

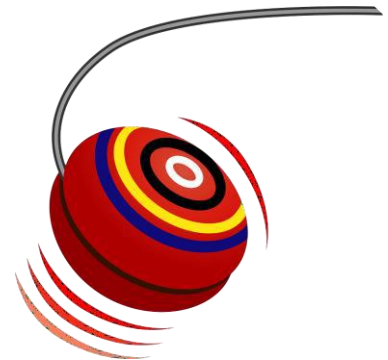


## Health Care Practice Tip - November 2020

### What Advocates Need to Know About the Aged, Blind & Disabled FPL Medi-Cal Expansion Starting on December 1, 2020

**Big news!** Starting December 1, 2020:

- (1) The Aged, Blind & Disabled (ABD) Medi-Cal Program has a new income cap of 138% of the Federal Poverty Level. Finally it aligns with the Modified Adjusted Gross Income (MAGI) programs for adults that use the Affordable Care Act income calculations.
- (2) ABD Medi-Cal beneficiaries can keep their Medicare Part B premium deductions even when the state starts paying them. This is because the Department of Health Care Services is finally implementing 2019's Assembly Bill 1088. It corrects the problem for people who have free Medi-Cal one month, only to lose it the next – by keeping the Part B premium deduction and preserving free Medi-Cal.<sup>1</sup>



*No more yo-yos starting in December.*

First of all, we should take a moment to celebrate! Both changes result from the efforts of many advocates and community organizations that have been fighting to improve the ABD Program since 2014. Five years later, those efforts paid off with new state laws.<sup>2</sup> Many of you sent letters of support, helped organize among other partners, shared beneficiary stories, worked with reporters, and came to Sacramento to advocate on behalf of low-income seniors and persons with disabilities who – for far too long – were not being served by the ABD Medi-Cal Program.

Read on for details and tips on how to make sure people benefit from these great expansions!

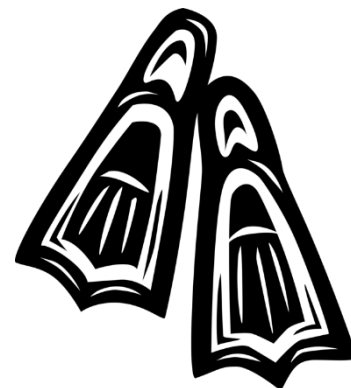
<sup>1</sup> Remember, no one should lose Medi-Cal during the COVID-19 public health emergency. But because this expansion results in positive actions, they are permissible. See MEDILs [20-25](#) and [20-26](#).

<sup>2</sup> See Welf. & Inst. Code §§ 14005.40 (effective July 9, 2019 for the ABD FPL expansion), 14005.401 (effective January 1, 2020 for the Part B premium disregard). CMS approved California's State Plan Amendment (SPA) No. 20-0016 on October 21, 2020 to allow § 14005.401 to take effect, and SPA No. 20-0045 on November 19, 2020 for § 14005.40. Both approved SPAs are [available here](#).

## 1. Steps DHCS and counties are taking to help potentially eligible recipients

Via an automated “batch” process that will run overnight on November 30, counties are updating eligibility effective December 1, 2020 for Medi-Cal beneficiaries with countable incomes at or below 138% FPL after applying all applicable income deductions, including the Part B premium deduction (as required by AB 1088).

This should include two main groups: (1) approximately 40,000 beneficiaries who currently have a share of cost, and (2) an unknown number of beneficiaries on the 250% Working Disabled Program. For all ABD eligibility calculations, instead of determining whether countable income is at or below 100% FPL plus the standard income deduction (\$230/individual and \$310/couple), counties must grant ABD eligibility when countable income is at or below 138% FPL.



*Goodbye flippers in December.*

In two rounds (October 2, 2020 and November 23, 2020), DHCS sent [notices and FAQs](#) in all threshold languages to beneficiaries who had shares of cost and estimated countable income at or below 138% FPL before November 2020. Also on November 23, DHCS sent [different notices](#) to two additional groups who had eligibility before November 2020: all 25,000+ Working Disabled Program beneficiaries (no matter their countable income), and approximately 30,000 ABD FPL beneficiaries with private health insurance premium deductions and monthly countable incomes below \$1,000.

In early December, counties will send individual notices of action (NOAs) to all beneficiaries granted new ABD Medi-Cal eligibility effective December 1, 2020.<sup>3</sup>

## 2. Tips for advocates to make the most of the new eligibility rules

*ABD FPL Program’s New Limit: 138% FPL*

[ACWDL 20-24](#) instructs counties to implement the ABD Expansion effective December 1. Importantly, it clarifies that “all other characteristics of the [ABD] program remain the same” – including “[a]ll deductions used in the ABD FPL program prior to the expansion.” So we keep the \$20 any income deduction, health insurance premium deduction, the \$65 and one-half earned income deduction, and all others. The guidance also clarifies how ABD eligibility should be granted wherever possible:

- **Retroactivity:** Eligibility at or below 138% FPL is only available retroactive to December 1, 2020. This means if an applicant seeks three-month retroactive coverage for months earlier than December 2020, the former and lower ABD FPL limits apply to those months. In future months, when beneficiaries and applicants request retroactive ABD FPL eligibility, counties must approve eligibility when income is at or under 138% FPL for all months since the higher limits took effect on December 1.
- **Current limits:** The ABD income limits will be updated next on April 1, 2021. Until then, the 138% FPL limits are now: \$1,468 for an individual and \$1,983 for two people.<sup>4</sup>

<sup>3</sup> For more information, see DHCS’s official implementation timelines as of November 20, 2020 for the [ABD FPL Expansion](#) and [AB 1088](#).

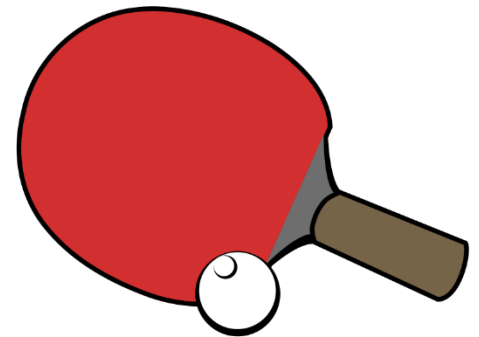
<sup>4</sup> In [some materials](#), you may see the limits presented as \$1,488 for an individual and \$2,003 for two people. These are the limits after incorporating the \$20 any income deduction.

- **Splitting the couple:** An ABD applicant spouse/partner may benefit from a \$600 maintenance need level (MNL) deduction when they have a non-applicant spouse/partner ([ACWDL 02-38](#), question 7). [ACWDL 20-24](#) clarifies that the non-applicant spouse/partner may still apply for and qualify for any other non-ABD Medi-Cal category while maintaining the ABD applicant spouse/partner's \$600 deduction.
- **Updated form:** A revised Form MC 176 AD should be [posted online soon](#) with nifty built-in formulas that calculate eligibility under these new rules.

#### *Medicare Part B Disregard*

[ACWDL 20-18](#) explains how counties must implement AB 1088. It includes several helpful examples of how the new Part B disregard applies to a household:

- **No need to actually pay the Part B premium:** On page two, the letter clarifies that the “new policy does not require the individual to pay for the premium when enrolled in or applying for the ABD FPL program.” Simply owing the Part B premium is enough – at application for new eligibility and any other post-enrollment time!
- **WDP transitions:** Example 2 on page 3 clarifies that some people in the Working Disabled Program should now be in the ABD FPL Program due to the availability of this disregard (and because of countable income at or below 138% FPL).<sup>5</sup> If not automatically transitioned to ABD FPL eligibility effective December 1, these beneficiaries should be transitioned upon request, and during their next annual or change-in-circumstance renewals.
- **Premium deductions for couples:** DHCS clarified in an implementation meeting that if both members of a couple have Medicare Part B premiums, *both* premiums should be disregarded even if one spouse/partner is not in the ABD FPL Program. So for most Medicare couples, you can push for a two-person premium amount deduction.
- **Part B premium amounts:** Due to publishing timelines, not included in ACWDL 20-18 is the [2021 standard monthly Part B premium](#): \$148.50 (an increase of \$3.90 from the \$144.60 premium in 2020). People with higher incomes [pay more](#).



*Ping pong no more in December.*

### **3. Additional steps advocates will have to take to ensure all eligible recipients can benefit**

Despite considerable efforts by DHCS and the counties, there are more people who can benefit from these program expansions. It's up to us to find and help them! For years, low-income seniors and people with disabilities have been organizing their lives to keep free Medi-Cal. Advocates should help beneficiaries recalculate their countable income and compare it to the new 138% FPL limits. Wherever possible, advocates and beneficiaries can request reevaluations retroactive to December 1. Here are some examples:

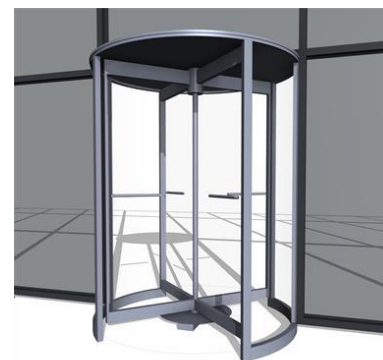
- **Purchased private insurance:** Thousands of Medi-Cal beneficiaries purchased health insurance (often vision or dental coverage) to receive a deduction and qualify for ABD Medi-Cal. Some of these beneficiaries (with monthly countable income below \$1,000) should have received [DHCS](#)

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<sup>5</sup> Pursuant to the Medi-Cal Hierarchy ([ACWDL 17-03](#)), counties must evaluate for the ABD FPL Program and grant eligibility before evaluating for the Working Disabled Program.

[mailers](#) that explain they might qualify under the new 138% FPL limit. Now many of these beneficiaries may have countable income at or below that limit after keeping their Part B premium deduction alone. For some, the purchased health insurance may no longer be necessary. For others, they can now purchase cheaper insurance and still qualify for ABD Medi-Cal.

- **Working Disabled Program beneficiaries:** Counties are including *some* WDP beneficiaries in the auto transition to free Medi-Cal. But because the income-counting rules differ between the WDP and ABD FPL Medi-Cal, some may need to request reevaluations if their countable income is at or below 138% FPL. Remember that WDP beneficiaries transitioning to the ABD Medi-Cal Program can maintain their retirement accounts (Individual Retirement Accounts, 401(k) plans, 403(b) plans, etc.) as exempt property.<sup>6</sup>
- **Married couples and registered domestic partners:** Some couples may have decided to allocate an unaffordable share of cost to one partner, give up Medi-Cal eligibility so the other partner can get free Medi-Cal, or rearrange their lives to qualify under expanded spousal impoverishment rules. Advocates should help those couples recalculate their income to see if they might now qualify under the much higher 138% FPL limit for two: \$1,983.
- **Reduced earnings:** Some Medi-Cal beneficiaries have foregone earned income to keep their Medi-Cal. They should keep in mind three changes: (1) the higher 138% FPL limit, (2) the Medicare Part B deduction, and (3) the continued earned income disregard. Many beneficiaries might be able to start earning more money and still keep their Medi-Cal. For example, because of the generous earned income disregard, a single person can have \$3,000+ of monthly earned income and still qualify!  $((\$3,000 - \$65) \div 2 = \$1,467.50 - \$20 = \$1,447.50)$ . Couples can earn even more!
- **Batch process limitations:** The auto transition to free Medi-Cal on December 1 will only happen for beneficiaries who had eligibility *before* November. DHCS captured current eligibility for September and October 2020, and is only moving those SOC and WDP beneficiaries to free Medi-Cal if their countable incomes are at or below 138% FPL. So for beneficiaries who got Medi-Cal for the first time in November, advocates should help them request manual recalculations back to December 1.
- **Batch process exceptions:** DHCS is monitoring beneficiaries that should auto transition to free Medi-Cal on December 1, but for technical reasons, the changes do not occur. Counties must manually correct these “batch exceptions.” Because of the winter holidays and public health emergency, these corrections may take time. Advocates should help beneficiaries request manual recalculations back to December 1.
- **Annual renewals:** Some beneficiaries may turn in their annual renewal forms during the public health emergency with or without reported changes that place them at or below 138% FPL. But because counties are not processing annual renewal submissions throughout the current [COVID-19 public health emergency](#), beneficiaries cannot rely on their renewals to positively impact their



*Revolving doors stop in December.*

<sup>6</sup> See [ACWDL 19-12](#). Note that in both approved State Plan Amendments for these expansions, CMS instructed DHCS to bring this exemption into compliance with the Medicaid Act. In response, DHCS confirmed that this exemption remains permissible and will continue under a different name: “independence accounts.” We expect further guidance in 2021.

Medi-Cal. If they want these new rules applied to their case, they must specifically ask by contacting their county outside of the renewal process.

- **Part B premium not included in SAWS:** For the Part B premium deduction to stick under Welf. & Inst. Code § 14005.401, counties must input the amount in the Statewide Automated Welfare System (SAWS). Earlier this year, counties [identified some cases](#) in which the premium amount was zero. Counties worked to correct these. For beneficiaries with Part B premiums but not receiving the deduction, you may need to ask the county to input the premium amount in SAWS. Counties must input the standard premium (\$144.60 this year) without requiring any proofs.

**Important:** When requesting reevaluations under the 138% FPL limits retroactive to December 1, beneficiaries do not need to provide any additional information or proofs (unless their circumstances have changed). Beneficiaries should simply request that counties use their on-file information and apply these new rules. When this happens, the reevaluations are *not* considered Medi-Cal redeterminations under Welf. & Inst. Code § 14005.37.

#### 4. Medi-Cal managed care enrollment

Many beneficiaries getting no-cost Medi-Cal under these expansions will now need to navigate the Medi-Cal managed care system. First up is choosing a Medi-Cal managed care plan, or accessing Medi-Cal through an assigned plan:

- Beneficiaries in the 22 county organized health system (COHS) counties will be automatically enrolled in a Medi-Cal managed care plan effective December 1, 2020.
- Beneficiaries in all other counties have the option to choose their managed care plan by contacting [Health Care Options](#). If they submit their choice by November 23, it will be effective December 1. To enroll effective January 1, 2021, beneficiaries must make their selections by December 28. And if no selection is made by January 31, most beneficiaries will be automatically enrolled in a plan effective February 1. This means many beneficiaries will have fee-for-service (FFS) Medi-Cal in December and January.

**Remember:** Not all Medi-Cal beneficiaries must enroll in Medi-Cal managed care plans. Be sure to check the rules that apply in your county, and any exceptions available for beneficiaries.<sup>7</sup>

#### 5. Outreach efforts

In addition to the notices that DHCS is sending, advocates should also reach out to people who may be impacted. As with any large program change, people sometimes slip through the cracks – or are left out from the beginning in the implementation details above. Others may have declined Medi-Cal eligibility in the past, when they learned their income was just above the old ABD FPL limits.

Currently, due to the pandemic, information in county files may be out of date since counties have not processed renewals and beneficiaries have had difficulty communicating with their eligibility workers. Some people have less contact with trusted community partners while keeping physical distance. **All this means that it falls on us advocates to get the word out and help people qualify under these new rules!**

The Health Consumer Alliance has a consumer flyer describing the program changes [available here](#). Community partners who do direct Medi-Cal enrollment or troubleshooting for beneficiaries are

<sup>7</sup> Justice in Aging's [helpful guide at page 17](#) includes a chart that includes exceptions. This [CHCF guide](#) can help you learn the options and system in your county. This [NHeLP advocate brief](#) includes COHS details.

encouraged to adapt the brochure with their own information or create other materials that work in communities. We are happy to partner with you if you need another set of eyes to review.

Finally, we recognize that we still have a long way to go to bring true parity to the Medi-Cal programs that do not use MAGI calculations. Namely, we must fix the outdated assets test that only applies to non-MAGI programs, and update the maintenance need income level for Medi-Cal recipients with a share of cost. Both of these calculations have not been updated in over 30 years, which means every year, the available help declines in real dollar value. Stay tuned for future efforts to correct these once and for all.

Please contact David ([dkane@wclp.org](mailto:dkane@wclp.org)) & Jen ([jflory@wclp.org](mailto:jflory@wclp.org)) with any questions, suggestions, or concerns. **We want to know how this expansion is working in the community!**