

CALIFORNIA CHILDREN'S SERVICES

SERVICE RIGHTS AND ENTITLEMENT PROGRAMS AFFECTING CALIFORNIANS WITH DISABILITIES

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CALIFORNIA CHILDREN'S SERVICES (CCS)

California Children's Services (CCS) is a statewide program for California children under the age of 21 with physically disabling conditions. CCS authorizes medical services and equipment for children in low- and middle-income families. CCS provides medical case management¹ for children who receive Medi-Cal and have an eligible condition. CCS covers medical services related to the eligible condition for children receiving health benefit plan services under “Healthy Families,” the low-cost health coverage for children who do not qualify for no-share of Medi-Cal and whose family income is not more than 250% of the federal poverty level. (\$3534/month for a family of 4). See Appendix D. (Healthy Families covers children under the age of 19.)

To get CCS services, your child must meet two tests: an income test and a medical test. We'll explain how each test works in this manual.

¹ Medical case management means that CCS, not Medi-Cal, approves Medi-Cal services needed because of the eligible condition. The only exception is that where the service at issue is either in-home nursing or home health aides, Medi-Cal's In-Home Operations handles the Treatment Authorization Request.

1. HOW MUCH MONEY CAN WE HAVE AND STILL GET CCS FOR OUR CHILD?

Your child meets the CCS income test if your family income, before taxes, is less than \$40,000 per year.² CCS uses your "adjusted gross income," which is the income used for California Income Tax purposes. If your child qualifies, you may still have to pay a sliding scale enrollment fee for CCS. *See* question 9 below which discusses the sliding enrollment fee. But once you pay the enrollment fee, and CCS authorizes services for your child, your doctor, hospital or medical provider has to accept what CCS pays as payment in full. This means that you will not have to pay anything more on the bill.³ (no co-pay.)

If your family income is more than \$40,000 per year, your child may still be eligible if the estimated cost of your child's care for one year will be more than 20 percent of your family's income before taxes.⁴ If CCS denies your application, ask CCS to reconsider your application under this exception.

² Family income includes only income from the child and the natural or adoptive parents. Health and Safety Code (H&SC) § 123900(d). CCS is not allowed to count other family income, such as child support for a brother or sister, or income from a stepfather who has not adopted the child, or from any other adult in the household. H&SC § 123900(d). Disability Rights California believes that the \$40,000 cap regardless of family size conflicts with federal law [42 U.S.C. § 705(a)(5)(D)] at least insofar as it excludes larger families who are at or below 250% of the federal poverty level. For instance, for a family of five 250% of the federal poverty level is \$62,004 per year in 2008.

³ See CCS Numbered Letter 06-0394 (March 10, 1994).

⁴ H&SC § 123870(a)

If your child is in school and needs medical services such as physical or occupational therapy in order to do better in school, CCS will waive the financial eligibility standards, no matter what your family income and without a share of cost or enrollment fee.⁵ The services must be things that CCS would otherwise cover and must be included in your child's IEP (Individual Education Plan).⁶ For more information on this, see Chapter 9 on interagency responsibility in Disability Rights California's Special Education Rights and Responsibilities (SERR) Manual.⁷ Finally for children covered by Medi-Cal or “Healthy Families,” there are no additional financial eligibility requirements or payments.

2. THE WELFARE DEPARTMENT SAID WE HAVE TOO MUCH IN OUR SAVINGS TO GET MED-CAL. DOES THAT MEAN WE CAN'T GET CCS?

No. CCS only counts your income. CCS does not count savings or other resources. To qualify for some Medi-Cal⁸ - your resources must be less than \$3,150 for a family of three.

⁵ H&SC § 123870(b).

⁶ Each local school district must have a written interagency agreement with CCS, covering referral procedures, CCS staff attending IEP meetings, location of MTUs, etc. CCS Numbered Letter 15-0586 (May 15, 1986).

⁷ The Special Education Manual is available on our webpage: www.disabilityrightscalifornia.org

⁸ Since April 2008, the Federal Poverty Level Programs do not consider resources, only family income: Infants to age 1, 200% of the federal poverty level (FPL), children age 1 to age 6, 133% of the FPL, and children 6 and older, 100% of the FPL. *See* Appendix D.

3. WHAT IS THE MEDICAL ELIGIBILITY TEST FOR CCS?

Children can get CCS if they have physical disabilities or illnesses which are serious and severe. There is a list of medical conditions which meet the medical eligibility test at the back of this booklet. These are only examples, so other similar conditions may also qualify. Appendix A. Mental retardation, developmental disabilities or learning disabilities alone do not meet the CCS medical eligibility test. See the discussion under the next question.

Sometimes CCS makes mistakes and denies medical eligibility, especially for children with mental retardation, because it does not appropriately consider the child's other physical disabilities. If your child is denied CCS based on medical eligibility and you think your child should qualify, you should file an appeal. See Questions 28, 34-36 on how to appeal.

4. IF MY CHILD IS MENTALLY RETARDED, IS HE OR SHE ELIGIBLE FOR CCS SERVICES?

Mental retardation alone does not meet the CCS medical eligibility test. However, your child may still be able to get CCS services if the child also has a physical disability.⁹ For example, if a child with Down's syndrome has a heart

⁹ H&SC § 123935 says that "A handicapped child shall not be denied services pursuant to this article because he is mentally retarded."

problem, CCS should cover the heart surgery. A child with cerebral palsy and developmental delays may also need physical therapy which CCS should cover.

In practice, CCS requires that there be a separate diagnosis in order to qualify for CCS services. CCS' position is that children are not eligible for services for related manifestations of mental retardation when mental retardation is the only diagnosis. For example, CCS will often deny physical or occupational therapy services when a child has a condition which causes both severe mental retardation and related physical problems.

We believe that many such denials are wrong, and that the child should still qualify for services to treat her physical disabilities. If your child is denied, you should think about an appeal. See questions 28, 34-36 on how to appeal a decision with which you disagree.

If your child is mentally retarded and CCS denies occupational and physical therapy, your child can still get these services covered by CCS if the services are listed in her IEP (individualized education plan) as necessary for her special education program. See Chapter 9 on interagency responsibility in DISABILITY RIGHTS CALIFORNIA's Special Education Rights and Responsibilities (SERR) Manual.¹⁰

¹⁰ The SERR manual is available from Disability Rights California's webpage: www.disabilityrightsca.org. CCS Bulletin 79-46 (December 15, 1979).

5. CAN MY CHILD GET CCS SERVICES IF I AM UNDOCUMENTED? WHAT IF MY CHILD IS UNDOCUMENTED?

A child may get CCS services even if she or her parents are undocumented. CCS does not have any immigration restrictions. Medi-Cal is different. Medi-Cal does have immigration restrictions, which means that an undocumented child can only get "restricted Medi-Cal" services to cover emergency services. CCS will then cover services after the emergency is over.¹¹ For example, if an undocumented child has an accident which causes brain injury, restricted Medi-Cal will only cover the emergency hospitalization. CCS will cover the rehabilitation services which the child will need afterwards.

Even though immigration status does not count, your child must still be a resident of California in order to get CCS services.¹² Undocumented parents can be California residents: you must show that you and the child live in California and intend to remain indefinitely (that is, you have no plans to leave). CCS uses the same rules as Medi-Cal to decide whether your child is a California resident. This means that you will have to have some proof of where you and your child lives, such as your child=s school registration, your rental receipts, utility bills etc.

¹¹ CCS Numbered letter 20-0593 (May 14, 1993).

¹² CCS uses the definition of residency in Govt. Code §§ 243 and 244. See, H&SC § 123865, 123895, 22 CCR § 41900(a). The residency of a child is determined by the parent=s residency.

You and your child are not residents of California if you have come here just to get medical care, or if you have a home in another state or country to which you plan to return. If you have an immigration visa which says that you are a visitor, a temporary student, or a diplomat, it would be very difficult to establish that you are in fact a resident.¹³

If CCS denies eligibility because you and your child are not California residents, your child can still qualify if someone who is a California resident becomes her guardian. For example, CCS will deny eligibility if you tell CCS that you came to the U.S. to get medical care for your child. However, if someone who is a California resident becomes your child's guardian, then the guardian can re-apply for CCS for your child and your child will qualify. This is because CCS says that a child's residence is the same as that of her guardian.

6. HOW DO I APPLY?

In large counties, you apply for CCS by sending an application to the County CCS agency where you live. In small counties, you should send your application to a regional CCS office in San Francisco, Los Angeles or Sacramento. *See Appendix C* for the addresses of CCS agencies in the state. Migrant families may start the

¹³ In cases involving access to prenatal care, courts have held that while being here on a temporary visa gives rise to a presumption that the person is not a resident, that presumption can be rebutted by proof that the person is in fact a resident.

application process in any county, but the application will be processed in the county of residence.

You should apply as soon as you know that your child needs medical care. CCS says it does not pay for services received before the date that you apply. (Medi-Cal is different. Medi-Cal may pay for services which were provided up to three months before the month in which you apply.)

Often your child's doctor or hospital or clinic will refer you to CCS for diagnostic services and for medical treatment. Within five calendar days of getting a referral, CCS must mail or deliver an application form and notice of referral to your family. CCS will pay for services back to the date of the referral if you send back your application within 20 days of the mailing of the notice of referral.¹⁴

After CCS gets your application, they will ask for additional information, including copies of California State and federal income tax forms, information about your residence, guardianship and custody information if applicable, family size, etc. CCS must decide if you meet the income test to get CCS services within 30 days after it gets this documentation.¹⁵

¹⁴ Title 22, California Code of Regulations [22 CCR] § 41700(b) and (c). If you don't answer the first notice, CCS will send a second notice and give you another 20 days to answer.

¹⁵ 22 CCR §§ 42000, 42050(a).

7. MY CHILD IS LIVING WITH HIS/HER GRANDPARENTS IN ONE COUNTY WHILE I LIVE IN ANOTHER COUNTY. WHERE DO I APPLY?

CCS looks to where the parent or guardian lives, so you should apply for CCS services in the county where you live, not where your child is staying. The county where you live will have financial and case management responsibility for your child. (Medi-Cal is different. You apply for Medi-Cal where your child lives, not where you live.¹⁶)

8. I AM IN THE MILITARY AND HAVE BEEN ASSIGNED TO MY CURRENT DUTY STATION FOR THE PAST TWO YEARS. MY CHILD WAS DENIED CCS BECAUSE THE COUNTY SAYS THAT I AM NOT A CALIFORNIA RESIDENT.

The CCS program requires that the child be a California resident. The residence of a child is determined by the residence of the parents. If you entered the service from another state and maintain that state as your residence so that, for instance, you are exempt from paying California state income taxes, then you and your child are not California residents for purposes of the CCS program. Your child may be eligible for services under your own state=s version of CCS – just as a child

¹⁶ If your child were living with grandmother, did not have his own income, and met the SSI disability standards, the child would qualify for SSI and Medi-Cal linked to SSI. The SSI program only counts the income of a parent or stepparent living with the child. If the child met the SSI disability standard and elected to apply for Medi-Cal directly, the child would qualify for Medi-Cal as Medically Needy linked to SSI or ABD (aged blind disabled) Medi-Cal which follows SSI rules. See 22 CCR § 50351(b)(4) which says that Medi-Cal does not count the income of a parent not living with the child for any of the Medi-Cal programs. The application for the child would be made in the county where the child lives. 22 CCR § 50125(a)(3).

of a California resident in the service stationed in another state would be eligible for CCS.

However, if your child qualifies for Medi-Cal on the basis of your limited income or because your child is covered by the model nursing facility waiver,¹⁷ or the DDS waiver,¹⁸ then your child would be eligible for CCS services case managed by CCS but funded by Medi-Cal.

However, because part of the CCS program is federally funded, it may be that California is required to cover the dependents of those in active service who are stationed in California — just as California is required to cover military dependents in its Medi-Cal program. This question has not been resolved. Your county CCS program, however, should be able to link you up with the comparable program in your home state.

¹⁷ If your child would qualify for services in a nursing facility, then she would be eligible for services under the model nursing facility waiver and also Medi-Cal without regard to the income and resources of the family. You can start the application process by calling Medi-Cal's In-Home Operations at 916-552-9105 (Sacramento) or 213-897-6774 (Los Angeles) for referral to a home health agency that participates in Medi-Cal. The home health agency will work with you to submit the waiver application. *See* DHS All-County Welfare Directors Letter No. 96-60.

¹⁸ *See also* DHS All-County Welfare Directors Letter No. 96-60. A child qualifies for the DDS waiver if he/she otherwise would require care in an intermediate care facility for developmentally disabled (ICF/DD). Talk to your child's regional center counselor about applying.

9. HOW MUCH DO I PAY FOR CCS SERVICES FOR MY CHILD?

Depending on your family's situation, you may have to pay an annual fee to get CCS services for you child. The annual fee may be \$20 or \$20 plus a sliding scale enrollment fee. But once this fee is paid and CCS authorizes your doctor or medical provider to treat your child, you do not have to pay anything more. CCS will not let doctors bill you for services which CCS has authorized.¹⁹ If you do get a bill, contact your county CCS program who will contact the doctor to resolve the billing.

\$20 Annual Fee

Most families must pay a \$20 fee each year to get CCS coverage. You do not have to pay the annual fee²⁰ if:

- (a) your child gets regular, full-scope Medi-Cal without a share of cost;
- (b) the only CCS services your child gets are physical or occupational therapy at school through CCS based on your child's individualized education plan (IEP);
- (c) your family income is less than the federal poverty level. In 2008, the poverty level is \$17,600 for a family of three. See Appendix D for the federal poverty level for different family sizes;
- (d) your child is covered under “Healthy Families.” “Healthy Families” is the low-cost federally subsidized health insurance program for children in

¹⁹ CCS Numbered Letter 06-0394 (March 10, 1994), page 2.

²⁰ H&SC § 123870(d).

families whose income after allowable deductions is not more than 200% of the federal poverty level. See question 23 below.

Sliding Scale Enrollment Fee

In addition to the \$20 fee, most families are expected to pay a sliding fee based upon family size and income. Family size includes everyone in the household who depends on the parents' income. However, family income only includes the income of the CCS eligible child and his or her birth or adoptive parents. CCS does not count any income from child support to brothers or sisters, the income of a stepparent who has not adopted the child, or other adults in the home, even if they help with family support.²¹

You do not have to pay the sliding scale enrollment fee if:

- (a) your child needs medical tests and diagnostic services to decide whether she meets the medical eligibility test to get CCS.
- (b) your child needs only physical or occupational therapy services.
- (c) your family income is less than 200 percent of the federal poverty level. (This means that many families which do have to pay the \$20 annual fee do not have to pay the sliding scale enrollment fee.)
- (d) your child is covered under “Healthy Families.”
- (e) Your child is adopted and had a CCS eligible condition and was financially eligible at the time of adoption.²²

²¹ H&SC § 123900(d); 22 CCR § 42115.

²² CCS Numbered Letter 12-1006 (October 26, 2006).

The County will decide how much your sliding scale enrollment fee is each year. The current CCS fees are listed at the end of this manual.

Hardship Waiver

You can ask CCS to reconsider the amount of your enrollment fee if paying the fee makes it hard for you to pay for food, clothing, shelter or other necessities for your family.²³ You need to make a request in writing to the County CCS office and explain that paying the fee will cause you great hardship. The CCS regulations list two reasons for not having to pay the enrollment fee: a reduction in family income or unavoidable family expenditures.²⁴ The County CCS director will decide whether you still have to pay the fee, or if the fee should be reduced or eliminated. You can also ask to make monthly payments if paying the whole enrollment fee at once will cause you hardship.²⁵

²³ 22 CCR § 42115(c).

²⁴ 22 CCR § 42115(c)(3)(A)(1). Disability Rights California believes that consideration of current year income when there has been a reduction is required by federal law. 42 U.S.C. § 705(a)(5)(D).

²⁵ 22 CCR § 42125(c).

If You do Not Pay the Fees ...

CCS will stop coverage of your child's medical services if you don't pay your enrollment fee within 60 days after the due date, or don't work out a payment schedule with CCS, or don't get permission not to pay because of hardship.²⁶

Children who get Medi-Cal with a share of cost can also get CCS services. We think that the sliding scale enrollment fee for these children should never be more than what their share of cost would be for the year. We also think that paying the enrollment fee can be used to meet your share of cost for Medi-Cal.

If you believe that you should not have to pay a CCS fee or that a CCS fee has been set at the wrong level, you can appeal the decision. See, “What if I Disagree With a CCS Decision?” Question 28.

10. WHAT SERVICES DOES CCS COVER?

CCS provides “medically necessary benefits.”²⁷ CCS services include:

- (a) doctor and hospital services,
- (b) services in a rehabilitation center,
- (c) prescription medications,
- (d) medical supplies,

²⁶ 22 CCR § 42125(e).

²⁷ “Medically necessary” services are defined as “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.” 22 CCR § 41518.

- (e) durable medical equipment (braces, wheelchairs, etc.),
- (f) electronic or manual communication devices,
- g) medical transportation,
- (h) in-home nursing services (generally authorized for up to three months only)²⁸, and
- (i) nursing respite services for children living at home.²⁹

11. WHO PROVIDES CCS MEDICAL SERVICES?

Each County has a panel of doctors, clinics or special care centers, hospitals and therapists who meet CCS standards and are approved to provide CCS services. CCS has its own standards for medical providers. State CCS qualifies special care centers. For example, an approved clinic or special care center must have certain specialists who can come together to treat your child as a team. An approved doctor must have experience and expertise to be on the CCS panel. See section 13.

If your own doctor or hospital is on the CCS panel, they can provide treatment for your child and CCS will pay, as long as they get CCS' approval first. If your medical provider is not approved by CCS, ask the CCS office to give you a list of other panel providers who are approved, and think about switching to another provider. It is important that your child be seen by clinics and doctors that have experience with your child's special condition.

²⁸ CCS Numbered letter 05-0207 (February 15, 2007)..

²⁹ CCS Numbered letter 26-0985 (September 24, 1985).

12. HOW DO I GET CCS TO APPROVE SERVICES FOR MY CHILD?

You must ask CCS to approve a service before your child gets the treatment, except in emergencies. Unless there is a prior authorization, CCS will not pay for the service.

In emergencies, CCS must be contacted as soon as possible after the service is given. You need to make certain that your doctor, clinic or hospital gets the prior authorization or that they contact CCS immediately after emergency services are rendered.

Ask the doctor, clinic or hospital to get the prior authorization even if you think your insurance or private health benefit plan will cover the cost. If the proper procedures are not followed by the doctor or hospital, CCS will refuse to pay and you could be held responsible for the bill. *See* Questions 17-21 for more information about CCS and private health benefit plans.

13. HOW LONG DOES IT TAKE FOR CCS TO AUTHORIZE TREATMENT?

To get CCS services, your doctor or clinic must first send CCS a request to approve services for your child. Then you have to wait for CCS to decide to approve or deny the services. For children who have only CCS and do not get Medi-Cal, there is no set time limit for CCS to decide a request. Sometimes CCS takes months to decide a request for approval. We think that this is wrong and that

CCS must provide services within a reasonable period of time. What is reasonable may depend on what your child needs and how severe or urgent her condition is.

If there is a long delay in getting CCS approval, don't give up. Talk to the CCS office. Make sure your doctor or clinic has sent CCS everything that CCS needs to decide your request. You can also send a complaint to the Chief of the CCS Division and explain why the delay is hurting your child. The address is:

Chief, CCS Division
Department of Health Services
714\744 "P" Street
Sacramento, California 95814

If CCS still doesn't make a decision, we think that you should treat CCS' delay in approving services as a denial of services, which means that you can appeal. File a written request for a CCS hearing with the CCS office even if you have not received a notice saying that services are denied. See question 28, "What if I Disagree with a CCS Decision."

If your child has Medi-Cal as well as CCS, Medi-Cal is really paying for the services and CCS is just the case manager. Under Medi-Cal, there must be some action on requests for approval of services within 30 days.³⁰ This means that Medi-Cal must approve, deny, or tell you that they need more information to make a

³⁰ W&IC § 14103.6; see also DHS Fair Hearing Decision No. 9422445.

decision. If there is no action within 30 days, then the service is approved. We think that for children with Medi-Cal, CCS must follow the Medi-Cal rules and decide the request for services within 30 days. File an appeal and get legal help if your child has Medi-Cal and CCS takes more than 30 days to decide whether to approve services.

14. WHAT IS A CCS "MEDICAL THERAPY UNIT" OR MTU?

Many counties have their own CCS “Medical Therapy Units” or “MTUs.” At the MTU, CCS has its own doctors and therapists to treat your child. For some services, such as physical therapy, CCS may require that you take your child to the MTU for treatment, and will not let you go to your own therapist. Sometimes CCS will approve “vendored therapy” at a hospital or office instead of at the MTU.³¹

If your child has Medi-Cal and you don't want to go to the MTU, you can go directly to a doctor or therapist who accepts Medi-Cal. See our discussion of Medi-Cal and CCS, questions 24-27 below.

15. DOES CCS HAVE TO PROVIDE INTERPRETER SERVICES WHEN WE TAKE OUR CHILD TO THE "MTU"?

Yes. CCS must provide language services for you or for your child at a CCS Medical Therapy Unit if these are needed to give your child an equal opportunity to

³¹ CCS Numbered letters 26-0793 (July 23, 1993) and 03-0104 (January 23, 2004).

benefit from CCS services.³² Language services include having bi-lingual staff, or providing an interpreter at no cost. Sometimes your child does not need language services, for example, because she is a baby or because she speaks English.

However, you as the parent may still need language services to understand follow-up and home-care instructions, or to talk over your child's progress with the CCS doctors and nurses. CCS should never ask or expect families to bring their own interpreters, or expect a child to translate for the parents.

[Many private doctors and hospitals that provide CCS services are also required to have language services. Call us (see front cover) if you have problems with a doctor, hospital or clinic denying you or your child language services.]

16. MY CHILD NEEDS PHYSICAL THERAPY SERVICES AT HOME. WILL CCS COVER THIS?

At present, CCS will only cover physical and occupational therapy services provided at a MTU unless you are in a county which does not have an MTU. We think that the Americans with Disabilities Act requires CCS to provide or authorize therapy at home if your child is too weak or sick to go to the MTU, or if it is too far

³² Discrimination on the basis of race and national origin is prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) and the implementing HHS regulations, 45 C.F.R. § 80.3(b)(2). The CCS program is subject to Title VI because it receives federal funds from both Medicaid and Maternal and Child Health (Titles XIV and V of the Social Security Act) grants. See, 45 C.F.R. § 80, App. A. The failure to provide language services constitutes discrimination on the basis of race and national origin and is a violation of Title VI. Complaints can be filed with the Office of Civil Rights, U.S. Department of Health & Human Services, Region IX.

for her to travel, given her condition. CCS is thinking about changing its policy, so you should ask for home therapy and give CCS some proof, such as a doctor's report, to show why your child needs home visits. If they still deny home therapy, appeal and ask for legal help.

If your child also has Medi-Cal, you can try to get home therapy directly from Medi-Cal without going through CCS. You will need to find a therapist who accepts Medi-Cal, who will make home visits, and who will submit a Treatment Authorization Request with medical justification directly to the local Medi-Cal field office. Ask us to send you our booklet on Medi-Cal for more information about getting physical therapy through the EPSDT Medi-Cal program.

INSURANCE QUESTIONS

17. MY INSURANCE WILL NOT PAY FOR ALL THE TREATMENT MY CHILD NEEDS. WILL CCS COVER THE BILL?

CCS will pay for your child's medical expenses if your insurance or health plan will not cover the services, or pays for only part of the bill. This might happen because your insurance or health plan has limited coverage of certain services, like physical therapy, or because your child needs equipment specialized treatment that the health plan simply doesn't cover.

Please call us if CCS refuses to provide language services at an MTU.

Always ask your doctor or hospital to request CCS approval before treatment, even if you think that your insurance or health benefit plan may cover all or part of the charge. Once CCS approves, the doctor or hospital must bill the private insurance first. Then CCS will pay for anything that the insurance does not cover. This protects you from having to pay the doctor for anything that the insurance doesn't cover (including a deductible, see the next question). CCS has a policy that the doctors and hospitals that participate in CCS cannot bill you for services that CCS approves and authorizes.³³

If the doctor or hospital doesn't get CCS permission first and then asks CCS to pay after the private insurance or health benefit plan denial, it is not clear what will happen. We think that CCS should use the same rules as Medi-Cal. Medi-Cal will let a doctor or hospital get approval after the child is treated when the delay was because the claim had first been filed with an insurance or health benefit plan. If CCS denies coverage because you didn't get prior CCS approval, you should file an appeal immediately.

18. MY PRIVATE INSURANCE PLAN HAS A BIG DEDUCTIBLE THAT WE CAN'T AFFORD TO PAY. WILL CCS HELP?

Yes! Your doctor or medical provider must first get CCS authorization for the service, and then bill your health benefit plan. Once the health benefit plan pays

³³ CCS Numbered Letter 06-0394 (March 10, 1994), page 2.

minus your deductible, your doctor must submit a bill to CCS for payment of the balance. CCS will pay the bill at the CCS rate and you will not owe the doctor or medical provider anything more.³⁴ Payment at the CCS rate means that CCS will pay the difference between what the health benefit plan paid and what CCS would pay if it were paying all of the bill.

19. WE ARE ENROLLED IN A HEALTH BENEFIT PLAN WITH A "PPO" (PREFERRED PROVIDER ORGANIZATION). HOW DOES THAT WORK WITH CCS?

CCS can be a big help, especially if your child needs specialty services. With most Preferred Provider Organizations, the health benefit plan will pay part of the bill if you go to one of their preferred providers. If you go to another provider, the plan will pay a much smaller part of the bill.

If your child has CCS and you want to take him or her to a special doctor or hospital which is not part of your PPO network, be sure to ask CCS for authorization first. If the doctor or medical provider you want is on the CCS panel and CCS agrees that he or she is the best for your child, then CCS will authorize payment, even if that medical provider is not a preferred provider for your health

³⁴ CCS Numbered Letter 06-0394 (March 10, 1994), page 5; Numbered letter 06-0582 (May 15, 1987). *See* the discussion under Question 9.

benefit plan.³⁵ Your doctor should still bill the PPO benefit plan first and then CCS will pay for the part of the bill that your health benefit plan does not cover.

20. MY PHARMACY WON'T BILL MY HEALTH BENEFIT PLAN AND I DON'T HAVE THE MONEY TO PAY FOR MY CHILD'S PRESCRIPTION. WILL CCS HELP?

Yes. CCS will pay the pharmacy for the prescription and ask you to submit a claim to your health benefit plan.³⁶ If the health benefit plan denies payment, give CCS a copy of the claim statement. If your health benefit plan pays you, you must turn the money over to CCS.

21. MY CHILD IS COVERED BY A PRIVATE HMO. IF THE HMO WILL NOT PROVIDE MY CHILD WITH THE SERVICES SHE NEEDS, WILL CCS PAY?

Yes, in many cases, CCS will pay, but it is complicated. CCS will deny all applications for children who are covered by Health Maintenance Organizations (HMO's) like Kaiser, Foundation Health Plan, HealthNet, CIGNA, etc. until you show that the HMO does not cover things that CCS provides, like a wheelchair or other equipment.³⁷ To get CCS to approve your application, get a letter or statement

³⁵ CCS Numbered Letter 06-0394 (March 10, 1994), page 3.

³⁶ CCS Numbered Letter 06-0394 (March 10, 1994), page 5.

³⁷ CCS Numbered Letter 06-0394 (March 10, 1994). Disability Rights California believes that the denial based on HMO coverage is not justified under the statute or regulations because of CCS= case management responsibility for otherwise eligible children. Even if you are covered by an HMO, your child still may be eligible for Medi-Cal with no share of cost, and therefore for CCS as well.

in writing from the HMO that it does not cover the service your child needs. The letter must be signed by an "authorized membership services representative" for the HMO.³⁸

Once you are eligible for CCS, you will have to go to a doctor or medical provider on the CCS panel. This doctor or provider will then have to prescribe the services or prescriptions that your HMO does not cover and ask CCS to authorize and cover them.

It is more complicated if your HMO covers the services that your child needs, but refuses to approve them in your child's case. For example, you want your HMO to refer your child to an outside specialist (who is on the CCS panel) or to a special care center for an evaluation and to develop a treatment plan. However, sometimes the HMO doctor will not recommend the referral or the HMO will not approve the referral recommendation.³⁹ Try to force the HMO to give you a written

³⁸ CCS Numbered Letter 06-0394 (March 10, 1994), page 3.

³⁹ The California Department of Corporations handles complaints against health benefit plans it administers under the Knox-Keene Act. The Department of Corporations requires that the health benefit plan's internal grievance procedure be pursued before the Department will process a complaint. If after 60 days the member's internal grievance is still being processed or the member is dissatisfied with the resolution of the grievance, the member can contact the Department of Corporations' Consumer Services Unit at 866-275-2677. The Consumer Services Unit will take information from the caller and then send a more detailed complaint form. We believe that an HMO's refusal to refer your child to a CCS qualified specialist or to a specialty care center so that a team can evaluate your child and make treatment recommendations violates H&SC § 1367(d) which requires the plan to refer patients "to other providers at times as may be appropriate consistent with good professional practice." We believe that for a child with a CCS eligible

denial and take this to the CCS doctor or the CCS Special Care Center you want your child to see. Ask the doctor or the center to help you submit this to CCS. CCS' case management responsibility is one justification for the evaluation's approval. CCS has a responsibility for insuring your child is receiving services which are appropriate. CCS cannot make that determination unless you are evaluated by a CCS paneled specialist or special care center. If CCS denies the request or refuses to approve eligibility, file an appeal.

22. WE HAVE CHAMPUS⁴⁰ COVERAGE. CAN WE GET CCS?

Yes. CHAMPUS has three plans. The Standard plan works like regular insurance; the Extra plan works like a PPO. The general rules for insurance and a PPO we explained in Sections 16 to 18 apply. The Prime plan is like an HMO and the HMO rules in Section 20 apply. In addition, if there is a full service military hospital in the area, CCS will expect you to try to get services there first before asking for CCS coverage.⁴¹

condition, "good professional practice" requires access to CCS qualified providers including CCS approved special care centers.

⁴⁰ CHAMPUS stands for "Civilian Health and Medical Program of the Uniform Services." 10 U.S.C. §§ 1071-1106. CHAMPUS covers the dependents of persons in uniform service in the military. Commerce Clearinghouse (CCH), the publisher that puts out the Medicare and Medicaid Guide, publishes a loose leaf service on CHAMPUS.

⁴¹ CCS Numbered Letter 06-0394 (March 10, 1994), page 4.

23. MY CHILD IS COVERED BY A HEALTH PLAN UNDER “HEALTHY FAMILIES.” IS SHE ALSO ELIGIBLE FOR CCS?

Yes. CCS services are carved out so that they are not covered under the Healthy Families plans. This means that children with CCS eligible conditions will continue to receive services through CCS. For example, a child with a cleft palate would receive all the services related to the cleft palate (ENT, plastic surgery, dental, occupational therapy) through CCS and a CCS certified specialty care clinic but look to the Healthy Families plan for everything else. The health benefit plans participating in Healthy Families will refer children with potentially eligible conditions to CCS. CCS will make an eligibility determination within five days of receiving the referral.⁴² If CCS concludes that the child does not have an eligible condition, the family has the same appeal rights as with any other adverse action by CCS.

Healthy Families provides for low cost government subsidized health benefit plans for children who are not eligible for Medi-Cal without a share of cost and whose family income does not exceed 200% of the federal poverty level.⁴³ If your child is already a CCS client, your local CCS program can assist you in applying for

⁴² CCS Numbered Letter No. 01-0299 (February 19, 1999).

⁴³ For a family of four 200% of the FPL is \$42,408 a year or \$3,534 a month. *See* Appendix D. To get an application packet or for information about the names of local agencies that can help you fill out an application, call (888) 445-9070.

Healthy Families⁴⁴ so that your child has health care coverage for needs other than those related to the CCS eligible condition.

MEDI-CAL QUESTIONS

24. MY CHILD HAS BOTH MEDI-CAL AND CCS. HOW DOES THIS WORK?

If your child gets Medi-Cal, CCS will act as your medical "case-manager." CCS doctors and nurses will decide what treatment your child needs and help arrange it. If the treatment is something that Medi-Cal covers, then Medi-Cal pays for the treatment, but the approvals will come from CCS. If CCS decides that your child needs services that Medi-Cal will not cover, then CCS will pay for them directly.

In most cases, it is helpful to have CCS as your child's case manager, even if you also have Medi-Cal. CCS can pay for some things Medi-Cal does not. For instance, if your child was referred to Stanford to be admitted for some special procedures, CCS would pay travel expenses and the parent's living expenses while the child was undergoing treatment at Stanford.

However, if you are having trouble with CCS such as CCS refusing to provide a service, or if you don't like the services which are being provided through

⁴⁴ CCS Numbered Letter 01-0299 (February 19, 1999).

the CCS Medical Therapy Unit, you can go directly through Medi-Cal and not bother with CCS. For example, CCS from time to time in certain counties may establish waiting lists for physical therapy services. If your child is also eligible for Medi-Cal, you may wish not to deal with the CCS waiting list but instead go directly to Medi-Cal if you can find a physician or therapist willing to accept Medi-Cal rates. Also, if you are denied services for your child, we think the Medi-Cal appeal process is fairer and faster than the CCS appeals process.

Even though you may have more protections or choices if you go directly through Medi-Cal, you will need a cooperative doctor or therapist who takes Medi-Cal. For example, if you don't want to take your child to a CCS Medical Therapy Unit for physical therapy, you will have to find a private therapist who takes Medi-Cal. Then, your therapist — with documentation of medical need usually with a sign-off by the treating physician — can ask for approval and payment directly from Medi-Cal through the fee-for-service Treatment Authorization Process.

If you go directly through Medi-Cal, you will have to follow Medi-Cal's rules, which require advance approval of a “treatment authorization request” for physical therapy. Generally, Medi-Cal will only pay for 2 physical therapy visits per month. If your doctor thinks that your child needs physical therapy more often than twice per month, your doctor and therapist can submit a request for EPSDT

Supplemental Services to the Medi-Cal field office. EPSDT stands for Early and Periodic Screening, Diagnosis and Treatment. EPSDT is a special Medi-Cal program for children under age 21, which has more generous rules on what is medically necessary than regular Medi-Cal and sometimes even CCS. For more information about EPSDT, look at our Medi-Cal manual.

25. MY CHILD IS IN MEDI-CAL MANAGED CARE. WHAT ABOUT CCS SERVICES FOR MY CHILD?

CCS services are carved out of Medi-Cal managed care plans⁴⁵ with certain exceptions. “Carved out” means that CCS case manages the services needed because of the eligible condition, that the child gets all the services related to the CCS eligible condition through CCS, and that CCS-qualified providers and specialty care centers. The exceptions are:

(1) The County Operated Health Systems in San Mateo, Santa Barbara, Solano, Yolo, Marin and Napa counties.⁴⁶ Although CCS services are not carved out, the county managed care organizations are required to follow CCS standards

⁴⁵ Welfare & Institutions Code § 14094.3(a) says that CCS services shall not be incorporated into any Medi-Cal managed care contracts entered into between August 1, 1994, and January 1, 2012.

⁴⁶ Welfare & Institutions Code 14094.3(a).

and guidelines and use specialty care centers and other providers which meet CCS requirements. CCS retains case management and oversight responsibilities.⁴⁷

(2) Voluntary participation in managed care pilot projects approved by state CCS in accord with Welfare & Institutions Code § 14094.3(c). Los Angeles County has such a pilot project.

(3) Tulare County and San Joaquin County have the option of incorporating CCS services into its managed care plan on a pilot basis.⁴⁸ To date Tulare County has not exercised that option.

When CCS services are carved out of a managed care plan, CCS, not the managed care plan, has the responsibility for making the medical necessity determinations including EPSDT medical necessity determinations for services needed because of a CCS eligible condition. The request for authorization for a

⁴⁷ Welfare & Institutions Code § 14093.05(c)-(e): to the extent CCS services are incorporated into a managed care contract, managed care organization is required to follow CCS standards and guidelines, use CCS qualified special care centers and providers, follow CCS approved treatment programs. Any service not available through the managed care plan remains the responsibility of the state and county CCS program.

Welfare & Institutions Code § 14094.1(a): Responsibility of the Department of Health Services to insure that Medi-Cal managed care organizations “to maintain and follow standards of care established by the program, including use of paneled providers and CCS approved special care centers and to follow treatment plans approved by the program, including specified services and providers of services.”

Welfare & Institutions Code § 14094.2: No reduction in benefit levels or scope of eligibility for CCS. Any service not available through the managed care organization continues to be available through CCS. State and local CCS has oversight responsibility to insure compliance with CCS standards.

⁴⁸ Welfare & Institutions Code §§ 14087.3, 14087.31, 14087.315.

service or a piece of equipment will be through CCS. However, if the requested service is home health care or nursing, the prior authorization request should be submitted to Medi-Cal's In-Home Operations.⁴⁹ Services will be delivered through the fee-for-service system as authorized by CCS. Even though the child has a CCS eligible condition, the managed care organization would be responsible for services where the need is not related to the CCS eligible condition.

If your child runs into problems because the computer systems (which read the Medi-Cal plastic card and which process fee-for-service payments) do not recognize the CCS carve out with respect to a CCS approved service, the first step would be contacting the CCS office that approved the service to straighten out the problem with Medi-Cal. However, you also have the right to request a Medi-Cal fair hearing if the computer glitch means the approved service is denied or delayed.

When CCS services are not carved out but are included in the managed care organization's responsibilities to your child, the state and local CCS program retain medical case management responsibility including responsibility for approving

⁴⁹ In-Home Operations (IHO), Medi-Cal Operations Division, Department of Health Services, 700 North 10th Street, P.O. Box 942732, Sacramento CA 94234-7320, telephone (916) 552-9105 (Sacramento) and (213) 897-6774 (Los Angeles). When IHO receives a Treatment Authorization Request (TAR) for home health care or nursing, IHO will send information to the home county's CCS program for a determination that (a) the child has a CCS eligible condition and (b) the nursing is needed because of the CCS eligible condition. IHO, pursuant to an agreement with CCS, will make the TAR determination on nursing. However, the formal authorization will come from CCS.

treatment plans.⁵⁰ There are no regulations explaining how CCS's medical case management would work. Practically, we think the plan of care developed by a CCS approved special care center usually would be the CCS approved treatment plan. If the family of a child has questions about whether care for the CCS eligible condition is being delivered in accord with CCS standards, the family should request CCS authorization for an evaluation and treatment plan development consistent with CCS's ongoing medical case management responsibilities. The request can be in writing or by phone or via an authorization request submitted by a CCS approved special care center or provider.

Congress through the Balanced Budget Act of 1997⁵¹ enacted important consumer protections for people in Medicaid managed care as part of the authorization for States to mandatorily enroll Medicaid beneficiaries in managed care without seeking a federal waiver. Among those protections are protections for children with special needs. Absent a waiver, a state cannot mandatorily enroll in managed care children covered or coverable by CCS, children receiving SSI, children in foster care, or children under a home and community based waiver.⁵²

⁵⁰ Welfare & Institutions Code §§ 14093.05(c)-(e), 14094.1, 14087.315.

⁵¹ Section 4701(a) of Pub.L. 105-33.

⁵² 42 U.S.C. § 1396u-2(a)(2)(A). The HCB waivers including children are:
1) the Nursing Facility Waiver for children — including children who are resource ineligible who would otherwise require care in a nursing facility

26. WE HAVE MEDI-CAL BUT OUR SHARE OF COST EACH MONTH IS SO MUCH THAT WE NEVER MEET IT. CAN CCS HELP?

Yes. You need to compare your monthly share of cost under Medi-Cal with the annual enrollment fee that you would have to pay for CCS. As an example, let's look at a couple with gross income of \$36,000 per year with two teenage children, one of whom has a CCS eligible condition. The child with a disability could qualify for Medi-Cal with a monthly share of cost of \$357.50⁵³ if the child met the SSI disability standard; \$1810 if the child did not meet the SSI disability standard. But under CCS, there would be no enrollment fee and no sliding scale fee for the whole year because the family's income is less than 200% of the FPL.⁵⁴ (See appendix D for Federal Poverty Level Chart). Once this was paid, CCS would cover all bills for the child related to the handicapping condition. You would not have to worry about your monthly share of cost for these bills.

In this example, CCS would not cover medical bills which had nothing to do with the child's disability (for example, emergency room bills to sew up a gash or

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- A) or eligible for Medi-Cal only with a share of cost when living in their family home
 - B) or Subacute facility

2) DDS waiver for children who otherwise would require care in an intermediate care facility for developmentally disabled.

3) Children with AIDS symptomatology. *See* DHS All-County Welfare Director Letter No. 03-0301. Cal H&S Code Sec. 123900.

⁵³ For information on how to calculate your share of cost and/or if a child qualifies for Medi-Cal without a share of cost, please contact a Disability Rights California office for our manual on Medi-Cal.

address a simple fracture). These bills would have to be covered by Medi-Cal and would be subject to the monthly share of cost.

27. WHEN I APPLIED FOR CCS, I WAS REFERRED TO MEDI-CAL. WHY IS THAT?

If CCS thinks that your child may be eligible for full scope Medi-Cal, you will be referred to your county welfare department to apply for Medi-Cal as part of the application and financial screening process.

You should not be referred to the Medi-Cal program if you would not qualify for Medi-Cal for reasons which don't apply to CCS. For instance, Medi-Cal has immigration restrictions and limits on savings and resources in programs other than the Federal Poverty Level programs. CCS does not. CCS should not refer you to Medi-Cal if you have more resources than Medi-Cal allows (\$3,150 for a family of 3), unless your child would qualify under one of the Federal Poverty Level Programs where resources are no longer counted.

In addition, CCS should not refer you to Medi-Cal if you would qualify for Medi-Cal only with a share of cost. However, it may be better for you to apply for Medi-Cal with a share of cost because Medi-Cal will cover all health care needs, not just those related to the CCS eligible condition. To find out more, refer to our Medi-Cal Manual.

54 CCS Numbered Letters 02-1101 (November 6, 2001) and 03-0301. Cal. H&S Code Sec. 123900.

APPEALS

28. WHAT IF I DISAGREE WITH A CCS DECISION?

You can appeal any CCS decision that affects your child. We describe the appeal process in Sections 31 to 33. You can appeal if:

- (a) CCS says that your child is not eligible for CCS services;
- (b) CCS refuses to cover a service for your child;
- (c) CCS stops providing or approving services your child is already getting;
- (d) CCS says you must pay a fee which you can't afford;
- (e) CCS refuses to cover an evaluation you need as part of CCS's case management responsibilities to persons in Medi-Cal managed care without carve out protections or persons covered by an HMO.⁵⁵

In many cases, CCS will give you a written "notice of action" which should tell you what CCS plans to do. The notice should give the reason for CCS's decision.⁵⁶ The notice will also tell you how to appeal the decision.

If CCS does not give you a written notice of action, ask for one anyway. But even if CCS refuses to give you a written notice, you can still appeal by sending a written request for a hearing to the county CCS agency or the regional CCS office. See Appendix C for a list of CCS agencies and their addresses.

⁵⁵ 22 CCR Sec. 42701.

⁵⁶ 22 CCR § 42700; 22 CCR § 42701(a)

We have heard of examples where local CCS agencies have told families not to appeal because they say it would be hopeless, or where CCS even said that the family could not appeal at all. Don't give up. The CCS appeal process is the only real way you have of challenging a CCS decision to deny, reduce or stop medical services for your child.

Finally, if the child is eligible for Medi-Cal, the child has the right to appeal through the Medi-Cal fair hearing process in addition to or instead of pursuing the CCS appeal process. This is because the services at issue are Medi-Cal services being case managed by CCS. You start the *Medi-Cal* appeal process by writing a letter addressed as follows:

Chief ALJ
State Hearings Division
Department of Social Services
P.O. Box 944243/ Mail Station 19-37
Sacramento, CA 94244-2430

Re: Medi-Cal Scope Fair Hearing
Medi-Cal Services Being Case Managed by CCS
Child's name and your name, address, phone
Medi-Cal and CCS numbers

29. WILL MY CHILD'S CCS SERVICES CONTINUE WHILE I APPEAL?

If CCS is already providing services for your child and says that these services will stop, you should appeal and ask that these services continue until your

appeal is decided. You must specifically ask that services continue when you appeal. If you do not, CCS will not continue your services. The CCS regulations say that CCS must continue services if stopping the services or changing them could cause injury or even death for your child, or if your child will lose physical function or get worse without the treatment.⁵⁷

If your child's services are being cut off because CCS says your income is too high or you are not California residents, a CCS doctor will decide whether to continue services while you appeal.

If your child's services are being cut off because CCS says they are not necessary, or because your child doesn't meet the medical eligibility test to get CCS services, another CCS paneled doctor will decide whether to continue services. This outside expert doctor cannot be a CCS employee or have a consultant contract with CCS. You get to choose the outside doctor from a list of three that CCS will give you. Once you pick you doctor, CCS will pay for the doctor to examine your child at a time that is agreeable to you and to the expert doctor.

If the outside expert doctor decides that CCS does not have to continue services for your child during the appeal, the only thing you can do is file a lawsuit in court asking for continuation services.

⁵⁷ 22 CCR § 42708.

30. CAN I APPEAL TO CCS IF THEY CUT OFF OR CHANGE THE PHYSICAL OR OCCUPATIONAL THERAPY MY CHILD HAS BEEN GETTING AT SCHOOL?

Yes. You should appeal to CCS if they cut off or change the physical or occupational therapy that your child has been getting at school. *See* questions 34 to 36 for information about the appeal procedures.

CCS will cut off or reduce therapy if they think it is not medically necessary. Whether or not they are right, the therapy may still be educationally necessary to help your child to benefit from his/her program in regular or special education.⁵⁸

While you appeal the CCS decision and if your child has been determined eligible to receive special education through the school district, you should look at your child's Individualized Education Plan (IEP), the documents which sets out the special services your child needs in order to benefit from his educational program. If the therapy is included in the IEP, the school must continue to provide the services as it says in the IEP.⁵⁹ Sometimes getting therapy from CCS or Medi-Cal is difficult because a therapist willing to work for the Medi-Cal payment rate cannot be found. If, however, the therapy is also part of an IEP, the school district is not

⁵⁸ Cal. H&S Code Sec. 123870(b).

⁵⁹ The Department of Education has issued a Program Advisory number SPB: 95/96-02 which your school district should recognize and which clarifies the school district's responsibility for educationally related therapy.

bound by Medi-Cal rates and will have to pay more to assure that this IEP service is provided.

If your child's IEP does not discuss the therapy, you should ask that the IEP team meet immediately to decide whether the services are educationally necessary (whether the services are needed in order for the child to benefit from his/her educational program). If the IEP team⁶⁰ decides that the services are educationally necessary, the school must provide the services as soon as possible after the IEP meeting.⁶¹

If the IEP team decides that the services are not educationally necessary, you have a right to request a due process hearing with the school.⁶² Look at DISABILITY RIGHTS CALIFORNIA's SERR manual on special education appeals.⁶³

⁶⁰ The AIEP Team@ are the people who meet at least once a year to develop the educational program for the student with a disability. The team includes at minimum the parents, the special education teacher, a regular education teacher if appropriate, and a district representative or school administrator. As appropriate other persons would participate on the team: the school nurse, the therapist, and anyone else selected by either the parents or the school district. 20 U.S.C. § 1415(b)(1), 34 CFR § 300.503; Calif. Educ. Code § 56329.

⁶¹ Note that the school may not refuse needed services for a child with a disability because the parents do not appeal the CCS decision or while the CCS appeal is going on.

⁶² The State Department of Education says that CCS must appear and participate in Special Education hearings.

⁶³ If requested, CCS should either attend the IEP meeting or hearing, or send a report.

If CCS and the school argue over who should pay, the school must provide the services while the dispute is being resolved.⁶⁴

31. CCS CUT MY CHILD'S SERVICES BECAUSE THE CCS DOCTOR AT THE CCS MEDICAL THERAPY UNIT SAID SHE DIDN'T NEED THEM ANYMORE. CAN I APPEAL?

CCS has its own doctors at the county CCS Medical Therapy Units (“MTUs”) who are in charge of the services provided at the MTUs. Sometimes these doctors will decide that your child no longer needs therapy and order the therapy to be cut off. You will not get a notice of action when this happens.⁶⁵ Even though you don't get a notice, you can still appeal this decision through the CCS appeal process. However, your child's services probably will not continue while you wait for your appeal hearing.

Specifically, the CCS regulations say that CCS does not have to give a notice of action or tell you about your appeal rights when the reduction, termination or modification of current services or benefits is ordered by the CCS doctor who is providing medical supervision of your child or if the child is in a licensed acute care or subacute medical care facility.⁶⁶

⁶⁴ If CCS and the school disagree about who should pay, then a Government Code Section 7585 complaint is necessary. See SERR (Special Education Rights and Responsibilities) manual (see front cover to order).

⁶⁵ 22 CCR § 42702.

⁶⁶ 22 CCR § 42701(b)(2) & (4).

We believe that CCS is wrong and that the United State and State Constitutions require that CCS give notice in these situations, as part of your right to due process. If CCS refuses to provide notice to you or your child, you can still appeal and should also seek legal help. As a practical matter, you will need another doctor to support the need for the services or you will not be able to present a good case. See the next section, about getting CCS to pay for a second opinion from another doctor.

32. WILL CCS PAY FOR A SECOND OPINION FROM ANOTHER DOCTOR IF I DON'T AGREE WITH THE CCS DOCTOR AT THE MTU?

If you don't agree with the decision of a CCS doctor to deny, reduce or stop services, CCS will let you choose a second doctor from a list of three “expert” doctors provided by CCS.⁶⁷ Then CCS will pay for this "expert doctor" to evaluate your child.

The opinion of the expert doctor is final.⁶⁸ If this expert doctor agrees with you that your child needs treatment, CCS must provide it. On the other hand, if the expert doctor agrees with CCS, then you do not have a right to appeal further.

⁶⁷ 22 CCR § 42708(a)(2)(paragraph 2).

⁶⁸ 22 CCR § 42702 (a).

Sometimes, you may want a second opinion from a different doctor who is not on CCS' list of three expert doctors. We think you should be able to choose any doctor you want if that doctor is on the larger CCS panel but not on CCS' list of three doctors. You should be allowed to go to a CCS administrative hearing and present your own doctor's testimony about your child's need for service. When faced with this situation, you should ask for legal advice.

33. CCS APPROVED PHYSICAL THERAPY FOR MY CHILD FOR ONLY 6 MONTHS. CAN I APPEAL IF I THINK MY CHILD NEEDS THERAPY AFTER THIS TIME?

CCS regulations say that you will not get a notice if the services were approved for only a limited time period, if CCS told you about the time limit at the beginning, and if services are cut off when CCS had told you they would be.⁶⁹ Even though you won't get a notice, you can still appeal. Even if you once felt a proposed termination date was reasonable, you should be able to change your mind, given new information, or if the treatment goals were not met.⁷⁰

⁶⁹ 22 CCR § 42701(b)(3).

⁷⁰ Under Medi-Cal, the failure to meet a treatment goal set out in the previously approved treatment authorization request is one reason why a subsequent period of treatment services will be approved. 22 CCR § 51013(c)(1)(G). If the reauthorization request is denied, the Medi-Cal beneficiary receives a notice. If the request for hearing is timely, the Medi-Cal recipient is entitled to a continuation of services or “medical assistance pending” the fair hearing decision. 22 CCR § 51014.1(e)(1), 51014.2(b).

You should begin speaking with the CCS agency when you first think that the initial cut-off date may not be long enough. Don't wait until the date that services are supposed to end. Ask for a notice of action and then ask for an appeal hearing if CCS still decides to cut off services. Here too, you may need legal help in order to get a hearing.

If you are eligible for both CCS and Medi-Cal, and if the treatment goals identified when the six months were approved have not been met, then arguably you could qualify for continuing services *if* the request for a reauthorization period was submitted within ten days after the termination of the prior period and the Medi-Cal fair hearing request is made within ten days of the date the denial was mailed to the Medi-Cal beneficiary.⁷¹

34. HOW LONG DO I HAVE TO FILE AN APPEAL?

You have only 30 calendar days to appeal a CCS decision. Your written request for an appeal must be postmarked within 30 calendar days of the date of the Notice of Action not the date you actually receive the notice.⁷² If you didn't get a notice, file your appeal within 30 days of the action that you are appealing. You don't have to use a special form and can just send CCS a letter. But always make

⁷¹ Calif. Code Reg., tit.22, §§ 51003(c), 51014.1(g), 51014.1(e)(1), 51014.1(d).

⁷² 22 CCR § 42703(a).

and keep copies of any letters you send. In your appeal letter, you should explain what CCS has done, explain why you think this is wrong and ask that CCS services continue until your appeal is over.

You should send your appeal letter to the CCS office in charge of your services. This may be the county CCS agency or, in smaller counties, the regional CCS office. See Appendix C for a list. If you received a notice of action, the CCS office and its address should be listed on the notice. You can ask the CCS office for help in filing your appeal. They are required to help you if you ask.

35. WHAT IS A “FIRST LEVEL APPEAL” TO CCS?

After you appeal, CCS will review your written request without holding a hearing. This is a "First Level Appeal." CCS has 21 calendar days after getting your appeal to review it and mail a written response. CCS' response must explain the reason for the CCS decision, including the facts and the laws and regulations that CCS relied on.⁷³

CCS may decide that it needs additional information to review your appeal. Instead of giving you a written response, CCS may ask you to give them more

⁷³ 22 CCR § 42703(e).

information. Then, CCS has 21 calendar days after its gets your additional information to give you a written response.⁷⁴

If CCS decides against you in this “First Level” appeal, you can ask for CCS Fair Hearing, where you can appeal in person and tell your side of the story to an administrative law judge.⁷⁵

36. HOW DO I GET A CCS FAIR HEARING (A SECOND LEVEL APPEAL)?

If you lose at your "First Level Appeal" to CCS, you have 14 calendar days after the date of CCS's written decision to file a request for a CCS Fair Hearing.⁷⁶

Your request must be mailed to the Director of the Department of Health Services (not the local CCS agency). Hearing Requests should be sent to:

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

You must include a copy of the first level appeal decision along with your hearing request. The request must be signed by the child's parent or legal guardian,

⁷⁴ 22 CCR § 42703(e).

⁷⁵ 22 CCR § 42703(f).

⁷⁶ 22 CCR § 42705(a)(1).

or if the child is over age 18, the child himself/herself. The hearing request should explain what CCS has done and why you think this decision is wrong.

CCS will mail you written notice of the time and place of the CCS Fair Hearing at least 30 calendar days before the date of the hearing.⁷⁷ The Fair Hearing must be at a time and place reasonably convenient to you.⁷⁸ If it is hard for you to bring your child to the hearing office, you can ask for a hearing at home.

At the hearing, you can bring in witnesses to help you explain what your child needs. These witnesses could be your child's special education teacher, her babysitter, your Regional Center service coordinator, your child's respite worker, home health nurse or IHSS worker, and your child's doctor or medical provider. You can ask the hearing officer to issue a subpoena to make someone testify at the hearing.⁷⁹ You can also ask that some of your witnesses testify by telephone, instead of having to come to the hearing in person. CCS can ask you for a list of witnesses you intend to call. CCS can also ask you for copies of documents, such as medical reports, that you plan to show the Hearing Officer.⁸⁰

⁷⁷ 22 CCR § 42706.

⁷⁸ 22 CCR § 42707.

⁷⁹ 22 CCR § 42711.

⁸⁰ 22 CCR § 42710.

CCS may also call witnesses. Before you go to the hearing, you have a right to get a list of the names and address of the witnesses CCS plans to call at the hearing.⁸¹ You can also inspect and make a copy of any records CCS has in its files.⁸² You must make a written request for these things.⁸³ You do not need a subpoena to copy these records.

The CCS Fair hearing is conducted by a Hearing Officer, who is an administrative law judge from the State Department of Health Services. At the hearing, each side is expected to present evidence, either written documents or spoken testimony from witnesses. The Hearing Officer will expect you to be ready to go on the day of the hearing, and to have your evidence and witnesses present at the hearing.

You do not need the help of a lawyer or paralegal to go to a CCS hearing. However, you may want to ask an experienced advocate or attorney to help you prepare for your Fair Hearing. If your child is eligible for Regional Center services, you can ask your service coordinator or the Client Rights Advocate at the Regional Center to represent you or help you with your hearing.

⁸¹ 22 CCR § 42710(a)(1).

⁸² 22 CCR § 42710(a)(2).

⁸³ 22 CCS § 42710(a).

After the hearing, the Hearing Officer will write a “proposed decision.”⁸⁴ The Director of the Department of Health Services then has a chance to accept the Hearing Officer's decision. The Director can also change the decision, or reverse the Hearing Officer's decision before it is issued.⁸⁵ The decision must be issued within 90 days of your request.⁸⁶

The CCS Fair Hearing is important, because you must go through with this hearing before you can go to court for additional help. Any court action will be based upon the facts presented at the administrative hearing, so you should try to put in all the evidence and facts that you can.

⁸⁴ 22 CCR § 42720(a).

⁸⁵ 22 CCR § 42720(b)(1-3).

⁸⁶ 22 CCR § 42720(d).

REFERENCES

Health & Safety Code section 123800 and those sections following.

Title 22, California Code of Regulations, section 4151 and sections following.

CCS Program Manual. This manual must be available for inspection and review at any County CCS office.

APPENDICES

Appendix A – List of physically disabling CCS eligible conditions

Appendix B – How CCS is funded and operated

Appendix C – List of County CCS agencies

Appendix D – 2008 Federal Poverty Level chart

Appendix E – CCS Outreach/Training Leaflets (2)

APPENDIX A

WHAT KINDS OF PHYSICALLY DISABLING CONDITIONS ARE ELIGIBLE FOR CCS SERVICES?

CCS-eligible conditions are generally physical disabilities which are severe and serious. The CCS regulations (Title 22 California Code of Regulations ' 41800) list examples of conditions which meet the CCS medical eligibility test:

1. Orthopedic conditions due to infection, injury or congenital malformation.
2. Conditions requiring plastic reconstruction, such as cleft lip, oro-facial anomalies and burns.
3. Conditions requiring orthodontic reconstruction, such as cleft palate, severe malocclusion, oro-facial anomalies.
4. Eye conditions leading to a loss of vision. (Ordinary refractive errors are excluded.)
5. Ear conditions leading to a loss of hearing.
6. Rheumatic fever.
7. Nephritis, nephrosis, or the nephrotic syndrome.
8. Phenylketonuria.
9. Hemophilia.
10. Hyaline Membrane Disease.

11. Endocrine and/or metabolic disorders posing medical management problems or problems of diagnosis.
12. Convulsive disorders posing medical management problems or problems of diagnosis.
13. Blood dyscrasias.
14. All neoplasms.
15. Severe skin disorders such as epidermolysis bullosa.
16. Chronic pulmonary conditions such as cystic fibrosis, bronchiectasis and lung abscess.
17. Congenital anomalies causing disabling or disfiguring handicaps.
18. Conditions of the nervous system such as inflammatory disease of the central nervous system which produces motor disability such as paralysis, ataxia, etc; and neuromuscular disease such as cerebral palsy, muscular dystrophy.
19. Conditions resulting from accidents of poisoning which may be potentially handicapping, such as complicated fractures, brain and spinal cord injuries, stricture of the esophagus.
20. Severe adverse reaction to an immunization requiring extensive medical and related care.

21. Other disabling or disabling or disfiguring conditions which are handicapping.

Since these are examples, other similar conditions may also qualify, even if they are not listed.

The local CCS agency's application of CCS policies may result in children who actually meet the criteria in the regulations being found ineligible for services. In our experience children with diabetes, seizure disorder, or asthma and whose disability problems are difficult to manage medically are often erroneously denied eligibility. If that happens to your child, it will probably be necessary to file a CCS appeal in order to get the local agency to follow state regulations to accept your child as having a CCS eligible condition.

APPENDIX B

HOW IS CCS FUNDED AND OPERATED?

The CCS program is funded jointly by the County and the State.

Expenditures for CCS services are composed of an equal amount of County and State funds. A county may decide to contribute more than the minimum required, in which case the State shall match it.

In larger counties, those over 200,000 in total population, the county administers the CCS program at the local level. In smaller counties, those under 200,000 population, the local CCS program is generally administered by the State. If you live in a small county, you still contact CCS through your county health department, but decisions concerning eligibility and treatment services will be made in the state regional office serving your area.

APPENDIX C

LIST OF COUNTY CCS AGENCIES

To find out more about California Children's Services (CCS) services or the application process, please contact your county CCS office.

County Name/Website	County Code	Office Address	Phone	Fax
Alameda Independent	01	1000 Broadway, Suite 500, Oakland, CA 94607	510-208-5970	510-267-3254
Alpine Dependent	02	75-B Diamond Valley Road, Markleeville, CA 96120-9579	530-694-2146	530-694-2252
Amador Dependent	03	10877 Conductor, Blvd., Sutter Creek, CA 95685	209-223-6630	209-223-3524
Butte Independent	04	1370 Ridgewood Drive, Suite 22, Chico, CA 95973-7803	530-895-6546	530-895-6557
Calaveras Dependent	05	Mail: 891 Mountain Ranch Road, San Andreas, CA 95249-9713 Street: 700 Mountain Ranch Road, Suite C2, San Andreas, CA 95249	209-754-6460	209-754-1710
Colusa Dependent	06	251 East Webster Street, Colusa, CA 95932-2951	530-458-0380	530-458-4136
Contra Costa Independent	07	597 Center Avenue, Suite 110, Martinez, CA 94553-4669	925-313-6100	925-313-6115
Del Norte Dependent	08	880 Northcrest Drive, Crescent City, CA 95531-9988	707-464-3191	707-465-1783
El Dorado Dependent	09	929 Spring Street, Placerville, CA 95667-4543	530-621-6128	530-622-5109
Fresno Independent	10	Mail: P.O. Box 11867, Fresno, CA 93775-1867 Street: 1221 Fulton Mall, Fresno, CA 93721	559-445-3300	559-445-3253
Glenn Dependent	11	240 North Villa Avenue, Willows, CA 95988-2694	530-934-6588	530-934-6463
Humboldt Independent	12	550 I Street, Eureka, CA 95501-1117	707-445-6212	707-441-5686
Imperial Dependent	13	Mail: 935 Broadway, El Centro, CA 92243-2396 Street: 797 Main Street, Suite A, El Centro, CA 92243	760-482-7834	760-482-2945
Inyo Dependent	14	207-A West South Street, Bishop, CA 93514	760-873-7868	760-873-7800

Kern Independent	15	Mail: P.O. Box 70670, Bakersfield, CA 93387 Street: 1600 E. Belle Terrace, Bakersfield, CA 93307	661-635-2800	661-635-2901
Kings Dependent	16	330 Campus Drive, Hanford, CA 93230-4375	559-584-1401	559-582-6803
Lake Dependent	17	922 Bevins Court, Lakeport, CA 95453-9739	707-263-1090	707-263-5872
Lassen Dependent	18	1445 Paul Bunyan Road, Susanville, CA 96130-3146	530-251-8183	530-251-2668
Los Angeles Independent	19	9320 Telstar Avenue, Suite 226, El Monte, CA 91731-2849	800-288-4584	626-569-9349
Madera Dependent	20	14215 Road 28, Madera, CA 93638-5715	559-675-7893	559-675-7803
Marin Independent	21	899 Northgate Drive, Suite 415, San Rafael, CA 94903	415-473-6877	415-473-6396
Mariposa Dependent	22	Mail: P.O. Box 5, Mariposa, CA 95338 Street: 4988 Eleventh Street, Mariposa, CA 95338	209-966-3689	209-966-4929
Mendocino Independent	23	1120 South Dora Street, Ukiah, CA 95482-8333	707-472-2600	707-472-2735
Merced Independent	24	260 East 15th Street, Merced, CA 95340-6216	209-381-1114	209-381-1102
Modoc Dependent	25	441 North Main Street, Alturas, CA 96101	530-233-6311	530-233-5754
Mono Dependent	26	Mail: P.O. Box 3329, Mammoth Lakes, CA 93546 Street: 437 Old Mammoth Road, Suite Q, Mammoth Lakes, CA 93546	760-924-1841	760-924-1831
Monterey Independent	27	1615 Bunker Hill Way, Suite 190, Salinas, CA 93906	831-755-4747	831-796-8690
Napa Independent	28	2261 Elm Street, Building R, Napa, CA 94559-3721	707-253-4391	707-299-2123
Nevada Dependent	29	500 Crown Point Circle, Suite 110, Grass Valley, CA 95945	530-265-1450	530-271-0841
Orange Independent	30	200 West Santa Ana Boulevard, Suite 100, Santa Ana, CA 92701-4134	714-347-0300	714-347-0301
Placer Independent	31	11484 B Avenue, Auburn, CA 95603-2603	530-886-3630	530-886-3613
Plumas Dependent	32	Mail: P.O. Box 3140, Quincy, CA 95971 Street: 270 County Hospital Road, Suite 260, Quincy, CA 95971	530-283-6330	530-283-6110
Riverside Independent	33	10769 Hole Avenue, Suite 220, Riverside, CA 92505-2869	951-358-5401	951-358-5198
Sacramento Independent	34	9616 Micron Avenue, Suite 640, Sacramento, CA 95827-2627	916-875-9900	916-369-0639
San Benito Dependent	35	439 Fourth Street, Hollister, CA 95023-3801	831-637-5367	831-637-9073
San Bernardino Independent	36	150 Carousel Mall, San Bernardino, CA 92415-0062	909-387-8400	909-387-8401
San Diego	37	6160 Mission Gorge Road, San Diego, CA	619-528-	619-528-

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Independent		92120	4000	4087
San Francisco Independent	38	30 Van Ness Avenue, Suite 210, San Francisco, CA 94102-6082	415-575-5700	415-575-5790
San Joaquin Independent	39	2233 Grand Canal Boulevard, Suite 105, Stockton, CA 95207-6657	209-953-3600	209-953-3632
San Luis Obispo Independent	40	Mail: P.O. Box 1489, San Luis Obispo, CA 93406-1489 Street: 2156 Sierra Way, San Luis Obispo, CA 93401-4556	805-781-5527	805-781-4492
San Mateo Independent	41	Mail: P.O. Box 5894, San Mateo, CA 94402-5894 Street: 2000 Alameda de las Pulgas, Suite, 230, San Mateo, CA 94403	650-573-2755	650-573-2751
Santa Barbara Independent	42	1111 Chapala Street, Suite 200, Santa Barbara, CA 93101	805-681-5360	805-681-4763
Santa Clara Independent	43	720 Empey Way, San Jose, CA 95128-4705	408-793-6200	408-793-6250
Santa Cruz Independent	44	Mail: P.O. Box 962, Santa Cruz, Ca 95061-0962 Street: 12 West Beach Street, Suite 271, Watsonville, CA 95076	831-763-8900	831-763-8910
Shasta Dependent	45	4217 Front Street, Shasta Lake City, CA 96019	530-225-5760	530-225-5355
Sierra Dependent	46	Mail: P.O. Box 7, Loyalton, CA 96118-0007 Street: 202 Front Street, Loyalton, CA 96118	530-993-6700	530-993-6790
Siskiyou Dependent	47	806 South Main Street, Yreka, CA 96097	530-841-2132	530-841-4075
Solano Independent	48	275 Beck Avenue, MS 5-175, Fairfield, CA 94533-4090	707-784-8650	707-421-7484
Sonoma Independent	49	625 Fifth Street, Santa Rosa, CA 95404-4428	707-565-4500	707-565-4520
Stanislaus Independent	50	Mail: P.O. Box 3088, Modesto, CA 95353-3088 Street: 830 Scenic Drive, Third Floor, Modesto, CA 95350	209-558-7515	209-558-7862
Sutter Dependent	51	Mail: P.O. Box 1510, Yuba City, CA 95992-1510 Street: 1445 Veterans Memorial Circle, Yuba City, CA 95993	530-822-7215	530-755-0741
Tehama Dependent	52	Mail: P.O. Box 400, Red Bluff, CA 96080-0400 Street: 1860 Walnut Street, Suite C, Red Bluff, CA 96080-3611	530-527-6824	530-527-0362
Trinity Dependent	53	Mail: P.O. Box 1470, Weaverville, CA 96093-1470 Street: 51 Industrial Park Way, Weaverville, CA 96093-1470	530-623-1358	530-623-1297
Tulare Independent	54	115 East Tulare Avenue, Tulare, CA 93274	559-685-2533	559-685-4780

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Tuolumne Dependent	55	20111 Cedar Road North, Sonora, CA 95370-5939	209-533-7400	209-533-7406
Ventura Independent	56	2240 East Gonzales Road, Suite 260, Oxnard, CA 93036-8210	805-981-5281	805-981-5280
Yolo Independent	57	137 North Cottonwood Street, Suite 2300, Woodland, CA 95695	530-666-8333	530-666-1283
Yuba Dependent	58	5730 Parkard Avenue, Suite 100, Maryville, CA 95901	530-749-6340	530-749-6830

APPENDIX D

©2008 Federal Poverty Level Chart - Effective 4/1/08*

Persons	Monthly MMNL(\$)	MMNL as % of FPL(\$)	100%(\$) Monthly	Annual(\$) 100%FPL	120% Monthly (\$)	133% Monthly (\$)	135% Monthly (\$)	185% Monthly (\$)	200% Monthly (\$)	250% Monthl (\$)
1	600	70%	867	10,400	1,040	1,153	1,170	1,604	1,734	2,167
2	750	65%	1,167	14,000	1,400	1,552	1,575	2,159	2,334	2,917
Adults	934	81%	1,167	14,000	1,400	1,552	1,575	2,159	2,334	2,917
3	934	64%	1,467	17,600	1,760	1,951	1,980	2,714	2,934	3,667
4	1,100	63%	1,767	21,200	2,120	2,350	2,385	3,269	3,534	4,417
5	1,259	61%	2,067	24,800	2,480	2,749	2,790	3,824	4,134	5,167
6	1,417	60%	2,367	28,400	2,840	3,148	3,195	4,379	4,734	5,917
7	1,550	59%	2,667	32,000	3,200	3,547	3,600	4,934	5,334	6,667
8	1,692	58%	2,967	35,600	3,560	3,946	4,005	5,489	5,934	7,417
9	1,825	56%	3,267	39,200	3,920	4,345	4,410	6,044	6,534	8,167
10	1,959	55%	3,567	42,800	4,280	4,744	4,815	6,599	7,134	8,917
For each additional member, add:	14		300	3,600	360	399	405	555	600	750

*MMNL is the Medi-Cal Medically Needy Income Level

* Medi-Cal maintenance need limit for person in LTC = \$35

* Qualified Medicare Beneficiary (QMB) = 100%

* Children ages 6 and up = 100%

* Specified Low Income Beneficiaries = 120%

* Children age 1 up to age 6 = 133%

* Pregnant women and infants up to age 1 = 200%

* Qualified Disabled Working Individuals = 200%

* Transitional Medi-Cal (TMC) = 185%

* Decimals are rounded up to nearest dollar

* Healthy Families Program and Working Disabled Program = 250%

* Notes: none of the federal poverty level programs asterisked consider resources, only income. For Medi-Cal eligibility, use the chart only after you have deducted the allowable deductions from gross income. For more information, look at DISABILITY RIGHTS CALIFORNIA's Medi-Cal Manual.

APPENDIX E

CALIFORNIA CHILDRENS SERVICES (CCS) OUTREACH/TRAINING LEAFLETS

INCOME TEST – less than \$40,000 per year, unless estimated medical expenses will be more than 20% of family income or are eligible for full-scope Medi-Cal or are covered by the health benefit plan under Healthy Families.

SLIDING SCALE FEES – depending on income

MEDICAL TEST – no services for developmental or mental disabilities

NO RESOURCE TEST, NO IMMIGRATION TEST – but must be a resident of California

APPLY AS SOON AS POSSIBLE – no retroactive coverage

GETTING SERVICES

PRIOR AUTHORIZATION – no coverage before CCS approval

HOME NURSING – only limited coverage

CCS and MEDI-CAL – Medi-Cal consumer rights and protections should also apply; CCS services usually carved out of Medi-Cal managed care and if not, CCS is to approve the treatment plan.

CCS and HEALTH BENEFIT PLANS – CCS will cover deductibles and co-payments and services not covered by the health benefit plan.

CCS and HEALTHY FAMILIES – CCS covers all services related to the CCS eligible condition.

CCS APPEALS

1. CCS denies, reduces or cuts off services for your child.

You have 30 days to appeal to the county CCS office.

Ask that services continue while you appeal.

You'll get a "First Level" appeal – no hearing, only a review on paper by County CCS office within 21 days.

If appealing a decision from MTU doctor, you will need a second opinion.

2. CCS still denies you after the "First Level" appeal.

You have 14 days to appeal and ask the Sacramento CCS office for a state fair hearing.

3. Going to your CCS State Fair hearing.

CCS must give you 30 days notice of time and place, must be convenient to you.

Bring anyone to help or testify at the hearing: child's teacher, respite worker, regional center service coordinator, teacher, friends who know your child, doctor or doctor's statements.

Ask for copies of the CCS files to look at before the hearing. [Note that if the child is also eligible for Medi-Cal, the child has the right to appeal through the Medi-Cal fair hearing process in addition to or instead of pursuing the CCS appeal process. (See Question 28 of this manual.)]