

Medi-Cal Program Guide (MPG) Letter #716

February 24, 2011

Subject **ARTICLE A—UPDATE TO THE VERIFICATION PROCESS FOR PROOF OF CITIZENSHIP/IDENTITY DOCUMENTATION AND CLARIFICATION OF THE NULLITY OF MARRIAGE**

Effective Date Upon Receipt

Reference County Policy

Purpose To inform staff of the changes to the process when verifying citizenship/identity documents using the DHCS 0011 form and clarification regarding nullity of marriage.

Background Citizenship/Identity
When the original documents presented are determined to be acceptable proof of citizenship and identity, the worker is not required to complete form DHCS 0005 but is required to complete the Proof of Acceptable Citizenship or Identity Documents form DHCS 0011 for each document.

Nullity of Marriage
Article A addresses dissolution of marriage and legal separation, but does not address nullity of marriage.

Change Citizenship/Identity
The DHCS 0011 form is no longer required for each citizenship/identity document received. Citizenship and identity documents may be listed on the same DHCS 0011 for each applicant.

Nullity of Marriage
The Nullity of Marriage has been added to Article A. A person who has had a nullity of marriage is issued court judgment papers which are the same as a divorce and legal separation. These documents are shown to workers as proper verification of nullity of marriage. Individuals showing proof of nullity of marriage will be treated as divorced.

Required Actions The worker will follow the required steps in MPG Article A Section 4 to complete the requirements for certifying original citizenship/identity documents.

A nullity of marriage will follow the same verification procedure as divorce and legal separation in MPG Article A Section 5.

Forms Impact None

Automation Impact None

Appeals Impact None

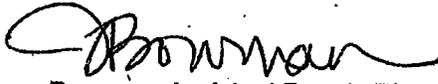
ACCESS Impact None

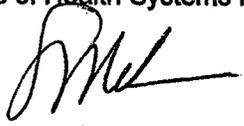
Quality Assurance Impact Effective with the March 2011 review month, Quality Assurance will cite with appropriate error any case that does not comply with the requirements outlined in this letter.

Summary of Changes The table below shows the changes made to Article A of the MPG.

Article/Section	Changes
A.4.3	Update added to usage of form DHCS 0011.
A.5.5	Added annulment of marriage procedures.

Managers Approval


Janya Bowman, Assistant Deputy Director
Health Care Policy Administration
Office of Health Systems Innovation


Sylvia Melena, Assistant Deputy Director
Self Sufficiency Programs
Strategic Planning and Operational Support

SB

A.4.3 Citizenship

C. Evidence of Citizenship

Copies of documents are acceptable as evidence of citizenship for CMS. Birth information obtained from RESS (County Recorder Office) may be used as citizenship verification for persons born in San Diego County. When the original documents presented are determined to be acceptable proof of citizenship and identity, the worker is not required to complete form DHCS 0005 but is required to complete the Proof of Acceptable Citizenship or Identity Documents form DHCS 0011 for each applicant.

If applicant is required to apply for Medi-Cal, then the documents must be originals or copies certified by the issuing agency. Uncertified copies or notarized copies may not be accepted. The applicant must comply with Medi-Cal requirements to receive full scope benefits. If the applicant does not comply with Medi-Cal requirements and receives limited Medi-Cal benefits the applicants CMS will not be recertified.

Effective 04/21/08, U.S. citizens/nationals may not receive CMS benefits if unable to provide satisfactory evidence of citizenship. Once satisfactory evidence of citizenship is provided, it does not need to be provided again.

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E. Document Handling

1. This form is to be used only when an individual presents original documents.

Proof of Acceptable Citizenship or Identity Documents (DHCS 0011) form. When a worker determines the submitted documents are acceptable proof of citizenship and identity, they must complete the Proof of Acceptable Citizenship or Identity Document form. It may only be completed by an eligibility worker. The worker will attach the original DHCS 0011 form with copies of the documents, and will give a copy of the form to the applicant/beneficiary either during an office visit or by mail. The applicant/beneficiary may show this form as proof that citizenship and/or identity documentation was submitted and determined acceptable.

The case file must contain a copy of the completed DHCS 0011. A copy of the DHCS 0006 and 0007 are also required if the 2 forms were sent to the applicant/beneficiary to request information.

Workers will maintain copies of documents submitted as evidence

of citizenship and/or identity in the case file and notate the date and means by which the original document(s) is returned (i.e., Certificate of Naturalization returned to John Doe by mail 01/01/06).

2. Additional forms

The Proof of Citizenship or Identity Needed (DHCS 0006) form and the Acceptable Citizenship and Identity Documents form (DHCS 0007) are sent to beneficiaries explaining which citizenship/identity documents are required when documents are not on file.

Note: Older versions of the Certificate of Naturalization/Citizenship from INS advise the holder not to photocopy them. The U.S. Citizenship and Immigration Services (USCIS) now PERMITS photocopying these documents if done for lawful purposes.

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A.5.5 Liens

A. Policy

The Welfare & Institutions Code (W&IC) 17109 and Article V of the San Diego County Administrative Code, Section 92 authorizes the County to assert liens for any and all claims paid on behalf of a CMS or CMS Hardship beneficiary.

The County Clerk has deputized Human Service Specialist (HSS) as Deputy County Clerks for the limited purpose of witnessing CMS applicant/recipient lien signatures. If no deputized worker is available at the site, the applicant must come back to the office when one is available, go to another CMS site or get the form notarized at their own expense. The Health Care Access (HCA) Program Specialist will maintain a log for all additions, deletions, and updates to the list of deputized workers. The updates are to be recorded on the CMS/GR Transmittal to Add/Delete Deputized Workers (CMS-89) form. This form is to be forwarded to the County Clerk's office as personnel changes occur. The HCA Program Specialist will also conduct annual reconciliations with County Clerk's office to ensure the County Clerk has an accurate listing of HHSA deputized staff.

Effective 12/1/07 all CMS and CMS Hardship applicants are required to execute a lien naming the County of San Diego as grantee to secure any and all real property of the applicant as security for repayment of the cost of claims paid by CMS on the beneficiary's behalf. Liens are not initiated until the beneficiary is no longer active on CMS and CMS has paid claims in total of \$5,000 or more on the beneficiary's behalf.

The Grant of Lien form (CMS-122) must be signed and witnessed at initial application by either a Deputy County Clerk or Notary Public.

1. Upon processing of CMS applications, the worker must take the following actions to determine if a new CMS-122 is required or not required:

Step	Action		
1	Review all of the applicant's/beneficiary's prior CMS IT case records to determine:		
	If...	And if...	Then...
	The CMS-122 on file was appropriately signed and properly	There is NO change in the applicant's/beneficiary's marital status	A new CMS-122 is NOT required to be signed and witnessed at recertification or reapplication.

	witnessed	There IS a change in the applicant's/ beneficiary's marital status	Proceed to Step 2.
	The CMS-122 on file was NOT appropriately signed and properly witnessed	N/A	A new CMS-122 IS required to be signed and witnessed at recertification or reapplication.
2	Obtain a new and signed CMS-122:		
	If the applicant/beneficiary has...	Then...	
	Married, remarried, or reconciled with their absent spouse	Both the applicant/ beneficiary and their spouse must sign a new CMS-122.	
	Obtained a divorced, legal separation or has had a nullity of marriage	Only the applicant/ beneficiary signs a new CMS-122.	

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C. Completion of the Grant of Lien

1. Each CMS applicant must sign a Grant of Lien form (CMS-122) or aid will be denied. If an applicant/beneficiary is married both the applicant/beneficiary and their spouse are required to sign the CMS-122 in front of either a Deputy County Clerk or Notary Public so that the form can be properly witnessed.
 - a) If the applicant/beneficiary states he/she is divorced, legally separated, has had a nullity of marriage, or their spouse is deceased, legal documentation is required.
 - b) In circumstances where the applicant/beneficiary states documentation cannot be obtained, or represents that they are no longer residing with their spouse and are unable to obtain the spouse's signature, see [A.5.5D](#) below.
 - c) If the applicant claims he/she is a victim of domestic violence and provides a restraining order against their spouse (expired restraining orders are acceptable), the spouse's signature is not

required. If the applicant/beneficiary never obtained a restraining order, but provides a police report (regardless of how old the police report is) regarding the domestic violence, the spouse's signature is not required.

Exception to the lien requirement: If an applicant/beneficiary is confined to the hospital for active tuberculosis (TB), they are not required to sign the CMS-122. If the applicant/beneficiary is in the hospital for other reasons, the fact that they have TB does not exempt them from signing the CMS-122.

2. Give the applicant the CMS Grant of Lien (CMS-122) and the CMS Lien Information (CMS-123). Instruct the applicant to complete the forms without signing them.
3. Inform the applicant that both forms must be signed in front of a Deputy County Clerk, or they can take the forms to a Notary Public at their own expense. The Deputy County Clerk or Notary Public will verify the identity of the signer using identification before witnessing their signature. This is to acknowledge that the correct person has signed the forms.
4. If the applicant chooses to have the Deputy County Clerk witness the signature, the Deputy County Clerk will sign the CMS Grant Lien (CMS-122) in the appropriate sections, and line through the words "Notary Public".
5. After the signatures are witnessed on the CMS Grant of Lien (CMS-122), the worker scans both forms into the CMS IT system as verification of the applicants/beneficiary's acknowledgement that they received, reviewed, and understand the forms.
6. The original Grant of Lien form (CMS-122) is sent to central files (MS 0557A) where it will be held until the case closes and total cumulative claims are identified to be \$5,000 or more. One copy is scanned in the case file and a copy is given to the client.
7. Forms will be available in Spanish to give to applicants for information; however, all lien forms must be signed in English. The Spanish forms will be given to applicants along with the Lien Cover Sheet (CMS-123A) for the applicant to acknowledge receipt of Lien forms in Spanish. The Spanish forms do not need to be signed.
8. Only the English Grant of Lien form (CMS-122) needs to have the signatures witnessed. After the signatures are witnessed on the CMS Grant of Lien form (CMS-122), the worker will scan the signed CMS Grant of Lien, the CMS Lien Information (CMS-123) and the CMS Lien Cover Sheet (CMS-123A) into the CMS IT System. This is verification that the applicant/beneficiary acknowledges they have

received the forms in Spanish and they have reviewed and understand the forms before signing them in English. A copy of the English forms and a copy of the Spanish forms are given to the applicant for their records.

9. The Grant of Lien form (CMS-122) **must** be completed as part of each application or reapplication process, whether or not there is an active lien. A copy is kept in the case record. Staff may waive the lien requirement for recertification after they verify the Grant of Lien form (CMS-122) obtained during the application/reapplication process was signed and witnessed by either a Deputy County Clerk or a Notary Public. If the lien form on file was not witnessed by either a Deputy County Clerk or a Notary Public, the worker shall obtain new lien forms.

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D.
Sworn
Statement

This sworn statement exemption applies to:

1. applications dated July 1, 2009 and ongoing
2. applicants who applied March 25, 2009 through June 30, 2009 who were denied solely for failure to submit the lien, and who:
 - a. submitted a declaration in the Alford v. County of San Diego court case who were denied solely for failure to submit the lien, or
 - b. timely requested either a First Level Administrative Review or an Administrative Hearing challenging the denial.

In situations where the applicant/beneficiary states that they are unable to obtain legal documentation of their divorce, legal separation, nullity of marriage, deceased spouse, or represents that they are no longer residing with their spouse and are unable to obtain the spouse's signature on the CMS-122, the worker gives the applicant/beneficiary the Resource Handout (CMS-008) and requests a copy of the applicant's/beneficiary's federal tax return ("U.S. Individual Income Tax Return") for the most recent tax year. These documents are listed on the verification checklist as required verifications and must be returned to the worker.

The applicant/beneficiary must:

- Make reasonable attempts to obtain the required documentation utilizing the Resource Handout (CMS-008),
- If the required documentation is still unavailable, complete a sworn statement (CMS-24) explaining all efforts made to obtain the required documentation and the circumstances surrounding why documentation or spouse's signature cannot be obtained, and

- Provide a copy of their federal tax returns for the most recent tax year.

A tax year is defined by the Internal Revenue (IRS) as, “an annual accounting period for keeping records and reporting income and expenses,” The calendar year is the most common tax year.

Note: A copy of the applicant’s/beneficiary’s federal tax return for the most recent tax year is **not** required if the applicant/beneficiary produces legal documentation of divorce, nullity of marriage, legal separation, or deceased spouse or if the applicant/beneficiary is not required by the IRS to file a federal tax return. The applicant/beneficiary must provide verification for the reason they are not required to file. A copy of the federal tax return is only required when the applicant/beneficiary submits a sworn statement in lieu of legal documentation.

The following steps are to be followed by the worker:

Step	Action
1	Provide the applicant/beneficiary with the Resource Handout (CMS-008). This form is listed as a verification document on the Verification Checklist (CMS-16) to be returned for verification of reasonable attempts to obtain legal documentation.
2	Request the applicant’s/beneficiary’s federal tax return (U.S. Individual Income Tax Return) for the most recent tax year by listing it as verification on the CMS-16. The tax return is only required when accepting a sworn statement (see item 7 below). Review the federal tax return to determine filing status (married, single, head of household, married filing separately) and determine whether the information on the tax return is consistent with the application information.
3	Request a credit report. The worker shall review for conflicting information, paying special attention to any assets or debts the applicant/beneficiary may have jointly with their absent or former spouse within the past 12 months.
4	Clear the Assessor’s Secured Property file located in MAINFRAME to verify if the applicant/beneficiary owns property in San Diego County. Note: Input the husband’s name if no match is found; run all names, including AKA’s.
5	Use the Assessor’s Property screen and the credit report in conjunction with each other to locate property owned. If no

	property is listed on the credit report and none is found on the Assessor's Secured Property screen, then the worker can conclude that no property is owned in San Diego County.						
6	After all verifications are received and the credit report reviewed, the worker completes "County Use Only" section of the Resource Handout (CMS-008) to identify which resources the applicant/beneficiary utilized in making the effort to gather the required documentation. If required documentation/ signature is received then the federal tax return is not required.						
7	<p>If the applicant/beneficiary states they are still unable to obtain the required documentation, then the applicant/beneficiary will be required to complete a sworn statement explaining all efforts made to obtain the required documentation and the circumstances surrounding why documentation cannot be obtained and present a copy of their federal tax return for the most recent tax year.</p> <p>Note: A Good cause extension may be given to applicants/beneficiaries who need more time to provide their tax return or verification of non-filing. See appendix 5F how to request a copy of a tax return transcript and verification of non-filing.</p>						
8	<p>The worker verifies all information received and</p> <table border="1"> <thead> <tr> <th>If ...</th> <th>Then ...</th> </tr> </thead> <tbody> <tr> <td>All verifications are received and there is no conflicting information</td> <td>The worker may approve the application if the applicant/beneficiary is otherwise eligible.</td> </tr> <tr> <td>It appears there is conflicting information which cannot be resolved</td> <td>The worker may not accept the sworn statement in lieu of the legal documentation and elevates the information to the supervisor.</td> </tr> </tbody> </table>	If ...	Then ...	All verifications are received and there is no conflicting information	The worker may approve the application if the applicant/beneficiary is otherwise eligible.	It appears there is conflicting information which cannot be resolved	The worker may not accept the sworn statement in lieu of the legal documentation and elevates the information to the supervisor.
If ...	Then ...						
All verifications are received and there is no conflicting information	The worker may approve the application if the applicant/beneficiary is otherwise eligible.						
It appears there is conflicting information which cannot be resolved	The worker may not accept the sworn statement in lieu of the legal documentation and elevates the information to the supervisor.						

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**E.
Acceptance of
Sworn
Statement**

The worker will accept the sworn statement from the applicant/beneficiary in lieu of: (1) the otherwise required legal documentation of divorce, (2) legal separation, (3) nullity of marriage, (4) spouses death; or (5) the required absent spouses signature if:

- The applicant/beneficiary did not file a joint federal tax return, or provides verification that they were not required to file a federal tax return;

- The credit check does not disclose any assets, debts or, credit issued jointly to the applicant/beneficiary and their allegedly former spouse within the past 12 months;
- The search of the County Recorder's records does not disclose that the applicant/beneficiary holds property jointly with his or her allegedly former spouse; and
- The CMS case worker has not identified any other information inconsistent with the sworn statement or other representations of the applicant/beneficiary.

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