

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

Same-Sex Marriage

Number

08.07.01

Page

1 of 2

Revision Date:

October 16, 2017

Background:

On May 15, 2008, the California Supreme Court ruled that the right to marry under the California Constitution applies to same-sex couples. The decision became final and effective at 5:00 PM on June 16, 2008.

In November 2008, voters approved Proposition 8, which amended the State Constitution by eliminating the right of same-sex individuals to marry in California. Proposition 8 became effective November 5, 2008.

In 2013, the court case initiated by Edith Windsor (United States v. Windsor) resulted in part of the Federal Defense of Marriage Act (DOMA) to be deemed as unconstitutional. Windsor allowed couples who were married in states that recognized same-sex marriages to receive certain federal benefits, such as Social Security and Medicaid. Following this decision, the IRS revised the tax code to allow same-sex couples to file taxes jointly as married couples, thus changing the policy for Medi-Cal evaluation of Modified Adjusted Gross Income (MAGI) individuals. In the 2015 Obergefell decision, the U.S. Supreme Court held that same-sex marriages are valid, regardless of whether state law recognizes them.

This section is revised to update the requirements for same-sex marriages.

Purpose:

To provide instructions for the evaluation of same-sex married couples in Medi-Cal.

Policy:

1. All Medi-Cal Cases:

Evaluate same-sex spouses as married regardless of where the couple was married. If the same-sex couple attests under penalty of perjury that they are legally married, use that information without requiring any additional verification.

2. MAGI:

Use the tax filing status, or anticipated tax filing status, of the same-sex couple in determining MAGI eligibility as married. Do not request documentation of tax filing status unless the attested information is unclear. Remember that spouses living together are in the same tax household regardless of tax filing status or if one spouse claims the other as a tax dependent.

3. Non-MAGI:

Use the same rules and policies for same-sex couples as those for opposite-sex couples. This includes all spousal impoverishment provisions, as well as other policies regarding spouses and long-term care or Home and Community-Based Services (HCBS) waiver programs. If same-sex couples have individual circumstances that require evaluation under undue hardship provisions, follow instructions as for opposite-sex couples.

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Medi-Cal Program Guide**

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Number

08.07.01

Page

2 of 2

4. Effective Date:

Follow these instructions immediately for all new cases. Any case identified at redetermination, fair hearing, or any time brought to the worker's attention, review to see if the rules in this section would affect Medi-Cal eligibility as shown below.

Type	Retroactive to
Non-MAGI	June 26, 2013
MAGI	January 1, 2014

C. Procedure:

Follow the rules above when determining the marital status of a couple for Medi-Cal. See MPG 8.6 for information on Registered Domestic Partners (RDPs).

Program Impacts:

None.

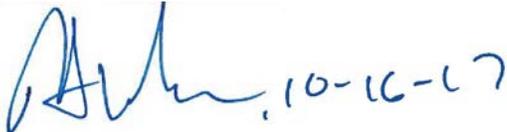
References:

ACWDLs 09-04, 12-36, and 17-27

Sunset Date:

This policy will be reviewed for continuance by 10/31/2020.

Approval for Release:



Rick Wanne, Director
Eligibility Operations