

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 30, 1999

ALL-COUNTY LETTER NO. 99-56

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: CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
 EXTENSION OF PROGRAM AND ELIGIBILITY CHANGES

REFERENCE: AB 1111, SB 708, and ACL 98-82

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) 1111 and Senate Bill (SB) 708 (Chapters 147 and 148, respectively) were signed into law on July 22, 1999. These two bills extended and expanded the CAPI program. This letter will instruct counties on how to implement the new CAPI provisions.

BACKGROUND

AB 2779 (Chapter 329, Statutes of 1998) established CAPI as a program designed to provide cash assistance to aged, blind and disabled immigrants who could no longer become eligible for the Supplemental Security Income/State Supplementary Payment (SSI/SSP) Program. The program was scheduled to become inoperative on July 1, 2000.

The basic CAPI eligibility requirements are that the immigrant:

- Successfully complete an application process;
- Meet the immigration status requirements in effect for SSI/SSP eligibility as of August 21, 1996;
- Be ineligible for SSI/SSP solely due to his or her immigration status under Title IV of Public Law 104-193 and any of its subsequent amendments; and
- Meet all other current SSI/SSP eligibility criteria (Including, but not limited to, income, resources, age and disability).

The 1998 statutes placed an additional restriction on immigrants who entered the United States on or after August 22, 1996 (the date that P.L. 104-193 was enacted). These new entrants, in addition to meeting the above requirements for CAPI eligibility, 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.

CAPI followed all of the federal rules for deeming income and resources from a sponsor (and spouse) to an immigrant in all cases. 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.

Under federal rules, the deeming period differs depending on which Affidavit of Support (Affidavit) the sponsor signs. 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. The sponsor-deeming period lasts until the immigrant naturalizes or can be credited with 40 qualifying quarters of work for immigrants whose sponsor signed the new Affidavit, which was introduced in December 1997. 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.

CHANGES

AB 1111 made the following changes to CAPI:

- Extends the program indefinitely.
- Exempts immigrants who are victims of abuse by their sponsor or sponsor's spouse from sponsor-deeming regardless of whether they live with the person responsible for the abuse.
- Establishes time-limited CAPI eligibility for new entrants (who entered the U.S. on or after August 22, 1996) who do not have a sponsor or have a sponsor who does not meet the sponsor restrictions for new entrants, but who meet all other CAPI eligibility requirements. This means that new entrants who do not have a sponsor, or have a sponsor(s) who is not deceased, disabled or abusive, are potentially eligible for time-limited CAPI. The period of potential eligibility for this particular group of new entrants begins on October 1, 1999 and ends on September 30, 2000.

SB 708 made the following changes for immigrants who are only eligible for the time-limited CAPI benefit under the conditions described above:

- Changes the sponsor-deeming period for time-limited CAPI recipients and applicants (under the provisions of AB 1111) to 5 years regardless of which Affidavit the sponsor signed.
- The 5-year sponsor-deeming period starts from the date the sponsor executed the Affidavit or the date of the immigrant's arrival in the United States, whichever is later.

APPLICATION PROCESSING AND EFFECTIVE DATES

Deeming Exemption

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. However, the earliest possible effective date for CAPI payment based solely on this new provision is August 1, 1999.

For example:

An immigrant applies for CAPI on June 9, 1999 and establishes that she has been a victim of abuse by her sponsor. She is still living with her sponsor. When the application is processed on August 24, 1999, the applicant is found ineligible for CAPI for July 1999 because the amount of her sponsor's income and resources are too high. She is eligible for August because of the July 22nd law change that now exempts her from sponsor-deeming.

The definition of abuse for purposes of granting the sponsor-deeming exemption is the same as the one currently used for determining if a new entrant meets the abusive sponsor eligibility restriction as described in emergency regulations Manual of Policies and Procedures (MPP) Section 49-020.313.

Counties must review all CAPI cases denied between July 22, 1999 and the date of this letter, and re-open and re-evaluate CAPI eligibility for any cases that were denied solely due to deeming of income or resources from a sponsor (or sponsor's spouse) who was found to be abusive to the applicant.

Time-Limited CAPI

The earliest effective payment date for time-limited CAPI is October 1, 1999 for applications filed prior to that date but processed September 1, 1999 or later. All applications from new entrants filed from September 1, 1999 through August 31, 2000 should first be evaluated for regular CAPI eligibility. (Any new entrant case that was denied on or after September 1, 1999 without consideration of these instructions must be re-opened and re-evaluated for potential time-limited 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 sponsor restrictions for new entrants, to be eligible for time-limited CAPI. Sponsor-deeming must be considered in all cases

A new Medi-Cal Eligibility Determination System (MEDS) code (6T) has been established for recipients of time-limited CAPI for tracking purposes. The definition of the new code is:

Non-citizens who entered the United States on or after August 22, 1996 who do not meet the sponsor restrictions reflected in the definition of Aid Code 6M and who either meet the federal definition of qualified alien or the previous SSI/SSP Permanent Resident Under Color of Law requirements.

Revised Assistance claiming instructions and forms will be provided in a separate County Fiscal Letter.

All allowance notices for the time-limited CAPI benefits should include the following message:

“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, 2000. Other events could cause your benefits to be stopped prior to that date.”

VERIFICATION OF SPONSORSHIP

Sponsorship or lack thereof, is an important factor in determining regular or time-limited CAPI eligibility. In accordance with SSI/SSP procedures, counties must verify with the INS sponsorship of an immigrant who is lawfully admitted for permanent residence (LAPR) unless:

1. Sponsor-deeming cannot possibly apply and the identity of the sponsor is irrelevant (for example, an applicant who can be credited with 40 quarters of work).
2. The applicant would be ineligible based on his or her allegations (including those concerning the income and resources of the sponsor), or other factors.

If an LAPR immigrant alleges no sponsor, counties must verify that lack of sponsorship with INS if sponsor deeming could possibly apply.

An LAPR immigrant is generally identified by an Alien Registration Card (I-551), although other documentation may be presented (see Alien/Immigrant Eligibility chart attached to All-County Information Notice I-71-98). Unless counties have reason to believe differently, for purposes of determining the appropriate deeming period, they may assume that the admission date shown on the applicant's current I-551 (or other current INS document verifying LAPR status) is after the date of execution of the Affidavit. Counties must obtain a copy of the signed Affidavit received by INS if the admission date on the I-551 (or other current INS document verifying LAPR status) is not used as the arrival date for purposes of determining the appropriate deeming period.

Counties must document the existence of an Affidavit in the applicant's file in one of the following ways:

- A photocopy of the Affidavit, or
- A written statement from INS verifying the existence or non-existence of an Affidavit, or

- A record of a phone or field contact with INS verifying the existence or non-existence of an Affidavit.

When verifying sponsorship with INS, ask them to check their central case control. Since individuals' records are sometimes interfiled with the records of family members, if you know that the applicant entered the U.S. with other family members, give this information to INS to assist them in their search. If the Affidavit is not in the INS file, ask INS to review State Department Form OF-230 that should indicate whether or not an Affidavit was filed.

Sincerely,

**Original Document Signed By Leonard Tozier For Donna L. Mandelstam
On August 30,1999.**

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division