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GOVERNOR

December 23, 2008

ALL-COUNTY INFORMATION NOTICE NO: I-98-08

TO: ALL COUNTY WELFARE DIRECTORS CAPI
PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL
<input type="checkbox"/> State Law Change
<input checked="" type="checkbox"/> Federal Law or Regulation Change
<input type="checkbox"/> Court Order
<input type="checkbox"/> Clarification Requested by One or More Counties
<input checked="" type="checkbox"/> Initiated by CDSS

SUBJECT: THE IMPACT OF H.R. 2608, KNOWN AS THE “EXTENSION FOR ELDERLY AND DISABLED REFUGEES ACT” ON CAPI

This All-County Information Notice (ACIN) provides counties with information about notifying Cash Assistance Program for Immigrants (CAPI) recipients with a certain immigration status that they may be eligible for an extension of Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits under House Resolution (H.R.) 2608, entitled “SSI Extension for Elderly and Disabled Refugees Act.” This Act may also be identified as Public Law (P.L.) 110-328.

BACKGROUND

Prior to the passage of H.R. 2608, on September 30, 2008, qualifying refugees and other specified humanitarian immigrants may have been cut off or denied SSI/SSP due to the expiration of the seven-year eligibility period during which they would have been authorized to receive these services pursuant to 8 USC Section 1612(a)(2).

Under H.R. 2608, refugees and other humanitarian immigrants (asylees, persons granted withholding of deportation or removal, Cuban and Haitian Entrants, Amerasians, and victims of human trafficking) are now potentially eligible for SSI/SSP for at least two additional years. Applicants or recipients may be eligible if they meet certain Lawful Permanent Resident (LPR) criteria. They may also be eligible for payment retroactive to October 1, 2008 regardless of when they request reinstatement to SSI/SSP.

Under H.R. 2608, pending further federal guidance, the specified humanitarian immigrant must meet one of several criteria to be eligible for reinstatement. These criteria are that the individual:

1. Has been an LPR for less than six years (adjusted to LPR status after October 1, 2002)
2. Has applied to become an LPR within four years of applying for SSI
3. Has been granted Cuban or Haitian Entrant status
4. Has had deportation or removal withheld
5. Is under age 18
6. Is aged 70 or older

CAPI POLICY

Per Manual of Policies and Procedures (MPP) section 49-045.12, the county must refer any CAPI applicant or recipient who they believe to be eligible for SSI/SSP to file for SSI/SSP regardless of any previous determinations by the Social Security Administration (SSA).

Per MPP section 49-045.15, an applicant or recipient who does not file for SSI/SSP within 30 days of receiving the county referral is not eligible for or does not remain eligible for CAPI; unless the county determines that a good reason exists for not filing within the 30-day period.

Per All-County Letter 00-73, the definition of overpayment is "Payment of more than the amount due for any period. This includes CAPI payments made during a period for which an individual is later determined eligible for SSI/SSP and for which the state or county does not receive federal reimbursement. Payments made on the basis of presumptive disability or blindness are not considered overpayments when an individual is finally determined to be not disabled or blind."

COUNTY PROCEDURES

CAPI Recipients

Counties must refer all recipients in the specified humanitarian statuses to their local SSA office to apply for SSI/SSP. This referral should occur whether or not they meet one of the six criteria above. This is because the SSA has not yet published its final rules, and the recipient may qualify for SSI based on other criteria that has not yet been identified. CAPI benefits should be terminated under existing regulations for any recipient who does not apply for reinstatement within 30 days of receiving written notice to do so. It is essential that CAPI benefits be terminated as soon as possible after determining that SSI/SSP has been approved to avoid overpayments. If a recipient receives CAPI and SSI/SSP for the same month the county should seek recovery of the overpayment.

In an effort to reduce the number of overpayments, counties should give the client a copy of a new signed Interim Assistance Reimbursement (IAR) authorization to take with the referral to SSA so that the SSA can manually input the IAR code, if appropriate. A new form SSP 14 should be completed for all applicants, since SSA may not accept previously completed forms if they do not receive the form within 30 days of the date it was signed by the recipient. Counties should ask SSA to input the SSP 14 manually since reinstatement could occur quickly.

New Applicants

Pursuant to regulation MPP section 49-030.1, new applicants for CAPI must first be found ineligible for SSI based solely upon their immigration status. Evidence of ineligibility for SSI due to immigration status must be received before any of these specified humanitarian immigrants can be approved for CAPI. If the applicant is under 65 years of age and a disability determination is pending with SSA, CAPI can be denied since the individual will either be found eligible for SSI/SSP or denied due to not being disabled (a reason other than immigration status).

Any questions regarding this ACIN should be directed to the Adult Programs Division at (916) 653-5403.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

c: CWDA