discussions have not gone on for more than three months.

(d) Serious physical or emotional harm as it relates to the parent or caretaker relative means substantial reduction of the capacity of the parent or caretaker relative to care for the child adequately. The mere belief of the parent, caretaker relative, applicant, or beneficiary that cooperation could or would result in harm shall not be a sufficient basis for finding good cause.

(e) A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning. The county shall consider the following when determining emotional harm:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional health history of the individual subject to emotional harm;

(3) The intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of the involvement of the individual in the paternity establishment or support enforcement activity to be undertaken.

(f) An applicant, beneficiary, parent, or caretaker relative who claims to have good cause for refusing to cooperate shall have the burden of proof in establishing the existence of good cause. The individual shall be required to:

(1) Specify the circumstances described in (b) above that the individual believes provides sufficient good cause for not cooperating;

(2) Provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to ( l) below; and

(3) Provide corroborative evidence as described in Section 50771.5(g) within 20 days from the day the claim of good cause was made. In exceptional cases, where the county determines the individual requires additional time because of the difficulty of obtaining corroborative evidence, a reasonable additional period of time shall be allowed upon request of the individual and approval by county supervisory personnel.

(g) Good cause may be corroborated by:

(1) Birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child, parent, or caretaker relative;

(4) Medical records which indicate emotional health history and the present emotional health status of the parent, caretaker relative, or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent, caretaker relative, or the child for whom support would be sought;

(5) A written statement from a public or licensed private social service agency that the applicant or beneficiary is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him/her for adoption;

(6) Statements under penalty of perjury from individuals, other than the applicant or beneficiary, with actual knowledge of the circumstances which provide the basis for the good cause claim.

(h) The county shall examine the corroborative evidence supplied by the applicant, beneficiary, parent, or caretaker relative to ensure that it actually verifies the good cause claim.

(i) If, after examining the corroborative evidence submitted by the individual, the county wishes to request additional corroborative evidence which is needed to justify a determination of good cause, the county shall:

(1) Promptly inform the applicant or beneficiary that additional corroborative evidence is needed; and

(2) Specify the type of evidence which is needed.

(j) Upon request, the county shall:

(1) Advise the applicant or beneficiary how to obtain the necessary evidence.

(2) Make a reasonable effort to obtain specific information which the applicant or beneficiary is not reasonably able to obtain without assistance.

(k) Where a claim is based on the individual's anticipation of physical harm as defined in (d) above, and corroborative evidence is not submitted in support of the claim:

(1) The county shall make reasonable efforts to examine, review, and evaluate the good cause claim when it believes that:

(A) The claim is credible without corroborative evidence; and

(B) Corroborative evidence is not available.

(2) Good cause shall be found if the claimant's statement and the investigation which is conducted satisfy the county that the individual has good cause for refusing to cooperate.

(3) A determination that good cause exists shall be reviewed and approved or disapproved by county supervisory personnel and the county's findings shall be recorded in the case record.

( l) In the course of determining whether good cause exists, the county shall not contact the absent parent or putative father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim.

(1) Prior to making contact with the absent parent or putative father, the county will inform the applicant or beneficiary that the absent parent or putative father may be contacted unless the applicant or beneficiary:

(A) Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary:

(B) Withdraws the application for assistance or requests discontinuance.

(2) The county shall inform the applicant or beneficiary that he/she may request the good cause claim be denied. If the applicant or beneficiary makes this request, the county shall send the appropriate Notice of Action.

(m) Prior to making a final determination of good cause for refusing to cooperate, the county shall:

(1) Afford the district attorney the opportunity to review and comment on the findings and basis for the proposed determination;

(2) Consider any recommendation from the district attorney; and

(3) Give the district attorney the opportunity to participate as a witness in any hearing (under the Department of Social Services Manual of Policies and Procedures (DSS-MMP) Chapter 22-000) that results from an applicant's or beneficiary's appeal of any county action relating to establishing paternity or securing medical support.

(n) The county shall determine whether or not good cause exists, based on the applicant's or beneficiary's statement, together with the corroborative evidence, if the statement and evidence provide a sufficient basis for making a determination. The county may further verify the good cause claim through an investigation if necessary.

(o) The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. This time standard may be exceeded only where the case record documents that the county needs additional time because:

(1) The information required to verify the claim cannot reasonably be obtained within 45 days; or

(2) The applicant or beneficiary did not provide corroborative evidence within the period required by (f)(3).

(p) The applicant or beneficiary shall be notified on the appropriate Notice of Action form of the final determination that good cause does or does not exist. If good cause does not exist, the notice shall also specify that:

(1) The applicant or beneficiary will be afforded an opportunity to cooperate, to withdraw the application for assistance, or to have the case closed; and

(2) Continued refusal to cooperate will result in ineligibility for the applicant or beneficiary who refuses, in accordance with Section 50379; however, eligibility will be granted for the other members of the MFBU, if otherwise eligible.

(q) If good cause exists, the county shall determine whether medical support enforcement may proceed without unreasonable risk of harm to the child, parent, or caretaker or relative if the caretaker relative does not participate in these medical support activities.

(1) This determination shall be in writing, shall contain the county's findings and basis for the determination, and shall be entered into the case record.

(2) If the county determines that good cause exists and that the district attorney may proceed to establish paternity and enforce medical support, the county shall notify the applicant or beneficiary to enable such individual to withdraw his/her application or to have the record closed.

(3) Prior to making this determination, the county shall afford the district attorney an opportunity to review and comment on the findings and basis for the proposed determination and shall consider any recommendation from the district attorney.

(r) Good cause may be denied if the individual fails to meet his/her responsibilities as specified in (f) above.

(s) If the district attorney determines that a beneficiary has failed or refused to cooperate within the meaning of Section 50185(a)(9) and (a)(10), the district attorney will provide the county with a statement which specifies the circumstances of the beneficiary's failure or refusal. The county shall take action to terminate Medi-Cal to the beneficiary only when it has verified on the basis of all available evidence that the beneficiary failed or refused to cooperate without good cause.

(t) The failure of a foster parent or caretaker relative who is not requesting Medi-Cal as part of the child's MFBU, to comply with this requirement shall not affect eligibility for the MFBU members. In foster care situations, the child's natural parent and the placing agency shall be asked to cooperate to the extent possible.

§ 50772. Veterans Aid and Attendance Payments.

(a) A Veterans Aid and Attendance payment is a veterans benefit designated to purchase aid and attendance services, and it shall be considered a third party payment.

(b) A beneficiary who receives Veterans Aid and Attendance payments shall be required to utilize this benefit in accordance with the following:

(1) Beneficiaries in LTC shall utilize the Aid and Attendance payments for LTC services prior to the utilization of Medi-Cal benefits. Such utilization shall occur through the share of cost process described in Article 12, that is, any amounts for Veterans Aid and Attendance payments shall be added to the share of the cost amount determined in Section 50653(a)(2)(F).

(2) Beneficiaries not in LTC shall utilize the Aid and Attendance payments for the cost of IHSS prior to the application of the income deduction specified in Section 50551.6.

§ 50773. Medicare Buy-In.

(a) Medicare Buy-In is the payment of Medicare Part B premiums by the Department under the California Medicare Buy-In agreement with the Social Security Administration for Medi-Cal beneficiaries who are:

(1) Eligible under the SSI/SSP, Other PA or MN program on the basis of age.

(2) Eligible under the SSI/SSP, Other PA or MN program on the basis of blindness or disability and also eligible for Medicare Part B in accordance with section 50775(a).

(b) State payment of Part B premiums under the Buy-In provisions shall become effective the:

(1) Second month after the month in which Medi-Cal eligibility is approved for MN persons who were not eligible for a federally covered Medi-Cal program in the month before their first month of MN eligibility.

(2) First month of eligibility for PA and Other PA recipients and MN persons not specified in (1).

(3) The first month after the month of eligibility for qualified Medicare beneficiaries in accordance with Section 50258.

(4) The first month eligibility is approved for Specified Low-Income Medicare Beneficiaries in accordance with Section 50258.1.

§ 50775. Medicare Coverage.

(a) Persons eligible for both Medicare Part A (Hospital) and Part B (Outpatient) benefits under the Social Security Act, Title XVIII, are persons or their spouses who have the required number of quarters of covered employment, are citizens of the United States or aliens legally present in the United States for at least five years, and who meet at least one of the following:

(1) Are 65 years of age or over.

(2) Are entitled to disability, including blindness, benefits for at least 24 consecutive months under Title II of the Social Security Act, or Railroad Retirement program.

(3) Meet the requirements for the receipt of Medicare as a patient with chronic renal disease.

(b) Persons eligible for only Medicare Part B benefits are persons who are either citizens of the United States or are aliens legally present in the United States for at least five years, and are all of the following:

(1) Not eligible for Medicare Part A.

(2) Sixty-five years of age or over.

§ 50777. Requirement to Apply for Medicare.

(a) The following Medi-Cal applicants and beneficiaries shall be required to apply for Medicare Part A:

(1) Any person 64 years and 9 months of age or older.

(2) Persons applying for Medi-Cal on the basis of blindness or disability.

(3) Persons who are receiving disability payments under title II of the Social Security Act or Railroad Retirement program unless the county can obtain verification of receipt of Social Security title II disability payments in accordance with section 50167. In these instances Medicare enrollment is deemed to be automatic beginning with the 25th month of receipt of this benefit and application is not required.

(4) Persons receiving dialysis-related health care services.

(b) The following Medi-Cal applicants and beneficiaries shall be required to apply for Medicare Part B:

(1) Persons who are applying for Medi-Cal on the basis of being aged.

(2) Persons applying for Medi-Cal on the basis of blindness or disability unless the county can obtain verification of receipt of Social Security Title II disability payments in accordance with section 5167. In these instances Medicare enrollment is deemed to be automatic beginning with the 25th month of receipt of this benefit and application is not required.

(3) Persons receiving dialysis-related health care services, unless the county can obtain verification of receipt of Medicare Part A benefits in accordance with section 50167. In these instances, Medicare Part B enrollment is deemed to be automatic and application is not required.

(c) The persons specified in (a) and (b) shall submit verification to the county department of the approval or denial of their Medicare eligibility within 60 days of the date they are notified of the requirement to apply or within 10 days of the notification of approval or denial if their eligibility for Medicare is not determined within 60 days. Except for those persons applying under Sections 50258 and 50256, persons who would only be eligible for Medicare Part A if they paid a premium shall not be required to accept Part A benefits.

§ 50778. Other Health Care Coverage Premium Payment.

The Department, in accordance with the period of eligibility as stipulated within the policyholder's contract, or in accordance with the period of eligibility as stipulated for continuation of coverage under federal law, shall pay the premiums to provide other health care coverage for a beneficiary with entitlement to such coverage when the estimated savings to the Medi-Cal program is 110% or greater than the premium costs. The estimated savings shall be determined by the Department by the review of either:

(a) Costs of covered medical services received by the beneficiary during the preceding year, irrespective of the payment source; or

(b) Estimated annual cost of medical services for the treatment of the beneficiary's pre-existing medical condition.