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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 15@ OTHER HEALTH CARE COVERAGE AND MEDICARE BUY-IN COVERAGE

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Section 50771.5@ Determination of Good Cause for Refusal to Cooperate

50771.5 Determination of Good Cause for Refusal to Cooperate

(a)

Good cause exists when cooperation is against the best interest, as specified in (b) and (c) below, of an applicant, beneficiary, or child for whom application is made or Medi-Cal received. These regulations shall not preclude the county welfare department from contracting with the district attorney for assistance in the investigation of good cause claims.

(b)

Good cause exists if the applicant's or beneficiary's cooperation in securing medical support and payments, establishing paternity, identifying and providing information concerning liable or potentially liable third parties is reasonably anticipated to result in serious physical or emotional harm; (1) To the child for whom support is to be sought; (2) To the parent or caretaker relative with whom the child is living as specified in (d) below.

(1)

To the child for whom support is to be sought;

(2)

To the parent or caretaker relative with whom the child is living as specified in (d) below.

(c)

The county believes that proceeding to secure medical support or establish paternity would be detrimental to the child for whom such support would be sought because at least one of the following circumstances exists: (1) The child for whom such support is sought was conceived as a result of incest or forcible rape; (2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or (3) The applicant or beneficiary is currently being assisted by a public or licensed private social service agency to resolve the issue of whether to keep the child or relinquish him/her for adoption, and the discussions have not gone on for more than three months.

(1)

The child for whom such support is sought was conceived as a result of incest or forcible rape;

(2)

Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3)

The applicant or beneficiary is currently being assisted by a public or licensed private social service agency to resolve the issue of whether to keep the child or relinquish him/her for adoption, and the discussions have not gone on for more than three months.

(d)

Serious physical or emotional harm as it relates to the parent or caretaker relative means substantial reduction of the capacity of the parent or caretaker relative to care for the child adequately. The mere belief of the parent, caretaker relative, applicant, or beneficiary that cooperation could or would result in harm shall not be a sufficient basis for finding good cause.

(e)

A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning. The county shall consider the following when determining emotional harm: (1) The present emotional state of the individual subject to emotional harm; (2) The emotional health history of the individual subject to emotional harm; (3) The intensity and probable duration of the emotional impairment; (4) The degree of cooperation to be required; and (5) The extent of the involvement of the individual in the paternity establishment or support enforcement activity to be undertaken.

(1)

The present emotional state of the individual subject to emotional harm;

(2)

The emotional health history of the individual subject to emotional harm;

(3)

The intensity and probable duration of the emotional impairment;

(4)

The degree of cooperation to be required; and

(5)

The extent of the involvement of the individual in the paternity establishment or support enforcement activity to be undertaken.

(f)

An applicant, beneficiary, parent, or caretaker relative who claims to have good cause for refusing to cooperate shall have the burden of proof in establishing the existence of good cause. The individual shall be required to: (1) Specify the circumstances described in (b) above that the individual believes provides

sufficient good cause for not cooperating; (2) Provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to (l) below; and (3) Provide corroborative evidence as described in Section 50771.5(g) within 20 days from the day the claim of good cause was made. In exceptional cases, where the county determines the individual requires additional time because of the difficulty of obtaining corroborative evidence, a reasonable additional period of time shall be allowed upon request of the individual and approval by county supervisory personnel.

(1)

Specify the circumstances described in (b) above that the individual believes provides sufficient good cause for not cooperating;

(2)

Provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to (l) below; and

(3)

Provide corroborative evidence as described in Section 50771.5(g) within 20 days from the day the claim of good cause was made. In exceptional cases, where the county determines the individual requires additional time because of the difficulty of obtaining corroborative evidence, a reasonable additional period of time shall be allowed upon request of the individual and approval by county supervisory personnel.

(g)

Good cause may be corroborated by: (1) Birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape; (2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction; (3) Court, medical, criminal, child protective services, psychological, or

law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child, parent, or caretaker relative; (4) Medical records which indicate emotional health history and the present emotional health status of the parent, caretaker relative, or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent, caretaker relative, or the child for whom support would be sought; (5) A written statement from a public or licensed private social service agency that the applicant or beneficiary is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him/her for adoption; (6) Statements under penalty of perjury from individuals, other than the applicant or beneficiary, with actual knowledge of the circumstances which provide the basis for the good cause claim.

(1)

Birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2)

Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3)

Court, medical, criminal, child protective services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child, parent, or caretaker relative;

(4)

Medical records which indicate emotional health history and the present emotional health status of the parent, caretaker relative, or the child for whom support would be

sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent, caretaker relative, or the child for whom support would be sought;

(5)

A written statement from a public or licensed private social service agency that the applicant or beneficiary is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him/her for adoption;

(6)

Statements under penalty of perjury from individuals, other than the applicant or beneficiary, with actual knowledge of the circumstances which provide the basis for the good cause claim.

(h)

The county shall examine the corroborative evidence supplied by the applicant, beneficiary, parent, or caretaker relative to ensure that it actually verifies the good cause claim.

(i)

If, after examining the corroborative evidence submitted by the individual, the county wishes to request additional corroborative evidence which is needed to justify a determination of good cause, the county shall: (1) Promptly inform the applicant or beneficiary that additional corroborative evidence is needed; and (2) Specify the type of evidence which is needed.

(1)

Promptly inform the applicant or beneficiary that additional corroborative evidence is needed; and

(2)

Specify the type of evidence which is needed.

(j)

Upon request, the county shall: (1) Advise the applicant or beneficiary how to obtain the necessary evidence. (2) Make a reasonable effort to obtain specific information which the applicant or beneficiary is not reasonably able to obtain without assistance.

(1)

Advise the applicant or beneficiary how to obtain the necessary evidence.

(2)

Make a reasonable effort to obtain specific information which the applicant or beneficiary is not reasonably able to obtain without assistance.

(k)

Where a claim is based on the individual's anticipation of physical harm as defined in (d) above, and corroborative evidence is not submitted in support of the claim:

(1) The county shall make reasonable efforts to examine, review, and evaluate the good cause claim when it believes that: (A) The claim is credible without corroborative evidence; and (B) Corroborative evidence is not available. (2) Good cause shall be found if the claimant's statement and the investigation which is conducted satisfy the county that the individual has good cause for refusing to cooperate. (3) A determination that good cause exists shall be reviewed and approved or disapproved by county supervisory personnel and the county's findings shall be recorded in the case record.

(1)

The county shall make reasonable efforts to examine, review, and evaluate the good cause claim when it believes that: (A) The claim is credible without corroborative evidence; and (B) Corroborative evidence is not available.

(A)

The claim is credible without corroborative evidence; and

(B)

Corroborative evidence is not available.

(2)

Good cause shall be found if the claimant's statement and the investigation which is conducted satisfy the county that the individual has good cause for refusing to cooperate.

(3)

A determination that good cause exists shall be reviewed and approved or disapproved by county supervisory personnel and the county's findings shall be recorded in the case record.

(I)

In the course of determining whether good cause exists, the county shall not contact the absent parent or putative father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim. (1) Prior to making contact with the absent parent or putative father, the county will inform the applicant or beneficiary that the absent parent or putative father may be contacted unless the applicant or beneficiary: (A) Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary; (B) Withdraws the application for assistance or requests discontinuance. (2) The county shall inform the applicant or beneficiary that he/she may request the good cause claim be denied. If the applicant or beneficiary makes this request, the county shall send the appropriate Notice of Action.

(1)

Prior to making contact with the absent parent or putative father, the county will inform

the applicant or beneficiary that the absent parent or putative father may be contacted unless the applicant or beneficiary: (A) Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary: (B) Withdraws the application for assistance or requests discontinuance.

(A)

Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary:

(B)

Withdraws the application for assistance or requests discontinuance.

(2)

The county shall inform the applicant or beneficiary that he/she may request the good cause claim be denied. If the applicant or beneficiary makes this request, the county shall send the appropriate Notice of Action.

(m)

Prior to making a final determination of good cause for refusing to cooperate, the county shall: (1) Afford the district attorney the opportunity to review and comment on the findings and basis for the proposed determination; (2) Consider any recommendation from the district attorney; and (3) Give the district attorney the opportunity to participate as a witness in any hearing (under the Department of Social Services Manual of Policies and Procedures (DSS-MMP) Chapter 22-000) that results from an applicant's or beneficiary's appeal of any county action relating to establishing paternity or securing medical support.

(1)

Afford the district attorney the opportunity to review and comment on the findings and basis for the proposed determination;

(2)

Consider any recommendation from the district attorney; and

(3)

Give the district attorney the opportunity to participate as a witness in any hearing (under the Department of Social Services Manual of Policies and Procedures (DSS-MMP) Chapter 22-000) that results from an applicant's or beneficiary's appeal of any county action relating to establishing paternity or securing medical support.

(n)

The county shall determine whether or not good cause exists, based on the applicant's or beneficiary's statement, together with the corroborative evidence, if the statement and evidence provide a sufficient basis for making a determination. The county may further verify the good cause claim through an investigation if necessary.

(o)

The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. This time standard may be exceeded only where the case record documents that the county needs additional time because: (1) The information required to verify the claim cannot reasonably be obtained within 45 days; or (2) The applicant or beneficiary did not provide corroborative evidence within the period required by (f)(3).

(1)

The information required to verify the claim cannot reasonably be obtained within 45 days; or

(2)

The applicant or beneficiary did not provide corroborative evidence within the period required by (f)(3).

(p)

The applicant or beneficiary shall be notified on the appropriate Notice of Action form of the final determination that good cause does or does not exist. If good cause does not exist, the notice shall also specify that: (1) The applicant or beneficiary will be afforded an opportunity to cooperate, to withdraw the application for assistance, or to have the case closed; and (2) Continued refusal to cooperate will result in ineligibility for the applicant or beneficiary who refuses, in accordance with Section 50379; however, eligibility will be granted for the other members of the MFBU, if otherwise eligible.

(1)

The applicant or beneficiary will be afforded an opportunity to cooperate, to withdraw the application for assistance, or to have the case closed; and

(2)

Continued refusal to cooperate will result in ineligibility for the applicant or beneficiary who refuses, in accordance with Section 50379; however, eligibility will be granted for the other members of the MFBU, if otherwise eligible.

(q)

If good cause exists, the county shall determine whether medical support enforcement may proceed without unreasonable risk of harm to the child, parent, or caretaker or relative if the caretaker relative does not participate in these medical support activities. (1) This determination shall be in writing, shall contain the county's findings and basis for the determination, and shall be entered into the case record. (2) If the county determines that good cause exists and that the district attorney may proceed to establish paternity and enforce medical support, the county shall notify the applicant or beneficiary to enable such individual to withdraw his/her application or to have the record closed. (3) Prior to making this determination, the county shall afford the district attorney an opportunity to

review and comment on the findings and basis for the proposed determination and shall consider any recommendation from the district attorney.

(1)

This determination shall be in writing, shall contain the county's findings and basis for the determination, and shall be entered into the case record.

(2)

If the county determines that good cause exists and that the district attorney may proceed to establish paternity and enforce medical support, the county shall notify the applicant or beneficiary to enable such individual to withdraw his/her application or to have the record closed.

(3)

Prior to making this determination, the county shall afford the district attorney an opportunity to review and comment on the findings and basis for the proposed determination and shall consider any recommendation from the district attorney.

(r)

Good cause may be denied if the individual fails to meet his/her responsibilities as specified in (f) above.

(s)

If the district attorney determines that a beneficiary has failed or refused to cooperate within the meaning of Section 50185(a)(9) and (a)(10), the district attorney will provide the county with a statement which specifies the circumstances of the beneficiary's failure or refusal. The county shall take action to terminate Medi-Cal to the beneficiary only when it has verified on the basis of all available evidence that the beneficiary failed or refused to cooperate without good cause.

(t)

The failure of a foster parent or caretaker relative who is not requesting Medi-Cal as part of the child's MFBU, to comply with this requirement shall not affect eligibility for the MFBU members. In foster care situations, the child's natural parent and the placing agency shall be asked to cooperate to the extent possible.