

**Department of Health Care Services**  
**End Full Scope Medi-Cal Services for PRUCOL Individuals and New Qualified Aliens**  
**Revised: 1-6-10**

**Add new Section 14007.8 to the Welfare and-Institutions Code as follows:**

**Restricted-scope services**

(a) Full-scope benefits under the Medi-Cal program shall only be available to an individual if federal Title XIX financial participation is available for full-scope benefits for that individual.

(b) For any otherwise-eligible individual who is ineligible for federal Title XIX financial participation for either full-scope services or for pregnancy-related services under federal law due to his or her immigration status or the 5 year eligibility limitation under 8 USC 1613, restricted-scope benefits shall be available.

(c) For any individual who is otherwise eligible for Medi-Cal but for whom federal Title XIX financial participation is only available for emergency services, the following medically necessary restricted-scope benefits shall be available:

- (1) Emergency services necessary for the treatment of an emergency medical condition;
- (2) Long-term care services provided in a nursing facility in accordance with Section 14007.65; and
- (3) Pregnancy-related services.

(d) Nothing in this section is intended to affect the availability of other non-Medi-Cal benefits such as state-only funded family planning services under Section 24003.

(e) The restricted-scope benefits in subdivision (c) shall also be available to citizens and nationals to the extent provided in Section 14007.2.

(f) The term "emergency services" means such services as are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency, as defined in federal law.

(g)-The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (1) Placing the patient's health in serious jeopardy.
- (2) Serious impairment to bodily functions.
- (3) Serious dysfunction to any bodily organ or part.

(h) It is the intent of this section to provide eligible individuals with inpatient and outpatient services that are necessary for the treatment of the emergency medical condition in the same manner as administered by the department through regulations and provisions of federal law.

(i) In the event of a conflict between the terms of this section and any other provision of state law or regulation or policy regarding the scope of benefits in the Medi-Cal program for individuals who are not citizens or nationals of the United States, the provisions of this section shall control.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all county letters or similar instruction without taking regulatory action. Within four years of the effective date of this section, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) There is no right to a fair hearing due to a change or denial of benefits based solely upon the change in existing law required by this section, and the concurrent amendments to Section 14007.5.

(l) It is the intent of the Legislature that implementation of this section shall begin no sooner than on the first day of the month following 90 days after the operative date of this section.

(m) Nothing in this section is intended to eliminate benefits under Section 14007.71 of this Chapter for individuals who would have been made eligible for such benefits prior to the effective date of this section.

**Add new Section 14007.81 to the Welfare and Institutions Code as follows:**

(a) For purposes of determining the eligibility and scope of services available to an individual under the Medi-Cal program, the term "qualified alien" shall have the meaning provided in 8 United States Code 1641.

(b) To the extent that the Centers for Medicare and Medicaid Services have provided guidance on the definition and application of the term "qualified alien" in the Medicaid program, such guidance shall be followed in the interpretation and application of that term in the Medi-Cal program.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all county letters or similar instruction without taking regulatory action. Within four years of the effective date of this section, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) It is the intent of the Legislature that implementation of this section shall begin no sooner than on the first day of the month following 90 days after the operative date of XXXX

### **FEDERALLY FUNDED BENEFITS FOR ALIENS SUBJECT TO THE 5 YEAR BAR**

#### **Add new section 14007.82 to the Welfare and Institutions Code as follows:**

(a) To the extent federal financial participation is available and all necessary approvals have been obtained, the department may elect to provide medical assistance to one or more coverage groups allowed under the option provided in 42 USC 1396b(v)(4)(A).

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all county letters or similar instruction without taking regulatory action. Within four years of the effective date of this section, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

### **STATE FUNDED TB SERVICES FOR CURRENT PRUCOL ALIENS**

#### **Add new section 14007.72 to the Welfare and Institutions Code**

(a) All individuals who are otherwise eligible for services under section 14005.20 of this chapter but who do not meet the requirement for federal financial participation for such services based solely upon their immigration status or the five year eligibility limitation under 8 U.S.C. section 1613, and who, had they applied prior to the effective date of this section, would have been eligible for tuberculosis treatment and related services on a state-only funded basis shall be eligible for tuberculosis treatment and related services.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of all county letters or similar instruction without taking regulatory action. Within four years of the effective date of this section, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) It is the intent of the Legislature that implementation of this section shall begin no sooner than on the first day of the month following 90 days after the operative date of XXXX

Amended statutes:

## **CURRENT LONG-TERM-CARE**

### **Amend Section 14007.65 of the Welfare and Institutions Code:**

(a) Aliens who were receiving long-term care services provided in a nursing facility under the authority of subdivision (f) of Section 1 of Chapter 1441 of the Statutes of 1988 on the day prior to the effective date of this section shall continue to receive those long-term care services.

~~(b) On or after the effective date of this section, any alien~~ Any applicant individual who, except for his or her immigration status, is not lawfully present in the United States, who is otherwise eligible for Medi-Cal services, but who does not meet the requirements under subdivision (b) or (c) of Section 14007.5, would be eligible to receive federally reimbursable long-term care services in a nursing facility pursuant to the Medicaid program provided for pursuant to Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), shall be eligible to receive long-term care services in a nursing facility to the extent that funding is made available for this purpose in the annual Budget Act. In no event shall expenditures for this program exceed the amount necessary to serve 110 percent of the 1999-2000 estimated eligible population without further authorization by the Legislature.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of all county letters or similar instruction without taking regulatory action. Within four years of the effective date of this section, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Amendments to this section made by XXXX shall be implemented no sooner than the first day of the month following 90 days after the date such amendments are enacted.

## **CURRENT PREGNANCY-RELATED**

### **Repeal Section 14007.7 of the Welfare and Institutions Code as follows: 14007.7.**

~~14007.7 Any alien who is otherwise eligible for Medi-Cal services, but who does not meet the requirements under subdivision (b) or (c) of Section 14007.5, shall be eligible for medically necessary pregnancy-related services. [DHCS NOTE: These services are now provided under new Section 14007.8 (c)(3)]~~

## **CURRENT LAW FOR ALIENS**

### **Amend Section 14007.5 of the Welfare and Institutions Code as follows:**

14007.5. (a) Aliens shall be eligible for Medi-Cal, whether federally funded or state-funded, only to the extent permitted under Section 14007.8. ~~same extent as permitted under federal law and regulations for receipt of federal financial participation under Title XIX of the federal Social Security Act, except as otherwise provided in this section and Section 14007.7.~~

~~—(b) In accordance with Section 1903(v)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396b(v)(1), an alien shall only be eligible for the full scope of Medi-Cal benefits, if the alien has been lawfully admitted for permanent residence, or is otherwise permanently residing in the United States under color of law.~~

~~—For purposes of this section, aliens "permanently residing in the United States under color of law" shall be interpreted to include all aliens residing in the United States with the knowledge and permission of the United States Immigration and Naturalization Service and whose departure the United States Immigration and Naturalization Service does not contemplate enforcing and with respect to whom federal financial participation is available under Title XIX of the federal Social Security Act.~~

~~—(c) Any alien whose immigration status has been adjusted either to lawful temporary resident or lawful permanent resident in accordance with the provisions of Section 210, 210A, or 245A of the federal Immigration and Nationality Act, and who meets all other eligibility requirements, shall be eligible only for care and services under Medi-Cal for which the alien is not disqualified pursuant to those sections of the federal act.~~

~~—(d) Any alien who is otherwise eligible for Medi-Cal services, but who does not meet the requirements under subdivision (b) or (c), shall only be eligible for care and services that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency, as defined in federal law. For purposes of this section, the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:~~

~~—(1) Placing the patient's health in serious jeopardy.~~

~~—(2) Serious impairment to bodily functions.~~

~~—(3) Serious dysfunction to any bodily organ or part. It is the intent of this section to entitle eligible individuals to inpatient and outpatient services that are necessary for the treatment of the emergency medical condition in the same manner as administered by the department through regulations and provisions of federal law.~~

~~(b)(e) Pursuant to To the extent required by Section 14011.2 14001.2, an individual, whether an adult or a child, applying for or receiving Medi-Cal benefits shall be required to furnish his or her Social Security number or, if he or she has more than one, all such numbers. each county department shall require that each applicant for, or beneficiary of, Medi-Cal, including a child, shall provide his or her social security number account number, or numbers, if he or she has more than one social security number.~~

~~(c) (f) (1) In order to be eligible for benefits under Section 14007.8(a) subdivision (b) or (e), an alien applicant or beneficiary shall declare under penalty of perjury that he or she is not a citizen but is a qualified alien and shall present the documentation required by federal law for receipt of federal financial participation for such benefits. alien~~

~~registration documentation or other proof of satisfactory immigration status from the United States Immigration and Naturalization Service.~~

(2) Any alien who meets all other program requirements and who has made the required declaration, described in (1), but who lacks documentation of alien registration or other proof of satisfactory immigration status as required by federal law for federal financial participation shall be provided a reasonable opportunity to submit the evidence. For purposes of this paragraph, "reasonable opportunity" means 30 days or the time it actually takes the county to process the Medi-Cal application, whichever is longer.

(3) During the reasonable opportunity period under paragraph (2), the county department shall process the applicant's application for medical assistance in a manner that conforms to its normal processing procedures and timeframes.

~~(d) (g)(4) The county department shall grant only the Medi-Cal benefits set forth in subdivision (d) of this section or in Section 14007.7 subdivision (c) of Section 14007.8 to any individual who, after 30 calendar days or the time it actually takes the county to process the Medi-Cal application, whichever is longer, has failed to submit the documentary evidence required by federal law. documents constituting reasonable evidence indicating a satisfactory immigration status for Medi-Cal purposes, or who is reported by the United States Immigration and Naturalization Service to lack a satisfactory immigration status for Medi-Cal purposes.~~

~~—(2) If an alien has been receiving Medi-Cal benefits based on eligibility established prior to the effective date of this section and that individual, upon redetermination of eligibility for benefits, fails to submit documents constituting reasonable evidence indicating status for Medi-Cal purposes, the county department shall discontinue the Medi-Cal benefits, except for the care and services set forth in subdivision (d) at this section or in Section 14007.7. The county department shall provide adequate notice to the individual of any adverse action and shall accord the individual an opportunity for a fair hearing if he or she requests one~~

~~(e) (h) To the extent permitted by federal law and regulations, an and only to the extent federal financial participation is available, a qualified alien who has complied with all other applicable requirements including the declaration required under subdivision (c) applying for services under subdivisions (b) and (e) shall be granted eligibility for the scope of services to which he or she would otherwise be entitled if, at the time the county department makes the determination about his or her eligibility, the alien meets either of the following requirements:~~

~~(1) He or she has not had a reasonable opportunity to submit documents constituting reasonable evidence indicating satisfactory an immigration status that entitles him or her to the scope of services described in this subdivision.~~

~~(2) He or she has provided documents constituting reasonable evidence indicating a satisfactory immigration status as a qualified alien for whom federal financial participation is available for the scope of services described in this subdivision, but the county department has not received timely verification of the alien's immigration status from the United States Citizenship and Immigration Services.Immigration and Naturalization Service.~~

~~(3) The verification process shall protect the privacy of all participants. An alien's immigration status shall be subject to verification by the United States Citizenship and~~

Immigration Services ~~Immigration and Naturalization Service~~, to the extent required for receipt of federal financial participation in the Medi-Cal program.

~~(i) If an alien does not declare status as a lawful permanent resident or alien permanently residing under color of law, or as an alien legalized under Section 210, 2101., or 245A of the federal Immigration and Nationality Act (P.L. 82-414), Medi-Cal coverage under subdivision (d) of this section or in Section 14007.7 shall be provided to the individual if he or she is otherwise eligible.~~

~~(f) (j)~~ If an alien subject to this section is not fluent in English, the county department shall provide an understandable explanation of the requirements of this section in a language in which the alien is fluent.

~~(g) (k)~~ Aliens who were receiving long-term care or renal dialysis services (1) on the day prior to the effective date of the amendment to paragraph (1) of subdivision (f) of Section 1 of Chapter 1441 of the Statutes of 1988 at the 1991-92 Regular Session of the Legislature and (2) under the authority of paragraph (1) of subdivision (f) of Section 1 of Chapter 1441 of the Statutes of 1988 as it read on June 30, 1992, shall continue to receive these services. The authority for continuation of long-term care or renal dialysis services in this subdivision shall not apply to any person whose long-term care or renal dialysis services end for any reason after the effective date of the amendment described in this subdivision

(h) Amendments to this section made by XXXX shall be implemented no sooner than the first day of the month following 90 days after the date such amendments are enacted.

## **CURRENT LAW FOR CITIZENS**

### **Amend Section 14007.2 to the Welfare and Institutions Code as follows:**

14007.2. (a) Any citizen or national individual who is otherwise eligible for Medi-Cal services, but who does not meet the documentation requirements described in subdivision (e) of Section 14011.2, shall be determined eligible only for the scope of services made available under Section 14007.8 to aliens who would be eligible for full-scope benefits if not for the 5 year eligibility limitation under 8 USC 1613 under subdivision (d) of Section 14007.5, and Sections 14007.65 and 14007.7.

(b) To the extent that federal financial participation is available to fund services described under subdivision (a), the department shall file all necessary state plan amendments to obtain that funding.

(c) Amendments to this section made by XXXX shall be implemented no sooner than the first day of the month following 90 days after the date such amendments are enacted.

### **Amend Section 14011.2 of the Welfare and Institutions Code as follows:**

14011.2. (a) The department shall require that each applicant for or beneficiary of Medi-Cal, including a child, who is not a recipient of aid under the provisions of Chapter 2 (commencing with Section 11200) or Chapter 3 (commencing with Section 12000) shall



provide his or her social security account number, or numbers, if he or she has more than one such number.

(b) The requirement for a social security account number shall be a condition of eligibility only for the applicant who is seeking or the beneficiary who is receiving (1) full-scope medical benefits or other services for which federal financial participation is available for that individual, or (2), restricted-scope benefits described in Section 14007.8(c) pursuant to ~~Section 14007.5,~~ restricted medical benefits (emergency and pregnancy related services only), and, in either case, who declares, as required in subdivision (d) of this section, that he or she is a citizen or national of the United States, ~~or and,~~ if he or she is not a citizen or national of the United States, that he or she is a qualified alien who is not eligible for federally funded full scope services due to the five year eligibility limitation under 8 USC Section 1613,~~has satisfactory immigration status.~~

(c) The requirement for a social security account number shall not be a condition of eligibility for the applicant who is seeking or the beneficiary who is receiving, pursuant to ~~Section 14007.8~~ 14007.5, ~~restricted-scope medical benefits (emergency and pregnancy related services only),~~ and who has not made the declaration, as required in subdivision (d), that he or she is not a citizen or national of the United States, and, if he or she is not a citizen or national of the United States, that he or she ~~does~~ is or is not a qualified alien have satisfactory immigration status.

(d) Every applicant or beneficiary or, in the case of a child, by the child's caretaker relative or legal guardian on his or her behalf shall declare, under penalty of perjury, that he or she is, or is not any of the following:

- (1) A citizen of the United States.
- (2) A national of the United States.
- (3) ~~An alien who has satisfactory immigration status.~~ A qualified alien.

(e) (1) Notwithstanding Section 50301.1 of Title 22 of the California Code of Regulations, an individual who declares to be a citizen or national of the United States in accordance with Section 1903(i)(22) of the federal Social Security Act (42 U.S.C. Sec. 1396b (i)(22)) shall present satisfactory documentary evidence of citizenship or nationality in compliance with Section 1903(x) (42 U.S.C. Sec. 1396b(x) of the federal Social Security Act). Except as otherwise provided in Section 14007.2, no services shall be available under this chapter for an individual who fails to comply with the documentation requirements of this section.

(2) (A) The documentation required pursuant to paragraph (1) shall be provided once by each individual, as follows:

- (i) During the initial application process for applicants.
- (ii) During the redetermination process for existing beneficiaries.

(B) If the documentation is obtained from a beneficiary, the county shall maintain a copy of the documentation in the case file of the beneficiary, and shall not request this documentation again.

(C) If electronic verification is used, a record of the documentation shall be maintained in the case record and shall not be requested again.

(D) Once the required documentation has been obtained by the county, the beneficiary shall not be required to provide it again, even if he or she is transferring to or applying in a new county.

(3) To the extent that federal financial participation is available, the department shall provide for exceptions or alternatives to the documentation requirements imposed by this subdivision as a means of providing individuals with increased flexibility and ability to provide satisfactory documentary evidence within a reasonable period of time. These exceptions or alternatives may include, but shall not be limited to, using an expanded list of acceptable documents, relying on electronic data matches for birth certificates, relying on a sworn affidavit of citizenship with respect to an individual who can demonstrate good cause for his or her inability or other failure to provide the required documentation, and relying on other information that may be available electronically.

(4) (A) To the extent that federal financial participation is available, the department shall rely on the eligibility determinations for the CalWORKs program or the Aid to Families with Dependent Children-Foster Care program as meeting the requirements of this section.

(B) To the extent that federal financial participation is available, an individual shall be deemed to have met the documentation requirements of this subdivision if the individual has been determined to be eligible for supplemental security income pursuant to Title XVI of the Social Security Act (42 U.S.C. Sec. 1601 et seq.).

(5) The following provisions shall apply to the extent that federal financial participation is available:

(A) If an individual cooperates in the effort to obtain and present the documentation required under this subdivision, the individual shall be given as much time as is allowed by federal law and policy to present that documentation.

(B) During the time period described in subparagraph (A), an applicant shall receive the scope of Medi-Cal benefits for which the applicant is otherwise eligible.

(6) To the extent that federal financial participation is available, the county shall do all of the following to assist an individual in obtaining and presenting the documentation required under this subdivision:

(A) For an applicant who does not present the required documentation at the time of application, the county, during the time period described in subparagraph (A) of paragraph (5), shall assist the applicant in obtaining that documentation.

(B) For a current beneficiary who has not yet documented his or her citizenship, the county shall do the following:

(i) If, at the time of annual redetermination, the beneficiary returns the annual redetermination form and, but for the failure to present the required documentation, continued eligibility could be established, the county shall do the following:

(I) Review county eligibility files and records, and the Medi-Cal Eligibility Data System, to access those documents. This review shall include a review of any CalWORKs or food stamp files that may exist for the beneficiary.

(II) Attempt to reach the beneficiary by telephone to advise the beneficiary as to the need to obtain and present the required documentation.

(III) If the beneficiary fails to respond to the telephone contact or present the required documents, send a second form to the beneficiary that highlights the documentation being requested and informs the beneficiary to contact the county. The form shall be

written in a simple, clear, consumer-friendly manner, and shall explain why the documentation is necessary.

(IV) If the beneficiary fails to contact the county, the county shall make another attempt to

reach the beneficiary by telephone to advise the beneficiary of the need to obtain and present

the required documentation.

(ii) Document in the case file any efforts made to contact and advise the beneficiary as to the need to obtain and present the required documentation.

(C) If a beneficiary fails to present the required documentation after the process required under clause (i), the county shall send a 10-day notice of action to indicate that the beneficiary's benefits are reduced to those made available under Section 14007.2.

(7) To the extent federal financial participation is available, and only to the extent any necessary federal approvals have been obtained, the department may, in its discretion, elect the option referenced in Section 1396a(a)(46)(B)(ii) of Title 42 of the United States Code to satisfy the requirements of paragraph (1). This paragraph shall become operative on January 1, 2010, or when all necessary agreements with the Commissioner of Social Security are in place, whichever is later. The department may implement this paragraph earlier than January 1, 2010, only to the extent allowed by federal law or guidance.

(8) (A) Any benefits provided in accordance with subparagraph (B) of paragraph (5) shall terminate if any of the following occurs:

(i) The individual does not obtain and present the required documentation within the time

period provided in subparagraph (A) of paragraph (5).

(ii) The documentation is received by the county and the county has made a final determination of eligibility.

(B) The termination of Medi-Cal benefits under this paragraph shall occur without the necessity of further review or determination by the department. This shall not affect an individual's right to a hearing with respect to the denial of the application or termination of eligibility resulting from the annual eligibility redetermination.

(9) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this subdivision by means of ~~an~~ all county letters or similar instruction without taking regulatory action. Within three years from the date that this subdivision becomes effective, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(10) The department shall notify and consult with advocates, providers, counties, and health

plans in implementing, interpreting, or making specific this subdivision.

(11) The department shall file all necessary state plan amendments to implement the requirements of this subdivision. Upon filing any state plan amendment, the department shall provide the appropriate fiscal committees of the Legislature with a copy of the state plan amendment.

(12) If any part of this subdivision is in conflict with or does not comply with federal law, the subdivision shall be implemented only to the extent that federal law permits. Any part that is in conflict with or does not comply with federal law shall be severable from the remaining portions of this subdivision.

(f) Amendments to this section made by XXXX shall be implemented no sooner than the first day of the month following 90 days after the date such amendments are enacted.