



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**



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September 16, 2009

ALL-COUNTY LETTER NO. 09-47

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM MANAGERS

**SUBJECT: STATUTORY CHANGES IN THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES' PROGRAM FOR PAYMENT OF MEDICAL RECOGNIZED EXPENSES (OTHERWISE KNOWN AS THE SHARE-OF-COST BUYOUT PROGRAM), INCLUDING ITS ELIMINATION EFFECTIVE OCTOBER 1, 2009**

REFERENCE: ALL-COUNTY LETTER 09-27

This All-County Letter (ACL) provides counties with information regarding implementation of two statutory changes to the California Department of Social Services' (CDSS) program for payment of Medi-Cal Recognized Expenses (MRE) for Personal Care Services Program (PCSP) and In-Home Supportive Services (IHSS) Plus Waiver (IPW) program recipients. This payment of MRE is otherwise known as the Share-of-Cost (SOC) Buyout Program. First change is initiated by Senate Bill (SB) X3 6, Chapter 13, Statutes of 2009, amended Welfare and Institutions Code (WIC) §12305.1 to require that, in order to be eligible for the payment of MRE, individuals in PCSP or IPW must be eligible for and receive services under one of those programs before July 1, 2009, and continue to receive those services. Second change initiated by Assembly Bill (AB) X4 4, Chapter 4, Statutes of 2009, amended WIC §12305.1 to provide that an individual who meets the above criteria for MRE payments shall have his or her MRE payment eliminated as of October 1, 2009. This change to state law entirely eliminates all MRE payments beginning with the month of October 2009.

As a result of SB X3 6 and AB X4 4, those individuals who become eligible for PCSP or IPW, on or after July 1, 2009, will not be eligible for the payment of MRE. Additionally, individuals who became eligible for the IHSS Residual (IHSS-R) program on or after July 1, 2009, are not be eligible for the payment of MRE.

IHSS recipients who leave any of the above programs, or lose eligibility and subsequently regain eligibility for services through these programs between July 1, 2009 and October 1, 2009, are not eligible for the payment of MRE. In addition, on October 1, 2009, MRE payments will be eliminated for all recipients.

### **SB X3 6 IMPLEMENTATION PROVISIONS BETWEEN JULY 1, 2009 AND OCTOBER 1, 2009**

#### **Recipients who will lose eligibility for payment of MRE**

1. Recipients who are discontinued from, or have a break in, Medi-Cal eligibility on or after July 1, 2009.
  - a. This will apply regardless of the reason the recipient loses, or has a break in, Medi-Cal eligibility. The determination as to whether a recipient was discontinued from Medi-Cal will be based on whether the recipient is on the Monthly MEDS Renewal File.
    - i. If the recipient loses Medi-Cal eligibility between July 1, 2009 and October 1, 2009, they may file a request for a State Hearing to potentially recoup paid excess SOC and have their payment of MRE restored.
  - b. Loss of eligibility for payment of MRE will not occur if the only break in Medi-Cal eligibility is due to an Inter-County Transfer. If a recipient's payment of MRE is terminated in the Cash Management, Information, and Payrolling System (CMIPS) due to an Inter-County Transfer between July 1, 2009 and October 1, 2009, it can only be restored by CDSS Conlan II staff.
2. Recipients who are discontinued from one of the IHSS programs (PCSP, IPW, or IHSS-R); for example, the recipient fails to comply with the annual IHSS reassessment process.
  - a. This will apply regardless of the reason the recipient loses, or has a break in, IHSS program eligibility.
    - i. If the recipient loses program eligibility between July 1, 2009 and October 1, 2009, they may file a request for a State Hearing to potentially recoup paid excess SOC and have their payment of MRE restored.

- b. Loss of eligibility for payment of MRE will not occur if the only break in IHSS program eligibility is due to an Inter-County Transfer. If a recipient's payment of MRE is terminated in CMIPS due to an Inter-County Transfer between July 1, 2009 and October 1, 2009, it can only be restored by CDSS Conlan II staff.
3. Recipients on Leave (L) status for more than 30 consecutive days.
- a. This includes retroactive leave days when the social worker is informed of the recipient's leave status after the fact.
    - i. If the recipient alleges a county error occurred between July 1, 2009 and October 1, 2009 that results in Leave status for more than 30 consecutive days, the recipient may file a request for a State Hearing to potentially recoup paid excess SOC and have their payment of MRE restored.
4. Recipients who have no active provider listed in CMIPS for more than 30 consecutive days.
- a. This rule will apply regardless of the reason the recipient has no active provider listed in CMIPS for more than 30 consecutive days.
    - i. If the recipient alleges a county error occurred between July 1, 2009 and October 1, 2009, resulting in no provider listed in CMIPS for more than 30 consecutive days, the recipient may file a request for a State Hearing to potentially recoup paid excess SOC and have their payment of MRE restored.

**Potential SOC buyout recipients who may file a state hearings appeal or Conlan II claim to have their payment of MRE restored.**

1. Recipients who applied for services prior to July 1, 2009, but did not receive program approval until after July 1, 2009, and had someone providing program services which were subsequently authorized. These recipients meet the SOC Buyout eligibility criteria of receiving services before July 1, 2009, and therefore would be eligible for payment of MRE beginning with the month of August 2009.
- a. Recipients in this category should be instructed by county staff to file a Conlan II claim to potentially be eligible for payment of MRE.
  - b. Recipients who did not actually receive services prior to July 1, 2009, will not be eligible for payment of MRE, although retroactive program payment eligibility rules still apply.

2. Recipients who received program approval and were receiving program services prior to July 1, 2009, were eligible for but did not receive the payment of MRE prior to July 1, 2009.
  - a. Recipients in this category should be instructed by county staff to file a Conlan II claim to potentially be eligible for payment of MRE
3. Recipients who were eligible for the payment of MRE as of June 30, 2009, but missed the payment because CMIPS and Medi-Cal Eligibility Determination Systems (MEDS) failed to communicate properly and the Medi-Cal Eligibility (MELG) screen did not pick up MEDS eligibility correctly.
  - a. Recipients in this category should be instructed by county staff to file a Conlan II claim to potentially be eligible for payment of MRE.

#### **Payment of MRE eligibility for IHSS-R recipients who move to the PCSP or IPW Program**

1. Recipients who are receiving payment of MRE, have services through IHSS-R and subsequently become eligible for PCSP or IPW, will continue to be eligible for payment of MRE until it is eliminated on October 1, 2009.

#### **COUNTY INFORMATION**

The following is general information regarding payment of MRE changes and additional county responsibilities:

- CDSS Conlan II staff will have the ability to restore the recipient's eligibility for the payment of MRE when appropriate until October 1, 2009. Counties will not have the ability to override the system and make a recipient eligible for payment of MRE.
- County responsibilities for determining IHSS-R SOC amounts **(This direction applies until implementation of CMIPS II. Once CMIPS II is implemented, only the first bullet below will apply):**
  - Counties need to determine IHSS-R SOC amounts for all recipients who are not eligible for federal financial participation. FFP on the MELG screen will be "No".

- CMIPS interface with MEDS will continue as Medi-Cal eligibility is required for PCSP and IPW. PCSP and IPW recipients are responsible for their MC SOC, and payments to their providers will continue to apply toward “spend down” of their MC SOC.
- Counties need to continue to determine IHSS-R SOC amounts for recipients who have a Medi-Cal SOC greater than zero (Medi-Cal SOC is displayed on the RELB or MELG screen). This will ensure recipients pay their correct SOC if they lose PCSP or IPW eligibility. If PCSP or IPW eligibility is re-established, this SOC payment can be used toward meeting
- the Medi-Cal SOC by the recipient providing proof of this payment to their Medi-Cal eligibility worker.
- Counties do not need to continue to determine IHSS-R SOC amounts for recipients who have Medi-Cal with zero SOC. However, counties should consider that for recipients who receive Medi-Cal under A&D FPL (1h or 6h), not having an IHSS-R SOC amount determined could result in a recipient underpayment of SOC if they lose PCSP or IPW eligibility. Counties should make a decision based on individual business practices whether to continue to determine IHSS-R SOC amounts for recipients who receive Medi-Cal under A&D FPL.

**Note: Recipients who do not comply with determination of Medi-Cal eligibility are NOT eligible for IHSS-R and should be discontinued from IHSS services (W&IC 14132.951 (d)(1)(2)).**

- Please note that when a recipient loses eligibility for the payment of MRE, this will increase their remaining Medi-Cal SOC and potentially decrease their provider’s paycheck.
  - The provider and recipient will continue to receive Explanation of SOC letters from CDSS informing them of the correct amount of the SOC to be collected from the recipient.

**AB X4 4, OCTOBER 1, 2009 ELIMINATION OF PAYMENT OF MRE FOR ALL RECIPIENTS**

CDSS mailed September 5, 2009, an informing notice to current recipients of the payment of MRE (SOC Buyout). The notice informs the recipients of the changes required under SB X3 6, and of the elimination of the payment of MRE, effective October 1, 2009, as required by AB X4 4.

Additionally, CDSS, through its CMIPS vendor, will issue to MRE (SOC Buyout) recipients a Notice of Action (NOA), providing the required ten-day notice that informs these recipients of the elimination of the payment of MRE (SOC Buyout). The NOA will also remind the PCSP/IPW recipients that a letter will be sent to them each time one of their provider's payments is processed telling them how much they need to pay their provider, or the IHSS-R recipients that their IHSS share of cost will be deducted each month from their provider's paycheck and they will be sent a letter telling them to pay that amount to their provider. If recipients should have questions regarding the NOA, there is a toll free number listed on the back of the NOA form where questions can be directed.

Any questions regarding this ACL should be directed to the Adult Programs Branch, at (916) 229-4000.

Sincerely,

***Original Document Signed By:***

EVA L. LOPEZ  
Deputy Director  
Adult Programs Division

