

	time to have the disenrollment completed no later than the last day of the calendar month following the disenrollment request.	
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In our discussions with the Managed Care Division, we learned that:

1. Managed Care agrees that if a person in fee-for-service Medi-Cal files a state hearing request prior to the effective date of transfer to a managed care program, that person is entitled to continued fee-for-service coverage until there is an adverse aid pending decision, or an unfavorable decision, whichever comes first.

If there is an aid pending problem, ALJs should contact Scott Richmond or Carmen Romo at (888) 452-8609.

2. There are thousands of notices of action (NOAs) which have been sent, proposing to end fee-for-service benefits and to transfer the beneficiary to managed care. Most are cases that have been sitting dormant for months, but as of February 2001, the Managed Care Division is acting much more promptly to review fee-for-service eligibility.

3. The NOAs do not have a place for the claimant to sign and request a state hearing. The CDHS has agreed to consider revising the NOAs so that the claimants can fill in information to, e.g., request the hearing, authorize a representative, request an interpreter.

California Department of Social Services - State Hearings Division Notes from the Training Bureau - February 16, 2001

Item 01-02-01A Updated Paraphrased Regulations

This is the February 2001 update of the Paraphrased Regulations (ParaRegs). The last update was January 2001. The last new hardcopy of the ParaRegs was distributed in December 2000 to all ALJs and to two counties (Kern and San Mateo) and two authorized representative groups (Legal Services of Northern California [the Sacramento office] and Western Center on Law and Poverty [the Los Angeles office]). Interested parties may request a hardcopy from the appropriate contact.

The Plan is that there will be updates every two months, except during my vacation in the summer. The next projected updates are in April, June, and October 2001.

Beginning with the February 2001 issue, the hardcopy will be updated in the manner of a manual, i.e., as Barclay's does in Title 22. Instructions for manual filing follow:

Replace:	With:	Replace:	With:
9-10	9-10.1	343-348	343-348.4
11-12	11-12	355-356	355-356
197-200	197-200.2	359-362	359-362.1
201-202	201-202	363-364	363-364
211-212	211-212.1	458.1-458.2	458.1-458.2
241-242	241-242	459-460	459-460
247-248.3	247-248.5	464.1-464.2	464.1-464.2
265-266	265-266	473-474	473-474
267-268	267-268	502.5-502.6	502.5-502.6
277-278	277-278.2	522.3-522.4	522.3-522.4
309-310	309-310	529-530	529-530
313-318	313-318.4	631-640	631-640.1
335-336	335-336	651-652	651-652

A list of the ParaRegs which have been deleted, renumbered, revised, or added will be included with each update.

As always, please remember that the ParaRegs do not necessarily set forth CDSS or CDHS policy. They are the writer's best effort to select, shorten, synopsise, and simplify those court cases, laws, regulations, and written policy memoranda which deal with those areas of the law that seem to be most relevant to the State hearing process. The ParaRegs do not contain policy determinations which may have been communicated orally to the writer, but which have not been put in written form.

Additionally, while the ParaRegs are as current as possible, there may be recent changes which have not been incorporated because the material was received too late to be included. In this regard, it should be noted that, e.g., Kin-GAP, AAP, and Managed Care Two-Plan Model ParaRegs do not reflect the most current regulatory changes.

It should be noted that certain of the ParaRegs quote specific language from the source. A ParaReg quotes the source only when:

1. The information is technical or very specific and cannot be paraphrased.
2. It is important that the exact words used by the CDSS or CDHS be emphasized.
3. The writer of these ParaRegs cannot understand what the writers of the source material meant to say when they wrote the ACL, ACIN, ACWDL, regulation, or law.

Peter Hemenway, Administrative Law Judge Specialist

Renumbered:

252-5C = 252-5E
1342-10 = 1342-11
1342-11 = 1342-12
1342-12 = 1342-13
1342-13 = 1342-14
1342-14 = 1342-15
1342-15 = 1342-16
1342-16 = 1342-17
1342-17 = 1342-18

Revised**252-5B**

Exclusion of certain inaccessible resources when the value to the HH is less than one-half the resource limit (63-501.3(h)(5))

414-9

Old rule: Mandated second contact when first QSR is not received, or is incomplete when received QSRs eliminated effective 1/1/01 (ACWDL 97-48, 00-64)

415-1A

Parent, not child, disqualified for parent's failure to cooperate with medical support or identifying an absent parent or determining paternity (ACWDL 93-56, 97-64; 50175(a)(7); MEPM 23E-1, 2; W&IC 14008.7)

415-2A

DA decides whether person has cooperated in identifying the absent parent, securing medical support, and determining paternity, but the county makes the good cause determination (ACWDL 97-64; MEPM 23E-1)

416-1

Old rule: Status report required at three-month intervals until 1/1/01 (50191; AB 2877; ACWDL 00-64)

433-2

SLMB income and resource limits (ACWDL 97-34, 99-15, 00-18)

447-4

Pickle eligibility (Pickle Handbook, 15; Lynch v. Rank)

444-4D

Parent, child, and caretaker relative of child can all receive 1931(b) benefits, but parent is financially responsible (MEPM 5S-4, 8D-3)

612-2

Maximum hours for severely impaired person; definition of "severely impaired person"; no dollar limits on IHSS payments as of 4/14/00 (30-765.11, 30-701(s)(1); ACL 96-55; ACIN I-63-97)

612-4

Maximum hours for non-severely impaired individual; no dollar limits on IHSS payments as of 4/14/00 (Handbook 30-765.121; ACL 96-55; ACIN I-63-97)

620-18

Need when recipient lives with live-in provider (30-763.47)

825-3D

Time limited CAPI, from 10/1/99-9/30/01, for persons entering the U.S. after August 21, 1996; 5-year sponsors' deeming rule (W&IC 18938(a)(3), 18940(b); ACL 00-67)

1103-4

Generally, no retroactive effect given to changes in law (*Rosasco v. Comm. on Judicial Performance*, *Evangelatos v. Superior Court*)

1302-2

Requirements for notices denying MN disability (ACWDL 86-52; *Visser v. Kizer*)

1342-2

12.02 Organic Mental Disorders

1342-4

12.4 Affective Disorders

1342-5

12.4 Mental Retardation

342-7

12.7 Somatoform Disorders

1342-8

12.7 Personality Disorders

New

009-6

CDSS agrees to rescind parts of Notes from the Training Bureau dealing with authority of ALJs to write final decisions when they adhere to policy regarding hardship set forth in Notes (*Rush v. Saenz*)

009-6A

CDSS agrees to notify claimants who were denied AFDC, TANF or CalWORKs benefits by state hearing decisions issued 12/20/94 and thereafter relying on policies set forth in Notes from the Training Bureau (*Rush v. Saenz*)

009-6B

Rush claimants have overpayment collections cease, benefits restored or balanced, and may put Rush money in restricted account (*Rush v. Saenz*)

201-15

Federal requirement for overpayment notice language (7 CFR 273.18(e)(3))

203-1

Federal requirements on notice and delinquency when fair hearing decision on FS overissuance is pending (7 CFR 273.18(3)(6))

209-7

CDSS agrees to rescind parts of Notes from the Training Bureau dealing with authority of ALJs to write final decisions when they adhere to policy regarding hardship set forth in Notes (*Rush v. Saenz*)

219-9

Federal requirement for overpayment notice language (7 CFR 273.18(e)(3))

252-5C

Federal regulations exempt resources which would not produce a significant return, or where the cost of selling would be relatively great (7 CFR 273.8(e)(18), modified eff. 1/20/01)

256-2A

Counties are to use "wholesale value" to determine value of vehicle, and should use one source consistently (63-501.511; ACIN I-124-00)

256-2D

Vehicle excluded for FS if it is used to transport physically, but not mentally, disabled household member (63-501.521(e); ACIN I-124-00)

256-2E

Vehicle exempted if equity value is \$1500 or less under federal regulations (7 CFR 273.8(e)(3), eff. 1/20/01)

256-2F

Federal regulations exempt resources which would not produce a significant return, or where the cost of selling would be relatively great (7 CFR 273.8(e)(18), modified eff. 1/20/01)

256-2G

Federal exemption of certain vehicles from equity test (7 CFR 273.8(f)(2), eff. 1/20/01)

290-1A

Federal differentiation between IPV, IHE and AE food stamp claims (7 CFR 273.18(b))

296-13A

Once adjustment has begun, there is no further collection of a *Lomeli* overissuance after the 36 consecutive months have passed (*Lomeli v. Saenz*; ACL 00-87)

296-13B

When, during the 36 consecutive months of potential adjustment under *Lomeli*, the person is not an FS recipient, the county may take action to recover the overissuance (ACL 00-87)

296-13C

Counties should not combine adjustments of pre-*Lomeli* and *Lomeli* overissuances (ACL 00-87)

296-13D

In general (but not in *Lomeli* cases) overissuances can be collected simultaneously, at the maximum allowable rate for the overissuance which allows the quickest recovery (63- 801.73; ACIN I-124-00; ACL 00-87)

296-13E

Federal rules on compromising claims (7 CFR 273.18(e)(7))

296-15

Federal rules preclude using additional means of recovery when adjustment of FS allotment is occurring, except if additional payment is voluntary, or is collected from irregular and unexpected funds (7 CFR 273.18(g)(1))

415-2B

Good cause claim for cooperation re paternity, medical support results in eligibility for Medi-Cal if other conditions are met, and once granted, shall continue until or unless the county decides at redetermination that circumstances have changed (MEPM 23E-1)

415-2C

Criteria for establishing if good cause for noncooperation with the FSD/DA exists, and evidence which can support claim; good cause determination made by county (MEPM 23E-2, 3)

415-2D

FSD/DA makes determination of noncooperation in establishing paternity, medical support; necessity to have staff persons readily available; cooperation requirements and factors to consider as to whether cooperation exists (MEPM 23E-1)

416-1A

Although status reports no longer required, beneficiary still has duty to report and county still must act on any changes it is aware of (ACWDL 00-64)

443-1A

U-parent deprivation can be established when the PWE is working over 100 hours in the month but the family's net earned income does not exceed 100% of the FPL (AB 1107; MEPM §5C-13, 14)

444-4E

All persons in the family who are living in the home are included in the MFBU except those receiving cash benefits, e.g., SSI, CalWORKs, IHSS, and certain PA or other PA Persons (MEPM 8G-2)

452-7

Noncaretaker relatives who are not parents may establish linkage to a child when the parent is absent from the home, but only one caretaker can be linked to each child; if independently linked, the caretaker may be in separate MFBU (MEPM 8D-3)

585-2C

Health Care Options must consider the beneficiary's language needs, if known, in assigning the beneficiary to a plan (53884(b)(3))

1342-10

12.10 Autistic disorder and other pervasive developmental disorders

California Department of Social Services - State Hearings Division Notes from the Training Bureau - January 16, 2001

Item 01-01-02E CDSS Policy on Equitable Estoppel

The California Supreme Court, in *Lentz v. McMahon* (1989) 49 Cal.3d 393, concluded that equitable estoppel was an issue that could be raised and decided in administrative hearings. The court in *Lentz* did not address specific guidelines regarding when the use of estoppel was appropriate, but did note the following:

That estoppel was an appropriate remedy "against a county's assertion of purely procedural preconditions and limitations on benefits, when the county itself is responsible for the procedural default...."

The court left open the question of whether estoppel would apply to circumstances where a substantively ineligible person is seeking to apply estoppel against the government.