

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
P.O. BOX 942732
SACRAMENTO, CA 94234-7320



July 7, 1993

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 93-41

MEDI-CAL ELIGIBILITY FOR INSTITUTIONAL INMATES

REF. ACWDL 93-10; ARTICLE 6, MEM MANUAL

The purpose of this letter is to make a clarification of Medi-Cal eligibility for persons in home detention programs.

"Are persons on home detention programs eligible to Medi-Cal or are they considered incarcerated? These are persons who instead of spending their sentence in jail elect to spend that same time in home detention. They wear a control device that allows probation to know whether or not they leave their home during unspecified times during the sentence."

Title 22, California Code of Regulations (CCR), Section 50273, provides that inmates who are detained under the penal system, and who are not released on probation or parole, are not eligible for Medi-Cal benefits. This contrasts with the Aid To Families With Dependent Children (AFDC) Program which allows individuals participating in the Alternatively Sentenced Parents Program to receive AFDC and cash-based Medi-Cal.

Individuals participating under either the Home Detention/House Arrest Program or the Alternative Sentencing Program are eligible for Medi-Cal benefits. Participation in these programs is in lieu of incarceration and participants are not inmates of a public institution.

Federal law and regulation state that Federal Financial Participation (FFP) is not available in expenditures for services provided to individuals who are inmates of public institutions. (See 42 U.S.C. Section 1396d(a)(24)(A) and 42 CFR Section 435.1008(a)(1).) An inmate of a public institution means a person who is living in a public institution. (See 42 CFR Section 435.1009.)

Federal law and regulation make no specific provision for individuals participating in home detention or alternative sentencing programs. However, since individuals in these programs participate in lieu of incarceration, these individuals are not living in a public institution and are not ineligible for Medi-Cal on that basis. Recent HCFA guidelines regarding institutional status indicate that persons released from prison or jail on probation, parole, or a release order, with either a condition of home arrest or with a requirement of community service, are not considered inmates of a public institution. These individuals may be eligible for participation in the Medi-Cal program and may receive services for which the federal government would contribute FFP.

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Title 22, California Code of Regulations, Section 50273 will be amended and revised to reflect federal regulations and HCFA guidelines. This letter rescinds ACL No. 93-10.

If you have any questions, please contact Elena Lara of my staff at (916) 657-0712.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care
Financing Administration

Refer to: MCD-O-IRM

Region IX
75 Hawthorne Street
San Francisco, CA 94105

JAN 13 1992

Leonard J. Kirschner, M.D.
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Dr. Kirschner:

This is in reply to your letter dated December 20, 1991, in which you request guidance as to the application of the term "inmate" in the context of 42 CFR 435.1009. You ask whether persons described in the examples listed below are considered "inmates of a public institution" for purposes of title XIX. Our response is provided immediately following each example.

1. An inmate in a prison within the Arizona Department of Corrections.

Such a person is an "inmate of a public institution".

2. An inmate of a county, city or tribal jail.

Such a person is an "inmate of a public institution".

3. An inmate in a prison or jail:

- a. prior to arraignment.

Such a person is an "inmate of a public institution".

- b. prior to conviction.

Such a person is an "inmate of a public institution".

- c. prior to sentencing.

Such a person is an "inmate of a public institution".

4. An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.

Such a person is not an "inmate of a public institution".

5. An individual who is incarcerated, but can leave prison or jail on work release or work furlough, and must return at specific intervals.

Such a person is an "inmate of a public institution"

6. An individual in prison or jail who transfers temporarily to a halfway house or residential treatment facility prior to a formal probation release order.

Such a person is not an "inmate of a public institution".

7. An individual released from prison or jail on probation, parole, or a release order.

a. with a condition of home arrest.

Such a person is not an "inmate of a public institution".

b. work release.

Such a person is not an "inmate of a public institution".

c. community service.

Such a person is not an "inmate of a public institution".

d. outpatient treatment.

Such a person is not an "inmate of a public institution".

e. inpatient treatment.

Such a person is not an "inmate of a public institution".

8. Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated "but for" the medical emergency, or individuals released from jail under a court probation order due to a medical emergency.

The former are "inmates of a public institution", but the latter are not.

9. A minor in a juvenile detention center prior to disposition (judgement).

a. due to criminal activity.

Such a person is an "inmate of a public institution".

b. due to care, protection or in the best interest of the child (e.g., Child Protective Services).

Such a person is not an "inmate of a public institution" if there is a specific plan for that person that makes the stay at the detention center temporary. Otherwise, such a person is an "inmate of a public institution".

10. A minor placed on probation by a juvenile court.

a. on juvenile intensive probation with specific conditions of release, including residence in a juvenile detention center.

Such a person is an "inmate of a public institution".

b. on juvenile intensive probation with home arrest restrictions.

Such a person is not an "inmate of a public institution".

c. on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center.

If the secure treatment facility is a part of the criminal justice system, then the person is an "inmate of a public institution". Otherwise, such a person is not an "inmate of a public institution".

d. on juvenile intensive probation with treatment as a condition of probation.

1. in a psychiatric hospital.

Such a person is not an "inmate of a public institution".

2. in a residential treatment center.

Such a person is not an "inmate of a public institution".

3. as an outpatient.

Such a person is not an "inmate of a public institution".

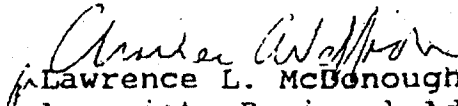
In your letter you refer to "inmates of a public institution" as "ineligible for Title XIX funds". This is a correct characterization. Although such persons may be eligible for title XIX, no title XIX Federal financial participation (FFP) is available for their medical care and treatment.

We are enclosing copies of the policy precedent material in our files per your request.

If you are still interested in other States' interpretation and application of 42 CFR 435.1009, we suggest you contact them directly.

Please have your staff contact Ian McLean of my staff if they have any questions. He can be reached at (415) 744-3593.

Sincerely,


Lawrence L. McDonough
Associate Regional Administrator
Division of Medicaid

cc: Rosada Gonzales
Arizona State Rep.