

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 15, 2008

ALL-COUNTY LETTER NO: 08-03

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY SOCIAL SERVICES DEPARTMENTSSUBJECT: CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
CONDITIONAL BENEFITS AFTER NATURALIZATIONREFERENCE: Welfare And Institutions Code (W&IC) Section 18939.5;
Senate Bill (SB) 84, Chapter 177, Statutes of 2007

The purpose of this All-County Letter (ACL) is to advise counties of the effects of recent law changes on the Cash Assistance Program for Immigrants (CAPI). Senate Bill (SB) 84 was signed into law on August 24, 2007. This bill continues CAPI payments for individuals who naturalize while receiving CAPI benefits. This letter instructs counties on the effect of the new provision on affected immigrants. It also explains the conditions that must be met by the naturalized individual in order to continue receiving the benefit. Attached is W&IC section 18939.5 as adopted by SB 84 that affects the CAPI program. Also attached is section 47 of SB 84 which authorizes the Department to implement these changes through an ACL until emergency regulations are filed with the Secretary of State.

Background

Section 49-010.11 of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) requires that in order to be eligible for CAPI benefits, an individual must be a non-citizen. MPP section 49-060.32 mandates that CAPI eligibility is terminated for a recipient when the recipient becomes a citizen. Once an individual is deemed ineligible for CAPI benefits, the individual may apply for Supplemental Security Income (SSI) benefits. If approved for SSI, the applicant would receive an initial lump sum payment retroactive to his or her initial date of SSI eligibility; however, the approval process may take several months, creating a hardship for the applicant. Prior to the implementation of SB 84, a naturalized citizen transitioning from CAPI to SSI would not receive any CAPI benefits during this time.

REASON FOR THIS TRANSMITTAL

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

General Policy

Under SB 84, W&IC section 18939.5 now provides a conditional continuation of CAPI benefits for recipients who naturalize while in the program. Individuals who naturalize while receiving CAPI benefits will continue to receive those benefits as long as he or she remains otherwise eligible for CAPI, requests conditional benefits by filling out the mandatory Request for Conditional CAPI form (SOC 830) attached, applies for SSI in a timely manner, and fully cooperates in the application and appeal process of the Social Security Administration (SSA). A timely application filing shall be considered a filing within 30 calendar days of signing form SOC 830. All conditions must be met in order for the recipient to continue to receive CAPI. Should the newly naturalized citizen lose his or her CAPI eligibility for any reason other than naturalization, regardless of the status of his or her SSI application, the conditional CAPI will be terminated. A naturalized citizen receiving conditional CAPI cannot be reinstated into CAPI once CAPI benefits have been terminated. Naturalized citizens receiving conditional CAPI benefits who do not successfully complete the SSI application and/or appeal process, must also have the benefit terminated. Naturalized citizens that successfully complete the SSI application approval and/or appeal process and become eligible for an SSI payment must have his or her CAPI benefits terminated at that time.

County Responsibilities & Changes

Counties shall continue to administer CAPI according to regulations set forth in Chapter 49-000 of the MPP, but shall not immediately terminate CAPI upon notification of naturalization. Once the county has been informed of a CAPI recipient's naturalization status, the county shall have the newly naturalized citizen complete form SOC 830, continue CAPI benefits for the recipient, and refer the recipient to SSA to apply for SSI benefits. By completing and signing form SOC 830, the recipient acknowledges that he or she would like to receive conditional CAPI, understands the terms and conditions for receiving the conditional CAPI benefits, and acknowledges that he or she is obligated to repay any overpayments should he or she fail to comply with the eligibility conditions set forth in the General Policy above.

Counties must also obtain a new SOC 451 form in conjunction with the new referral to SSA so that any retroactive payments made by SSA will be subject to Interim Assistance Reimbursement (IAR). The county must continue to monitor the newly naturalized citizen for eligibility until the SSI application process is completed.

Overpayments

Conditional benefits begin the month after the month the recipient reports his or her naturalization, provided the person signs form SOC 830 within 30 days. Current overpayment rules will still apply to any regular CAPI benefits received by the recipient after his or her date of naturalization, up to the date that naturalization is reported. Any conditional CAPI benefits received for a month for which SSI/SSP is also received, and not recovered through the IAR process, is an overpayment subject to normal recovery procedures. Any conditional benefits received after the individual has signed form SOC 830, for which the person does not receive SSI/SSP benefits is not an overpayment, provided the person remains otherwise eligible for CAPI and fully cooperates in the SSI/SSP application and appeal process. Failure to fully cooperate in the SSI/SSP application and appeal process results in the individual being overpaid for all conditional CAPI benefits received as defined above.

Examples

Example 1

Scenario: Mr. Tran, who is currently receiving CAPI, naturalizes on September 30, 2007. He reports his naturalization sometime during the month of October and is referred to SSI. Mr. Tran turns in all paperwork on time, and responds to all SSI requests in a timely manner. While waiting for his SSI application to be approved, Mr. Tran leaves the United States to visit relatives for the holidays. He leaves the Wednesday before Thanksgiving, and returns after the New Year's Day festivities.

Outcome: By being outside of the United States for over 30 days, Mr. Tran has become ineligible for CAPI (MPP section 49-010.241) and therefore must be terminated from conditional CAPI benefits, regardless of his SSI application status. Mr. Tran cannot be reinstated to CAPI upon his return.

Example 2

Scenario: Mr. Nabong, who is currently receiving CAPI, naturalizes on December 15, 2007. He waits two months and does not report his naturalization until February, 2008. Mr. Nabong is then referred to SSI and requests and receives conditional CAPI. The SSA requests additional paperwork from Mr. Nabong in March, and sends subsequent reminders in April. Mr. Nabong does not respond, and his SSI/SSP application is denied in May for failure to cooperate.

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Outcome: Since Mr. Nabong's application is denied for failure to respond to SSI requests, he must be terminated from CAPI, and is subject to overpayment rules for any conditional CAPI benefits received. Regular overpayment rules apply for benefits received in January and February because Mr. Nabong received regular CAPI for those two months (MPP section 49-060.32).

Any questions regarding this letter should be directed to the Adult Programs Branch, Operations and Technical Assistance Unit analyst, at (916) 229-4000.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

Attachments

c: CWDA

(f) The Edgewood Center for Children and Families in San Francisco or any other appropriate agency or individual approved by the department in consultation with the Statewide Kinship Advisory Committee shall provide technical assistance to the Kinship Support Services Program and shall facilitate the sharing of information and resources among the local programs.

SEC. 40. Section 18939.5 is added to the Welfare and Institutions Code, to read:

18939.5. Notwithstanding any other provision of law, an individual who naturalizes while receiving benefits under this article, who remains otherwise eligible for benefits under this article, and who applies for federally funded Supplemental Security Income (SSI) and fully cooperates in the application and administrative appeal process of the Social Security Administration, shall continue to receive benefits under this article until the individual receives SSI benefits or has exhausted all appeals for their initial federal SSI application. A recipient shall not be entitled to receive duplicate payments for any month.

SEC. 41. The amendments made by this act contained in clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 1534, paragraph (2) of subdivision (c) of Section 1569.33, paragraph (2) of subdivision (c) of Section 1597.09, and paragraph (2) of subdivision (c) of Section 1597.55a of the Health and Safety Code shall be suspended for the 2007–08 fiscal year. The State Department of Social Services shall submit trailer bill language to the Legislature on or before February 1, 2008, that reflects appropriate indicators to trigger an annual increase in the number of facilities for which the department conducts unannounced visits. The department shall work with legislative staff, the Legislative Analyst's Office, and interested stakeholders to develop the indicators.

SEC. 42. The State Department of Education shall conduct a study and submit a report to the Legislature by September 2008 that will establish best statewide practices for the prevention, detection, identification, and investigation of improper payments and fraud in all subsidized child care programs. The report shall provide specific recommendations that will shape discussion towards establishing consistent policies across the state with regard to improper payments and suspected fraud in subsidized child care.

(a) The study shall incorporate elements utilized in national studies conducted by the federal Administration for Children and Families and information previously developed by the department and other state agencies.

(b) The study shall include a thorough analysis and recommendations on the role and responsibilities of the department.

(c) The study shall include an expansive review of the practices of local jurisdictions in their efforts to mitigate improper payments and suspected fraud in child care programs, particularly prevention efforts, and should assess those practices, determining which are “best practices” and indicating the bases for those determinations.

(d) The study shall establish a working definition of fraud that clearly distinguishes fraud from improper payments, and provide recommendations

SEC. 47. (a) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made by Sections 14, 15, 21 to 26, inclusive, and Sections 35, 39, and 40 of this act through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those changes no later than July 1, 2009.

(b) The adoption of regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

SEC. 48. Of the thirty-five million six hundred eighty-four thousand dollars (\$35,684,000) appropriated in Item 5180-151-0001 of Section 2.00 of the Budget Act of 2007 for the Transitional Housing Program Plus, up to ten million five hundred twenty-five thousand dollars (\$10,525,000) may be used for eligible costs incurred in the 2006–07 fiscal year.

SEC. 49. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2007 at the earliest possible time, it is necessary that this act take effect immediately.

REQUEST FOR CONDITIONAL CAPI AFTER NATURALIZATION PENDING SSI/SSP ELIGIBILITY DETERMINATION

NAME	SOCIAL SECURITY NO.
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I understand that on the date I naturalized, I became ineligible for CAPI benefits; however, I would like to accept conditional CAPI while my Supplementary Security Income/State Supplementary Payment (SSI/SSP) eligibility is being determined.

I also understand that in order to continue to receive these benefits, I or my authorized representative, must contact (by phone, mail, or in person) the Social Security Administration (SSA) Office as soon as possible, but not more than 30 days after the date of this document, to apply for SSI/SSP, and fully comply with the SSI/SSP application and appeal process, which includes responding to any SSA requests for information and/or documents in a timely manner.

I understand that these benefits will be terminated if I become ineligible for CAPI for any reason before the SSI/SSP application and appeal process is completed, or, if at any time, I fail to fully comply with the SSI/SSP application and appeal process.

I acknowledge that I cannot receive duplicate payments and will have to repay any CAPI payments disbursed to me in any month for which I also receive any SSI/SSP payments. I also understand that if I become ineligible for CAPI before the completion of the SSI/SSP application and appeal process due to my own failure to comply with the SSI/SSP application and appeal process, I will have to repay all CAPI payments I receive after this date.

YOUR SIGNATURE	DATE
WITNESS, IF SIGNED WITH AN "X"	DATE

SIGNATURE OF AN INTERPRETER OR PERSON COMPLETING FORM ON YOUR BEHALF	DATE
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RELATIONSHIP TO APPLICANT	TELEPHONE NUMBER ()
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