

**SHD Paraphrased Regulations - Medi-Cal**  
**420 Medi-Cal Citizenship Aliens Residency**

420-1

To be eligible for full scope Medi-Cal benefits, an applicant or beneficiary shall be a California resident, as specified in §50320, who is one of the following:

- (1) A citizen of the United States.
- (2) A national of the United States from American Samoa or Swain's Island.
- (3) An alien lawfully admitted for permanent residence.
- (4) An alien permanently residing in the United States under color of law (PRUCOL).
- (5) Certain amnesty aliens.

(§50301(b))

420-1A

The DHCS developed the MC 13 form for the purpose of determining and verifying the applicant's claim of citizenship or eligible alien status.

(ACWDL No. 96-53, September 17, 1996 modifying ACWDL No. 96-34, June 27, 1996)

420-2A

The DHCS has determined that it is not necessary to obtain an MC 13 (the Statement of Citizenship, Alienage and Immigration Status form) from U.S. Citizens or U.S. Nationals if an applicant makes that declaration and declares his or her place of birth on any form signed under penalty of perjury during the Medi-Cal application process. In addition, counties must not deny, delay or reduce Medi-Cal eligibility for failure to provide an MC 13 if an applicant or beneficiary claims U.S. Citizenship or U.S. National status and provides information about his or her place of birth on any form signed under penalty of perjury as part of the Medi-Cal application process. (All-County Welfare Directors Letter No. 03-14, April 11, 2003)

420-2B ADDED

5/16 Effective January 1, 2014, and notwithstanding previous guidance released in MEDIL 14-08 regarding citizenship/immigration status, the MC 13 form is not required of applicant(s) who meet condition 1 and 3 or condition 2 and 3 below: 1) Attest to being a U.S. citizen/national or to having satisfactory immigration status on the Medi-Cal application including but not limited to the single streamlined application, SAWS 2 Plus, and CF 285 forms; or 2) Are secondary adults on a case who did not sign the application and the primary applicant attests the individual is a U.S. citizen/national; and 3) Whose citizenship/immigration status is verified via electronic means including the federal data hub, California birth match, or the Social Security Administration (SSA) citizenship verification process.

(MEDIL I-14-21, March 25, 2015)

420-2C ADDED

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5/16 Counties shall grant full-scope benefits, without delay, to otherwise eligible applicants attesting on the appropriate application form to being U.S. citizens/nationals or having satisfactory immigration status without further documentation from the applicant. In addition, self-attestation of citizenship via telephonic signature and electronic signature for applications submitted via any application pathway shall be an acceptable form of attestation. (MEDIL I-14-21, March 25, 2015)

420-3

For Medi-Cal eligibility purposes, persons born in any of the following locations are U.S. Citizens:

- > The 50 states
- > The District of Columbia
- > Puerto Rico
- > Guam
- > The U.S. Virgin Islands
- > The Northern Mariana Islands.

(All-County Welfare Directors Letter No. 03-14, April 11, 2003)

421-1 ADDED 9/07

Pursuant to federal law, satisfactory documentation of citizenship/national status and identity must be obtained for:

Most U.S. citizen/U.S. national applicants at the time of application; and

Most U.S. citizen/U.S. national beneficiaries at the time of their next annual redetermination on or after the date of this ACWDL.

(ACWDL 07-12, June 4, 2007)

421-1A ADDED 9/07

Assembly Bill 1807 (Chapter 74, Statutes of 2006) amended Welfare and Institutions Code Section 14011.2 to provide authority to implement the new documentation of citizenship/identity requirements of the Deficit Reduction Act. The new law requires the California Department of Health Services (CDHS) to implement the federal documentation of citizenship/identity requirement with as much flexibility as is allowed under federal law and policy. (ACWDL 07-12, June 4, 2007)

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421-1B ADDED 9/07

State law requires counties to assist applicants and beneficiaries who are required to provide evidence of citizenship/identity. State law further specifies that individuals who have been determined otherwise eligible, but are determined ineligible for full-scope Medi-Cal for failing to meet the citizenship/identity requirements within the reasonable opportunity period, will receive restricted services (including Medi-Cal emergency services and pregnancy-related care and state-only long-term care). (ACWDL 07-12, June 4, 2007)

421-1C ADDED 9/07

Documentation of citizenship and identity is a **one-time activity**. Once documentation is provided, it will not be collected again, even if the beneficiary moves from one county to another, has a break in aid, or can show that he or she has already documented citizenship in another state's Medicaid program (ACWDL 07-12, June 4, 2007)

421-1D ADDED 9/07

**Under the federal guidance, new applicants are treated differently from ongoing beneficiaries.** New applicants declaring their U.S. citizenship who meet all other eligibility requirements are not eligible for Medi-Cal until acceptable documentation of citizenship and identity is provided (in which case they receive full-scope Medi-Cal back to the date of application and any retroactive eligibility period) or, if they stop making a good faith effort to provide it, they are only eligible to receive restricted Medi-Cal. (ACWDL 07-12, June 4, 2007)

421-2 REVISED 9/08

Applicants or beneficiaries in any of the following groups are exempt from the citizenship and identity requirements described in this letter:

- Supplemental Security Income (SSI) beneficiaries (current)
- Social Security Disability Insurance (SSDI – Title II) beneficiaries
- Social Security Retirement and Survivors Insurance (RSI – Title II) beneficiaries who receive those benefits based on their own disability.
- Medicare beneficiaries
- Deemed eligible infants who are born in the U.S. and who therefore are citizens (includes children born to non-citizen mothers and whose delivery was covered by Medi-Cal)
- Minor Consent applicants and beneficiaries
- Children receiving adoption or foster care assistance, including Kinship Guardianship Assistance Payment (Kin-GAP) recipients

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- Infants eligible under the Abandoned Baby Program who are also born in the U.S. and have no documentation.

(ACWDL 07-12, June 4, 2007; ACWDL 08-29, July 9, 2008)

421-2A ADDED 9/08

The Centers for Medicare and Medicaid Services (CMS) issued final federal regulations implementing the Deficit Reduction Act (DRA) Medicaid citizenship requirements in July of 2007.

The final regulations clarify that current SSI and Medicare beneficiaries are exempted from the DRA citizenship and identity requirements under Section 1903 (x)(2) of the Social Security Act. However, former SSI or Medicare recipients are not exempt because the Social Security Administration does not make available to CMS the bases for denial or discontinuance of SSI or Medicare.

Accordingly, effective the date of this letter, counties cannot exempt a Medi-Cal applicant or beneficiary from the DRA citizenship/identity requirements solely on the basis of their former receipt of SSI or their former enrollment in Medicare. However, current status in either will suffice. For example, if the individual no longer receives SSI, but is currently enrolled in Medicare, he or she can be exempted on the latter basis. (ACWDL 08-29, July 9, 2008)

421-3 ADDED 9/07

The new federal requirement to document U.S. citizenship/national status does not apply to individuals at the time presumptive eligibility or accelerated enrollment is established. These programs include:

- Presumptive Eligibility for Pregnant Women,
- Presumptive Medi-Cal Eligibility under the Breast and Cervical Cancer Treatment Program,
- Child Health and Disability Prevention (CHDP) Gateway,
- Medi-Cal Accelerated Enrollment at the Single Point of Entry
- School Lunch Program, and
- The joint Healthy Families/Medi-Cal application.

However, the evidence of citizenship/identity requirements is applicable when the individual's ongoing Medi-Cal eligibility is determined, unless he or she is specifically exempted from these requirements. (ACWDL 07-12, June 4, 2007)

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421-4 ADDED 9/07

Counties must provide:

- To all applicants, the “U.S. Citizens and Nationals Applying for Medi-Cal Must Show Proof of Citizenship and Identity” (DHCS 0001); and
- To all beneficiaries, the “Proof of Citizenship and Identity: New Requirements for Medi-Cal Beneficiaries Who Are U.S. Citizens or Nationals” (DHCS 0002).

(ACWDL 07-12, June 4, 2007)

421-4A ADDED 9/07

The federal guidelines defining acceptable evidence of citizenship and identity include a five-tier “hierarchy” of evidence.

- Tier one (or level one) evidence is the most reliable and establishes both citizenship and identity.
- Tiers two through four include successively less reliable groups of documentation of citizenship only.
- Tier five includes acceptable documentation of identity only.

Citizens or nationals who provide evidence of citizenship from Tiers Two through Four must also provide an identity document from Tier Five to meet the documentation of citizenship/identity requirement.

(ACWDL 07-12, June 4, 2007)

421-4B

|  |  |   |  |  |  |
|--|--|---|--|--|--|
| ADDED 9/07                                     |  |   |  |  |  |
| <b>Evidence of Highest Reliability</b>         |  | ----->  |  | <b>Evidence of Lowest Reliability</b>                |  |
| <b>Primary Documents (Tier 1)</b>              |  | <b>Secondary Documents (Tier 2)</b>                               |  | <b>Third Level Documents (Tier 3)</b>                |  |
| These documents prove Citizenship and Identity |  | Must be Provided with Identity Document from Table 2 <sup>2</sup> |  | Must be Provided with Identity Document from Table 2 |  |
| <b>Fourth Level Documents (Tier 4)</b>         |  |   |  |  |  |
|  |  | Must be Provided with Identity Document from Table 2              |  |  |  |

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|---|---|--|--|
| <ul style="list-style-type: none"> <li>♦ United States passport issued without limitation, current or expired. Passports issued through 1980 may show more than one person.</li> <li>♦ Certificate of Naturalization (DHS Form N-550 or N-570)</li> <li>♦ Certificate of Citizenship (DHS Form N-560 or N-561)</li> </ul> | <ul style="list-style-type: none"> <li>♦ U.S. Public Birth Record issued before age 5<sup>1</sup></li> <li>♦ Certification of Report of Birth (DS-1350)</li> <li>♦ Certification of Birth issued by the Department of State (Form FS-545 or DS-1350)</li> <li>♦ Report of Birth Abroad of a U.S. Citizen (FS-240)</li> <li>♦ U.S. Citizen I.D. Card (Form I-197 or I-179)</li> <li>♦ American Indian Card (I-872)</li> <li>♦ Northern Mariana Identification Card (I-873)</li> <li>♦ Final Adoption Decree<sup>2</sup></li> <li>♦ Evidence of civil service employment by U.S. Government showing employment before 6/1/76</li> <li>♦ U.S. Military Record<sup>2</sup></li> </ul> | <ul style="list-style-type: none"> <li>♦ Extract of a hospital record on hospital letterhead established at the time of birth<sup>2,3</sup></li> <li>♦ Life or health or other insurance record<sup>2,3</sup></li> </ul> | <ul style="list-style-type: none"> <li>♦ Federal or State census record showing U.S. citizenship or a U.S. place of birth (Generally for persons born 1900-1950)<sup>4</sup></li> <li>♦ Seneca Indian tribal census record<sup>2,3</sup></li> <li>♦ Bureau of Indian Affairs tribal census record of the Navaho Indians<sup>2,3</sup></li> <li>♦ U.S. State Vital Statistics official notification of birth registration<sup>2,3</sup></li> <li>♦ Amended U.S. public birth record, amended more than 5 years after the person's birth<sup>2,3</sup></li> <li>♦ Statement signed by the physician or midwife who was in attendance at the time of birth<sup>2,3</sup></li> <li>♦ Institutional admission papers from a nursing facility, skilled care facility or other institution</li> <li>♦ Medical (clinic, doctor or hospital) record (excludes immunization records)<sup>2,3</sup></li> <li>♦ Written Affidavit<sup>5</sup></li> </ul> |
|---|---|--|--|

*1 Must show birth in: one of the 50 U.S. States; District of Columbia; American Samoa; Swain's Island; Puerto Rico (DOB on or after 1/13/41); Virgin Islands of the U.S. (DOB on or after 1/17/17), Northern Mariana Islands (DOB after 11/4/86, NMI local time); or, Guam (DOB on or after 4/10/1899)*

*2 Must show U.S. place of birth.*

*3 Must have been created at least 5 years before the Medicaid application, unless the applicant is a child under the age of 5.*

*4 Must show applicant's age.*

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*5 Affidavits should ONLY be used in rare circumstances. An affidavit by at least two individuals of whom one is not related to the applicant/recipient and who have personal knowledge of the event(s) establishing the applicant's/ recipient's claim of citizenship. The person(s) making the affidavit must be able to prove his/her own citizenship and identity for the affidavit to be accepted. A second affidavit from the applicant/recipient or other knowledgeable individual explaining why documentary evidence does not exist or cannot be readily obtained must also be obtained.*

*Source: Adapted from: Citizenship Documentation Requirements in the Deficit Reduction Act of 2005: Lessons From New York, Kaiser Commission*

(ACWDL 07-12, June 4, 2007)

421-4C ADDED 9/07

Applicants and beneficiaries declaring that they are U.S. citizens or nationals must provide evidence of identity if primary evidence of citizenship from Tier One is not available.

(ACWDL 07-12, June 4, 2007)

421-4D ADDED 9/07

Acceptable Evidence of Identity for Citizens and Nationals who do not provide Tier 1 citizenship documentation (Tier 5)

- Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native tribal document (acceptable if the document carries a photograph of the applicant or beneficiary, or has other personal identifying information relating to the individual).
- Driver's license issued by a State or Territory either with a photograph of the individual or other identifying information of the individual such as name, age, sex, race, height, weight or eye color.
- School identification card with a photograph of the individual
- U.S. military identification card or draft record
- Identification card issued by the Federal, State, or local government with the same identifying information included on driver's licenses
- U.S. Military dependent's identification card
- Native American Tribal document
- U.S. Coast Guard Merchant Mariner card

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- For children under 16, a school record may include nursery or daycare records
- An affidavit to establish the identity of children under 16 is only acceptable if it is signed under penalty of perjury by a parent or guardian stating the date and place of birth of the child, and cannot be used if an affidavit for citizenship was provided.
- A U.S. Passport, current or expired, even if issued with limitation

**NOTE:** Expired identity documents are acceptable for proof of identity.

(ACWDL 07-12, June 4, 2007)

421-4E ADDED 9/08

The following new identity documents have been added as acceptable evidence of identity:

- **Three corroborating identity documents**—Identity may be established based on three corroborating documents that, taken together, reasonably corroborate the identity of an individual (if there is no other evidence of identity available), provided the documents were not used to establish citizenship and the individual, provided second or third level evidence of citizenship.
- **Affidavits of identity for disabled individuals in institutional care facilities**—An affidavit of identity signed under penalty of perjury is acceptable evidence of identity for disabled individuals in institutional care facilities if no other acceptable identity documents are available.
- **Use of clinic, doctor, or hospital records for children under 16**—For a child under 16, identity may be established through clinic records, doctor records, or hospital records. This does not include immunization records maintained by a clinic, doctor, or hospital.
- **Use of school records for children under 16**—For a child under 16, school, nursery, or daycare records (including report cards) may be used for proof of identity.
- **Affidavits of identity for children under age 18**—An affidavit may be used to document the identity of a child under 18 if all of the following conditions are met: (1) an affidavit was not used to document citizenship for the child, and (2) the child cannot obtain a school ID card and (3) the child does not have a drivers' license.

(ACWDL 08-29, July 9, 2008)

421-4F ADDED 9/08



The final federal regulations pursuant to the Deficit Reduction Act of 2005 provides the following further clarification related to acceptable evidence of identity:

- **Additional information about acceptable Tribal documents**—Tribal documents that are acceptable to establish identity include a Certificate of Degree of Indian Blood, or other American Indian/Alaska Native Tribal document with a photograph or other personal identifying information related to the individual. These documents are acceptable if they include a photograph of the applicant or recipient or if they include other personal identifying information relating to the individual. The final regulation provides examples of “identifying information” such as age, weight, height, race, sex, and eye color.
- **Expired identity documents**—States may accept identity documents that have expired, as long as there is no reason to believe the document does not match the individual.
- **Affidavits of identity do not need to be notarized**—Affidavits of identity must be signed under penalty of perjury, but do not need to be notarized. An affidavit for a child under 18 may be signed by a parent, guardian, or caretaker relative.

(ACWDL 08-29, July 9, 2008)

421-5 ADDED 9/07

For applicants, prior to approval of full-scope benefits, counties must obtain evidence of citizenship/identity within the prescribed time limit whenever possible (45 days for applicants who do not need a disability evaluation and 90 days for applicants alleging disability). However, those time limits must be extended to provide applicants with a reasonable opportunity to provide evidence of citizenship/identity if the applicant is making a “good faith effort” to obtain or provide documents.

- If an applicant who is making a good faith effort to obtain or provide documentation of citizenship/identity needs additional time, counties must allow a reasonable period of time.
- This time should be determined on a case-by-case basis, depending on how much time the applicant needs to obtain the required information.
- Counties should follow up with the applicant if the required information is not provided in the time the applicant needs to obtain the required documents. Following up with the applicant is necessary to ensure that acceptable documentation is in the case file as soon as possible or to provide additional time to obtain the document if it is needed.

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Restricted Medi-Cal is only available to otherwise eligible citizens or nationals who, for whatever reason, indicate that they will not present the required evidence of citizenship or identity or who stop making a good faith effort to obtain it.

(ACWDL 07-12, June 4, 2007)

**421-5A ADDED 9/07**

For beneficiaries who are required to provide evidence of citizenship/identity as part of their annual redetermination, the time allowed to provide it must be extended as long as they are making a good faith effort, and counties should follow-up after a reasonable period of time to obtain the document or provide additional time if the beneficiary is making a good faith effort.

- If the documentation has not been provided as part of the annual redetermination, but the beneficiary is otherwise eligible, the county must contact the beneficiary to determine if a good faith effort continues.
- If the beneficiary is no longer making a good faith effort, benefits are to be reduced, with adequate and timely notice, to restricted coverage.
- Unlike applicants, otherwise-eligible beneficiaries remain eligible for Medi-Cal during the reasonable opportunity period and shall not have their eligibility terminated or reduced due to failure to provide citizenship or identity documentation if they are making a “good faith effort” to get the documentation.

(ACWDL 07-12, June 4, 2007)

**421-5B ADDED 9/07**

An applicant or beneficiary is making a good faith effort if he or she demonstrates effort to obtain and present satisfactory documents to meet the evidence of citizenship requirements including evidence of identity if applicable. Applicants and beneficiaries may provide verbal or written statements of their efforts to obtain evidence of citizenship and identity. Counties must document these efforts in the case file, including the basis for a determination that an applicant or beneficiary is or is not making a good faith effort. Whenever possible, such documentation should include dates to indicate how much time the applicant will need to obtain the required documents. This will enable the county to follow up to see if documents have been received or if additional time is needed to obtain them.

(ACWDL 07-12, June 4, 2007)

**421-5C ADDED 9/07**

Examples of good faith effort to obtain evidence of citizenship and identity include, but are not limited to:

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- Providing a copy of a request for a document such as, a photocopy of a letter, a copy of an e-mail or a receipt for the requested document from the agency who will issue the document.
- Providing a copy of a document request sent to the appropriate agency or other entity.
- Providing copies of documents along with documentation that an original or certified copy of an acceptable document has been ordered.
- Written or verbal statements of effort to obtain citizenship documentation.
- Providing a copy of a check receipt or other documentation indicating that a citizenship or identity document has been ordered.
- A written or verbal update of progress made in obtaining evidence of citizenship or identity.
- A written or verbal explanation of attempts to locate two persons who could attest to the applicant's/beneficiary's citizenship.

(ACWDL 07-12, June 4, 2007)

421-5D ADDED 9/07

Counties must also consider circumstances in which applicants and recipients are incapable of taking the steps necessary to obtain the required documents (for example, due to incapacity or disability) and must provide reasonable assistance to these individuals in obtaining evidence of citizenship and identity.

Counties are not required to pay for documents.

Examples of reasonable assistance include, but are not limited to:

- Reviewing and explaining acceptable evidence of citizenship.
- Explaining how to provide evidence of good faith efforts to secure documents.
- Determining the possible acceptable documents that may be available to the applicant or beneficiary based on his or her individual circumstances.
- Providing any resource available that the county has to direct the applicant/recipient to obtain the document such as the name, address, and telephone number of the vital statistics agency for their state of birth.

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(ACWDL 07-12, June 4, 2007)

**422-1 ADDED**

5/16 A non-citizen who is permanently residing in the United States under color of law (PRUCOL), is eligible for Full-Scope Medi-Cal. (22 C.C.R. § 50301.)

**422-1A ADDED**

5/16 The MC 13 form is used by the Department to obtain information regarding claimed immigrant status. (ACWDL No. 96-34, June 27, 1996)

**422-1B ADDED**

5/16 Aliens "permanently residing in the United States under color of law" shall be interpreted to include all aliens residing in the United States with the knowledge and permission of the Immigration and Naturalization Service and whose departure the Immigration and Naturalization Service does not contemplate enforcing and with respect to whom federal financial participation is available under Title XIX of the Social Security Act. (California Welfare and Institutions Code 14007.5)

**422-2 ADDED**

5/16 Individuals under age 19 who do not meet satisfactory immigration requirements are eligible to full scope Medi-Cal benefits effective May 1, 2016. (Welfare and Institutions Code 14007.8)

**422-4A**

Any alien who is otherwise eligible for Medi-Cal services but who does not meet eligible alien requirements shall be eligible for medically necessary pregnancy-related services. (W&IC §14007.7, effective July 22, 1999)

**422-4B ADDED**

5/16 For purposes of limited alien eligibility for services, "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (1) Placing the patient's health in serious jeopardy.
- (2) Serious impairment to bodily functions.
- (3) Serious dysfunction to any bodily organ or part.

(W&IC §14007.7, effective July 22, 1999)

**422-4C ADDED**

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5/16 Non-PRUCOL but otherwise eligible individuals are entitled to all inpatient and outpatient services that are necessary for the treatment of an emergency medical condition as certified by the attending physician or other appropriate provider and in the same manner as administered under §51056 of Title 22 of the California Code of Regulations. Covered services include continuation of medically necessary inpatient hospital services and follow-up care, as determined by the Department, which is directly related to the emergency. (W&IC §14007.7, effective July 22, 1999)

422-7A ADDED 3/10

The 16th category on the MC 13 is for a noncitizen who claims that he or she is:

“Not in any of the above categories, who can show that: (1) INS knows he/she is in the United States; and (2) INS does not intend to deport him/her, either because of the person’s status category or individual circumstances.”

Effective immediately, counties are no longer required to verify the immigration status of immigrants who claim the last PRUCOL category on the MC 13.

(ACWDL 09-40)

422-7B ADDED 3/10

Applicants who claim the last PRUCOL category on the MC 13 are no longer required to complete the G-845 or the MC 845 form. In addition, effective immediately, it is no longer necessary to verify PRUCOL status at annual redetermination for beneficiaries who claimed the last PRUCOL category on the MC 13.

(ACWDL 09-40)

422-7C ADDED

5/16 If an applicant’s immigration status cannot be initially verified via CalHEERS through the federal data hub or the application information is not “reasonably compatible” with information from the federal data hub, counties must submit a manual SAVE verification request. The county should first use the information provided on the application to attempt verification of citizenship or satisfactory immigration status. If the manual SAVE process does not successfully verify immigration status or resolve the inconsistency, the applicant must be provided a 90-day reasonable opportunity period to resolve the inconsistency. In accordance with ACWDLs 92-48 and 09-65, counties shall grant full-scope benefits during verification of citizenship or immigration status to otherwise eligible applicants. If citizenship or immigration status cannot be verified within the 90-day reasonable opportunity period, counties shall appropriately reduce the scope of benefits..

(MEDIL I-14-21, March 25, 2015)

422-8

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Spouses and unmarried children of an alien legalized under the Immigration Reform and Control Act (IRCA) are "eligible immigrants" and (pursuant to §301 of the Immigration and Nationality Act (INA) of 1990) may be granted a stay of deportation pending adjustment of immigration status. These eligible immigrants (who are PRUCOL persons) are subject to the five-year moratorium which limits Medi-Cal benefits to emergency and pregnancy-related services. The immigrant must be otherwise eligible for Medi-Cal. If the legalized alien is aged, blind, disabled or under 18, there is no limitation on services. (All-County Welfare Directors Letters No. 93-14, March 1, 1993 and 93-49, July 22, 1993)

423-2

Once California residence is established it continues until residence is established in another state or country. (§50320(e))

423-3

California residence is a requirement for Medi-Cal. The adult applicant must be: physically present and living in California with the intention to remain permanently or for an indefinite period; or be physically present, living in California and entered the state with a job commitment or to seek employment. In addition, the verification requirements of §50320.1 must be met. (§50320(a))

423-3A

Children living with their parents shall have their residence determined as that of their parents, except non-California resident parents may establish California residence for their children if the parents intend for their children to remain in California on a nontemporary basis and the parents have made arrangement for the children independent of the parents. (§50320(c))

423-4

In addition to the applicant's declaration of residence on the Statement of Facts, both of the following conditions must be met:

- (1) The applicant produces one of the following:
  - (A) A current California rent or mortgage receipt or utility bill in the applicant's name bearing the current address of the applicant.
  - (B) A current and valid California driver's license with the applicant's name and current address.
  - (C) A current and valid California motor vehicle registration with the applicant's name and current address.
  - (D) A document showing the applicant is employed in this state.
  - (E) A document showing that the applicant has registered with an employment service in this state.

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- (F) Evidence that the applicant has enrolled his or her children in a school in this state.
  - (G) Evidence of receipt of public assistance, other than Medi-Cal, in this state.
  - (H) Evidence of voter registration in this state.
  - (I) An applicant's declaration under penalty of perjury that he or she lacks any of the above verification. (The county must then consider other verification as referred to in §50320.2) AND
- (2) The applicant declares under penalty of perjury that all of the following apply:
- (A) He/she does not maintain a principal residence outside this state. If the applicant contends an out-of-state principal residence is exempt property, evaluate under §50320.2(c).
  - (B) The applicant is not receiving public assistance (which does not include UIB) from another state.

(§50320.1(a))

423-5

The Administrative Law Judge shall not determine that a Medi-Cal applicant is a California resident unless a preponderance of the credible evidence supports either: The applicant intends to remain indefinitely in this state; or the applicant is a resident on the basis of the laws governing residency in the Medi-Cal Program. (§50320.2(f))

423-6

A person's declaration on the Medi-Cal Statement of Facts, together with the evidence required in §50320.1, shall be accepted for purposes of establishing residence, unless there is evidence to the contrary. (§50320(f))

The CDHS position is that "evidence to the contrary" is any information that contradicts applicants' claims that they are residents of California. Examples of contrary evidence are information or documents which show the person:

1. Entered California for a temporary purpose, such as a visit.
2. Had plans to leave the State to return to another state or country (e.g., a return airline ticket) and had not established California residency.
3. Had a spouse or minor children living in another state or country who lived with the person prior to his/her arrival in California.
4. Entered California to obtain medical care, or was granted a short term legal entry to obtain such care.
5. Possessed a Border Crossing Card, or any visa of a temporary nature.

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6. Operated a business, or maintained a home outside California.
7. Had motor vehicles registered outside California.
8. Had children attending school outside California.
9. Received public benefits from another state or country.

This evidence is not determinative, but must be weighed against all other evidence to determine California residency. Facts supporting or undermining California residency claims, and the reasoning involved, should be noted in the case file. (All-County Welfare Directors Letter No. 96-27, May 24, 1996)

423-6A

The CDHS had informed counties that they were to consider possession of a Border Crossing Card as conclusive evidence that the holder of the card is not a California resident for Medi-Cal purposes. (All-County Welfare Directors Letter (ACWDL) No. 97-06, February 18, 1997) One reason for this CDHS position was because the Immigration and Naturalization Service (INS) issues such cards to aliens who must affirm to the INS that they intend to return to their residence in the other country. (ACWDL No. 95-47, August 23, 1995)

On August 11, 1998, the California Court of Appeal ordered "the trial court...to issue a peremptory writ of mandate directing respondents [the CDHS] not to utilize, enforce or attempt to enforce the regulation set forth in ACL [actually All-County Welfare Directors Letter (ACWDL)] 97-06 unless and until the requirements of the APA [Administrative Procedures Act] are met." *Latino Coalition for a Healthy California v. Belshé et al.*, California Court of Appeal, First Appellate District, Division Two, No. A081229, August 11, 1998)

The CDHS instructed counties not to apply ACWDL 97-06, effective immediately, in determining the residence of Medi-Cal applicants or beneficiaries. (ACWDL No. 98-48, October 30, 1998)

423-6B

Persons possessing B-1/B-2 visas are permitted entry into the United States for purposes of visiting this country temporarily for business or pleasure.

In the years 1996 and 1997, the CDHS position was that persons possessing such visas were to be considered nonresidents of California by the counties.

(ACWDL No. 96-27, May 24, 1996, modified by ACWDL No. 97-06, February 18, 1997)

On August 11, 1998, the California Court of Appeal ordered "the trial court...to issue a peremptory writ of mandate directing respondents [the CDHS] not to utilize, enforce or attempt to enforce the regulation set forth in ACL [actually All-County Welfare Directors Letter (ACWDL)] 97-06 unless and until the requirements of the APA [Administrative Procedures Act] are met."



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*(Latino Coalition for a Healthy California v. Belshé et al., California Court of Appeal, First Appellate District, Division Two, No. A081229, August 11, 1998)*

The CDHS instructed counties not to apply ACWDL 97-06, effective immediately, in determining the residence of Medi-Cal applicants or beneficiaries. (ACWDL No. 98-48, October 30, 1998)

423-6C

State law requires that Administrative Law Judges make determinations of residency as follows:

“A denial of a determination of residency may be appealed in the same manner as any other denial of eligibility. The Administrative Law Judge shall receive any proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be granted unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state.”

(W&IC Section 14007.1(b))

423-7 ADDED

10/13 If the individual is 21 years of age or older, is incapable of indicating intent, and is not residing in an institution, state residency is established when the parent, legal guardian of the individual, or any other person with knowledge declares, under penalty of perjury, that the individual is residing in this state. (W&IC §14007.1(c))

If the individual is 21 years of age or older, is residing in an institution, and became incapable of indicating intent before reaching 21 years of age, state residency is established by any of the following:

- 1) When the parent applying for Medi-Cal on the individual's behalf (A) declares under penalty of perjury that the individual's parents reside in separate states and (B) establishes that the parent is a resident of this state.
- 2) When the legal guardian applying for Medi-Cal on the individual's behalf (A) declares under penalty of perjury that parental rights have been terminated and (B) establishes that the legal guardian is a resident of this state.
- 3) When the parent (or parents) applying for Medi-Cal on the individual's behalf establishes in accordance with the requirements of this section that the parent (or parents) was a resident of this state at the time the individual was placed in the institution.
- 4) When the legal guardian applying for Medi-Cal on the individual's behalf (A) declares under penalty of perjury that parental rights have been terminated and (B) establishes in accordance with the requirements of this section that the legal guardian was a resident of this state at the time the individual was placed in the institution.
- 5) When the parent (or parents), applying for Medi-Cal on the individual's behalf (A) provides a document from the institution that demonstrates that the individual is institutionalized in this state and (B) establishes that the parent (or parents) is a resident of this state.

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- 6) When the legal guardian applying for Medi-Cal on the individual's behalf (A) provides a document from the institution that demonstrates that the individual is institutionalized in this state, (B) declares under penalty of perjury that parental rights have been terminated, and (C) establishes that the legal guardian is a resident of this state.
- 7) When the individual or party applying for Medi-Cal on the individual's behalf (A) provides a document from the institution that demonstrates that the individual is institutionalized in this state, (B) declares under penalty of perjury that the individual has been abandoned by his or her parents and does not have a legal guardian, and (C) establishes that the individual or party applying for Medi-Cal on the individual's behalf is a resident of this state.

(W&IC §14007.1(d))

Except when another state has placed the individual in the institution, if the individual is 21 years of age or older, is residing in an institution, and became incapable of indicating intent on or after reaching 21 years of age, state residency is established when the person filing the application on the individual's behalf provides a document from the institution that demonstrates that the individual is institutionalized in this state. (W&IC §14007.1(e))

423-8 ADDED

10/13A recipient who maintains a residence outside of California for a period of at least two months shall not be eligible for services under this chapter where the county has made inquiry of the recipient pursuant to W&IC §11100 and where the recipient has not responded to this inquiry by clearly showing that he or she has (1) not established residence elsewhere; or (2) has been prevented by illness or other good cause from returning to the state. Such individuals can be restored benefits if there is a reapplication and all eligibility criteria are met. (W&IC §14007.6)

425-1

Individuals who are inmates of public institutions are not eligible for Medi-Cal. (§50273(a))

The following are considered inmates of a public institution.

(1)-(4) Individuals in a prison, or city, county, or tribal jail, including:

Those who have not yet been arraigned, convicted or sentenced.

Those who are incarcerated, but can leave the prison or jail on, e.g., work release or work furlough but must return at specific intervals.

Those who are released from prison or jail only because of a medical emergency.

(5)-(8) Minors who are:

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In a juvenile detention center prior to judgment due to the minor's criminal activity.

Placed, after disposition, in a detention or correctional facility which is part of the criminal justice system.

Placed on juvenile intensive probation with specific conditions of release, or ordered to a secure treatment facility, which is part of the criminal justice system, by a juvenile court.

(§50273(a)(1)-(a)(8))

**425-2**

State regulations provide that individuals between the ages of 21-65 who are in an institution for mental diseases (IMD) shall be considered inmates of a public institution until they are unconditionally released. As such, they are not eligible for Medi-Cal. (§50273(a)(9))

**425-2A**

State law provides that inpatient services provided to individuals from 21 to 64 years of age, in an IMD operating under a consolidated license with a general acute care hospital pursuant to §1250.8 of the Health and Safety Code, shall not be eligible for Medi-Cal benefits unless federal financial participation (FFP) is available for such inpatient services. (W&IC §14053(c), as amended effective July 22, 1999)

**425-2B**

Under former state law, despite the provisions of W&IC §14053, ancillary outpatient services (per W&IC §14132) were covered for any eligible individual who was 21 years of age or over, and who was not yet 65 years old, when that person was a patient of an IMD. FFP was not required. (W&IC §14053.1, effective July 22, 1999, and repealed effective July 1, 2001)

**425-3**

Ineligibility for individuals classified as inmates of public institutions (as described in §50273(a)) begins on the date institutional status begins (as described in §50273(a)) and ends on the day institutional status ends. (§50273(b))