

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 30, 2001

ALL-COUNTY LETTER NO. 01-61

TO: ALL COUNTY WELFARE DIRECTORS
ALL CAPI PROGRAM MANAGERSReason 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 THE CASH ASSISTANCE PROGRAM FOR
IMMIGRANTS

REFERENCE: AB 429, AB 2876, and ACL 99-56

The purpose of this All-County Letter (ACL) is to advise counties of the effects of recent law changes on the Cash Assistance Program for Immigrants (CAPI). Assembly Bill (AB) 429 (Chapter 111, Statutes of 2001) was signed into law on July 30, 2001. This bill removed the sunset date for what was previously time-limited CAPI eligibility. This letter instructs counties on the effect of the new provision for affected immigrants and explains the new sponsor-deeming rules for the extended CAPI program. Attached are Welfare and Institutions Code Sections (18938 and 18940) as amended by AB 429 that affect the CAPI program.

BACKGROUND

Senate Bill (SB) 708 and AB 1111 (Chapters 148 and 147, respectively, statutes of 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 new entrants must also have a sponsor(s) who is (are) deceased or 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. AB 2876 (Chapter 108, Statutes of 2000) extended time-limited CAPI through September 30, 2001. SB 708 also established a 5-year sponsor-deeming period for all immigrants applying for time-limited CAPI. The 5-year rule applied regardless of whether the sponsor had signed the old or new federal 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 429 eliminates the sunset date for time-limited CAPI eligibility (originally established by AB 1111 and extended to September 30, 2001 by AB 2876). Counties are hereby instructed to continue eligibility for all CAPI time-limited recipients (Code 6T) indefinitely, unless they become ineligible for some other reason. Counties are still responsible for conducting redeterminations at the appropriate 12-month interval (see ACL 99-106 for redetermination instructions) for these cases.

All recipients of time-limited CAPI benefits must be sent a special notice that advises the recipient of the indefinite extension of their benefits. The following suggested language could be used for this notice:

“You were previously notified that your special time-limited CAPI benefits would only be paid through September 30, 2001. Your time-limited CAPI benefits will continue indefinitely (unless you become ineligible for some other reason). Other events could cause your benefits to be stopped prior to that date.”

Allowance notices should no longer contain any special message regarding time-limited benefits. Since the term “time-limited” no longer describes this special CAPI eligibility, it will hereafter be referred to as “extended CAPI”. However, counties should still report and list the extended CAPI cases – any non-citizen who entered the U.S. on or after August 22, 1996, who does not meet the sponsor restrictions of having a sponsor who is deceased or disabled, or is a victim of abuse by either the sponsor or the sponsor’s spouse – under Code 6T.

As before, 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 extended 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 extended CAPI. Sponsor-deeming must be considered in all cases.

NEW DEEMING RULES FOR EXTENDED CAPI

AB 429 also changed the sponsor-deeming period for extended CAPI recipients in the 6T category. Previously, immigrants in the 6T category were subject to a 5-year deeming period. Effective August 1, 2001, applicants and recipients of extended CAPI (Code 6T) are all subject to a 10-year sponsor-deeming period regardless of which Affidavit their sponsor signed. The new 10-year deeming rule also applies to all of the current extended CAPI (previously time-limited) recipients effective August 1, 2001. This means that sponsor-deeming will continue to apply to current recipients whose sponsor-deeming period would have otherwise ended after 5 years but for the extension of the deeming period to 10 years under AB 429. The new law did not change any other state or federal deeming rules or exceptions.

Any questions regarding this notice should be directed to your Cash Assistance Programs Unit analyst at (916) 229-4582.

Sincerely,

***Original Document Signed By
Donna L. Mandelstam on 8/30/01***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment

The following is an excerpt from AB 429 (Chapter 111, Statutes of 2001):

SEC. 53. Section 18938 of the Welfare and Institutions Code is amended to read:

18938. (a) (1) Subject to paragraphs (2) and (3), an individual, upon application, shall be eligible for the program established pursuant to Section 18937 if his or her immigration status meets the eligibility criteria of the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) in effect on August 21, 1996, but he or she is not eligible for SSI/SSP benefits solely due to his or her immigration status under Title IV of Public Law 104-193 and any subsequent amendments thereto.

(2) An applicant who is otherwise eligible for the program, but who entered the United States on or after August 22, 1996, shall be eligible for aid under this chapter only if he or she is sponsored and one of the following conditions is met:

(A) The sponsor has died.

(B) The sponsor is disabled, as defined in subparagraph (A) of paragraph (3) of subdivision (b) of Section 11320.3.

(C) The applicant, after entry into the United States, is a victim of abuse by the sponsor or the spouse of the sponsor if the spouse is living with the sponsor.

(3) An applicant who is otherwise eligible for the program but who entered the United States on or after August 22, 1996, and who does not meet one of the conditions of paragraph (2) shall be eligible for aid under this chapter beginning on October 1, 1999.

(4) The applicant shall be required to provide verification that one of the conditions of subparagraphs (A), (B), or (C) of paragraph (2) has been met.

(5) (A) For purposes of subparagraph (C) of paragraph (2), abuse shall be defined in the same manner as provided in Section 11495.1 and Section 11495.12. A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to, the following:

(i) Police, government agency, or court records or files.

(ii) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.

(iii) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

(iv) Physical evidence of abuse.

(B) If the victim cannot provide additional evidence of abuse, then the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

(b) The department shall periodically redetermine the eligibility of each individual.

(c) The department shall take all steps necessary to qualify any benefits paid under this section to be eligible for reimbursement as federal Interim Assistance including requiring a repayment agreement.

SEC. 54. Section 18940 of the Welfare and Institutions Code is amended to read:

18940. (a) Except as otherwise provided in this chapter, the federal and state laws and regulations governing the SSI/SSP program shall also govern the program provided for under this chapter.

(b) Federal deeming rules and exemptions governing the SSI/SSP program, including all federal and state laws and regulations designed to protect SSI/SSP recipients and their resources, shall also govern the program provided for under this chapter, except that for immigrants described in paragraph (3) of subdivision (a) of Section 18938 who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be 10 years from the date of the sponsor's execution of the affidavit of support or the date of the immigrant's arrival in the United States, whichever is later.

(c) Notwithstanding any other provision in this chapter, immigrants who are victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming. Abuse shall be defined in the same manner as provided in Section 11495.1 and Section 11495.12. A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to, the following:

- (1) Police, government agency, or court records or files.
- (2) Documentation from a domestic violence program, or from a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.
- (3) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.
- (4) Physical evidence of abuse.
- (5) If the victim cannot provide additional evidence of abuse, then the sworn statement shall be sufficient if the county makes a determination documented in writing in the case file that the applicant is credible.