

# **ACCESSING ASSISTIVE TECHNOLOGY**

## **Chapter 5**

**CALIFORNIA CHILDREN'S SERVICES**

**From a 17-Chapter Manual  
Available by Chapter and in Manual Form**

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**WRITTEN BY:**

**DISABILITY RIGHTS CALIFORNIA**

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# ACCESSING ASSISTIVE TECHNOLOGY

## Chapter 5

### CALIFORNIA CHILDREN'S SERVICES

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## Chapter 5

### CALIFORNIA CHILDREN'S SERVICES

California Children's Services (CCS) is a statewide program for children under the age of 21, who have physically handicapping conditions, and who meet specified financial guidelines. CCS provides medically necessary services and assistive technology related to a child's CCS eligible condition, including durable medical equipment, medical supplies, medical appliances (such as braces, artificial limbs, or crutches), electronic communication devices, and medications. CCS only provides equipment and services that are not the responsibility of a private health plan or Medi-Cal.

Families with an adjusted gross income of less than \$40,000 per year, as calculated for California State Income Tax purposes, are eligible for CCS medical treatment services. Some families must pay a part of the cost. However, the Director of the Department of Health Services may authorize treatment services and equipment for children in families with higher incomes if the cost of care in one year is expected to exceed 20% of the family's adjusted gross income. Cal. Health & Safety Code § 123870(a).

#### **1. What physically handicapping conditions will result in CCS eligibility?**

CCS-eligible conditions are physical handicaps that are severe and serious. Eligible conditions listed in CCS regulations include:

- Orthopedic conditions due to infection, injury or congenital malformation;
- Conditions requiring plastic reconstruction, such as cleft lip, oro-facial anomalies and burns;
- Conditions requiring orthodontic reconstruction, such as cleft palate, severe malocclusion, and oro-facial anomalies;
- Eye conditions leading to a loss of vision (not ordinary refractive errors);
- Ear conditions leading to a loss of hearing;
- Rheumatic fever;
- Nephritis, nephrosis, or the nephrotic syndrome;
- Phenylketonuria;
- Hemophilia;
- Hyaline Membrane Disease;

- Endocrine or metabolic disorders that pose medical management problems or diagnostic problems;
- Convulsive disorders posing medical management problems or diagnostic problems;
- Blood dyscrasias;
- Neoplasms;
- Severe skin disorders such as epidermolysis bullosa;
- Chronic pulmonary conditions such as cystic fibrosis, bronchiectasis and lung abscess;
- Congenital anomalies that cause disabling or disfiguring handicaps;
- Conditions of the nervous system, such as inflammatory disease of the central nervous system, which produces motor disability like paralysis and ataxia, and neuromuscular disease such as cerebral palsy or muscular dystrophy;
- Conditions resulting from accidents or poisoning that may cause handicaps, such as complicated fractures, brain and spinal cord injuries, stricture of the esophagus;
- Other disabling or disfiguring conditions which are handicapping; 22 California Code of Regulations (C.C.R.) §§ 41800, 41811-41876; and
- Severe adverse reaction to an immunization requiring extensive medical and related care. 22 C.C.R. § 42800.

Local CCS agency application of CCS policies may result in determinations of ineligibility for children who actually meet the criteria in the regulations. If that happens, you may need to file a CCS appeal to make the local agency follow state regulations. See questions 19 and 20 below.

## **2. Does my child have to be a citizen or a resident?**

CCS does not require that your child be a citizen or a permanent legal resident in order to receive CCS services. Nor can CCS consider your immigration status for CCS eligibility even if you entered the United States under a student, temporary or other limited term visa. But, your child must reside in California currently. You need to provide proof of your child's residency to CCS. School registration papers should be adequate to show that your child lives in California.

If CCS denies eligibility because you or your child are not California residents, your child can still qualify if someone who is a California resident becomes her guardian.

### **3. How is CCS funded and operated?**

The State of California and each county jointly fund the CCS program. They use a formula based on expenditures for the 1990-91 fiscal year. Funding for CCS services comes equally from county and state funds. A county may decide to contribute more than the minimum required. In that case, the state will match the larger amount.

In counties with a total population of over 200,000 people, the county administers the CCS program at the local level. In smaller counties, the state usually runs the local CCS program. If you live in a small county, you would contact CCS through the county health department. Decisions about eligibility and treatment services come from the state regional office serving the area, however.

### **4. If my child has a diagnosis of mental retardation, is she eligible for CCS services?**

Mental retardation itself is not a CCS eligible condition. Your child may be eligible if she has qualifying physical disabilities. If your child has Downs Syndrome and needs medical equipment because of a physical condition, purchase of the medical equipment may be a CCS benefit.

### **5. How do I get CCS services for my child?**

To begin with, someone should refer your child to CCS. Anyone can make a referral. 22 C.C.R. § 41700(a). Referrals should be made to the county CCS agency, which is part of the county department of health. Within five days of receipt of a referral, the county must mail or deliver to you (or to the child's legal guardian, or to the child if he is 18 years of age or older) a written notification. 22 C.C.R. § 41700(b).

This notification must include the source and date of the referral, a blank application form, and it must state that if the county receives a signed, completed application within **20 days** of the notification being mailed to you, the referral date shall be considered the application date. 22 C.C.R. § 41700(c). This means that if the county receives your signed and completed application within **20 days** of it being mailed to you, CCS will consider your referral date as the application date.

If the county does not receive a signed and completed application within **20 days** of mailing the first notification, the county will send out a second notification within 5 days. 22 C.C.R. § 41700(d). If the application process in the second notification is received, signed and completed, by the county within **20 days** after it was sent out, CCS will still consider the referral date the application date.

If the county still does not hear back **20 days** after the second notification is sent, it will send a third notification within 5 days after the second notification's due date. 22 C.C.R. § 41700(e). This third notification will state that the county will still consider the referral date the application date if a signed and completed application is received within **20 days** of the first or second notification being mailed out. If you do not respond until you receive the third notification, the county will consider the application date the day that your application is actually received. 22 C.C.R. § 41700(e)(3).

After CCS receives the completed application, your county's CCS office will send out a notification asking for more information and documentation to determine residential and financial eligibility. 22 C.C.R. § 42000. The county may ask for copies of California and federal income tax returns, residential eligibility information, guardianship and custody information, family size, etc. 22 C.C.R. § 42000(b)(1)(B). As a part of this residential and financial eligibility notification, the county will also inform you of when they have scheduled an eligibility interview or how to provide the necessary documents by mail. 22 C.C.R. § 42000(b)(1)(C).

You must provide the requested information to the county within **30 days**. 22 C.C.R. § 42000(b)(1)(A).

If the county does not receive a response to the first notification within 15 days, they will send out a second notification. 22 C.C.R. § 42000(c). If the county still does not hear back within **30 days** of sending the first notification, it will send a third notification. 22 C.C.R. § 42000(d). This third notification will state that the parent/ guardian has failed to appear at the eligibility interview and has not returned the requested application and documents. The third notification will also state the disposition the county made of the case.

The county must determine financial eligibility for the program within **30 days** from the date it receives your information. 22 C.C.R. § 42050(a).

## **6. Can my child also receive Medi-Cal?**

During the financial screening process, CCS may find that your child may be eligible for full scope Medi-Cal. In that case, it will refer your child to the county welfare department to apply for Medi-Cal as part of the application and financial screening process. (See Chapter 10 on the Medi-Cal Program.)

CCS should not refer your child to the Medi-Cal program if she would be ineligible for Medi-Cal. It should also not refer your child to Medi-Cal if she would qualify for Medi-Cal only with a share of cost. But, it may be in your child's

best interest to apply for Medi-Cal with a share of cost. The share of cost under Medi-Cal may be less than that under the CCS program. In addition, Medi-Cal will cover all health care needs, not just those related to the CCS-eligible condition.

## **7. How does CCS coordinate services with Medi-Cal?**

There are still problems in coordinating CCS fees and Medi-Cal share-of-cost fees. If your child is eligible for both CCS and Medi-Cal (dual-eligible), CCS manages the treatment services required because of the CCS-eligible condition. This means that CCS uses its more favorable medical-necessity standard. A dual-eligible child should have access to more providers than a child eligible for Medi-Cal only. This is because some hospitals and providers accept CCS but not Medi-Cal. However, dual-eligible children are sometimes treated as though they were Medi-Cal only and in practice cannot get services they could get if they were eligible only for CCS.

If your child gets both CCS and Medi-Cal benefits:

- Medi-Cal pays for the services it covers, but CCS authorizes those services;
- CCS provides the Medi-Cal case management; but CCS must pay for services covered by CCS which Medi-Cal does not cover.

Procedures for hearings for dual-eligible children also remain unresolved. CCS and Medi-Cal have granted combined hearings. If your child is dual-eligible and there is a dispute, you should ask for a joint CCS/Medi-Cal hearing. A joint hearing allows you to combine your child's CCS and Medi-Cal claims.

This chapter focuses on children who have only CCS. If your child is "dual eligible", which means he/she has both CCS/Medi-Cal, information specific to dual CCS/Medi-Cal eligible child, it will be noted in this chapter. For more information about dual eligible children see our publication "California Children's Services", Publication Number 5060.01

## **8. Do we need to pay any charges for our child's CCS services?**

Generally, you need to pay a \$20 fee per year for CCS services. You will not have to pay the \$20 fee if:

- Your child is eligible for full scope Medi-Cal benefits without a share of cost;  
or
- If your child gets physical or occupational therapy at school through CCS based on his or her IEP, or if you have income less than the federal poverty level.

You must also pay an annual enrollment fee for participation in the CCS program. This is a sliding fee based on family size and income, and CCS adjusts it regularly to reflect changes in the federal poverty level. You won't have to pay the enrollment fee when:

- The only services required are for diagnosis to determine eligibility for services;
- The only services required are physical or occupational therapy; or
- You have a gross annual income of less than 200 percent of the federal poverty level.

Each county collects the enrollment fee established for a family. The county may arrange for periodic payment during the year if a lump sum payment would cause the family a hardship. The state director of CCS may waive all or part of the fee if payment will result in undue hardship. The CCS regulations list two reasons for not having to pay the enrollment fee:

- A reduction in family income; or
- Unavoidable family expenditures.

The request for a waiver of the enrollment fee must be made in writing. 22 C.C.R. § 42115(c)(3)(A)(1).

You can also ask to make monthly payments if paying the whole enrollment fee at once will cause you hardship. 22 C.C.R. § 42125(c). Failure to pay (or to arrange for payment or waiver of the enrollment fee) within 60 days of the due date will result in termination of CCS payments for treatment services. 22 C.C.R. § 42125(e).

## **9. How does our child get assistive technology through CCS?**

CCS provides medically necessary benefits. These are “those services, equipment, tests, and drugs which are required to meet the medical needs of the client’s CCS-eligible medical condition as prescribed, ordered, or requested by a CCS physician and which are approved within the scope of benefits provided by the CCS program..” 22 C.C.R. § 41518. CCS services include evaluations and purchase of necessary assistive technology. This includes medical supplies, durable medical equipment (such as wheelchairs or prone standers), medical appliances (braces, artificial limbs, hearing aids, etc.) and electronic or manual communication devices. In addition, CCS provides repairs, maintenance and upkeep of appliances and equipment.

Except for emergencies, CCS must authorize assistive technology before you buy it. Unless there is a prior authorization, CCS will not pay for assistive technology. The need for most assistive technology is discussed in a medical therapy unit conference. The need for equipment and services should be based upon individual needs.

#### **10. How long does it take for CCS to provide assistive technology?**

There is no specified time limit for CCS to agree or refuse to provide requested services and technology. It should provide benefits within a reasonable period of time, however. It is not uncommon for a child to wait months after her doctor sends a request to CCS. Parents and advocates must be persistent in contacting CCS and speaking with higher level administrators if necessary. In some cases, it may be helpful to write to:

Chief, CCS Division  
Department of Health Services  
714\744 "P" Street  
Sacramento, California 95814  
Phone: (916) 654-0832

After you have waited longer than you believe is reasonable, you should treat CCS failure to act upon a request as a denial. File a written request for an appeal with the local CCS administrator even if you have not received a denial. See questions 19 and 20 below.

#### **11. What medical supplies will CCS buy?**

CCS will buy medical supplies necessary to treat a CCS-eligible condition in a hospital or at home. 22 C.C.R. § 41518. For example, oxygen and supplies necessary to administer it, sterile dressings, and tracheostomy suctioning supplies are CCS benefits.

#### **12. What standards does CCS apply in buying durable medical equipment?**

CCS buys durable medical equipment (such as manual or power wheelchairs) that are medically necessary to assist a child with mobility or self-care activities, including communication,, but are not covered as benefits of third party payers (such as private insurance or Medi-Cal). CCS Numbered Letter 09-0703. In addition, CCS applies the following criteria when deciding whether to provide requested equipment:

- Equipment should be adjustable to accommodate growth whenever possible.

- Recommended equipment should not duplicate or serve essentially the same purpose as existing equipment. Philosophical differences of parents, care providers, agencies, or therapists do not justify change of equipment when existing equipment is functional or can be safely repaired or modified to meet the child's needs.
- The physical setting of the home should accommodate the equipment.
- Equipment is not authorized that is solely for the purpose of caregiver convenience.
- The family should be able to care for and, if necessary, transport the equipment.
- Equipment meets the medical, functional or safety needs for which it was authorized..
- Equipment predominantly for school use is the responsibility of the local education agency.
- CCS purchases standard durable medical equipment that is the most cost effective to meet the medical, growth, and safety needs of the child.
- CCS shall not pay for repairs or maintenance of equipment which has been superseded by another device serving the same purpose.

Even though some items may be used in treatment or may be useful for you or your child, they are not CCS benefits. These include bicycles, bolsters, crawlers, cribs, exercise mats, fixed recline wheelchairs, motorized caster carts, personal computers and accessories, sand bags, strollers, tricycles, van lifts, wedges, weights, wheelchair carriers, and convenience accessories for mobility (book bags, diaper bags, horns, mirrors, etc.). CCS Numbered Letter 09-0703.

You may need to challenge a CCS standard. Numbered letters such as the one quoted above are not regulations and do not have the force of law. For example, CCS may be responsible for purchasing a wheelchair even though your child will use it at school. Some of the items excluded, such as van lifts, wedges, and weights, may be a CCS responsibility if they are medically necessary. From time to time, CCS reverses itself on the medical necessity of items previously excluded. For example, CCS had listed side-lying positioners as an excluded item in Numbered Letter 07-0291. Two years later, it acknowledged that it would purchase a side-lying positioner and listed the criteria for establishing medical necessity in Numbered Letter 23-0793 (and, subsequently in 09-0703). Similarly, CCS has added automobile orthopedic positioning devices (AOPDs) to its list of covered items in Numbered Letter 01-0298. AOPDs include car seats and harness vests. CCS will buy only nonstandard AOPDs for children four and older and either weigh over 40 pounds or over 40 inches in length. CCS Numbered Letter 09-0703.

### **13. What durable medical equipment will CCS buy when it is medically necessary?**

CCS lists the following medically necessary equipment as durable medical equipment it will buy: bath seats/chairs/rails, hand-held showers and accessories, bed baths, communication devices (including head wands), light wands, switches, expanded keyboards, membrane keyboards, keyguards, portable electronic communication devices and carrying cases, drool/splash guards, mounting brackets, dressing aids, electrically and manually operated feeders, arm supports, utensils (including non-slip surfaces or suction devices), reachers, commode seats/chairs, bidets, safety rails, transfer lifts, transfer boards, walkers of various types, crutches of various types, canes of various types, manual and power wheelchairs (including posture control types), wheelchair positioning devices (including custom seating), power wheelchairs with a standing component, adaptive strollers caster carts, attendant-propelled stretchers, prone scooters, self-propelled stretchers, helmets for head protection, seats and sitters, side lying positioners, tilt tables, prone standers, standing tables and standing frames. CCS Numbered Letter 09-0703.

In addition, CCS has added numerous other items to its list of covered benefits. These include, among other items, Cochlear implants, synthesized speech augmentative communication, oxygen delivery and related supplies, hearing aids and accessories including batteries, earmolds, braces, artificial limbs and optical appliances CCS Numbered Letters 30-1205, 10-0707, 11-0807 and 12-1007.

CCS may be responsible for providing durable medical equipment that is not listed if it is medically necessary for a CCS-eligible condition. CCS has established standards for medical necessity for the above-listed equipment in Numbered Letter 09-0703. Some of the more important are discussed below. Numbered Letter 09-0703 is included at the end of this chapter and lists the criteria CCS has established for purchase of other equipment.

### **14. What are the standards for CCS purchase of a wheelchair?**

CCS has established medical necessity standards and criteria for the various types of wheelchairs or other mobility devices it will buy. To buy an adaptive stroller, CCS says that your child must need postural support and attendant-propelled transportation in a sitting position. Your child must be two years old or weigh more than 25 pounds, and will not be able to use a manual wheelchair.

CCS may buy a posture control chair when your child has a moderate/severe complicated skeletal/ motor condition or have a skeletal deformity, weakness or abnormal tone that affects ability to sit in a standard wheelchair. A postural

control chair is necessary when your child requires more support to maintain body alignment, prevent deformity, enhance function or prevent medical complications.. For the purchase of a manual wheelchair, your child must be able to be placed in a sitting or semi-reclining position and has sufficient arm strength and coordination to propel the chair or must have outgrown other types of attendant-propelled transport chairs. To get a power wheelchair, your child must not be able to use a manual chair and need an efficient way to get around and take part in community activities. He must have shown ability to use the control device and maneuver the chair. His independent use of the chair must be consistent, safe and responsible.

CCS pays for training in wheelchair use for children who have the potential to learn. CCS will not authorize power wheelchairs for a child under three without documentation of judgment criteria. CCS Numbered Letter 09-0703.

**15. What are the standards for CCS purchase of synthesized speech augmentative communication?**

To see if your child can use assistive communication, CCS considers whether your child:

- (1) Makes eye contact;
- (2) Is aware of her own environment and changes in the environment;
- (3) Tries to control you or others;
- (4) Shows curiosity;
- (5) Indicates her wants/needs/preferences;
- (6) Shows interest in toys;
- (7) Responds to his or her name;
- (8) Demonstrates grasp of cause/effect concepts;
- (9) Follows one-step commands; or
- (10) Demonstrates understanding of “yes” and “no.”

CCS Numbered Letter 09-0703.

For children who are enrolled in school, CCS expects the school district to do this evaluation. CCS does not provide ongoing training in the use of an electronic communication device. CCS requires that you locate training from a school district, regional center, or Department of Rehabilitation or other agency before buying a device. CCS also requires that your child show effective functional use of the device and may rent one for this purpose before buying it. The device must be

expected to meet your child's needs for a minimum of at least three years. You need to show you can maintain and care for the equipment. The device must be the most cost effective option that will meet your child's needs. It should adjust to your child's increasing communication skills and abilities. When CCS buys a communication device for your child, it becomes your child's property. CCS Numbered Letter 09-0703.

When a child has learned to purposefully operate single switches or some other appropriate interface to an electronic device and demonstrates the potential for communication, they shall be referred to the school-based speech and language pathologist for the purpose of assessing communication potential/needs. The device will be appropriate to the child's cognitive and language level. The PT/OT, and the school-based speech therapist/pathologist will collaborate regarding recommendations for the appropriate device. Funding/provision for ongoing training/programming must be secured before CCS authorizes the purchase of the equipment. Programming the device and on-going training in the use of the device after programming changes is not a service provided by CCS. A CCS paneled speech therapist may be authorized to provide the initial training/orientation in use of the communication device.

CCS will also buy necessary head wands, light-wands, adapted keyboards, adapted mouse, printers, keyguards, mounting brackets and carrying cases. CCS Numbered Letter 09-0703.

**16. Does CCS purchase newly introduced durable medical equipment?**

According to CCS, newly introduced durable medical equipment is equipment that has come on the market within the last six months. CCS buys such equipment with some restrictions. Newly introduced medical equipment, prosthetics, and orthotics costing over \$2,000 are subject to review and approval by the state CCS office before they can become a program benefit. You need to make a special request for such a review. You must wait for state approval before buying the item. CCS Numbered Letter 12-0490. Can't find more current cite: check regs??

**17. Our child is also covered by our own private insurance. Will CCS pay for an assistive technology device that our insurance would not cover?**

When your child is also covered by another health plan, CCS will pay for your child's medical expenses if the health plan will not cover the services or will pay only part of the bill. This might happen when your insurance has limited coverage of certain services such as durable medical equipment, medical supplies and prostheses. We recommend that you get CCS approval for the device first, even if

the insurance or health plan may cover all or part of the charge. Once CCS approves, the provider should bill your private insurance. Then CCS will pay for anything your insurance does not cover.

### **18. What can we do if we disagree with a CCS decision?**

You and your child have the right to appeal CCS decisions you disagree with through a formal hearing process. 22 C.C.R. § 42700 and following. Such decisions may include cases where:

- CCS denies eligibility for services;
- Denies specific services or equipment for your child;
- Reduces or stops a current service; or
- Sets a fee too high.

You can file an appeal to challenge a CCS policy if it seems inconsistent with your child's right to services under the CCS statutes or regulations.

In some cases, local CCS agencies have told families that appeal would be futile or that there is no appeal process. You need to be informed and persistent. The CCS appeal process is the only formal way to challenge a CCS decision to deny, reduce or stop services, or to deny requested assistive technology.

### **19. What are the elements of the CCS appeal process?**

Notice of Action. The first element of the CCS appeal process is issuance of a written notice of action. The local CCS agency must send you a notice any time it makes a decision with which you or your child's representative disagree. 22 C.C.R. § 42701(a).

The notice of action must include:

- (1) A description of the action from CCS;
- (2) The basis (reason) for the action;
- (3) The date of the notice of action;
- (4) The effective date of the action;
- (5) The law, regulation or policy supporting the action;
- (6) The business address, phone number, and name of the program director of the CCS agency taking the action; and
- (7) Information explaining your child's right to appeal, right to request continuation of services during appeal, right to review the medical record, right to appoint a representative, how to initiate an appeal,

the appeal deadlines, and where to get detailed information and help with the process.

The local CCS agency may fail or refuse to provide such a notice. If it does after you ask for one, you should appeal anyway. Send a written request for hearing to the local CCS agency.

As referenced in a CCS Letter dated May 27, 2008 from the Department of Health Care Services, CCS must issue a Notice of Action and apprise you of your right to appeal regardless of whether you have completed a CCS program application. Clients eligible for either full scope Medi-Cal without a Share of Cost or Healthy Families subscribers are not required to complete the CCS application process. Previously, these persons were issued denial letters in lieu of an NOA. As stated in the CCS letter, CCS must now issue an NOA to these persons. CCS Numbered Letter 05-0608. For information about the appeal process for children that are CCS and Medi-Cal eligible, please see our publication "California Children's Services", Publication Number 5060.01.

CCS regulations state that reducing, stopping or modifying services or benefits does not require a written notice of action if:

- The CCS physician who is supervising your child medically orders the change; or
- The change in care is with the consent of the client or someone legally authorized to give consent; or
- The services or benefits were only authorized for a limited time and the services or benefits are being terminated because the time period is over; or
- If your child is in a licensed acute care or subacute medical care facility.

Some aspect of these limitations may violate constitutional guarantees of due process. Even if a service is time limited, you should be able to appeal now if you feel that the reason for the time limitation is no longer valid. It is, of course, important to raise the change in circumstances as soon as you realize it. Don't wait for the original time limit to run if you can help it. There would seem to be no legitimate reason to deny the right to appeal termination of acute or subacute services if a doctor believes such services are still necessary. You or your child's representative should be able to appeal a CCS decision to reduce, deny, or stop services even if your child's CCS doctor approves of the change. As a practical matter, you will need to find another doctor to support your child's needs for the services. Without that support, you cannot present a good case.

Similarly, children who are in licensed acute care or subacute medical facilities should be able to appeal CCS decisions to deny payment for services, even though current regulations deny such a right. Again, it may be necessary to get legal help to challenge a CCS refusal to provide notice and the opportunity for a hearing.

CCS regulations say that CCS will not provide notice of service termination if it authorized the services for a limited period, advised you of the time limit and the actual termination date is the same as the end of the limited time. If the termination date is acceptable, there is no reason to appeal. But, if you now believe that the services should continue, even though the proposed termination date once seemed reasonable, you should be able to change your mind. You might have new information, or your child may not have achieved the goal of the treatment. The best approach is to talk to the CCS agency when it first appears that the termination date may not be acceptable. Don't wait until the date set for service termination. Demand notice and the right to a hearing if CCS stops the services. Legal help may be necessary in this case.

If you disagree with the decision of a CCS panel physician to deny a request for assistive technology, CCS regulations say that you are not entitled to a "notice of action" or a hearing. This may be unconstitutional. The regulations do say that you have the right to choose a doctor from a list of three "expert physicians" who will evaluate your child at CCS expense. The opinion of the expert physician is final. 22 C.C.R. § 42702. The process CCS allows here may seem acceptable in some instances. You should, however, be able to choose a physician and present testimony about your child's need for service at an administrative hearing if you are not satisfied with the opinion of the panel expert. When faced with this situation, you may want to seek legal advice.

**Continuation of Services.** If stopping or changing your child's medical services will result in injury, loss of life, loss of physical functioning, or risk of making your child's condition worse, the services must be continued. 22 C.C.R. § 42708.

Your child's prescribing physician decides whether your child will continue to receive current services or assistive technology if the appeal is about medical financial or residential eligibility. 22 C.C.R. § 42708(a)(1). If the appeal is about medical necessity for the services in question, an expert physician decides whether to continue. The expert physician cannot be an employee or under contract with CCS. You choose the physician from a list of three supplied by the CCS agency. 22 C.C.R. § 42708(a)(2). The agency then arranges an evaluation at a mutually acceptable time.

If the physician finds that services should not continue, a court order is the only way to secure continuation. You will need to get legal advice about getting such an order.

**First Level Appeal.** Your request to appeal a CCS decision must be postmarked within **30 calendar days** of the date of the notice of action. 22 C.C.R. § 42703(a). No form is required to request an appeal. 22 C.C.R. § 42703(d). You must send a letter of appeal to the CCS agency that sent you the notice of action. This may be the county CCS agency or, in smaller counties, the regional CCS office.

The local CCS agency must help you file an appeal if you ask. Your request for an appeal should set out what CCS action you disagree with, information that supports your child’s position, and a request to continue current CCS services (if you want them to continue).

Within **21 calendar days** of receiving a written appeal, the CCS agency must review the appeal. If enough information is available, the agency must mail you a response. The response should explain the basis for the decision, including pertinent facts and supporting statutes or regulations. If the agency needs more information to make the decision, it must respond to the appeal within **21 calendar days** of receiving the additional information. If this first decision is unfavorable, you may ask for a CCS fair hearing. 22 C.C.R. §§ 42703(e)(f).

**CCS Fair Hearing.** You must file a request for a CCS fair hearing with the director of the Department of Health Services (DHS) within **14 calendar days** of the date of an unfavorable written first level decision. 22 C.F.R. § 42705. You should send your hearing requests to:

Director - Department of Health Services  
714\744 “P” Street  
Sacramento, California 95814

You must include a copy of the first level appeal decision with your request for a hearing. Your child must sign the request if she is over 18. If she is a minor, you or her legal guardian will sign the request. The request should set out the decision you are appealing and why you disagree with the decision. If DHS finds that your request is not specific or that it lacks necessary information, DHS must notify you within **14 days**. You must submit additional information within **14 calendar days**. The hearing officer may defer or deny your request for a fair hearing if you do not provide the additional information within **14 calendar days**.

Written notice of the time and place of the CCS fair hearing must be mailed to you at least **30 calendar days** before the date of the hearing. 22 C.C.R. § 42706. The

fair hearing must be at a time and place reasonably accessible to you. 22 C.C.R. § 42707.

Before the hearing, CCS must make available a list of the names and addresses of witnesses it intends to call at the hearing. You can inspect and copy records in CCS possession, but you need to make a written request. 22 C.C.R. § 42710. CCS can ask for a list of witnesses you intend to call and for copies of documents that you may have. 22 C.C.R. § 42710. The hearing officer can issue a subpoena to compel a witness to testify at the hearing. 22 C.C.R. § 42711.

A hearing officer conducts the CCS fair hearing. You may request an interpreter if you are not proficient in English. 22 C.C.R. § 42713(g). Currently, CCS hearing officers come from DHS. At the hearing, each side presents written evidence or oral testimony from witnesses. Both sides should have necessary evidence and witnesses present at the hearing and be ready to proceed. Although it is not required, it is a good idea to get help from an experienced advocate or attorney before pursuing a fair hearing.

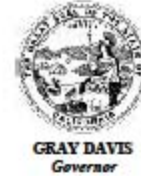
After the hearing, the hearing officer prepares a proposed decision. The director of DHS will either adopt the proposed decision as the final agency decision, or change the proposed decision before issuing it. 22 C.C.R. § 42720.

Many people feel that it is unfair to allow the DHS director to issue the final decision. However, the state CCS agency does overturn local decisions on occasion. Further, your child must complete this administrative proceeding before you can ask a court to hear the dispute. Any court action will rely on the facts presented at the administrative hearing, so it is an important proceeding.

## **ATTACHMENTS TO CHAPTER 5**



State of California  
Department of Health Services



August 8, 2003

N.L.: 09-0703  
Index: Durable Medical Equipment

TO: ALL COUNTY CALIFORNIA CHILDREN'S SERVICES (CCS)  
ADMINISTRATORS, MEDICAL CONSULTANTS,  
CHIEF/SUPERVISING THERAPISTS, MEDICAL THERAPY UNIT  
(MTU) STAFF, AND STATE CHILDREN'S MEDICAL SERVICES  
(CMS) STAFF AND REGIONAL OFFICE STAFF

SUBJECT: REVISED CCS GUIDELINES FOR RECOMMENDATION AND  
AUTHORIZATION OF RENTAL OR PURCHASE OF DURABLE  
MEDICAL EQUIPMENT-REHABILITATION (DME-R)

**PURPOSE**

The purpose of this numbered letter is to:

- I. Establish CCS policy for authorization for rental or purchase of DME-R
- II. Distribute revised CCS guidelines titled CCS "Guidelines for Recommendation and Authorization of Durable Medical Equipment-Rehabilitation (DME-R)" (Guidelines)
- III. Establish the Guidelines as an independent document that can be readily updated
- IV. Establish policy for the use of the enclosed Guidelines document.

These Guidelines and criteria are necessary to assist in determination of the medical necessity of requested DME-R items that are a benefit of the CCS Program. This Numbered Letter (N.L.) and the enclosed Guidelines supercede the DME guidelines issued in February 1991 entitled "CCS DME Guidelines for Recommendation for Purchase of DME-R" and N.L. 08-0291 and N.L. 23-0793.



Do your part to help California save energy. To learn more about saving energy, visit the following web site:  
[www.consumerenergycenter.org/flex/index.html](http://www.consumerenergycenter.org/flex/index.html)

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1515 K Street, Suite 400, MS 8100, P.O. Box 942732, Sacramento, CA 94234-7320  
(916) 327-1400

Internet Address: <http://www.dhs.ca.gov/ocfm/cms>