THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

You are receiving this notice because you may be eligible for Medi-Cal emergency and pregnancy-related services. In August 1996, federal law changed so that certain aliens may not get any pregnancy-related services (except for emergency services, including labor and delivery).

This change in the Medi-Cal program begins on July 1, 1997 for new applicants and for continuing recipients on August 1, 1997. You will still be eligible for Medi-Cal nonemergency pregnancy-related services if you are in one of the three groups listed below ***and*** if you follow the steps listed on page 2 of this notice under the heading "Procedures":

1. You are a nonimmigrant alien. You are a nonimmigrant alien if you were allowed to be in the United States for a limited period of time and have a current and valid visa or another entry document. For example, if you have a student visa, a temporary visitor's visa, or a business visitor's visa, you are in this group. (These visas include B-1, B-2, E-1, E-2 and F-1 visas, and a number of other temporary visas).

2. You are one of the following:

   a. An alien lawfully admitted for permanent residence.

   b. An alien who has been granted asylum.

   c. An alien who is a refugee.

   d. An alien who was paroled into the United States.

   e. An alien whose deportation is being withheld.

   f. An alien who has been granted conditional entry.

   <u>and</u> you have documents from the Immigration and Naturalization Service (INS) to show that you are in one of these categories.

3. You are an alien who has been battered or subjected to extreme cruelty in the United States (or an alien whose children have been battered or subjected to extreme cruelty in the United States) and the United States Attorney General has made a determination that makes you eligible for benefits.

PROCEDURES:

1. If you believe that you are a member of one of the three groups described on page one of this notice (for example, if you believe you are in the United States with a current and valid temporary, nonimmigrant visa, or if you believe you are an alien who has been granted asylum), or if you are not sure whether you are a member of one of these three groups, contact (call or visit) your eligibility worker immediately. Tell your worker that you believe that you are still eligible for Medi-Cal nonemergency pregnancy-related services or you want to find out whether you are still eligible and set up an appointment to see your worker. Your worker will ask you to bring in documentation of your immigration status. You will be given 30 days to get this documentation and give it to your worker.

2. If you contact your eligibility worker before July 1, 1997, your Medi-Cal nonemergency pregnancy-related services will continue until a determination of your immigration status is made some time after your appointment. If you do not contact your eligibility worker before August 1, 1997, your Medi-Cal nonemergency pregnancy-related services will stop on that date. However, once you contact your eligibility worker, your eligibility for nonemergency pregnancy-related services will be restored the very next day and will continue until a determination of your immigration status is made some time after your appointment.

3. When you have your appointment with your eligibility worker, be sure to bring with you all documentation of your immigration status.

4. After your appointment with your eligibility worker, a determination of your immigration status will be made based on the documentation you bring in. Until the determination is made, your Medi-Cal nonemergency pregnancy-related services will continue.

5. Some time after your appointment, the county or your eligibility worker will notify you in writing about whether you were determined to still be eligible for Medi-Cal nonemergency pregnancy-related services. If you are determined to be ineligible because you are not a member of one of the three groups listed on page one, but you think that you really are in one of the groups or are still not sure whether you are, you may request a hearing by calling (800) 952-5253.

6. If you request a hearing, your Medi-Cal nonemergency pregnancy-related services will continue until a decision is made after your hearing. If you do not request a hearing, your Medi-Cal nonemergency pregnancy-related services will stop immediately and you may lose the right to go to court to get these services restored.

IMPORTANT NOTES:

1. If you have any questions about what this notice means, please call your eligibility

worker as soon as possible. Your worker will try to answer any questions you may have.

2. This notice only deals with whether you may receive nonemergency pregnancy-related services under the Medi-Cal program. Private Medi-Cal providers may still give you pregnancy-related services at their expense, if they wish, or at your own expense.

3. Whether or not your are in one of the three groups listed on page one, Medi-Cal emergency services, including labor and delivery services, and also immunizations and testing and treatment of symptoms of communicable diseases are still available to everyone who is otherwise eligible under the Medi-Cal program regardless of immigration status.

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1. You are a nonimmigrant alien. You are a nonimmigrant alien if you were allowed to be in the United States for a limited period of time and have a current and valid visa or another entry document. For example, if you have a student visa, a temporary visitor's visa, or a business visitor's visa, you are in this group. (These visas include B-1, B-2, E-1, E-2 and F-1 visas, and a number of other temporary visas).

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   c. An alien who is a refugee.

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3. When you have your appointment with your eligibility worker, be sure to bring with you all documentation of your immigration status.

4. After your appointment with your eligibility worker, a determination of your immigration status will be made based on the documentation you bring in. Until the determination is made, your Medi-Cal nonemergency pregnancy-related services will continue.

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IMPORTANT NOTES:

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worker as soon as possible. Your worker will try to answer any questions you may have.

2. This notice only deals with whether you may receive nonemergency pregnancy-related services under the Medi-Cal program. Private Medi-Cal providers may still give you pregnancy-related services at their expense, if they wish, or at your own expense.

3. Whether or not your are in one of the three groups listed on page one, Medi-Cal emergency services, including labor and delivery services, and also immunizations and testing and treatment of symptoms of communicable diseases are still available to everyone who is otherwise eligible under the Medi-Cal program regardless of immigration status.

ACTION: Notice of Proposed Rulemaking

SUBJECT: **Non-Emergency Pregnancy - Related Care for Persons Who Are Not Qualified Aliens, Nonimmigrant Aliens, or Aliens Paroled into the United States Under Section 212(d)(5) of the Immigration and Nationality Act (R-60-96)**

PUBLIC PROCEEDINGS: Notice is hereby given that the California Department of Health Services will conduct public hearings commencing at 10:00 a.m. on February 5, 1997 in the auditorium, Room 381, 500 West Temple Street, Los Angeles, CA and on February 19, 1997 in the auditorium at 714 P Street, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5:00 p.m. on February 19, 1997, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate. Comments by FAX (916-657-1459) must be received before 5:00 p.m. on the last day of the public comment period.

CONTACT: Requests for a copy of the Notice of Proposed Rulemaking, **R-60-96,** which includes the text of the regulation and the Initial Statement of Reasons should be directed to:

Glenda Arellano, Chief
Medi-Cal Eligibility Policy Section
714 P Street, Room 1692
Sacramento, CA 95814
(916) 255-0999
FAX: (916) 255-0908

Spanish-speaking staff are available to answer phone calls at the above number.

Inquiries concerning the rulemaking process and written comments concerning the substance of the action described in this notice should be directed to:

Allison Branscombe, Chief
Office of Regulations
714 P Street, Room 1000
Sacramento, CA 95814
(916) 654-0381
FAX: (916) 657-1459

In all inquiries concerning the rulemaking process, please identify the action by using the Department regulation control number, **R-60-96.**

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

INFORMATIVE DIGEST: The Department of Health Services, through these proposed regulations, begins the process of implementing the federal mandate under Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193), hereinafter referred to as PRAWORA, as amended by Division C, the Immigration Reform and Immigrant Responsibility Act of 1996, of the Omnibus Consolidated Appropriations Act, 1997 (Pub. L. 104-208). Under this new federal law, persons who are not described in the federal law as qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA), or aliens paroled into the United States for less than one year under Section 212(d)(5) of the INA are ineligible to receive state or locally funded public assistance, including many health related services. (A state may only make such public benefits available for aliens who would otherwise be ineligible through the enactment of a state law after the date of the enactment of PRAWORA that affirmatively provides for such eligibility.) Publicly funded emergency services for those aliens who are not lawfully present (for purposes of PRAWORA) will continue to be available.

These proposed regulations are an initial step in implementing these new federal requirements by eliminating the eligibility of aliens in the categories described above for State-only funded nonemergency pregnancy-related services. These regulations address only nonemergency pregnancy-related services.

Specifically, these regulations would add Section 50302.1 to Title 22 of the California Code of Regulations to specify who is eligible to receive nonemergency pregnancy-related services, and amend the "Manual of Criteria for Medi-Cal Authorization," effective July 1997, and incorporated by reference at Title 22, California Code of Regulations, Section 51003.

This regulation package, R-60-96, was formerly designated R-60-96E. As a result of the decision of the California Superior Court in Doe et al. v. Wilson et al., California Superior Court, City and County of San Francisco, 1996, Case No. 982521 (consolidated with Case No. 982522), the Department of Health Services has changed this regulation from an emergency regulation to a non-emergency regulation. Minor, non-substantive changes have been made in the proposed regulation text and in the "Manual of Criteria for Medi-Cal Authorization".

AUTHORITY: 10725, 14105, 14105.121, 14124.5, 14132.22, 14132.5 and 14133, Welfare and Institutions Code; and Sections 208.3 and 1267.7, Health and Safety Code.

REFERENCE: Sections 411, 431 and 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193); Sections 501 and 508 of Division C (the "Immigration Reform and Immigrant Responsibility Act of 1996") of the Omnibus Consolidated Appropriations Act, 1997 (Pub.L. 104-208); 8 USC Section 1101(a)(15); Sections 14007.5, 14011, 14053, 14081, 14087, 14088, 14088.16, 14088.2, 14103.6, 14105.12, 14114, 14132, 14132.22, 14132.25, 14132.5, 14133, 14133.1, 14133.25 and 14133.3, Welfare and Institutions Code; Section 1, Chapter 1441, Statutes of 1988; and Jeneski v. Myers (1984) 163 Cal.App.3d 18, 209 Cal.Rptr. 178.

FISCAL IMPACT ESTIMATE:

A. Fiscal Effect on Local Government: None.

B. Fiscal Effect on State Government: Annual savings of $69,334,000 General Fund.

C. Fiscal Effect on Federal Funding of State Programs: None.

D. Fiscal Effect on Private Persons or Businesses Directly Affected: None.

DETERMINATIONS: The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

The Department has determined that the regulations would not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. These regulations will implement the requirements of

new federal law that, among other things, eliminate nonemergency pregnancy-related services for aliens who are not defined in federal law as qualified aliens, nonimmigrant aliens, or aliens paroled into the United States under Section 212(d)(5) of the INA.

The Department has determined that the regulations would not significantly affect the following:

(1) The creation or elimination of jobs within the State of California.

(2) The creation of new businesses or the elimination of existing businesses within the State of California.

(3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small business because they only affect aliens who are not described in federal law as qualified aliens, nonimmigrant aliens, or aliens paroled into the United States under Section 212(d)(5) of the INA, who are currently eligible for state-only funded nonemergency pregnancy-related services. These proposed regulations do not order any employer actions. Small businesses are not required to comply with or enforce the proposed regulations, nor will they derive a benefit or detriment from their enforcement.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS: The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. A copy of the initial statement of reasons and a copy of the text of the proposed regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the proposed regulations.

AVAILABILITY OF CHANGED OR MODIFIED TEXT: The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS: In accordance with Government Code section 11346.5(a)(12) the Department must determine that no alternative considered by the Department would be more effective in

carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

Reasonable accommodation or sign language interpreting services at a public hearing will be provided upon request. Such request should be made no later than 15 days prior to the close of the written comment period.

DEPARTMENT OF HEALTH SERVICES

R-60-96

Dated: December 4, 1996

for S. Kimberly Belshé
Director

INITIAL STATEMENT OF REASONS

Introduction

These proposed regulations prepared by the Department of Health Services of the State of California ("the Department") are necessary in order to begin the implementation of Section 411 of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRAWORA), effective August 22, 1996, as amended by Division C, the Immigration Reform and Immigrant Responsibility Act of 1996, of the Omnibus Consolidated Appropriations Act, 1997. Through these changes in federal law, Congress has eliminated certain public benefits. The regulations eliminate state-only funded nonemergency pregnancy-related services for persons made ineligible for such services under section 411 of PRAWORA.

Prior to the enactment of PRAWORA, federal law required states to provide services for the treatment of emergency medical conditions, including emergency labor and delivery services, to any alien otherwise eligible for Medi-Cal regardless of whether that person could document his or her immigration status. In 1988, California enacted legislation, (Welf. & Inst. Code section 14007.5 and Stats. 1988, ch. 1441, sec. 1, subd. (g)), which authorized Medi-Cal to use state-only funds to provide nonemergency pregnancy-related services to women without satisfactory immigration status as described in 42 U.S.C. section 1396b(v). However, with the enactment of PRAWORA, federal law now prohibits states from providing state and local public benefits, including, but not limited to, nonemergency pregnancy-related services, to persons who are not qualified aliens, nonimmigrant aliens under the INA, aliens paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act (INA), or aliens who have been battered or subjected to extreme cruelty in the United States or aliens whose children have been battered or subjected to extreme cruelty in the United States, and for whom the United States Attorney General has made a determination that makes them eligible for services.

Section 50302.1

This section is adopted to implement federal law which requires termination of state-only funded benefits for persons who are not qualified aliens, nonimmigrant aliens, or aliens paroled into the United States under Section 212(d)(5) of the INA, or aliens who have been battered or subjected to extreme cruelty in the United States or aliens whose children have been battered or subjected to extreme cruelty in the United States, and for whom the United

States Attorney General has made a determination that makes them eligible for services. The text of this section, to a large extent, duplicates the language of PRAWORA. This duplicative language is necessary in order to implement the federal law with respect to state-only funded nonemergency pregnancy-related services. It will ensure that providers, beneficiaries, and the general public will understand the classes of aliens who are eligible to receive nonemergency pregnancy-related services under the state-only funded Medi-Cal program, how immigration status is verified, and the recourse available for those denied services.

Subsection (a) explains the scope of the regulation, namely, the termination of state-only funded nonemergency pregnancy-related services to those aliens specified under PRAWORA. This subsection is necessary because the provisions of subdivision (d) of Section 14007.5 of the Welfare and Institutions Code and Section 1 of Chapter 1441 of the Statues of 1988, require the provision of services to persons who are now ineligible under federal law. This regulation is adopted in order to implement the requirements of PRAWORA so that services will not be provided to persons who are ineligible under federal law.

Subsection (b) sets forth the categories of aliens who are eligible to receive state-only funded public benefits under PRAWORA. This provision excludes aliens who are not qualified aliens, nonimmigrant aliens, or aliens paroled into the United States under Section 212(d)(5) of the INA, or aliens who have been battered or subjected to extreme cruelty in the United States or aliens whose children have been battered or subjected to extreme cruelty in the United States, and for whom the United States Attorney General has made a determination that makes them eligible for services, from receiving state-only funded nonemergency pregnancy-related services. This subsection is necessary to effectuate the change in federal law in light of the fact that the provisions of subdivision (d) of Section 14007.5 of the Welfare and Institutions Code and Section 1, subdivision (g) of Chapter 1441 of the Statutes of 1988, required the provision of state-only funded nonemergency pregnancy-related services to persons who are now ineligible for state public benefits other than emergency services. This provision specifies those classes of aliens who remain eligible for state-only funded nonemergency pregnancy-related services. Current state regulations at title 22, California Code of Regulations, Sections 50301.2, 50301.3, and 50301.4, describe aliens as Lawfully Admitted for Permanent Residence, Permanently Residing in the United States Under Color of Law, and Amnesty Aliens. These terms conflict with the classes of aliens specified in PRAWORA. This provision is necessary to implement the requirements of PRAWORA so that state-only funded nonemergency pregnancy-related services will not be

provided to persons who are ineligible under federal law and to clarify which aliens are eligible to receive these services.

Subsection (c) defines nonimmigrant in the same manner as in federal immigration law. This definition is necessary to eliminate confusion as to immigration status of persons who hold differing types of visas and other entry documents and who remain eligible for state-only funded nonemergency pregnancy-related services.

Subsection (d) sets forth the procedure for verification of an alien's immigration status. Immigration status must be verified to ensure that only persons eligible for state-only funded nonemergency pregnancy-related services receive the services, as required by PRAWORA.

Immigration status will be determined from information provided on the forms MC 13 and MC 13S, which the applicant is required to complete. Aliens who claim to be entitled to receive state-only funded nonemergency pregnancy-related benefits will be required to provide documentary evidence of the claimed immigration status. Immigration status will be verified through the Systematic Verification of Entitlements (SAVE) system process.

The Primary SAVE process is a computer verification program administered by the INS and is used to verify the immigration status of aliens who offer as evidence of immigration status a document issued by the INS which contains an alien admission or alien registration number. The county will receive a response to a Primary SAVE inquiry which will be used as the basis for the determination of eligibility.

The Secondary SAVE process is a manual verification process and is used in the circumstances listed in (d)(4)(B) of the regulation in order for the INS to verify immigration status claimed by an applicant for Medicaid program benefits. Copies of documents presented by an alien applicant as evidence of immigration status are sent to the INS by the county. The INS forwards a response to the Secondary SAVE inquiry which will be used as the basis for the determination of eligibility.

This subsection is necessary to form the basis for any monitoring and enforcement efforts to be undertaken for Section 50302.1(a).

Subsection (e) makes clear that nonprofit charitable organizations will not be asked to verify eligibility. Division C, the Immigration Reform and Immigrant Responsibility Act of 1966, of the Omnibus Consolidated Appropriations Act, 1997, amended PRAWORA to state:

> "Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit . . . or any State or local public benefit . . . is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits."

The subsection (a) referenced in the legislation is a requirement on the United States Attorney General to promulgate regulations regarding verification of eligibility for public benefits. Currently providers of service who participate in the Medi-Cal program are not required to determine, verify, or otherwise require proof of eligibility of applicants for state-only funded nonemergency pregnancy-related services, or for any other services. This provision is necessary in order to eliminate any question regarding the duty of these entities to determine, verify, or otherwise require proof of eligibility of applicants for state-only funded nonemergency pregnancy-related services.

Subsection (f) directs that termination of state-only funded nonemergency pregnancy-related services does not eliminate an alien's eligibility to receive immunizations, or testing and treatment of the symptoms of communicable diseases if an alien is otherwise eligible for Medi-Cal. This section is necessary in order to fully inform beneficiaries, providers, and the public, that aliens made ineligible for certain public health benefits under PRAWORA are still eligible to receive other specific benefits under the Medi-Cal program if they are otherwise eligible.

Subsection (g) permits a hearing on the immigration status of any person whose services are denied, terminated, suspended or reduced by any of the above provisions. This section is necessary so that persons affected by these provisions will know what course of action is necessary if they believe that the elimination of benefits is improperly applied to them.

Section 51003(e)

Existing Section 51003(e) incorporates, by reference, the "Manual of Criteria for Medi-Cal Authorization." This manual contains the criteria used by Medi-Cal consultants to authorize medically necessary services.

Chapter 12.1 of this manual is amended to implement federal requirements that only aliens who are qualified aliens, nonimmigrant aliens, or aliens paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act are authorized to receive state-only funded nonemergency pregnancy-

related services under the Medi-Cal program. Amendment of this section is necessary to show that the Manual has been updated as of the effective date of these regulations.

The phrase "emergency labor and delivery" is used as in federal law, 42 USC section 1396b(v). The language in this section defines an emergency medical condition as one which manifests "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 - (A) placing the patient's health in serious jeopardy, (B) serious impairment in bodily functions, or (C) serious dysfunction of any bodily organ or part." No change is contemplated from existing practice that labor and delivery, including routine vaginal delivery and delivery without complications, are categorized as an emergency service.

(1) Adopt Section 50302.1 to read:

50302.1 Limitations on Medi-Cal Benefits for Aliens.

(a) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA), or aliens paroled into the United States under Section 212(d)(5) of the INA for less than one year, are not eligible to receive the state-only funded nonemergency pregnancy-related services described in subdivision (d) of Section 14007.5 of the Welfare and Institutions Code and subdivision (g) of Section 1 of Chapter 1441 of the Statutes of 1988.

(b) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is any of the following:

(1) An alien lawfully admitted for permanent residence under the INA.

(2) An alien who is granted asylum under Section 208 of the INA.

(3) A refugee who is admitted to the United States under Section 207 of the INA.

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA.

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980.

(7) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty.

(B) In the opinion of the Attorney General of the United States, which opinion is not subject to review by any court, there is a substantial connection between such battery or cruelty and the need for the benefits to be provided.

(C) The alien has been approved or has a petition pending which sets forth a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA,

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA,

3. suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA, or

4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(8) An alien who meets all of the conditions of subparagraphs (A), (B) (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty.

(B) The alien did not actively participate in such battery or cruelty.

(C) In the opinion of the Attorney General of the United States, which opinion is not subject to review by any court, there is a substantial connection between such battery or cruelty and the need for the benefits to be provided.

(D) The alien is classified pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the child subjected to the battery or cruelty.

(c) For purposes of this section, "nonimmigrant" is defined the same as in Section 1101(a)(15) of the INA.

(d) For purposes of establishing eligibility for state-only funded nonemergency, pregnancy-related services described in subdivision (d) of Section 14007.5 of the Welfare and Institutions Code and subdivision (g) of Section 1 of Chapter 1441 of the Statutes of 1988, all of the following requirements must be met:

(1) The alien must declare himself or herself to be a qualified alien under subsection (b), a nonimmigrant alien under subsection (c), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA. The alien shall declare that status through use of the "Supplemental Alienage and Immigration Status Declaration" MC 13S (12/96).

(2) The alien must present documents issued by or acceptable to the Immigration and Naturalization Services (INS) which serve as reasonable evidence of the alien's declared status.

(3) The alien must complete and sign the form MC 13S (12/96).

(4) The documentation presented by the alien as reasonable evidence of the alien's declared immigration status must be submitted to the INS for verification through the Systematic Alien Verification of Entitlements (SAVE) system procedures as follows:

(A) A primary SAVE system verification must be used to access the biographical/immigration status computer record contained in the Alien Status Verification Index maintained by the INS. Subject to subparagraph (B), this procedure must be used to verify the status of all aliens who claim to be qualified aliens and who present an INS-issued document that contains an alien registration or alien admission number.

(B) The secondary SAVE system verification procedure must be used to forward copies of original INS documents evidencing an alien's status as a qualified alien, as a nonimmigrant alien under the INA, or as an alien paroled into the United States under Section 212 (d) (5) of the INA for less than one year in any of the following cases:

1. A primary check of the Alien Status Verification Index instructs the county department to "Institute secondary verification."

2. The document presented indicates immigration status but does not include an alien registration or alien admission number.

3. The Alien Status Verification Index record includes the alien registration or admission number on the document presented by the alien but does not match other information contained in the document.

4. The document is suspected to be counterfeit or to have been altered.

5. The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

6. The document is a fee receipt from INS for replacement of a lost, stolen or unreadable INS document.

7. The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for Medi-Cal.

(5) Verification of the alien's declared status must be received from the INS before eligibility for state-only funded nonemergency pregnancy-related services is established.

(e) A nonprofit charitable organization that provides federal, state, or local public benefits, shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

(f) Nothing in this section shall be construed to withdraw eligibility for state public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(g) Any alien who was made eligible for state-only funded nonemergency pregnancy-related services for the month of July 1997 whose services are terminated, suspended, or reduced, pursuant to subsection (a), is entitled to a hearing, pursuant to Welfare and Institutions Code Section 10950 and Title 22, California Code of Regulations, Section 50951, on the issue of whether the alien is a qualified alien as defined under subsection (b), a nonimmigrant alien as defined under subsection (c), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.
Reference: Sections 411, 431 and 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193); Sections 501 and 508 of Division C (the "Immigration Reform and Immigrant Responsibility Act of 1996") of the Omnibus Consolidated Appropriations Act, 1997 (Pub.L. 104-208); 8 USC Section 1101(a)(15); Sections 14007.5 and 14011, Welfare and Institutions Code; and Section 1, Chapter 1441, Statutes of 1988.

(2) Amend Section 51003(e) to read:

(e) Authorization may be granted only for Medi-Cal benefits that are medically necessary and do not exceed health care services received by the public generally for similar medical conditions. The "Manual of Criteria for Medi-Cal Authorization," published by the Department in January 1982, last amended in ~~March 1996~~ July 1997, and herein incorporated by reference in its entirety, shall be the basis for the professional judgments of Medi-Cal consultants or PCCM plans in their decision on authorizations for services or conditions listed in the Manual. Such authorization shall be valid for the number of days specified by the consultant or PCCM plan up to a maximum of 120 days, unless otherwise specified in this chapter. The consultant or PCCM plan may grant authorization for up to a maximum of two years when the treatment as authorized is clearly expected to continue unmodified for up to or beyond two years.

NOTE: Authority cited: Sections 10725, 14105, 14105.12, 14124.5, 14132.22 14132.5 and 14133, Welfare and Institutions Code; and Sections 208.3 and 1267.7, Health and Safety Code.
Reference: Sections 14053, 14081, 14087, 14088, 14088.16, 14088.2, 14103.6, 14105.12, 14114, 14132, 14132.22, 14132.25, 14132.5, 14133, 14133.1, 14133.25 and 14133.3, Welfare and Institutions Code; and Jeneski v. Myers (1984) 163 Cal.App.3d 18, 209 Cal.Rptr. 178.

MANUAL OF CRITERIA
FOR
MEDI-CAL AUTHORIZATION

JANUARY 1982
REVISED JUNE 1982
REVISED JULY 1982
REVISED SEPTEMBER 1982
REVISED FEBRUARY 1983
REVISED AUGUST 1984
REVISED DECEMBER 1985
REVISED JANUARY 1986
REVISED JUNE 1986
REVISED DECEMBER 1986
REVISED JANUARY 1987
REVISED FEBRUARY 1987
REVISED SEPTEMBER 1987
REVISED OCTOBER 1987
REVISED MARCH 1988
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REVISED OCTOBER 1990
REVISED FEBRUARY 1991
REVISED SEPTEMBER 1991
REVISED DECEMBER 1991
REVISED FEBRUARY 1993
REVISED APRIL 1993
REVISED JULY 1993
REVISED JANUARY 1994
REVISED JULY 1995
REVISED MARCH 1996
REVISED JULY 1997

CRITERIA MANUAL CHAPTER 12.1

CRITERIA FOR EMERGENCY AND PREGNANCY-RELATED SERVICES FOR PERSONS ENTITLED TO RESTRICTED BENEFITS ONLY

The following criteria are presented to clarify the provisions contained in Section 14007.5 of the Welfare and Institutions Code and in related State and federal laws. The approach adopted in these criteria is to set forth the parameters of what constitutes an emergency medical condition, and have these parameters applied to the circumstances of individual cases based on the medical judgment of professionals capable of applying them. These criteria do not spell out every condition and circumstance under which services provided to an individual covered under this provision would end. To attempt to do so would constrain the exercise of medical judgment by trained professionals. Accordingly, each Treatment Authorization Request (TAR) will be evaluated on the documentation presented after emergency services are rendered, applying the guidance set forth in the criteria. These criteria make no changes in existing TAR procedures.

Pursuant to provisions of state and federal law, undocumented aliens and specified classes of amnesty aliens are eligible for

restricted benefits only. Aliens entitled to restricted benefits have Medi-Cal cards with the appropriate restricted aid code.

Depending on the alien's status, restricted benefits may include (1) care and services that are necessary for the treatment of an emergency medical condition (including renal dialysis services, but not related to an organ transplant procedure) and medical care directly related to the emergency, as defined in federal law, and (2) long term care. Acute, ongoing, and maintenance renal dialysis services are covered as emergency services. These criteria make no changes in the scope of renal dialysis services previously available.

The following criteria apply only to emergency services and pregnancy-related services.

I. Emergency and Pregnancy-Related Services

Subject to Section 50302.1 of Title 22 of the California Code of Regulations, ~~Any~~ an alien who is otherwise eligible for Medi-Cal services and who is not a lawful permanent resident or permanently residing in the United States under color of law (PRUCOL) shall only be eligible for care and services that are necessary for the treatment of an emergency medical condition (not related to any organ transplant procedure but

including renal dialysis services and emergency labor and delivery) and medical care directly related to the emergency, as defined in federal law, and for medically necessary pregnancy-related services.

For purposes of applying these criteria, "medical care directly related to the emergency" includes only such care and services that are necessary for the treatment of an emergency medical condition as defined in paragraphs I.A and I.B below.

A. Definition in Federal Statute (42 U.S.C. § 1396b(v))

The term "emergency medical condition" is defined in federal statute to mean a medical condition (including emergency labor and delivery) 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 of any bodily organ or part.

B. Definition in Federal Regulations (42 C.F.R. § 440.255)

"Emergency medical condition" is defined in federal regulations to mean that the alien has, after sudden onset, a medical condition (including emergency labor and delivery) 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:

1. Placing the patient's health in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part.

C. Additional Criteria and Interpretative Guidelines

1. Services provided to aliens must be medically necessary. Medically necessary services are those services which are reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain

through the diagnosis or treatment of disease, illness or injury.

2. Medi-Cal includes as a benefit to an otherwise eligible alien care and services necessary for the treatment of the emergency medical condition and medical care directly related to the emergency, as defined in federal law. That is, Medi-Cal coverage for individuals whose eligibility is limited to emergency services begins at the point described in paragraph A above and ends when the patient is stabilized so that the conditions described in paragraphs I.A and I.B no longer apply.

3. If an eligible individual receives treatment for an emergency medical condition and continues to receive care after the emergency ends (that is, when the conditions described in paragraphs I.A and I.B no longer exist), treatment after the emergency ends is not covered by Medi-Cal.

4. Medi-Cal coverage is available for care and services necessary for the treatment of the emergency medical condition and medical care directly related to the emergency, as defined in

federal law. Medi-Cal coverage is not available for continuing or follow-up care that may be necessary to restore the patient to health.

5. The federal definition (set forth in paragraphs I.A and I.B) defines an emergency medical condition. Without implying any limitation on the definitions in paragraphs I.A and I.B, the terms "acute," "sufficient severity," and "immediate medical attention" help to define the parameters within which Medi-Cal can cover services for the treatment of emergency medical conditions.

D. Pregnancy-Related Medical Services

Pregnancy-related services as described in this paragraph D are subject to the provisions of Section 50302.1 of Title 22 of the California Code of Regulations.

Medi-Cal coverage for pregnancy-related services is available to all aliens who meet all other Medi-Cal eligibility requirements. Routine prenatal care, labor and delivery, routine post-partum care, and family planning are classified as pregnancy-related services.

Medi-Cal also covers the treatment of conditions which complicate the pregnancy or delivery (such as hypertension, diabetes, and urinary tract infection). Routine post-partum care extends for the 60-day period beginning on the last day of the pregnancy and ending on the last day of the month in which the 60th day occurs. All Medi-Cal family planning services are available to recipients of restricted benefits. All services would still need to meet the criteria of medical necessity.

II. Continuing Care/Follow-Up Care

Care and services that are necessary for the treatment of the emergency medical condition and medical care directly related to the emergency, as defined in federal law, are covered. "Medical care directly related to the emergency" includes only such care and services that are necessary for the treatment of an emergency medical condition as defined in paragraphs I.A and I.B above.

Accordingly, continuation of medically necessary inpatient hospital services and follow-up care after the emergency has resolved shall not be authorized or reimbursed for aliens eligible for restricted benefits only. This means that treatment aimed at a cure or long-term solution to the

problem, such as transplantation or elective surgery, related to the underlying chronic condition shall not be authorized or reimbursed by the Medi-Cal program.

SUPPLEMENTAL ALIENAGE AND IMMIGRATION STATUS DECLARATION

IMPORTANT: Every alien who wants Medi-Cal must complete **SECTION A and SECTION C** of this form. Under federal law, some aliens may be eligible for additional Medi-Cal benefits if they, or their child, have been battered or subjected to extreme cruelty in the United States by a spouse parent or relative. If you think this program applies to you or your child, complete **SECTION A, SECTION B, and SECTION C** of this form.

SECTION A: SUPPLEMENTAL ALIEN STATUS DECLARATION

IMPORTANT: Please indicate the applicant's alien status below, and submit documents evidencing such status. The alien status documents listed for each category are the most commonly used documents that the United States Immigration and Naturalization Service (INS) provides to aliens in those categories. You can provide other acceptable evidence of your alien status even if it is not listed below. **ALIENS IN CATEGORIES 1 THROUGH 6 ARE POTENTIALLY ELIGIBLE FOR FULL SCOPE MEDI-CAL. ALIENS IN CATEGORIES 7 OR 8 ARE POTENTIALLY ELIGIBLE FOR EMERGENCY AND PREGNANCY-RELATED MEDI-CAL SERVICES (INCLUDING EMERGENCY LABOR AND DELIVERY). ALIENS IN CATEGORY 9 ARE POTENTIALLY ELIGIBLE ONLY FOR EMERGENCY MEDI-CAL SERVICES. IN ORDER TO BE ELIGIBLE FOR ANY MEDI-CAL BENEFITS ALIENS IN CATEGORIES 1 THROUGH 9 MUST MEET ALL ELIGIBILITY REQUIREMENTS (INCLUDING CALIFORNIA RESIDENCY).**

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA). (Evidence includes an Alien Registration Receipt Card (Form I-551).) ☐

2. An alien who is granted asylum under section 208 of the INA. (Evidence includes INS form I-94 and a letter from the INS showing this status.) ☐

3. A refugee admitted to the United States under section 207 of the INA (Evidence includes INS form I-94 showing this status or an unexpired Refugee Travel Document, INS Form I-571.) ☐

4. An alien whose deportation is being withheld under section 243 (h) of the INA. (Evidence includes an Arrival-Departure Record, INS Form I-94, and an order issued by the Executive Office of Immigration Review.) ☐

5. An alien who is granted conditional entry under section 203 (a) (7) of the INA as in effect prior to April 1, 1980. (Evidence includes INS Form I-94 showing this status. ☐

6. An alien paroled into the United States for at least one year under section 212 (d) (5) of the INA. (Evidence includes INS form I-94 showing this status.) ☐

7. An alien paroled into the United States for less than one year under section 212 (d) (5) of the INA. Evidence includes INS form I-94 showing this status.) ☐

8. An alien not in categories 1 through 7 who has been admitted to the United States for a limited period of time (a nonimmigrant). (Evidence includes a nonimmigrant visa.) ☐

9. An alien not in categories 1 through 8. (No evidence of alien status is required from aliens in this category.) ☐

SECTION B: DECLARATION FOR BATTERED ALIENS

IMPORTANT: Complete this section if the applicant or the applicant's child has been battered or subjected to extreme cruelty in the United States.

1. Has the applicant (or the applicant's child) been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a spouse's or parent's family member living in the same house? ☐ YES ☐ NO

SECTION C:

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ANSWERS I HAVE GIVEN ARE CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE.

Applicant's Signature:_____ Date:_____

Signature of person
Acting For Applicant:_____ Date:_____

MC 13S (12/96)

Through July 31, 1997, Aid Code 58 beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective July 1, 1997, all applicants with an application approval date of July 1, 1997 or later who are aliens not lawfully present in the United States, are only eligible to receive emergency services and will be placed in new Aid Code 5G. Aliens in Aid Code 5G are eligible for restricted scope Medi-Cal benefits with or without a share of cost (emergency care, including labor and delivery). New Aid Code 5G does not include state-only funded nonemergency pregnancy-related services.

Effective August 1, 1997, only those applicants/beneficiaries who are lawfully present in the United States must be placed in Aid Code 58. These applicants/beneficiaries are eligible for restricted scope Medi-Cal benefits with or without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 5F

Aid Code 5F was established as a means to separately identify those undocumented pregnant women who are otherwise eligible for Aid Code 58 with or without a share of cost. Counties were previously instructed to begin implementation of 5F on October 1, 1994, as eligible undocumented pregnant women applied for Medi-Cal. We did not require counties to move all pregnant women immediately from Aid Code 58 into Aid Code 5F. Only those identified at redetermination were required to be changed.

Aid Code 5F currently provides the same restricted Medi-Cal services as Aid Code 58, including emergency and state-only funded nonemergency pregnancy-related services.

Through July 31, 1997, Aid Code 5F beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective July 1, 1997, all applicants with an application approval date of July 1, 1997 or later who are alien women not lawfully present in the United States are only eligible to receive emergency services and must be placed in new Aid Code 5N. Undocumented pregnant aliens in new Aid Code 5N are eligible for restricted scope Medi-Cal benefits with or without a share of cost (emergency care, including labor and delivery). New Aid Code 5N does not include state-

only funded nonemergency pregnancy-related services.

Effective August 1, 1997, only those applicants/beneficiaries who are alien women lawfully present in the United States will be placed in Aid Code 5F. All aliens in Aid Code 5F are eligible for restricted scope Medi-Cal benefits with or without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 7C

This is the federal poverty level (FPL) program aid code for certain children born after September 30, 1983, who have not attained age 19 and whose family income is in excess of the MNL but does not exceed 100 percent of the FPL. Services covered under this aid code are emergency services, including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Through July 31, 1997, Aid Code 7C beneficiaries receive restricted scope Medi-Cal benefits, emergency care including labor and delivery, and state-only funded nonemergency pregnancy-related services.

Effective July 1, 1997, all applicants with an application approval date of July 1, 1997 or later who are aliens not lawfully present in the United States are only eligible to receive emergency services and will be placed in new Aid Code 5M. Aliens in new Aid Code 5M are eligible for restricted scope Medi-Cal benefits without a share of cost (emergency care, including labor and delivery). New Aid Code 5M does not include state-only funded nonemergency pregnancy-related services.

Effective August 1, 1997, only those applicants/beneficiaries who are aliens lawfully present in the United States will be placed in Aid Code 7C. These aliens are eligible for restricted scope Medi-Cal benefits without a share of cost. These services include state-only funded nonemergency pregnancy-related services as well as emergency care, including labor and delivery.

Aid Code 48

Aid Code 48 provides family planning, pregnancy-related, and postpartum services for any age female if family income is at or below 200 percent of the FPL.