



February 20, 2007

ALL COUNTY LETTER NO.: 07-11

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM 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: IMPLEMENTATION OF CONLAN II COURT ORDER:
REIMBURSEMENT OF COVERED SERVICES FOR IN-HOME
SUPPORTIVE SERVICES (IHSS) RECIPIENTS

The purpose of this letter is to provide information on the Conlan II court order which was approved and became effective November 16, 2006, the State's Implementation Plan, and the role of county social services. The order found that the California Department of Health Services (CDHS) needs to establish a reasonable procedure by which recipients can obtain prompt reimbursement for covered services for which they paid during the three months prior to applying for Medi-Cal coverage, and would later be expanded to include the evaluation period and the post approval period.

The order required the development of a State Implementation Plan whereby all eligible Medi-Cal recipients would be able to request reimbursement for covered services, be provided with the important dates and time frames for determining eligibility for reimbursement, and be informed of the requirements and instructions for filing a claim. It is unknown how many recipients will apply and file a claim or the specific impact on county social services.

Background:

The California Court of Appeals concluded litigation in two cases, Conlan v. Bontá (Conlan I) and Conlan v. Shewry (Conlan II); directing CDHS to ensure Medi-Cal recipients entitled to reimbursement for covered services receive notification and are promptly reimbursed. Specifically, CDHS is required to provide recipients reimbursement for medically necessary services received and paid for during the following time periods: 1) the retroactive period which is up to three months prior to the time of application for Medi-Cal, 2) the evaluation period which includes the time between the dates that an application for Medi-Cal eligibility was submitted and approved; and 3) the post approval period which is after the recipient was approved for Medi-Cal and includes excess co-payment and excess Medi-Cal Share of Cost (SOC) expenses.

Attached (Attachment #1A and Attachment #1B) is a copy of the notice CDHS is sending to approximately 11.5 million past and present Medi-Cal recipients over a period of six - eight weeks beginning December 29, 2006. Claims will be submitted to the Beneficiary Service Center (BSC)/Electronic Data Systems (EDS – under contract with CDHS) for processing. The BSC will then forward In-Home Supportive Services (IHSS) claims to the California Department of Social Services (CDSS).

Claims for Buy-Out Reimbursement:

A claim for a medical expense incurred by a recipient during the period of time between the date Medi-Cal eligibility was established and the first date that the recipient received benefits under the Buy-Out program are not subject to the Conlan II reimbursement claims process at this time. In order to be eligible under this claims process, the individual must have met his or her Medi-Cal SOC or was eligible for no SOC Medi-Cal in the month in which the service is claimed.

County Role:

CDSS, Adult Programs Division (APD), Conlan Unit staff will have primary responsibility for processing IHSS Conlan claims. However, CDSS anticipates that the counties may receive requests for assistance from recipients for the following:

- Requests for interpretation of the notice they receive from CDHS and assistance to complete the reimbursement claim forms. The county should refer recipients to the BSC at (916) 403-2007 or TDD (916) 635-6491.
- Obtaining an approved (NA-690) IHSS Notice of Action (NOA) which will demonstrate medical necessity. Some recipients will not have a copy of their NOA and may request a copy from their county IHSS office. In these cases, the county must make every effort to provide a copy of the NOA within ten business days of request. When a copy is not available, the county must verify and document the recipient's IHSS eligibility utilizing Attachment #2, "County Verification", State of California Form 828 (1/07). The State of California Form 828 will be available electronically via the CDSS external Webpage. The completed original of the County Verification must be provided to the recipient to submit with their claim to the BSC.
- Assist in the Conlan State Hearing process which will be different from the standard State Hearing process. Conlan State Hearings will be conducted via conference call and will not require county participation. However, any recipient who has been notified that a payment has been denied may appeal and request a State Hearing within 90 days of receipt of the notice of denial. This may require additional assistance from county staff, including providing requested documentation.

County Reimbursement:

- The APD is working with the CDSS Administration Division to ensure that sufficient funds are available for county workload related to the Conlan II Court case as appropriate. County costs will be paid through the County Expense Claim process. A forthcoming County Fiscal Letter will summarize the claim process. It is CDSS' intention to use the following claiming codes:
 - County Administration, PC 272
 - Timestudy, PC 2720
 - Direct-to-Program, A64

Claim Submission:

- Claims for services received June 27, 1997, through November 16 2006, must be received by CDHS/BSC by November 16, 2007, or within 90 days after issuance of the Medi-Cal card, whichever is longer.
- Claims for services received on or after November 16, 2006, must be submitted within one year of receipt of services or within 90 days after issuance of the Medi-Cal card, whichever is longer.

Claim Processing:

- Claims will be submitted to CDHS, EDS, BSC.
- The BSC will forward IHSS claims to CDSS/APD within 15 days of receipt by the BSC.
- APD has 120 days from receipt of a complete claim to adjudicate the claim.
- Recipients will receive a NOA advising them if their claim is approved, denied, or partially approved/partially denied. Once a claim is approved, fully or partially, warrants will be issued by the State Controller's Office.

Records Retention:

- All County Letter 06-33, Records Retention, provides the legal requirements for records retention and the identification of certain records which require extended retention periods. Cases involving criminal or civil litigation are categorized for retention by case type (e.g., new and pending; final judgment; closed, dismissed, or settled). Although litigation has concluded in the Conlan v. Shewry (Conlan II) court case, counties should continue to maintain all existing case records and their supporting documentation from June 27, 1997, and ongoing until a revised retention schedule has been transmitted.

Additional information:

For additional information on Conlan II, please see Attachment #3, "Frequently Asked Questions" and Attachment #4, "Conlan II Claims Process."

Recipients must call the BSC at (916) 403-2007 or TDD (916) 635-6491 for assistance.

Any questions from county staff regarding Conlan II should be directed to Shari Lowen, Conlan II Unit Manager, Adult Programs Operations Bureau, at (916) 229-4000.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

Attachments

c: CWDA

The Attachments originally included with this letter are outdated and have been removed. To access the current version of these Attachments, click the following links:

DHCS CONLAN Reimbursement forms can be found at [The DHCS Letters Page](#)

[SOC 828](#)

[CDSS CONLAN II Reimbursement Process](#)

Frequently Asked Questions

Q1: What does the California Department of Social Services (CDSS) have to do with Conlan II if litigation was filed with the California Department of Health Services (CDHS)?

A1: The CDSS is responsible for administering the In-Home Supportive Services (IHSS) Program including the Medi-Cal Personal Care Services Program (PCSP) and IHSS Plus Waiver (IPW). The CDHS is the Medi-Cal Single State Agency responsible for the administration and implementation of the Medi-Cal Program. The CDHS, through an interagency agreement, has authorized the CDSS to implement and administer the PCSP/IPW programs.

Because the PCSP/IPW programs are a Medi-Cal benefit and recipients are determined eligible under Medi-Cal eligibility rules, they would be considered part of the class of individuals eligible to receive reimbursement for any out-of-pocket medical expenses in accordance with Conlan II.

Q2: What is a Beneficiary Reimbursement (Conlan) claim?

A2: A claim filed by recipients of IHSS services who are requesting Medi-Cal reimbursement for out-of-pocket expenses paid for the IHSS service(s) received. Monetary reimbursement will be provided to any individual with a valid claim for services received on or after June 27, 1997.

Q3: What is the statute of limitations to file a claim for retroactive services?

A3: A) Claims for services provided June 27, 1997, through November 16, 2006, must be received by CDHS by November 16, 2007, or within 90 days after issuance of the Medi-Cal card, whichever is longer.

B) Claims for services provided on or after November 16, 2006, must be submitted within one year of receipt of services or within 90 days after issuance of the Medi Cal card, whichever is longer.

Q4: What is the earliest date an individual can file a claim with all the appropriate documentation?

A4: A Beneficiary Reimbursement (Conlan) claim for IHSS can be filed with dates of service back to June 27, 1997.

Q5: Which application date would be used to determine the recipient's eligibility for reimbursement of IHSS covered services?

A5: The date the recipient applied for Medi-Cal, not the date the recipient applied for IHSS.

- Q6: What documentation does an individual need to submit with their claim?
- A6: Proof of medical necessity (i.e. NA-690) and proof of payment for the service (e.g.; cancelled check, provider receipt).
- Q7: What happens if the recipient does not have a copy of their NA-690 IHSS Notice of Action (NOA)?
- A7: The recipient may ask for a copy of the NA-690 from their County Office. The county must provide a copy, within 10 business days, or use the SOC 828, County Verification Form (1/07). The county must provide the recipient with the completed original SOC 828 and maintain a copy for their records.
- Q8: What is the purpose of the SOC 828, County Verification Form (1/07)?
- A8: The SOC 828 is to be used by the county when they are unable to find the NA-690 in their immediate records. The SOC 828 is used only to verify medical necessity and not to detail any recipient case information such as hours and/or services. The SOC 828 will be available electronically via the CDSS external Webpage.
- Q9: What impact will the implementation of Conlan II have on counties?
- A9: To minimize the impact on counties CDSS has the substantial workload for implementation. However, if county efforts are necessary, counties will be able to claim Conlan II costs through the County Expense Claim process. Based upon current law cited in Welfare and Institutions Code (WIC) Section 12306, CDSS shares the annual cost of services with the counties.
- Q10: Will the County Offices be provided with claim packages for distribution to recipients?
- A10: No. The CDHS Beneficiary Reimbursement Center (BSC) will log and distribute Beneficiary Reimbursement claim packages.
- Q11: What is the difference between the “retroactive period,” the “evaluation period,” and the “post-approval period”?
- A11: The *retroactive period* is up to three months prior to the time of application for Medi-Cal.
The *evaluation period* includes the time between the dates that an application for Medi-Cal eligibility was submitted and approved.
The *post-approval period* is the time period after the recipient was approved for Medi-Cal.

Q12: Who would an individual contact to obtain information about filing a claim?

A12: The BSC at (916) 403-2007 or TDD (916) 635-6491.

Q13: Is there a toll free (800) number to refer individuals seeking additional information about filing a claim?

A 13: Yes. The number is 1-877-508-1327.

Q14: What happens if the claim is denied?

A14: The recipient will be notified in writing via a Notice of Action letter that will explain the reason for the denial. The letter will also include a notice of the recipient's rights and instructions for requesting a State Hearing.

Q15: Where can an individual find detailed information about the types of services covered under the IHSS program?

A15: The CDSS regulations, Manual of Policies and Procedures, Division 30, Chapters 30-700 and 30-780; and WIC sections 12300 et. seq., and 14132.95 et seq.