

**County of San Diego, Health and Human Services Agency (HHSA)
Medi-Cal Program Guide**

Long-Term Care (LTC) and Incompetent Applicants

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04.19.01

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Revision Date:

11/01/2020

Background:

This section provides information for processing applications for Medi-Cal for Long-Term Care (LTC) and individuals who have been deemed incompetent.

Purpose:

The reformatting to this section included removing duplicate application processing information and adding the relevant MPG cites.

Policy:

04.19.01A Definitions/Terms

The definitions of terms used for individuals who act on behalf of LTC/Incompetent applicants are found in MPG 04.02.08A.

04.19.01B Notices of Action (NOA)

The requirement for mailing notices and correspondence has been moved to MPG 04.02.08E.

04.19.01C Who May Apply

Whether or not an LTC patient is competent, anyone who knows of an individual's need may apply for Medi-Cal on that individual's behalf by completing and filing the SAWS 1 initial application form. Refer to MPG 04.02.05A for who may complete the Medi-Cal Statement of Facts (SOF).

04.19.01D Roles and Responsibilities of Public/Private Conservators

Roles and responsibilities of Public/Private Conservators has been included in MPG 04.02.08B.

04.19.01E Reporting Responsibilities of Public Guardian/Conservators or Representatives

Reporting responsibilities of Public Guardian/Conservators or Representatives has been included in MPG 04.02.08C.

04.19.01F Required Forms

Refer to MPG 04.02.08D for the required forms to be provided to Public Guardian, Conservator, or Representative acting on behalf of the applicant who has been deemed incompetent.

04.19.01G Methods to Determine an LTC Patient's Competency

Refer to MPG 04.02.05B for steps to taken when determining competency.

04.19.01H Diligent Search

Refer to MPG 04.09.01 for diligent search procedures.

04.19.01I Non-Cooperation of the Acting Individual

Refer to MPG 04.02.05H for required actions when there is a non-cooperation from acting individuals.

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04.19.01J LTC Patient's Income and/or Property Are Exploited

Refer to MPG 04.02.05I for required actions when an LTC patient's income and/or property are being exploited.

Questions and Answers

Question 1 When a nursing facility or other medical provider provides Health and Human Services Agency (HHSA) with documentation to substantiate mental incompetency, may HHSA regard all resources such as bank accounts, etc. as unavailable?

Answer No. The availability of property must be determined separately from the incompetency issue. Even if the applicant is regarded as incompetent (this includes individuals in a comatose or unconscious state) and unable to handle their own affairs, if another individual (family member, friend, etc.) can get access to the property then it must be regarded as available. Many elderly people have friends or relatives listed on bank accounts and this joint access situation should be determined. **If the incompetent individual is the only person who has access, the account will be regarded as unavailable.**

Question 2 After an LTC applicant has been determined to be incompetent, do they have to complete and sign an Appointment of Representative form?

Answer No. A Medi-Cal applicant who is incompetent is presumably incapable of demonstrating the required knowledge and ability necessary to designate an Authorized Representative (AR). An AR form would not be appropriate in these instances. No written authorization is required for an individual to assist an incompetent applicant to apply for benefits.

Question 3 If an LTC patient is competent, do they have to complete and sign the AR form?

Answer Yes, if the applicant designates someone, other than a family member, to act on their behalf, the applicant must complete and sign an AR form. In this situation, the applicant must be given the same rights and responsibilities under the law and Medi-Cal regulations to participate in the application process.

Question 4 What would be the best course for the Human Services Specialist (HSS) when it is found out that the representative has failed to report changes to HHSA?

Answer Request all information necessary to determine the customer's eligibility/continued eligibility and/or Share of Cost (SOC) from the representative as the HSS otherwise would do with any other customers. If the representative refuses or fails to provide the requested information by the due date, they shall be considered non-cooperative.

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Question 5 When is the DHCS 7068 Responsibilities of Public Guardians-Conservators form necessary?

Answer The DHCS 7068 form is required when an applicant, whether in a nursing facility or not, has a public guardian, conservator or a representative due to incompetence. The form sets forth the responsibilities of those individuals to the incompetent customer as court appointed or volunteer representative to report information regarding changes. The form does not convey any authorization to release information to the representative (see MPG 04.02.08). The form should be given to the representative at application and redetermination.

Procedures:

None

Program Impacts:

None

References:

ACWDL 94-62,
MEM PROC 133
Probation Code 2401 & SDHS Letter dated 10/19/95

Sunset Date:

This policy will be reviewed for continuance by 11/30/2023

Approval for Release:



Rick Wanne, Director
Eligibility Operation