DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

January 31, 2003

ALL-COUNTY LETTER NO. 03-03

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

Reason For This Transmittal

[X] State Law Change
[ ] Federal Law or Regulation Change
[ ] Court Order or Settlement Agreement
[ ] Clarification Requested by one or More Counties
[ ] Initiated by CDSS

SUBJECT: THE IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM RESPONSE TO THE *CRAIG v. BONTÁ* LITIGATION

REFERENCE:
Senate Bill (SB) 87, Chapter 1088, Statutes of 2000;
Department of Health Services' (DHS) All-County Welfare Directors Letter (ACWDL) No. 02-45 (August 21, 2002), (Attachment 1),
DHS ACWDL 02-54 (November 8, 2002), (Attachment 2); and
Welfare and Institutions Code Section 14005.37.

The purpose of this All-County Letter (ACL) is to provide instructions to counties as a result of a temporary court order issued from the *Craig v. Bontá* litigation. This litigation affects Medi-Cal beneficiaries who lose their eligibility for the Supplemental Security Income/State Supplementary Payment Program (SSI/SSP), including such beneficiaries in the In-Home Supportive Services (IHSS) Residual and Personal Care Services (PCS) cases.

Pursuant to this Order, Medi-Cal benefits may not be terminated on or after June 30, 2002 for recipients, if their termination is based upon the discontinuance of their SSI/SSP eligibility (other than individuals discontinued due to death or incarceration). The Court has issued this temporary order as an intermediate step in order to evaluate the Department of Health Services' (DHS) efforts to comply with SB 87. (See Attachment 3, *Craig v. Bontá* Temporary Order).

For your information, SB 87 added Sections 14005.31 through 14005.39 to the Welfare and Institutions Code. Section 14005.37 requires, except in certain cases, that the counties evaluate every Medi-Cal case set for termination for possible eligibility on any other basis before any action to terminate Medi-Cal eligibility is taken.

Exceptions to the Temporary Court Order

Two exceptions in the *Craig v. Bontá* ruling are those persons who lose SSI/SSP based Medi-Cal due to death or incarceration. Persons who lose eligibility due to death or incarceration may be immediately terminated without being placed on an interim status. These are the only exceptions. The Medi-Cal eligibility redetermination process need not be performed in these situations. DHS will inform the California Department of Social Services of the SSI/SSP terminations that involve death or incarceration.

PCS Cases

Until further notice, PCS funded cases may not be terminated solely because a PCS recipient is terminated from SSI/SSP. If counties receive notification that the recipient has been terminated from SSI/SSP, the county is to keep the case open and the recipient will continue to receive PCS and no-cost full-scope Medi-Cal benefits. As with any other Medi-Cal benefit, PCS can be terminated if termination is medically appropriate or the services are no longer needed based on an individual evaluation.

IHSS Residual Cases

Because IHSS Residual services are not a Medi-Cal benefit, cases that consist entirely of IHSS Residual services may be terminated for loss of SSI/SSP, where appropriate. DHS has already made changes to the Medi-Cal Eligibility Data Systems (MEDS) that prevent automatic termination of Medi-Cal eligibility, as reflected on the Medi-Cal card, in these cases. Programming changes to the Case Management Information and Payrolling System (CMIPS) have been requested that will update certain Notice of Action (NOA) language to advise the recipient that even though their residual services are being terminated they will continue to receive Medi-Cal benefits.

NEXT STEPS

A second ACL will be issued, after the court approves the DHS plan to comply with the *Craig v. Bontá* court order, that will provide counties with further instructions. Counties are invited to submit questions concerning *Craig v. Bontá* to their Operations and Technical Assistance representative. If you have any questions, please contact Alan Stolmack, Chief, Adult Programs Branch at (916) 229-4582.

Sincerely,

Original Document
Signed By
DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachments

ATTACHMENT 1

State of California—Health and Human Services Agency
Department of Health Services

DIANA M. BONTÁ, R.N., Dr. P.H.
Director

GRAY DAVIS
Governor

August 21, 2002

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
All County Health Executives
All County Mental Health Directors
All CalWORKS Program Managers

Letter No.: 02 - 45

SUBJECT: DISCONTINUED SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTAL PAYMENT BENEFICIARIES – CRAIG V. BONTÁ

The purpose of this All County Welfare Directors Letter (ACWDL) is to inform the counties regarding changes in handling the Supplemental Security Income/State Supplemental Payment (SSI/SSP) population.

At a hearing held on June 24, 2002, the Superior Court found the Department of Health Services was in violation of the Welfare and Institution Code (WIC), Section 14005.37 by failing to provide the Senate Bill (SB) 87 redetermination process to persons whose SSI cash benefits were terminated by the Social Security Administration.

The Judge has ordered the Department to cease terminating the Medi-Cal benefits of those people in the affected population effective **June 30, 2002**. Under terms of the order, the Department will develop an implementation plan within 120 days, which will provide a process for ensuring that beneficiaries losing their SSI receive a redetermination of their eligibility before termination of benefits, pursuant to WIC Section 14005.37. The only exceptions to the court order are those beneficiaries discontinued by the Social Security Administration due to death or are incarcerated as an inmate in a correctional facility.

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714 P STREET, ROOM 1692, P.O. BOX 942732, SACRAMENTO, CA 94234-7320
(916) 657-2941
Internet Address: www.dhs.ca.gov

SSI/SSP TERMINATIONS

Effective with the July 2002 SSI/SSP discontinuances, beneficiaries in the affected population will continue to receive full-scope, no share-of-cost Medi-Cal until the county performs an eligibility redetermination. Counties shall not terminate or make eligibility determinations or take any action on the monthly RAMOS listings for any in the affected population until instructions are issued in a separate letter. This process supercedes the former RAMOS process used for this population.

The Department, with the cooperation of county staff, will immediately begin working on a plan for implementing an eligibility redetermination process for beneficiaries losing their SSI/SSP benefits.

Additional funding to support continuing eligibility for this population pursuant to the court order in Craig V. Bontá will be requested upon enactment of the State budget.

If you have any questions regarding these instructions, please contact Ms. Debra Hader, Staff Services Analyst of Policy Unit B-1, at (916) 654-2279.

ORIGINAL SIGNED BY

Richard Brantingham
Acting Chief
Medi-Cal Eligibility Branch

cc: Ms. Debra Hader
Staff Services Analyst
Policy Unit B-1
Department of Health Services
714 P Street, Room 1650
P.O. Box 942732
Sacramento, CA 94234-7320

ATTACHMENT 2

State of California—Health and Human Services Agency
Department of Health Services

California Department of Health Services
DIANA M. BONTÁ, R.N., Dr. P.H.
Director

GRAY DAVIS
Governor

November 8, 2002

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATION OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALIST/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY MEDS LIAISONS

Letter No.:02-54

SUBJECT: INTERIM INSTRUCTIONS FOR IMPLEMENTATION OF THE JUNE 24, 2002 COURT ORDER IN THE CRAIG V. BONTÁ LAWSUIT

Overview

The purpose of this All County Welfare Directors Letter (ACWDL) is to address County questions which have arisen as a result of the court order in Craig v. Bontá. The Department of Health Services (DHS) is preparing an implementation plan pursuant to a court ruling in this case. This letter addresses some questions about the handling of cases affected by the order during the interim period prior to court approval of the Implementation Plan.

Counties are reminded not to terminate or discontinue the Medi-Cal eligibility of anyone losing Supplemental Security Income/State Supplemental Payment (SSI/SSP)-based Medi-Cal on or after June 30, 2002. This requirement also applies to persons who received the extended month of RAMOS Medi-Cal eligibility for June or July 2002. In either case, these beneficiaries are eligible for full scope Medi-Cal without a share of cost until the counties receive further instructions from the Department. Counties are also reminded that persons who lose SSI/SSP-based Medi-Cal due to death or incarceration are exceptions to the ruling in Craig v. Bontá.

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Questions And Answers

1. **Are persons who were terminated from SSI/SSP on or after June 30, 2002, subject to the RAMOS process?**

   No. However, some individuals who were affected by the June 24, 2002 court order had previously been sent a RAMOS Notice of Action informing them that their Medi-Cal eligibility would end on June 30, 2002, or July 31, 2002. Individuals who received these notices had their Medi-Cal eligibility restored to full scope no share-of-cost Medi-Cal effective June 01, 2002. That eligibility will continue until a Medi-Cal eligibility redetermination is done in accordance with instructions that will be provided by the Department pursuant to the ruling in the Craig lawsuit.

   Until further notice from the Department, the only exceptions are those individuals who have lost their SSI/SSP benefits due to death or incarceration. These individuals are not eligible for continued Medi-Cal benefits under the Craig lawsuit.

2. **There is a concern about individuals who lost SSI/SSP benefits effective June 30, 2002, or later, but who would have received an additional month of eligibility with a share-of-cost under the Ramos rules. Are they entitled to the relief offered by Craig?**

   These individuals are entitled to full scope Medi-Cal benefits without a share-of-cost. Those benefits will continue until a Medi-Cal eligibility redetermination is done in accordance with instructions that will be provided by DHS pursuant to the ruling in the Craig lawsuit.

3. **We noticed termination dates on MEDS for persons whom we thought were eligible for ongoing benefits under the Craig lawsuit. Have these dates been removed?**

   There were some persons who lost SSI/SSP on or after June 30, 2002, who inadvertently had Medi-Cal termination dates on MEDS even though they were eligible for ongoing benefits under the Craig lawsuit. Termination dates for these beneficiaries have been removed from MEDS. The only termination dates and termination reasons that should appear on MEDS are for those persons whose SSI/SSP benefits were terminated due to death or incarceration.

4. How will beneficiaries eligible for no share-of-cost Medi-Cal under the Craig lawsuit be identified on MEDS during the interim period?

During the interim period, Craig beneficiaries will be identified on MEDS through the information provided on the following inquiry screens:

Primary Medi-Cal/CMSP Information **(INQM)** Screen

- GOVT-RESP field will be 3
- TERM-DT field will be blank
- AID-CODE field will continue to be 14, 24, 64, 6N, 16, 26 or 66.
- ELIG-STAT field will end in 6
- Determination dates and reasons will be populated on the INQM screen for persons discontinued due to death or incarceration.

Pending/Denied Applications & Appeals **(INQP)** Screen
NOA-TYPE field will be:

- 87 for persons receiving continuous M/C eligibility covered under Craig
- 05, 08 or 11 for the deceased
- 07, with a payment status code of N22 on MEDS **(INQX)** for the incarcerated population excluded from continuous Medi-Cal eligibility under Craig v Bontá

NOTE: Counties must review the most current SSI/SSP information on the MEDS **INQP** and **INQX** screens. The **INQD** screen shows the last transaction that updated MEDS on a particular date. Checking this screen will identify the most recent date that information changed on MEDS. Also refer to your MEDS user manual for additional information on MEDS transactions and screens. If there are any other questions, please contact Ms. Debra Hader of the Medi-Cal Eligibility Branch at (916) 654-2279.

5. Will the State give these individuals a special identifier similar to the identifier used in past years for Pickle rollover clients (i.e., R0, S0)?

No. Currently there are three new aid codes being developed to identify and track the population affected by the Craig lawsuit. There will be separate aid codes for the aged, for the blind, and for the disabled Craig eligibles. The existing indicators appearing in the "Pickle" field will remain the same.

6. **Given the ruling in the Craig lawsuit are the Ramos procedures in Medi-Cal Procedures Manual Article 5E obsolete?**

   Yes. The Procedures manual will be revised as soon as possible after the final judgement is rendered by the court.

7. **While we are waiting for further instructions on processing the Craig caseload, who will have control of the MEDS record for these beneficiaries?**

   For persons entitled to Medi-Cal pursuant to the ruling in Craig, the MEDS record will be under the control of DHS.

8. **While we are waiting for further instruction from the Department, what is the responsibility of the county when a Craig beneficiary:**

   - **Moves to another county?**
   - **Changes household composition?**
   - **Changes personal status?**
   - **Needs a BIC card replacement?**
   - **Changes health insurance?**

   Unless the MEDS record is frozen or has a Government Responsibility Code of 2, counties will continue to use the MEDS transactions for residence transfers, changes in health insurance and card replacements. Counties can document all the other situations that are reported to them, until receipt of the future ACDWL which will discuss eligibility redeterminations.

9. **Does the ruling in the Craig lawsuit apply to individuals who have lost SSI benefits due to entry into long-term care?**

   Yes. Persons placed in long-term care will receive continuous no share-of-cost Medi-Cal until further notice from the Department.

10. How will the appeal process and fair hearings be handled during the interim period?

The Administrative Law Judges that handle Medi-Cal fair hearings know how to adjudicate the eligibility of beneficiaries subject to the Craig lawsuit.

Craig beneficiaries who are scheduled for a hearing and who erroneously lose their Medi-Cal eligibility will be manually restored to ongoing full scope Medi-Cal eligibility by DHS staff until further notice from DHS. However, we anticipate that as a result of the Craig lawsuit the number of Medi-Cal hearings and appeals for persons who lose SSI/SSP will decrease in the coming months.

11. What information is being issued to those individuals whose SSI/SSP benefits have been terminated?

Those SSI/SSP beneficiaries that received an additional month of eligibility for June or July 2002 under the Ramos rules received an information notice from the Department of Health Services informing them of their continued eligibility for no share-of-cost Medi-Cal under the Craig lawsuit. The Department is considering whether a similar information notice will be sent to other persons eligible for no share of cost Medi-Cal under the ruling in Craig v. Bontá.

The only persons who will receive Notices of Action pending implementation of the court-approved plan, are those persons terminated due to death or incarceration. These individuals will continue to receive the following notices:

- NOA-TYPE 05 Deceased
- NOA-TYPE 07 Other (Incarceration), with payment status code of N22 on MEDS inquiry screen **(INQX)**
- NOA-TYPE 09 County Eligible
- NOA-TYPE 11 Deceased Persons-State Registrar

12. Will counties receive additional funding for retroactive processing?

Yes, additional funding will be requested to handle the increase in workload.

13. **How are the eligibility determinations for Disabled Adult children, the No Longer Disabled and In-Home Supportive Services cases impacted by Craig?**

Disabled Adult Children (DAC) with an indicator of TO in the Pickle field on MEDS will receive continued Medi-Cal eligibility with no share-of-cost and termination dates will be removed from MEDS. If eligibility has been terminated because eligibility information was not updated on MEDS, please contact Ms. Debra J. Hader at (916) 654-2279 to have Medi-Cal eligibility restored.

Pending further instructions from the State, the No Longer Disabled (NLD) will receive continued Medi-Cal eligibility with no share of cost under aid code 6N. If any exceptions occur for the NLD population, please contact Ms. Betty Mosher at (916) 654-0630 to have Medi-Cal eligibility restored.

Until further notice, beneficiaries who were receiving Personal Care Services (PCS) as a Medi-Cal benefit under their SSI/SSP-based Medi-Cal will continue to be eligible for PCS until a Medi-Cal eligibility redetermination is done by the county in accordance with instructions that will be provided by DHS pursuant to the ruling in the Craig lawsuit. Persons receiving services under the In-Home Supportive Services (IHSS) residual program may be subject to a redetermination in accordance with the IHSS program requirements administered by the California Department of Social Services. Please direct questions regarding this issue to Ms. Vicki Partington at (916) 654-5909.

14. **Has DHS communicated with the Social Security Administration regarding their ability to provide the State with SDX information that might be useful in the ex-parte eligibility redetermination process?**

Yes, DHS has communicated with the Social Security Administration regarding the information they transmit to the State on SDX. We are in the process of identifying additional information that can be utilized by the counties for conducting ex-parte redeterminations.

15. **How much information from SSA on income and property could be made available on MEDS?**

Currently, there is income and property information available via SDX. However, some of this information may not always be current. Therefore, the income and resource amounts reported by SSA may differ from the actual income and resources available in a given month under Medi-Cal rules. DHS will provide detailed information about how to evaluate eligibility with the available SDX data in an ACWDL issued after the court approves the Implementation Plan for the Craig lawsuit.

16. **What happens when a child is receiving continued Medi-Cal coverage under the Craig lawsuit and has family members in CALWorks?**

The child will continue to receive continuing Medi-Cal coverage under Craig. The child is still considered a member of the household. More detailed information will be provided in a future ACWDL.

17. **What is the redetermination process and eligibility for a child receiving Continuing Eligibility for Children due to the loss of their SSI/SSP benefits?**

The child will remain eligible for full scope no share-of-cost Medi-Cal until a Medi-Cal eligibility redetermination is done by the county in accordance with instructions that will be provided by DHS pursuant to the ruling in the Craig lawsuit.

If you have any questions regarding the Craig lawsuit, please contact Mr. William Walsh, Chief of the Policy Section B, at (916) 657-2941.

ORIGINAL SIGNED BY

Beth Fife, Chief
Medi-Cal Eligibility Branch

cc: Mr. William Walsh, Chief
Policy Section B
Department of Health Services
714 P Street, Room 1692
P.O. Box 942732
Sacramento, CA 94234-7320

NOTICES OF ACTION

Header Sentences

G. Termination - This automated header message currently provides:

Your eligibility for In-Home Supportive Services will be discontinued effective _____.

This header sentence has been modified as follows:

Your eligibility for In-Home Supportive Services will be discontinued effective _____. You will remain eligible for a Medi-Cal card until Medi-Cal determines if you are eligible for any other Medi-Cal program.

W & IC 14005.37

ATTACHMENT 3

Bay Area Legal Aid
Michael Keys, State Bar No. 133815
Rebecca Ledwith, State Bar No. 215615
50 Fell Street
San Francisco, California 94102
T: (415) 982-1300
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Protection & Advocacy
Maria F. Iriate, State Bar No. 150704
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Los Angeles, CA 90010
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National Senior Citizens Law Center
Jeanne Finberg, State Bar No. 88333
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F: (510) 835-8045

Attorneys for Petitioners
(continued on next page)

ENDORSED
FILED
San Francisco County Superior Court

JUN 2 4 2002

GORDON PARK-LI, Clerk
BY: CARMEN LI Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

CELIA CRAIG, CHAN K. LEE, RENE CASTILLO, Petitioners vs. DIANA BONTA, Director, California Department of Health Services; CAL. DEPARTMENT OF HEALTH SERVICES; Respondents	Case No., CPF-02-500688 TEMPORARY ORDER ENJOINING RESPONDENTS' TERMINATION OF MEDI-CAL ELIGIBILITY FOR PERSONS LOSING SSI & REQUIRING RESPONDENTS TO DEVELOP A PLAN FOR IMPLEMENTING WELF. & INST .CODE §14005.37 FOR PERSONS LOSING SSI

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Western Center on Law & Poverty
Richard Rothschild, State Bar No. 67356
Catherine Murphy, State Bar No. 212441
Kimberly Lewis, State Bar No. 144879
3701 Wilshire Blvd., #208
Los Angeles, CA 90010
T: (213) 487-7211
F: (213) 487-0242

TO: DIANA BONTA AND CALIFORNIA DEPARTMENT OF HEALTH SERVICES:

On June 24, 2002, the Court heard argument on respondents' request for additional time to develop an implementation plan for this matter. Michael Keys appeared for petitioners. Ralph Johnson and Matthew Felix appeared for respondents. The Court, having reviewed the written and oral arguments of all parties and having previously decided that petitioners have prevailed on the merits of this lawsuit,

ORDERS AS FOLLOWS:

1. Respondents have represented to this Court that they will need a period of 120 days within which to develop an implementation plan which will ensure that beneficiaries losing their SSI receive a redetermination of their Medi-Cal eligibility before termination of benefits, pursuant to Welf. and Inst. Code section 14005.37.

2. During this interim period this group of Medi-Cal beneficiaries will suffer irreparable injury unless provision is made to continue their Medi-Cal eligibility pending respondents' development of an implementation plan.

3. Therefore, respondents Diana Bonta, the California Department of Health Services, their agents, servants, employees and those acting in concert with respondents are hereby enjoined and prohibited from:

a. Failing or refusing to submit to this Court within 120 days of the signing of this order a written plan setting forth the steps respondents shall take to implement the requirements of Welf. & Inst. Code section 14005.37 for Medi-Cal beneficiaries losing their SSI.

b. Terminating Medi-Cal benefits for those Medi-Cal beneficiaries losing their SSI until such time as respondents demonstrate to this court compliance with the requirements of Welf. and Inst. Code section 14005.37 for those Medi-Cal beneficiaries losing their SSI benefits. Respondents shall ensure that this paragraph is implemented no later than June 30, 2002.

c. The only exceptions to the requirement of paragraph 3 "b", above, will be where the respondents receive documentation from the Social Security Administration that SSI has been discontinued

due to the beneficiary's death or incarceration as an inmate in a correctional facility.

Dated: JUN 24 2002, 2002

A. JAMES ROBERTSON, III
Judge of the Superior Court

Approved as to form.

Ralph Johnson
Deputy Attorney General
Attorney for Respondents