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Title 22@ Social Security

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Division 3@ Health Care Services

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Subdivision 1@ California Medical Assistance Program

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Chapter 2@ Determination of Medi-Cal Eligibility and Share of Cost

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Article 7@ ALIENAGE, CITIZENSHIP AND RESIDENCE

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Section 50302.2@ Limitations on Medi-Cal Benefits for Aliens

## **50302.2 Limitations on Medi-Cal Benefits for Aliens**

### **(a)**

Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 USC section 1611), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 USC section 1101 et seq.), or aliens paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)), for less than one year, are not eligible to receive the state-only funded long-term care services described in subdivision (f) of Section 1 of Chapter 1441 of the Statutes of 1988.

### **(b)**

A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is any of the following: (1) An alien lawfully admitted for permanent residence under the INA (8 USC section 1101 et seq.). (2) An alien who is granted asylum under Section 208 of the INA (8 USC section 1158). (3) A refugee who is admitted to the United States under Section 207 of the INA (8 USC section 1157). (4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)) for a period of at least one year. (5) An alien whose deportation is being withheld under Section 243(h) of the INA as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208 or Section 241(b)(3) of the Act (as amended by Section

305(a) of Division C of Public Law 104-208). (6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (See editorial note under 8 USC section 1101, "Effective Date of 1980 Amendment".) (7) An alien who is a Cuban and Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980). (8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below: (A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. (B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided. (C) The alien has been approved or has a petition pending which sets forth a prima facie case for: 1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)), 2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 USC section 1154), 3. suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 USC section 1254), as in effect prior to April 1, 1997, 4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 USC section 1154(a)(1)(B)), or 5. Cancellation of removal pursuant to Section 240 A(b)(2) of the INA. (D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty. (9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below: (A) The alien has a child who has

been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. (B) The alien did not actively participate in such battery or cruelty. (C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided. (D) The alien meets the requirements of subsection (b)(8)(C) above. (E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the child subjected to the battery or cruelty. (10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below: (A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. (B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided. (C) The alien child meets the requirements of subsection (b)(8)(C) above.

**(1)**

An alien lawfully admitted for permanent residence under the INA (8 USC section 1101 et seq.).

**(2)**

An alien who is granted asylum under Section 208 of the INA (8 USC section 1158).

**(3)**

A refugee who is admitted to the United States under Section 207 of the INA (8 USC section 1157).

**(4)**

An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)) for a period of at least one year.

**(5)**

An alien whose deportation is being withheld under Section 243(h) of the INA as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208 or Section 241(b)(3) of the Act (as amended by Section 305(a) of Division C of Public Law 104-208).

**(6)**

An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (See editorial note under 8 USC section 1101, "Effective Date of 1980 Amendment".)

**(7)**

An alien who is a Cuban and Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980).

**(8)**

An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. (B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided. (C) The alien has been approved or has a petition pending which sets forth a prima facie case for: 1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)), 2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 USC section 1154), 3.

suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 USC section 1254), as in effect prior to April 1, 1997, 4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 USC section 1154(a)(1)(B)), or 5. Cancellation of removal pursuant to Section 240 A(b)(2) of the INA. (D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

**(A)**

The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty.

**(B)**

There is a substantial connection between such battery or cruelty and the need for the benefits to be provided.

**(C)**

The alien has been approved or has a petition pending which sets forth a prima facie case for: 1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)), 2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 USC section 1154), 3. suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 USC section 1254), as in effect prior to April 1, 1997, 4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 USC section 1154(a)(1)(B)), or 5. Cancellation of removal pursuant to Section 240 A(b)(2) of the INA.

**1.**

status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)),

**2.**

classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 USC section 1154),

**3.**

suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 USC section 1254), as in effect prior to April 1, 1997,

**4.**

status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 USC section 1154(a)(1)(A)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 USC section 1154(a)(1)(B)), or

**5.**

Cancellation of removal pursuant to Section 240 A(b)(2) of the INA.

**(D)**

For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

**(9)**

An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below: (A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. (B) The alien did not actively participate in such battery or cruelty. (C) There is a substantial connection between

such battery or cruelty and the need for the benefits to be provided. (D) The alien meets the requirements of subsection (b)(8)(C) above. (E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the child subjected to the battery or cruelty.

**(A)**

The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty.

**(B)**

The alien did not actively participate in such battery or cruelty.

**(C)**

There is a substantial connection between such battery or cruelty and the need for the benefits to be provided.

**(D)**

The alien meets the requirements of subsection (b)(8)(C) above.

**(E)**

For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the child subjected to the battery or cruelty.

**(10)**

An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below: (A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or

by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. (B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided. (C) The alien child meets the requirements of subsection (b)(8)(C) above.

**(A)**

The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty.

**(B)**

There is a substantial connection between such battery or cruelty and the need for the benefits to be provided.

**(C)**

The alien child meets the requirements of subsection (b)(8)(C) above.

**(c)**

For purposes of this section, there is a "substantial connection between such battery or cruelty and the need for benefits to be provided" if the alien declares, and the county welfare department verifies, any of the following circumstances: (1) The alien or the alien's child is receiving cash assistance based on battery or extreme cruelty; (2) The benefits are needed due to a loss of financial support resulting from the alien's and/or his or her child's separation from the abuser; (3) The benefits are needed because the alien or his or her child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or cruelty; (4) The benefits are needed to provide medical care during an unwanted pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien or his or her child, and/or to care for any resulting



children; or (5) The medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant or child had when living with the abuser.

**(1)**

The alien or the alien's child is receiving cash assistance based on battery or extreme cruelty;

**(2)**

The benefits are needed due to a loss of financial support resulting from the alien's and/or his or her child's separation from the abuser;

**(3)**

The benefits are needed because the alien or his or her child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or cruelty;

**(4)**

The benefits are needed to provide medical care during an unwanted pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien or his or her child, and/or to care for any resulting children; or

**(5)**

The medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant or child had when living with the abuser.

**(d)**

For purposes of this section, "nonimmigrant" is defined the same as in Section 1101(a)(15) of the INA (8 USC section 1101(a)(15)).

**(e)**

For purposes of establishing eligibility for state-only funded long-term care services described in subdivision (f) of Section 1 of Chapter 1441 of the Statutes of

1988, all of the following requirements must be met: (1) The alien must declare himself or herself to be a qualified alien under subsection (b), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)). The alien shall declare that status through use of the "Supplemental Alienage and Immigration Status Declaration" MC 13S (12/96). (2) The alien must present documents issued by or acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the alien's declared status. (3) The alien must complete and sign Form MC 13S (12/96). (4) The documentation presented by the alien as reasonable evidence of the alien's declared immigration status must be submitted to the INS for verification through the Systematic Alien Verification for Entitlements (SAVE) system procedures as follows: (A) A primary SAVE system verification must be used to access the biographical/immigration status computer record contained in the Alien Status Verification Index maintained by the INS. Subject to subparagraph (B), this procedure must be used to verify the status of all aliens who claim to be qualified aliens and who present an INS-issued document that contains an alien registration or alien admission number. (B) The secondary SAVE system verification procedure must be used to forward copies of original INS documents evidencing an alien's status as a qualified alien, as a nonimmigrant alien under the INA, or as an alien paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)), for less than one year in any of the following cases: 1. a primary check of the Alien Status Verification Index instructs the county department to "Institute secondary verification." 2. The document presented indicates immigration status but does not include an alien registration or alien admission number. 3. The Alien Status Verification Index record includes the alien registration or admission number on

the document presented by the alien but does not match other information contained in the document. 4. The document is suspected to be counterfeit or to have been altered. 5. The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series. 6. The document is a fee receipt from INS for replacement of a lost, stolen or unreadable INS document. 7. The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for Medi-Cal. (5) Verification of the alien's declared status must be received from the INS before eligibility for state-only funded long-term care services is established.

**(1)**

The alien must declare himself or herself to be a qualified alien under subsection (b), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)). The alien shall declare that status through use of the "Supplemental Alienage and Immigration Status Declaration" MC 13S (12/96).

**(2)**

The alien must present documents issued by or acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the alien's declared status.

**(3)**

The alien must complete and sign Form MC 13S (12/96).

**(4)**

The documentation presented by the alien as reasonable evidence of the alien's declared immigration status must be submitted to the INS for verification through the Systematic Alien Verification for Entitlements (SAVE) system procedures as follows: (A) A primary SAVE system verification must be used to access the biographical/immigration status computer record contained in the Alien Status Verification Index maintained by the INS. Subject to subparagraph (B), this procedure must be used to verify the status of all aliens who claim to be qualified aliens and who present an INS-issued document that contains an alien registration or alien admission number. (B) The secondary SAVE system verification procedure must be used to forward copies of original INS documents evidencing an alien's status as a qualified alien, as a nonimmigrant alien under the INA, or as an alien paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)), for less than one year in any of the following cases: 1. a primary check of the Alien Status Verification Index instructs the county department to "Institute secondary verification." 2. The document presented indicates immigration status but does not include an alien registration or alien admission number. 3. The Alien Status Verification Index record includes the alien registration or admission number on the document presented by the alien but does not match other information contained in the document. 4. The document is suspected to be counterfeit or to have been altered. 5. The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series. 6. The document is a fee receipt from INS for replacement of a lost, stolen or unreadable INS document. 7. The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for Medi-Cal.

**(A)**

A primary SAVE system verification must be used to access the biographical/immigration status computer record contained in the Alien Status Verification Index maintained by the INS. Subject to subparagraph (B), this procedure must be used to verify the status of all aliens who claim to be qualified aliens and who present an INS-issued document that contains an alien registration or alien admission number.

**(B)**

The secondary SAVE system verification procedure must be used to forward copies of original INS documents evidencing an alien's status as a qualified alien, as a nonimmigrant alien under the INA, or as an alien paroled into the United States under Section 212(d)(5) of the INA (8 USC section 1182(d)(5)), for less than one year in any of the following cases: 1. a primary check of the Alien Status Verification Index instructs the county department to "Institute secondary verification." 2. The document presented indicates immigration status but does not include an alien registration or alien admission number. 3. The Alien Status Verification Index record includes the alien registration or admission number on the document presented by the alien but does not match other information contained in the document. 4. The document is suspected to be counterfeit or to have been altered. 5. The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series. 6. The document is a fee receipt from INS for replacement of a lost, stolen or unreadable INS document. 7. The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for Medi-Cal.

**1.**

a primary check of the Alien Status Verification Index instructs the county department to "Institute

secondary verification."

**2.**

The document presented indicates immigration status but does not include an alien registration or alien admission number.

**3.**

The Alien Status Verification Index record includes the alien registration or admission number on the document presented by the alien but does not match other information contained in the document.

**4.**

The document is suspected to be counterfeit or to have been altered.

**5.**

The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

**6.**

The document is a fee receipt from INS for replacement of a lost, stolen or unreadable INS document.

**7.**

The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for Medi-Cal.

**(5)**

Verification of the alien's declared status must be received from the INS before eligibility for state-only funded long-term care services is established.

**(f)**

A nonprofit charitable organization that provides federal, state, or local public

benefits shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

**(g)**

Nothing in this section shall be construed to withdraw eligibility for state public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

**(h)**

An alien who is a qualified alien pursuant to paragraphs (8), (9) or (10) of subsection (b), will remain eligible for Medi-Cal benefits as long as the need for benefits related to the battery or cruelty is necessary as determined by the county welfare department, and the alien continues to meet all Medi-Cal program eligibility requirements. The county eligibility worker shall review the alien's circumstances to evaluate the beneficiary's continued need for Medi-Cal benefits at the annual redetermination.

**(i)**

(1) Any alien who was made eligible for state-only funded long-term care services for the month in which this section becomes effective and whose services are terminated, suspended, or reduced, pursuant to subsection (a), is entitled to a hearing, pursuant to Welfare and Institutions Code Section 10950 and Title 22, California Code of Regulations, Section 50951, on the issue of whether the alien is a qualified alien as defined under subsection (b), a nonimmigrant alien as defined under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA or on the issue of whether a service requested by the alien falls within one of the exceptions provided in 8 USC section

1621(b). (2) Subject to the provisions of Welfare and Institutions Code Section 10950 and Title 22, California Code of Regulations, Section 50951, any alien whose application for Medi-Cal benefits is denied for any reason, including the provisions of subsection (a), is entitled to a hearing.

**(1)**

Any alien who was made eligible for state-only funded long-term care services for the month in which this section becomes effective and whose services are terminated, suspended, or reduced, pursuant to subsection (a), is entitled to a hearing, pursuant to Welfare and Institutions Code Section 10950 and Title 22, California Code of Regulations, Section 50951, on the issue of whether the alien is a qualified alien as defined under subsection (b), a nonimmigrant alien as defined under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA or on the issue of whether a service requested by the alien falls within one of the exceptions provided in 8 USC section 1621(b).

**(2)**

Subject to the provisions of Welfare and Institutions Code Section 10950 and Title 22, California Code of Regulations, Section 50951, any alien whose application for Medi-Cal benefits is denied for any reason, including the provisions of subsection (a), is entitled to a hearing.