



**CALIFORNIA
DEPARTMENT OF AGING (CDA)**



ACL # 13-13

FAX Cover

TO: All Community-Based Adult Services (CBAS) Providers

FROM: CBAS Branch

DATE: July 31, 2013

SUBJECT: State Fair Hearing Penalty Payments Updates

This fax is being sent to provide updated information regarding fair hearing penalty payment checks that are currently being issued to eligible CBAS participants. Please share this information with participants at your center who receive a check and have questions.

For More Information:

Access the CDA CBAS website at:

www.aging.ca.gov/ProgramsProviders/ADHC-CBAS/Default.asp

Contact CDA at:

- ✓ Email – CBAScda@aging.ca.gov
 - ✓ Phone – (916) 419-7545
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Number of pages (including this page): 7

CALIFORNIA DEPARTMENT OF AGING
COMMUNITY-BASED ADULT SERVICES BRANCH
1300 NATIONAL DRIVE, SUITE 200
SACRAMENTO, CA 95834
Internet Home Page www.aging.ca.gov
TDD 1-800-735-2929
TEL (916) 419-7545
FAX (916) 928-2507

**ACL #13-13**

Date: July 31, 2013

To: Community-Based Adult Services (CBAS) Center Administrators and Program Directors

From: CBAS Branch

Subject: State Fair Hearing Penalty Payments Updates

Purpose

This letter updates information provided in the All Center Letter (ACL 13-11) the California Department of Aging (CDA) sent on July 9, 2013, regarding fair hearing penalty payment checks that the California Department of Social Services (CDSS) is currently issuing to eligible CBAS participants. Please share this information with those participants at your center who receive penalty payment checks and have questions.

Background Regarding Penalty Payments

Medi-Cal rules require the State to pay penalties to Medi-Cal beneficiaries when they request fair hearings and do not receive a final decision within 90 days. The payment is known as a *Ball v. Swoap* penalty payment, after the lawsuit that generated this rule.

CDSS is currently sending penalty checks to CBAS participants who did not receive fair hearing decisions within the 90-day timeframe. Penalty payment checks amounts are based on the number of days past the 90-day timeframe to the date the hearing decision was released. Consequently, check amounts for each participant will vary. Most of the participants who will receive checks are individuals who were found ineligible at the time of the transition from the Adult Day Health Care (ADHC) program to CBAS in 2012 and later found eligible through the fair hearing process.

Penalty Payment Impact on Medi-Cal and SSI/SSP Benefits

It is important for check recipients to understand the reason they are receiving the check and that the amount will NOT be counted as income or property relative to their Medi-Cal eligibility status. However, the penalty payment MAY be counted as income relative to their SSI/SSP benefits.

Penalty payment check recipients must report the amount of the payment as income on their Medi-Cal Status Report Form (MC176S), and it is essential that they report the payment as a "Ball Payment." This will ensure that any loss of Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits does not interrupt the individual's Medi-Cal benefits. Check recipients should be advised to present the attached letter, *All County Welfare Directors/Administrative Officers Letter 87-2*, to their Social Security Administration (SSA) workers to assist with the reporting process.

SSA is the final arbiter of SSI/SSP benefit decisions. However, if your participants receive any erroneous information from their SSA worker regarding loss of Medi-Cal benefits, those matters should be elevated to SSA District Office management for resolution.

Questions

Additional guidance regarding the penalty income can be found by following the link below to the Disability Rights California (DRC) website, Publications and Resources page, or by calling 800-776-5746.

- DRC Link - "Community Based Adult Services (CBAS) Hearing Penalties (July 2013, #5528.01)"
www.disabilityrightsca.org/pubs/552801.pdf

For questions about this letter, please call the CBAS Branch at (916) 419-7545 or email us at: CBAScda@aging.ca.gov.

Attachment

All County Welfare Directors/Administrative Officers Letter 87-2

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814
(916) 445-1912



January 8, 1987

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 87-2

SUBJECT: BALL V. SWOAP PENALTY PAYMENTSBackground

This is to inform you that on June 23, 1986, a stipulation and order was issued in the Ball v. Swoap lawsuit. This court order imposes specified penalties where Medi-Cal final hearing decisions are not issued within 90 days from the date of request for a hearing. Beneficiaries whose state appeals are granted, wholly or in part, and whose decisions are not timely, shall be entitled to penalty payments of \$100 for each month of delay. Penalties will commence October 1, 1986. The payments made pursuant to this court order shall not be considered income or property by any public social service program. To make sure that Ball payments are exempt for Medi-Cal purposes, beneficiaries will be instructed to list them on the Medi-Cal Status Report form (MC 176S) as income in the month received; eligibility workers should disregard the payments as income or, after the month of receipt, as property.

Notices

1. DHS will send an "Important Notice" (attachment 1) to the last known address of all class members informing them of their forthcoming check.
2. DHS will send another notice (attachment 2) with each check, reiterating the purpose of the payment.

All County Welfare Directors
All County Administrative Officers
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If you have any questions, please contact RaNae Dunne at ATSS
8-454-4955 or (916) 324-4955.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Attachments

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: January 1, 1988

REMITTANCE ADVICE

CLAIMANT NAME: _____
CLAIMANT CASE #: _____

ATTACHED IS A CASH PAYMENT MADE TO YOU UNDER THE PROVISIONS OF THE BALL V. SWOAP COURT ORDER. THE DEPARTMENT OF HEALTH SERVICES RECENTLY SENT YOU AN IMPORTANT NOTICE INFORMING YOU OF THIS PAYMENT. IF YOU HAVE ANY QUESTIONS, PLEASE REFER TO THAT NOTICE.

THIS PAYMENT WILL NOT BE COUNTED AS EITHER INCOME OR PROPERTY FOR MEDI-CAL PROGRAM PURPOSES. HOWEVER, PLEASE REMEMBER THAT THE AMOUNT OF THE PAYMENT MUST BE REPORTED ON YOUR MEDI-CAL STATUS REPORT FORM (MC 176S) AS A "BALL PAYMENT".
