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July 21, 2017

ALL COUNTY LETTER (ACL) NO. 17-70

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CASH ASSISTANCE
PROGRAM FOR IMMIGRANTS
MANAGERS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: **CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
CLARIFICATION OF THE INDIGENCE EXCEPTION EXPIRATION
POLICY FOR SPONSORED IMMIGRANTS**

REVISIONS TO SOC 809 INDIGENCE EXCEPTION STATEMENT

REFERENCES: [WELFARE AND INSTITUTIONS CODE \(WIC\) § 18940\(b\)](#)
[MANUAL OF POLICIES AND PROCEDURES \(MPP\)](#)
§§ 49-037, 49-070.1;
[CODE OF FEDERAL REGULATIONS \(CFR\) §416.1166a](#)
[ALL-COUNTY LETTER NO. 02-63](#), DATED AUGUST 29, 2002;
[ALL-COUNTY INFORMATION NOTICE NO. I-01-10](#), DATED MAY
25, 2010;
[ALL-COUNTY INFORMATION NOTICE NO. I-47-12](#), DATED
NOVEMBER 27, 2012

The purpose of this All-County Letter (ACL) is to provide requested clarification regarding renewal of the indigence exception during the Cash Assistance Program for Immigrants (CAPI) redetermination process.

BACKGROUND AND GENERAL POLICY OF THE INDIGENCE EXCEPTION

For CAPI eligibility purposes, if an immigrant's sponsor has signed the New Affidavit of Support (I-864 form), the sponsor's income and resources (including those of the sponsor's spouse, if living in the same household) are generally deemed to the immigrant for a period of 10 years. ([California Department of Social Services \(CDSS\) Manual of Policies and Procedures \(MPP\)](#) §49-037.22). Please note that the 10-year deeming period applies to "extended CAPI" cases only. (Welfare and Institutions Code § 18940(b)). In "basic CAPI" cases (e.g., sponsor has become disabled,

including cases transferred from the extended CAPI program to the basic CAPI program), sponsor deeming generally continues indefinitely (until either the recipient or the sponsor dies).

In order for the county to calculate the amount of income and resources to deem to the immigrant, the county must determine how much the sponsor has. ([Code of Federal Regulations \(CFR\) §416.116a](#)). Accordingly, the county must obtain information regarding the sponsor's current income and resources as part of a sponsored applicant's CAPI application and as part of each subsequent redetermination. (MPP §49-037.1). Hence CDSS has provided the counties with form [SOC 860](#) for this purpose. Please note that SOC 860 has recently been amended (December 2016) to also provide the county with a sponsor statement of the amount of income and resources provided to the immigrant.

Sponsor(s) must provide a completed SOC 860 annually throughout the 10-year CAPI deeming period (regardless of whether the indigence exception applies). The sponsor deeming rule is suspended under the indigence exception when all of the criteria listed in MPP §49-037.41 are satisfied. When a sponsored immigrant applies for the indigence exception by submitting form SOC 809, the county must complete the SOC 813 worksheet to determine whether the indigence exception applies.

The indigence exception (suspension of sponsor deeming) expires 12 months after it is granted. (MPP §49-037.451). At that time, sponsor deeming will once again apply unless a new indigence exception has already been granted.

If a CAPI applicant/recipient does not have a sponsor or is not subject to sponsor deeming (e.g., because the 10-year sponsor deeming period has expired), the indigence exception process does not apply and SOC 813 should not be completed.

CLARIFICATION OF INDIGENCE EXCEPTION EXPIRATION POLICY

Forms [SOC 809](#) and [SOC 813](#) expire after 12 months and must therefore be completely redone at each CAPI eligibility redetermination conducted in a case where the indigence exception applies. The SOC 860 must be redone at each CAPI eligibility redetermination regardless of whether the applicant is claiming the indigence exception.

Because the circumstances of recipients and sponsors may change significantly in the course of a year, information completed more than 12 months ago is no longer considered valid. Thus, CDSS recommends that the county or consortium begin the CAPI redetermination process no later than 10 months after the date of the most recent redetermination. This will ensure that the county or consortium has enough time to receive the redetermination paperwork (including, if applicable, the indigence exception forms) and process it within the 12-month period. (MPP §49-070).

REQUIRED REDETERMINATION FORMS: INDIGENCE EXCEPTION

In addition to standard CAPI redetermination forms, the following forms are required for an indigence exception redetermination:

- [SOC 809 CAPI Indigence Exception Statement](#). The SOC 809 must be completed and signed by the applicant/recipient at each redetermination in order to continue to receive the deeming exception. (MPP §49-037.413). County staff is required to use this information to determine if the indigence exception continues to apply. (MPP §49-037.461).

The most recent version of SOC 809 (Rev. 10/16) includes the following changes:

- The Social Security Number fill-in box has been replaced with a “Case Number” fill-in box (to improve security).
- A box has been added (upper right hand corner) for the county to indicate whether the case is an initial indigence exception determination or a redetermination.

County Use Only:

☐ Initial

☐ Redetermination

- Whereas applicants and recipients had previously been asked to check a box indicating that they are not living with their sponsors, a choice of two boxes is now available (living with sponsor or not living with sponsor). The indigence exception does not apply if the applicant or recipient is residing with his or her sponsor. (MPP §49-037.421).
 - ☐ *I am/we are currently living with my/our sponsor(s).*
 - ☐ *I am/we are **not** currently living with my/our sponsor(s).*
- Singular and plural pronouns have been added to allow this form to be used for CAPI couples as well as for individual applicants/recipients.
- The “I am/we are applying for the indigence exception because” section of the form has been split into two separate check boxes to accommodate both first-time applicants for the indigence exception as well as CAPI recipients who are being redetermined and who continue to require the indigence exception.

- A check box has been added for current CAPI recipients to indicate that they are receiving CAPI benefits and, without those benefits, would be unable to obtain both food and shelter.
- This is in addition to the existing check box for those newly applying for the indigence exception because they are receiving little or nothing from their sponsors and, as a result, are unable to provide themselves with both shelter and food.

☐ I am/we are currently living with my/our sponsor(s).

☐ I am/we are **not** currently living with my/our sponsor(s).

I am/we are applying for the indigence exception because:

☐ I am/we are currently unable to obtain food and shelter with the support I am/we are receiving from my/our sponsor(s) plus my/our own income and resources, **OR**

☐ I/we currently receive CAPI benefits, and without those benefits, I/we would be unable to obtain both food and shelter with the support I am/we are receiving from my/our sponsor(s) plus my/our own income and resources.

- [SOC 860 Sponsor's Statement of Facts: Income and Resources.](#) This form is used for documentation of the sponsor's income and resources (including the income and resources of the sponsor's spouse) in all sponsored CAPI cases. ([ACIN I-01-10](#)).

The CDSS policy requires that a new SOC 860 be completed at each indigence exception redetermination. (MPP §49-037.53). This policy supersedes any prior statements to the contrary, including those in [ACIN I-47-12](#). Refer to: ([ACL 17-33](#))

The SOC 860 is completed by the sponsor(s), *not by the immigrant*. It is CDSS policy that the county or consortium send SOC 860 to both the sponsor(s) and the immigrant. Although regulations provide that the immigrant is responsible for ensuring that SOC 860 is completed and submitted, providing the SOC 860 directly to the sponsor may assist the county in timely completion of the indigence exception process. (MPP §49-037.51).

Generally, without a completed and signed SOC 860 with associated verifications, the county or consortium must deny the application for indigence exception, suspend CAPI eligibility and stop the recipient's CAPI payments. (MPP §49-037.512). An exception to this rule has been established in cases where the county has verified that the sponsor's whereabouts are unknown (not residing at either the address on file with the county or at the address provided by USCIS). (MPP §49-037.462). When the sponsor's whereabouts are unknown, either at the initial application and/or subsequent redeterminations, SOC 860 is not required for the indigence exception.

- [SOC 813 CAPI Indigence Exception Determination](#). A new SOC 813 must be completed and signed at *each* indigence exception redetermination. Please note that an indigence exception determination must be conducted at least annually, and sooner if the county becomes aware of a change in the CAPI recipient's circumstances (e.g., increase in available resources, change in living situation, inter-county transfer). Based upon all available evidence, the county or consortium must decide whether the indigence exception applies or not. (MPP §49-037.463). The expiration date of the SOC 813 is 12 months from the date the eligibility worker completes and signs the SOC 813 form.

EXPIRATION DATES OF INDIGENCE EXCEPTION AND REDETERMINATION

The expiration of the indigence exception will not always coincide with the expiration of the 12-month CAPI redetermination period.

Indigence Exception Expiration Period: When all indigence exception criteria have been satisfied, deeming is suspended for a 12-month period. (MPP §49-037.451). The indigence exception ends on the last day of the twelfth month unless a new indigence exception determination has already been granted. (MPP §49-037.453).

Please note that an indigence exception redetermination should be made sooner if the county or consortium becomes aware of a change in the CAPI recipient's circumstances any time during the year (e.g., increase in available resources, change in living situation, inter-county transfer).

Redetermination Expiration Period: A recipient's eligibility for CAPI must be redetermined within 12 months of the recipient's initial benefit payment date and within each succeeding 12-month period. (MPP §49-070.1). Like the indigence exception determination, a CAPI eligibility redetermination should be made sooner if the county or consortium becomes aware of a change in the CAPI recipient's circumstances (e.g., increase in available resources, change in living situation, inter-county transfer).

Should you have questions regarding the information contained in this letter, please contact Steve Koehler or Aron Smith at CDSS Adult Programs Division, Cash Assistance Unit at (916) 651-5350, or email to: steven.koehler@dss.ca.gov or aron.smith@dss.ca.gov.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division

c: CWDA