

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



ALL-COUNTY LETTER NO. 00-67

TO: ALL-COUNTY WELFARE DIRECTORS

Reason For This Transmittal

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

SUBJECT: EXTENSION OF CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI) PROGRAM

REFERENCE: AB 2876, and ACL 99-56

The purpose of this All-County Letter is to advise counties of the effects of recent law changes on the Cash Assistance Program for Immigrants (CAPI). Assembly Bill (AB) 2876 (Chapter 108, Statutes of 2000) was signed into law on July 7, 2000. This bill extended time limited CAPI eligibility. This letter instructs counties on the effect of the new provision for the affected immigrants, and clarifies the sponsor-deeming rules.

BACKGROUND

Senate Bill (SB) 708 and AB 1111 (Chapters 148 and 147, respectively, in 1999) established time-limited CAPI eligibility for certain immigrants who entered the United States on or after August 22, 1996, but were not eligible for the regular CAPI program. Prior to the passage of AB 1111, immigrants who entered the United States on or after August 22, 1996 had to meet special sponsor restrictions. These sponsor restrictions, which still exist for basic CAPI eligibility, are that the new entrants must also have a sponsor(s) who is (are) deceased, disabled, or the immigrant must be a victim of abuse by the sponsor or the sponsor's spouse. AB 1111 eliminated these sponsor restrictions for time-limited CAPI eligibility.

Under AB 1111, time-limited CAPI was to be paid from October 1, 1999 through September 30, 2000. SB 708 also established a 5-year sponsor-deeming period for all immigrants applying for time-limited CAPI. The 5-year rule applies regardless of whether the sponsor had signed the old or new Affidavit of Support.

A new Medi-Cal Eligibility Data System (MEDS) code (6T) was established for recipients of time-limited CAPI for tracking purposes.

CHANGES AND COUNTY RESPONSIBILITIES

AB 2876 extends the period of time-limited eligibility (originally established by AB 1111) until September 30, 2001. Counties are hereby instructed to continue the eligibility of all CAPI time-limited recipients (Code 6T) beyond September 30, 2000, unless they become ineligible for some other reason. Counties are responsible for conducting redeterminations at the appropriate 12-month interval (see ACL 99-106 for redetermination instructions) for the time-limited cases.

All recipients of time-limited CAPI benefits must be sent a special notice that advises the recipient of the extensions of time-limited CAPI through September 30, 2001. The following suggested language could be used for this notice:

“ You were originally notified that your special time-limited CAPI benefits would only be paid through September 30, 2000. A recent law change has extended the eligibility period for these time-limited CAPI benefits through September 30, 2001. Your time-limited CAPI benefits will continue (unless you become otherwise ineligible), but will not be paid after September 30, 2001. Other events could cause your benefits to be stopped prior to that date.”

All allowance notices for the time-limited CAPI benefits should contain a message with the date changed from last year's to read:

“You have been granted special time-limited CAPI benefits under Welfare and Institutions Code Section 18938(a)(3). These special CAPI benefits will not be paid after September 30, 2001. Other events could cause your benefits to be stopped prior to that date.”

Like last year, all applications from new entrants (those who entered the U.S. on or after August 21, 1996) should first be evaluated for regular CAPI eligibility. If the case cannot be found eligible for regular CAPI, it should be evaluated for potential eligibility for time-limited CAPI. The applicant/recipient must meet all other CAPI eligibility requirements, except for the deceased, disabled, or abusive sponsor restrictions for new entrants, to be eligible for time-limited CAPI. Sponsor-deeming must be considered in all cases.

CLARIFICATION ON DEEMING RULES

Sponsor deeming rules and exemptions vary according to the type of Affidavit signed by the sponsor. There are also some special deeming rules and exemptions that apply only to CAPI recipients, or, in some cases, only certain types of CAPI recipients. The following paragraphs and chart represent an attempt to clarify this complex policy area for counties when they are processing CAPI cases. It is not intended to replace existing State and federal laws and regulations or instructions issued previously.

Federal Rules

Deeming defined -- Deeming is the term for the process of considering another person's income and resources as belonging to the CAPI applicant/recipient for purposes of determining CAPI eligibility.

Deeming period -- Under federal rules, the deeming period differs depending on which Affidavit of Support (Affidavit) the sponsor signs. The New Affidavit (form I-864) became effective December 19, 1997. The Old Affidavit (form I-134) was used prior to that date. (Note: Due to the lag time between approval of the Affidavit and actual immigration to the U.S., some immigrants arriving after December 19, 1997 may have been sponsored under the Old Affidavit.)

- *Old affidavit* -- The sponsor-deeming period lasts 3 years from the date the immigrant is admitted for permanent residence (as established by the Immigration and Naturalization Service [INS]) for immigrants whose sponsor signed the Old Affidavit. Federal regulations governing Supplemental Security Income (SSI) allow a sponsor-deeming exception for immigrants whose sponsor signed the Old Affidavit when the immigrant becomes disabled (as defined for SSI purposes) after entry into the U.S.
- *New affidavit* -- The sponsor-deeming period is open-ended and lasts until the immigrant naturalizes or can be credited with 40 qualifying quarters of work for immigrants whose sponsor signed the New Affidavit. The exemption for immigrants with a disability that begins after entry into the U.S. does not apply to immigrants whose sponsor signed the New Affidavit.
- *Deeming exemption* -- Also under federal law, immigrants who are victims of abuse AND not residing in the same household as the person responsible for the abuse are exempt from the deeming provisions.

Deeming and CAPI

The deeming exemption for immigrants who are victims of abuse by their sponsor or sponsor's spouse is effective for applications filed or processed on or after July 22, 1999, the date AB 1111 was approved by the Governor. This exemption can be used for all CAPI applicants and recipients – regardless of their type of CAPI eligibility or which Affidavit their sponsor signed.

Applicants and recipients for the basic CAPI eligibility follow the federal deeming rules, except for the abusive sponsor exemption, which unlike the federal rule, applies in all situations - regardless of where the immigrant resides.

Time Limited CAPI – 5 Year deeming Period

Applicants and recipients of time-limited CAPI (Code 6T) are all subject to a 5-year sponsor-deeming period regardless of which Affidavit their sponsor signed. The State's

abusive sponsor-deeming exemption also applies to time-limited CAPI regardless of the immigrant's residence. The federal sponsor-deeming exemptions that are specific to the type of Affidavit signed apply to time-limited CAPI in the same manner.

The following chart summarizes the sponsor-deeming rules.

Rule/Exemption	Basic CAPI	Time-Limited CAPI
3-year deeming rule for OLD Affidavit (I-134)	Applies	Not Applicable
Open-ended deeming (no time limit) for NEW Affidavit (I-864)	Applies	Not Applicable
5-year deeming rule	Not Applicable	Applies for both NEW and OLD Affidavits (I-134)
Deeming Exemption for Abusive Sponsor	Applies	Not Applicable (applicant is eligible for Basic CAPI)
Deeming Exemption for immigrant who becomes disabled after U.S. entry	Applies only for OLD Affidavits (I-134)	Applies only for OLD Affidavits (I-134)

Sincerely,

**Original Document Signed by Leonard Tozier for
Donna L. Mandelstam on 9/19/00**

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division