



CDSS

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November 27, 2012

ALL-COUNTY INFORMATION NOTICE NO.: I-47-12

TO: ALL COUNTY WELFARE DIRECTORS
ALL CAPI PROGRAM MANAGERS

SUBJECT: CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
CLARIFICATION OF THE INDIGENCE EXCEPTION RULES

REFERENCES: MANUAL OF POLICIES AND PROCEDURES (MPP) SECTION 49-037.4,
All-County Letter No. 02-63

The purpose of this All-County Information Notice (ACIN) is to provide requested clarification regarding the Indigence Exception and its appropriate application in the Cash Assistance Program for Immigrants (CAPI). The clarifications involve verifying a sponsor's income and resources when the Indigence Exception (IE) is being claimed, and what procedures to follow when the applicant claims the sponsor's whereabouts are unknown.

BACKGROUND AND GENERAL POLICY OF THE INDIGENCE EXCEPTION

Generally, if an immigrant's sponsor has signed the new affidavit of support (New Affidavit or I-864 form); the income and resources of the sponsor(s) (and the sponsor's spouse if living in the same household) are deemed to the immigrant for purposes of determining CAPI eligibility. This general rule is suspended under the indigence exception when all of the criteria under MPP § 49-037.41 are met. (References throughout this ACIN to "sponsor" also include the sponsor's spouse who lives in the same household as the sponsor).

MPP Section 49-037.41 states:

- .41 The indigence exception applies when all of the following are met:
 - .411 Sponsor-deeming results in denial, suspension, or reduction of CAPI benefits;
 - .412 The non-citizen is unable to obtain both food and shelter [see MPP 49-037.43 below];
 - .413 The non-citizen completes and signs the CAPI Indigence Exception Statement (SOC 809) and
 - .414 The county determines that the indigence exception applies.

REASON FOR THIS TRANSMITTAL

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

MPP Section 49-037.43 states:

.43 If the non-citizen is living apart from his or her sponsor and not receiving free food and shelter in another person's household, the non-citizen shall be considered unable to obtain food and shelter if:

.431 The total gross income that the non-citizen receives from all sources is less than the federal SSI Individual rate if the non-citizen is not living with his or her spouse, or the federal SSI Couple rate if the non-citizen is living with his or her spouse, and

.432 The resources available to the non-citizen are less than the applicable CAPI resource limit.

CLARIFICATION OF POLICY FOR VERIFYING SPONSORS' INCOME AND RESOURCES FOR INDIGENCE EXCEPTION (IE) PURPOSES

CAPI regulations indicate that to qualify for the IE deeming must cause a person to be ineligible or have reduced CAPI, which implies a need to obtain a statement of the sponsor's income and resources. It is difficult to actually determine the amount of the sponsor's income and resources because the applicant/recipient may not have that information. It is also unnecessary because all CAPI sponsors must have an income of at least 125% of the federal poverty level, which would be enough to affect CAPI eligibility and/or payment amount for most CAPI recipients and applicants. Counties may, therefore, presume that sponsor deeming would affect CAPI eligibility and/or grant amounts in all IE cases, thereby meeting the requirement in MPP Section 49-037.411. Although counties can presume that the deeming criteria in MPP Section 49-037.411 is met, a determination will still need to be made as to whether or not the applicant/recipient can obtain food and shelter by confirming how much support the applicant/recipient is actually receiving from the sponsor.

PROCEDURES FOR INDIGENCE EXCEPTION CASES WHERE THE APPLICANT ALLEGES THAT SPONSOR'S WHEREABOUTS ARE UNKNOWN

Counties have indicated that numerous CAPI indigence exception applicants are alleging that their sponsor's whereabouts are unknown and have asked for guidance in following the procedures outlined in MPP Section 49-037.46 and .462, which states:

.46 The county must do all of the following whenever the non-citizen has requested the indigence exception:

.461 Obtain a completed form (SOC 809) signed by the non-citizen specifically applying for the exception that provides information regarding his or her living arrangements and income.

.462 Contact the sponsor to confirm the non-citizen's allegations regarding the amount of income and resources that the sponsor provides or makes available to the non-citizen.

(a) Contact INS for the sponsor's address if the sponsor's whereabouts are unknown.

(b) If the sponsor cannot be located, accept the non-citizen's allegation if it is credible and does not conflict with other information in the file.

If an indigence exception applicant alleges the sponsor's whereabouts are unknown the following steps should be followed and documented by the counties:

- If the applicant/recipient or the county has a last known address for the sponsor, send a letter to the last known address asking for confirmation of the amount of support he/she is providing.
- Mail the Department of Homeland Security form G845 (or G845 Supplement) requesting the sponsor's address. If they provide an address different from the last known address the county has; send a letter to the new address.
- If either letter to the sponsor is not returned as undeliverable, then counties should assume that the mail is being ignored and should deny the indigence exception because they cannot confirm the support being provided to the applicant/recipient. MPP Section 49-037.51 indicates the applicant/recipient is responsible for obtaining the sponsor's cooperation in obtaining information needed to make an IE determination. This responsibility includes obtaining confirmation that support is not being provided.
- If the letter is returned (both letters if two different addresses are used) for "addressee unknown" or similar reasons then counties should accept the applicant's allegation that the sponsor cannot be located and their allegation regarding support (if credible, and it does not conflict with other information.)

As a reminder, the total gross income and all available resources, including otherwise excludable income and resources, are to be counted for the purpose of determining IE eligibility. Common examples of otherwise excludable income that can be counted for this purpose include general assistance, food stamps and housing subsidies. Also, for the indigence test, in-kind items such as housing subsidies should be evaluated at their actual value, not the presumed maximum value.

If you have any questions regarding this letter, please contact the Benefit Programs and Program Integrity Bureau at (916) 653-6243.

Sincerely,

Original Document Signed By:

EILEEN CARROLL
Deputy Director
Adult Programs Division