



TOBY DOUGLAS
Director

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
Governor

May 14, 2013

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 13-13
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: MEDI-CAL GENERAL NOTICE OF ACTION (NOA) POLICY
(Title 42 Code of Federal Regulations Sections 431.206, 431.210, 431.211, 431.213 and 435.912, 435.919; Title 22 California Code of Regulations Sections §50015, §50179, §50179.5, §50179.7; All County Welfare Directors Letters 08-32 and 10-20)

PURPOSE

The purpose of this All County Welfare Directors Letter (ACWDL) is to provide counties with policy reminders regarding required Medi-Cal Notices of Action (NOA) relating to the counties' eligibility determinations, including share-of-cost (SOC) calculations and scope of benefits. This letter does not address NOA requirements pertaining to approval or denial of specific Medi-Cal services or benefits.

The intent of this letter is to provide general NOA regulation and policy reminders. The regulations and policy in this letter may possibly be affected or altered in the future due to changes resulting from the Affordable Care Act.

NOA DEFINITION

A Medi-Cal program NOA is used to give applicants and beneficiaries written notice of their Medi-Cal-only status. It provides notification of eligibility or ineligibility and of any changes made in eligibility status, level of benefits or SOC.
(22 CCR 50179 (a))

BACKGROUND

In 2007, the Department of Health Care Services (DHCS) convened a NOA Workgroup to respond to concerns that were raised by applicants/beneficiaries and advocacy groups regarding applicants and beneficiaries receiving multiple, confusing and conflicting NOAs, and NOAs sent in inappropriate languages.

PREVIOUS GUIDANCE

In July 2008, DHCS released ACWDL 08-32 requiring counties/consortia to implement two interim measures recommended by the NOA Workgroup to eliminate multiple NOAs and to provide meaningful language access to limited English proficient (LEP) applicants and beneficiaries if the NOA is not available in their preferred language.

Counties/consortia were required to implement the following two interim measures, effective October 1, 2008:

1. Take any measures possible, without initiating automated systems changes, to stop sending NOAs for every program for which the applicant/beneficiary has been evaluated and does not qualify and to instead send a single NOA informing beneficiaries of the final result of the eligibility determination.
2. Ensure LEP individuals are aware of the interpreter services for which they are entitled by sending a multilingual notification with all NOA mailings as an interim measure until NOAs are translated into threshold languages.

In November 2010, DHCS released ACWDL 10-20 which provided examples and clarification on ACWDL 08-32.

FEDERAL/STATE REGULATIONS FOR THE NOA

Federal and State regulations relating to Medi-Cal (Medicaid) NOAs have not changed. This paraphrased list serves only as a reminder of the requirements that are included in the federal and State NOA regulations.

1. The NOA must notify beneficiaries in writing of their Medi-Cal-only eligibility or ineligibility and of any changes made in their eligibility status or SOC.
(22 CCR 50179 (a))

2. The NOA must provide an applicant with written notice of the agency's decision on his/her application and, if eligibility is denied, the reasons for the action, the specific regulation supporting the action, and an explanation of his/her right to request a hearing.
(42 CFR 435.912)
3. The NOA shall be on a form prescribed by DHCS.
(22 CCR 50179 (b))
4. The NOA shall include the name and telephone number of the eligibility worker who completed the eligibility determination.
(22 CCR 50179 (b))
5. The NOA shall include the date the form was completed.
(22 CCR 50179 (b))
6. A copy of the NOA shall be placed in the case file.¹
(22 CCR 50179 (b))
7. The NOA shall include the approval, denial or discontinuance of eligibility, the rescission of a denial or discontinuance, the change in the SOC and the effective date of the action.
(22 CCR 50179 (c) (1))
8. The NOA shall include the amount of the SOC, if any, and the amount of the net nonexempt income used to determine the SOC. (22 CCR 50179 (c) (2))
9. The NOA shall include a statement of what action the State intends to take.
(42 CFR 431.210(a))
10. The NOA shall include the reasons an action is being taken and the law or regulations that require the action, if the action is a denial, discontinuance or increase in SOC.
(42 CFR 431.210 (b) and (c)) (22 CCR 50179 (c) (3))
11. The NOA shall include the right to request a State hearing.
(42 CFR 431.206 (b) (1)) (42 CFR 431.210 (d) (1)) (22 CCR 50179 (c) (4))

¹ Please Note: DHCS interprets "A copy of the NOA shall be placed in the case file" to include an electronic case file.

12. The NOA shall explain, in cases of an action based on a change in law, the circumstances under which a hearing will be granted.
(42 CFR 431.210 (d) (2))
13. The NOA shall include the procedures for requesting a State hearing and the time limits within which a State hearing must be requested.
(42 CFR 431.206 (b) (2), 22 CCR 50179 (c) (5))
14. The NOA shall inform the applicant that he/she may represent her/himself or use legal counsel, a relative, a friend, or other spokesman.
(42 CFR 431.206 (b) (3))
15. The NOA shall include the circumstances under which aid will be continued if a State hearing is requested.
(42 CFR 431.210) (22 CCR 50179 (c) (6))
16. The NOA shall include a statement, when appropriate, regarding the information or action necessary to reestablish eligibility or determine a correct SOC.²
(22 CCR 50179 (c) (7))
17. The agency must give recipients timely and adequate notice of the proposed action to terminate, discontinue, or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid.³
(42 CFR 435.919)
18. The NOA shall be mailed for an adverse action at least 10 calendar days prior to the first of the month in which an adverse action becomes effective, excluding the date of mailing.
(42 CFR 431.211) (22 CCR 50179 (d) (1))

² *Please Note: DHCS interprets "when appropriate" to mean that such a statement is always required unless there is no possibility that eligibility could be reestablished or a SOC determined correctly. The NOA must be specific so that the applicant/beneficiary knows exactly what must be provided to the county to determine Medi-Cal eligibility. Applicants/Beneficiaries may have numerous bank accounts, life insurance policies, etc., and a generic statement to provide a 'bank statement or life insurance policy' is not adequate without additional identifying information. A denial NOA issued an applicant/beneficiary who has not provided information requested and needed for the eligibility determination must specifically list the items that had been previously requested but not provided to be an adequate notice of action (example: XYZ Bank Statement for the month of ____).*

³ *Please note: DHCS interprets this to mean that the calculation of any SOC, premium, spousal income allocation, valuations and calculations resulting in a Community Spouse Resource Allowance, excess property, and any periods of ineligibility for payment of nursing facility level of care must be included in the notice or on worksheets attached to the notice to be an adequate notice of action..*

- Adverse action means an action taken by a county department which discontinues Medi-Cal eligibility or increases a Medi-Cal Family Budget Unit's (MFBU) SOC.
(22 CCR 50015 (a))
19. The NOA shall be mailed in sufficient time to reach the beneficiary by the effective date of the action for discontinuances or increases of the SOC that are not adverse actions.
(42 CFR 431.213) (22 CCR 50179 (d) (2))

The following shall not be considered to be adverse actions and, therefore, require a NOA be mailed in sufficient time to reach the beneficiary by the effective date of the action:

(A) Discontinuance due to any of the following reasons:

- (1) Death, for a one-person MFBU.
- (2) The whereabouts of the beneficiary is unknown and the post office has returned county department mail directed to the beneficiary indicating no forwarding address. (Please Note: SB 87 redetermination procedures must be followed prior to sending the Discontinuance NOA in this case [Welfare & Institutions Code, Section 14005.37]).
- (3) Admission to an institution which renders the beneficiary ineligible.
- (4) The beneficiary also has Medi-Cal eligibility under another identity or category, or in another county or Medicaid eligibility in another state; or will have such dual eligibility as of the first of the coming month if discontinuance action is not taken.
- (5) Receipt of the beneficiary's clear and signed written statement that does either of the following:
 - States the beneficiary no longer wishes Medi-Cal benefits.
 - Gives information that requires discontinuance and includes the beneficiary's acknowledgment that this must be the consequence of supplying such information.⁴

⁴ Please Note: DHCS interprets this to mean that a beneficiary has chosen to voluntarily add a family member with the knowledge that their SOC will increase, and the beneficiary chooses to waive 10-day notice in order to include the family member sooner. In these cases the NOA must still reach the beneficiary by the date of the action, but waiving the 10-day NOA might be the difference between making the change effective the upcoming month.

(B) An increase in an MFBU's SOC due to either of the following:

- (1) The voluntary inclusion of eligible family members who currently are not receiving benefits under any Medi-Cal program.
 - (2) Receipt of the beneficiary's clear and signed statement which gives information which requires an increase in the SOC and includes the beneficiary's acknowledgment that this must be the consequence of supplying such information.
(22 CCR 50015) ⁵
20. The NOA shall be mailed for all actions other than those referred to in 22 CCR 50179 (d) (1) and 22 CCR 50179 (d) (2), no later than the date the county department takes the action.
(22 CCR 50179 (d) (3))
 21. In cases of probable fraud, the agency may shorten the period of advance notice to 5 days before the date of action if the agency has facts indicating the action should be taken because of probable fraud by the beneficiary and the facts have been verified, if possible, through secondary sources. (42 CFR 431.214)
 22. Duplicate NOAs shall be mailed to the administrator of the long-term care facility in which the applicant or beneficiary resides, if the applicant or beneficiary or person acting on their behalf has made such a request.
(22 CCR 50179 (e))
 23. Conditional notices which advise applicants or beneficiaries that eligibility will be denied or discontinued unless specified actions are taken by the applicants or beneficiaries shall not be considered to meet the requirements of what constitutes a NOA, as outlined by 22 CCR 50179 (a).
(22 CCR 50179 (f))
 24. Persons who are granted, denied, or discontinued from county cash-based programs shall be notified in writing by the county department of their eligibility or ineligibility for county cash-based Medi-Cal. Additionally, persons who are discontinued shall be notified of their continued Medi-Cal eligibility status.
(22 CCR 50179.5 (a))

⁵ Please Note: The county must send a NOA for any discontinuance, including death of a one person MFBU.

25. DHCS shall notify persons determined to be eligible for Supplemental Security Income/State Supplementary Payment by the Social Security Administration that they are also eligible for Medi-Cal.
(22 CCR 50179.7 (a))

Multiple NOAs

Do not send multiple NOAs for Programs for which the applicant/beneficiary is ineligible. Counties shall ensure that when following the eligibility hierarchy described in ACWDL 99-02, ACWDL 06-41 and ACWDL 12-33, NOAs for every program for which the applicant/beneficiary has been evaluated and does not qualify are not sent to the applicant/beneficiary.

Scope of Benefits Information in the NOA

To the extent possible, without requiring automation changes, general information explaining "limited benefits" should only be displayed on a NOA if the applicant/beneficiary has eligibility for limited benefits. If the applicant/beneficiary has full-scope benefits, general information explaining the "limited benefits" should not be included on the NOA.

The following is general language that may be used by counties for purposes of providing an explanation of limited benefits on appropriate NOAs:

You can only receive emergency, pregnancy-related, and long-term care services with limited Medi-Cal benefits. If you are not sure if something is an emergency, pregnancy related, or long-term care service, contact your medical provider.

SOC Information in the NOA

To the extent possible, without requiring automation changes, general information explaining SOC should only be displayed on a NOA if the applicant/beneficiary has a SOC. If the applicant/beneficiary has no-cost Medi-Cal, general information explaining the SOC should not be included on the NOA. Counties shall continue to provide the SOC budget in all NOAs where the beneficiary(ies) has a SOC.

Referral to a Local Legal Aid Office or State Welfare Rights Office

Counties have the option of adding the following language to any NOA:

You can also contact your local legal aid office or _____ for help.
(Local Agency Referral)

NOA Font Size Policy

All Medi-Cal NOAs shall adhere to the following font size policy:

- (1) The body of the notice, which includes but is not limited to information about the future action that will be taken and why, must be at a minimum of Arial font size 10.
- (2) Any budget calculations included on the notice must be at a minimum of Arial font size 10.
- (3) Use of font size smaller than 10 should be limited to specifically identified situations where it is demonstrated that 10 point font cannot be used.
- (4) ALL CAPS should be avoided whenever possible, as it is difficult to read.

NOA Language Policy

In order to comply with Title VI of the Civil Rights Act of 1964 and the Dymally-Alatorre Bilingual Services Act, Government Code, Section 7290, et seq., counties are required to provide free interpreter services to all non-English and LEP participants regardless of whether the State has translated the NOA. This means that the county must, at a minimum, provide oral interpretation of all forms, materials, and notices necessary for the participant to participate in and benefit from the Medi-Cal program.

Counties should be aware that if they do not have an individual on site to interpret the requested language, a service such as those that provide telephone-based interpretation services should be utilized to provide meaningful language access.

ACWDL 08-32, Notice of Action Requirements, required counties to send a multilingual notification with all NOA mailings effective October 1, 2008, as an interim measure until NOAs are translated in threshold languages. Counties shall continue to send a multilingual notification with all NOA mailings until notified otherwise by DHCS. The multilingual notification shall be sent with NOAs to all applicants/beneficiaries regardless of the primary language specified on the Medi-Cal Eligibility Data System to ensure LEP individuals are aware of the translation services for which they are entitled.

If DHCS has translated the NOAs into any of the threshold languages, counties are required to use the translated NOAs for applicants and beneficiaries in their primary language, regardless of whether that language is a threshold language in that County. The current written threshold languages required for Medi-Cal are: Spanish, Vietnamese, Chinese, Korean, Russian, Armenian, Farsi, Khmer (Cambodian), Hmong, Arabic and Tagalog.

NOA POLICY REMINDERS

1. NOA Template

All Medi-Cal NOA are required to include the following information in the Header and Footer of the NOA:

Header

- Notice Date
- Case Number
- Worker Name
- Worker ID Number
- Worker Telephone Number
- Worker Address
- Office Hours

Footer

- Hearing Rights
- Any necessary laws or regulations

2. NA Back 9

The NA Back 9 is a universal back page to be used on all NOAs for Medi-Cal, CalWORKs, and/or CalFresh. The NA Back 9 includes all information regarding hearing rights as required by federal and state regulations. This includes: the right to request a State hearing; the procedures for requesting a State hearing; the time limits within which a State hearing must be requested; and all other State hearing information as required by federal and state regulations. The NA Back 9 is located on the Medi-Cal forms website at <http://www.dss.cahwnet.gov/Forms/English/NABACK9.PDF> or the California Department of Social Services (CDSS) forms website at <http://www.cdss.ca.gov/cdssweb/entres/forms/English/NABACK9.PDF>. The language printed on the NA Back 9 may not be modified, except to enter county specific information, and does not need to adhere to the font size policy outlined in this ACWDL.

Counties are required to use a translated NA Back 9 for applicants and beneficiaries in their primary language, regardless of whether it is a threshold language in that County. The Department of Social Services has translated the NA Back 9 into the following languages: Arabic, Armenian, Cambodian, Chinese, Farsi, Hmong, Japanese, Korean, Lao, Mien, Portuguese, Punjabi, Russian, Spanish, Tagalog, Ukrainian, and Vietnamese.

Residents of Long Term Care Facilities

If the applicant/beneficiary or person acting on his/her behalf makes the request, the county will mail duplicate NOAs to the administrator of the long term care facility where the applicant/ beneficiary resides.

3. Timely Notice

(a) Ten-Day Notice

A "Ten-Day Notice" shall be mailed to the beneficiary at least 10 days prior to the first month in which an adverse action becomes effective, excluding the date of mailing. Adverse action means an action taken by a county department which discontinues Medi-Cal eligibility or increases a MFBU SOC (22 CCR 50015). Please note that there are some discontinuances or increases in SOC which are not considered adverse and do not require 10-day notice. These are described below:

(b) Notice in Sufficient Time

A NOA shall be mailed to the beneficiary in sufficient time to reach the beneficiary by the effective date of the action for discontinuances or increases in SOC which are not adverse actions. The effective date of the action is the date the action itself is set to occur.

Discontinuances that are not considered adverse actions are:

- Death, for a one-person MFBU.
- Whereabouts of the beneficiary is unknown and the post office has returned county department mail directed to the beneficiary indicating no forwarding address (Please Note: Counties must follow SB 87 redetermination procedures prior to sending the Discontinuance NOA in this case).
- Admission to an institution which renders the beneficiary ineligible.
- The beneficiary also has Medi-Cal eligibility under another identity or category or in another county or state or will have such dual eligibility as of the first of the coming month if discontinuance action is not taken.
- Receipt of the beneficiary's clear and signed written statement that either states the beneficiary no longer wishes Medi-Cal benefits or gives information that requires discontinuance and includes the beneficiary's

acknowledgment that this must be the consequence of supplying such information.
(22 CCR 50015).

Increases in an MFBU's SOC that are not considered adverse action are:

- Voluntary inclusion of eligible family members who currently are not receiving benefits under any Medi-Cal program.
- Receipt of the beneficiary's clear and signed statement which gives information which requires an increase in the SOC and includes the beneficiary's acknowledgment that this must be the consequence of supplying such information.
(22 CCR 50015).

(c) All Situations Other than (1) and (2) Above

In all situations other than those described in (1) and (2) above, the NOA shall be mailed no later than the date the county takes the action. Examples of "all other situations" are approvals, denials and decreases in SOC.

(d) Discontinuance or Increase in SOC during Application Period

As explained in the Timely Notice section, discontinuances and increases in SOC fall into either the "adverse action" or "discontinuance or increase in SOC which is not an adverse action" category. The exception to this rule occurs when the discontinuance or increase in SOC happens prior to the Medi-Cal eligibility determination. When an applicant has a discontinuance or increase in SOC during the eligibility determination period, the action does not fall into the "adverse action" category, the "discontinuance or increase in SOC which is not an adverse action" category. Therefore, the NOA explaining the discontinuance or increase in SOC that happened prior to an eligibility determination shall be mailed no later than the date the county takes the action, as described in the "All Situations Other than (1) and (2) Above" section. Examples are listed below:

1. Discontinuance during Application Period / Closed Period of Eligibility

When an applicant is approved for Medi-Cal and subsequently discontinued from Medi-Cal prior to the date of the eligibility determination, this is called a Closed Period of Eligibility (CPE). A CPE is common with Long-Term Care cases, but can occur in other cases as well. The discontinuance that leads to a CPE does not fall into either category listed in the "Timely Notice"

section above and, therefore, shall be mailed no later than the date the county takes the action.

2. Increase in SOC during Application Period

When an applicant is approved for Medi-Cal, but has an increase in his/her SOC prior to the eligibility determination, the increase in SOC does not fall into either category listed in the "Timely Notice" section and, therefore, shall be mailed no later than the date the county takes the action.

If you have any questions about this ACWDL, please contact Alison Brown at (916) 327-0418 or by email at Alison.Brown@dhcs.ca.gov. This ACWDL is intended to provide general NOA policy. Program specific questions about NOAs will be forwarded to the appropriate analyst.

Original Signed By

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