



Human Resources Division

B-256148

March 18, 1994

Mr. Larry Frelot
Department of Health and Human Services
Office of Inspector General--Audit Services
50 United Nations Plaza, Room 171
San Francisco, CA 94102

Dear Mr. Frelot:

While reviewing Los Angeles County's foster care eligibility decisions at the request of Representative George Miller, we noted a potential problem involving juvenile probationers' receiving full Medi-Cal benefits, despite being undocumented aliens. A review of cases confirmed that Los Angeles County has been approving unrestricted benefits, such as routine medical examinations and other instances of medical care provided in nonlife-threatening situations, to undocumented alien minors on probation--in direct conflict with both federal and state laws. These laws limit Medi-Cal benefits in such cases to emergency- and pregnancy-related services only.

BACKGROUND

Title XIX of the Social Security Act (Medicaid) is a federal-state matching entitlement program providing medical assistance for low-income people who are aged, blind, disabled, pregnant, or minors. Within federal guidelines, each state designs and administers its own program under the general oversight of the Health Care Financing Administration, Department of Health and Human Services. The counties administer California's program, referred to as Medi-Cal, under rules and regulations prescribed in title 22, division 3, of the California Code of Regulations (CCR). The California State Department of Health Services (DHS) has overall responsibility for Medi-Cal implementation. From January 1991 to October 1993, spending for Medi-Cal programs in California totaled about \$25.2 billion. During this time, the state spent

approximately \$35 million on Medi-Cal aid code 45 beneficiaries--that is, those under 21 who are supported in whole or in part by public funds and are not living with a parent or relative. Cases approved under aid code 45 receive 50-percent federal funding.

Medi-Cal assistance is available to those who meet the criteria specified in title 22 of the CCR. A person or family may be eligible for Medi-Cal under one of seven Medi-Cal Programs. For instance, someone under 21 has his or her eligibility determined under the Medically Indigent Program if the individual is in a category specified under that program. As required by the Social Security Act, title 22 also distinguishes between those eligible for all program benefits and those eligible for restricted benefits only. Restricted Medi-Cal benefits include emergency medical services and pregnancy-related services. These are the only Medi-Cal benefits to which undocumented aliens residing in California are entitled. Specifically, the act and the CCR restrict aliens to receiving "emergency and/or pregnancy related benefits only," unless they can prove satisfactory immigration status.¹

For minors on probation, as well as other children, Los Angeles County's Department of Children's Services (DCS) determines eligibility for Medi-Cal benefits under the Medically Indigent Program.

OBJECTIVES, SCOPE, AND METHODOLOGY

As part of our overall review, we looked at Medi-Cal eligibility determinations for minors on probation in Los Angeles County to determine whether it is inappropriately approving unrestricted Medi-Cal benefits for undocumented minors. Out of 1,168 DCS-approved Medi-Cal cases in 1992 and 1993, we evaluated a sample of 25. We randomly selected these cases from a sample population of 191 juvenile justice cases approved in those years.

We also reviewed regulations pertaining to title XIX of the Social Security Act; title 22, division 3, of the CCR; California's Medi-Cal Eligibility Manual; correspondence from California's DHS providing guidance to county welfare

¹Satisfactory immigration status means having documents that prove that one is (1) a permanent U.S. resident, (2) living in the United States "under color of law," or (3) an amnesty alien.

directors on Medi-Cal eligibility regulations and procedures; and the county's procedures for processing Medi-Cal eligibility evaluations. Finally, we discussed policy and other issues with county, Probation Department, and state officials.

UNDOCUMENTED ALIENS RECEIVED FULL MEDI-CAL BENEFITS

Since about 1984, Los Angeles County has provided unrestricted Medi-Cal benefits to undocumented aliens on probation in its juvenile justice system. Under the alienage, citizenship, and residence requirements of Medicaid and California's Medi-Cal regulations, undocumented aliens are not eligible for unrestricted benefits. From the sample of 25 approvals that we examined, we found 4 in which undocumented aliens were inappropriately approved for unrestricted Medi-Cal benefits. The Medi-Cal applications for the four undocumented aliens indicated that they were not U.S. citizens and lacked "satisfactory immigration status." Due to data limitations, we did not estimate the financial impact of this practice.

DCS eligibility workers reviewed the Medi-Cal applications of the four undocumented aliens to ensure that they were complete. In addition, they checked to make sure that the aliens were not already receiving Medi-Cal benefits under another Medi-Cal program. However, they did not verify U.S. citizenship or alien status. DCS based its approvals on title 22, section 50251 of the CCR, which states that children who are supported in whole or in part by public funds may be eligible for Medi-Cal benefits under the Medically Indigent Program.

CALIFORNIA DHS COMMENTS

We discussed with California DHS officials Los Angeles County's practice of approving unrestricted Medi-Cal benefits for undocumented alien minors on probation. They stated that this practice is inappropriate. They said that DCS should have looked beyond section 50251 of the CCR to section 50301. The latter section states that to be eligible for unrestricted Medi-Cal benefits, an applicant or beneficiary must be a California resident who is one of the following: a U.S. citizen, an alien permanently residing in the United States under the color of law, or an amnesty alien.

These officials agreed that the undocumented aliens were eligible for restricted Medi-Cal benefits because they were supported by public funds. However, they also agreed that they did not meet the alienage, citizenship, and residence requirements of title 22 and therefore were ineligible for unrestricted Medi-Cal benefits.

We asked whether other counties in California might also be approving unrestricted Medi-Cal benefits for undocumented aliens. DHS officials did not have a definitive answer to this question. They indicated that in all probability this practice is occurring in other counties, but to date, they have not taken any steps to determine whether it is. However, they plan to send a letter to the Los Angeles County DCS to notify it that its practice of approving unrestricted benefits for undocumented aliens is inappropriate. They did not indicate what actions, if any, they plan to recover reimbursements to DCS for past inappropriate claims.

SUMMARY

Based on our limited work, it appears that the Los Angeles County DCS has allowed unrestricted Medi-Cal benefits to illegal alien minors since about 1984. This practice is inconsistent with both federal and California law and may result in the inappropriate expenditure of federal medicaid funds. Further, the practice may exist in other California counties.

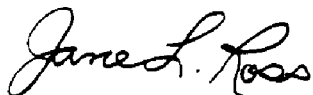
We did not determine the amount of federal and state funds inappropriately spent in Los Angeles County as a result of this practice, nor the extent that it may exist elsewhere in California. However, we are bringing this matter to your attention because you may wish to include its examination as part of your future audit plans.

We are providing copies of this letter to the Secretary and Inspector General of Health and Human Services, Regional Administrator for Region IX of the Health Care Financing Administration, and appropriate California state and Los Angeles County officials. We will also make copies available to others upon request. Our staff in San Francisco will be happy to discuss the details of our work in Los Angeles with you. If you have additional questions,

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please call Robert L. MacLafferty at (415) 904-2000 or
myself at (202) 512-7215.

Sincerely yours,

A handwritten signature in cursive script that reads "Jane L. Ross".

Jane L. Ross
Associate Director
Income Security Issues

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