Community Services Administration

Region IX
Box 36008 • 450 Golden Gate Ave.
San Francisco, California 94102

Date: MAY 30 1979

RECEIVED
JUN 6 1979
CAP ADMINISTRATION

Reply to Attn. of: 9/RD

Subject: Denial of Services to Undocumented Aliens

To: All Grantees

It has come to our attention that a number of our grantees are refusing to serve undocumented persons. Determining whether a person is eligible for CAA services on the basis of alienage is tantamount to determining eligibility on the basis of race, sex, religion or national origin and clearly prohibited by CSA.

Among the provisions of OEO Instruction 6302-2, Eligibility and Establishment of the Community Action Agency, is the requirement that a CAA must be free from any rules or restrictions which would prevent the free participation in the program by poor persons who are currently living in the community whether or not they qualify as legal or permanent residents. 45 CFR 1062.30(A)(4). Whether the participants of community action programs are legal or resident aliens is irrelevant; what is relevant is whether or not they are poor.

Furthermore, our grantees have no authority to determine who is and who is not a person who has a lawful right to be in this country. Only the Immigration and Naturalization Service (INS) is empowered by Congress to make these determinations. To allow our grantees to do so would allow them to run the risk of excluding a person who has a right to participate in the program and, more importantly, of discrimination against a substantial number of people.

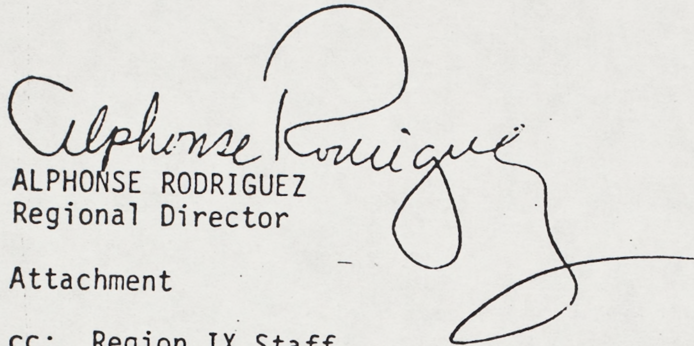
If any grantee is practicing this type of discrimination, I recommend that such practices be eliminated immediately.

I am enclosing a copy of a letter from President Jimmy Carter to State Governors on May 4, 1979. I call your attention to the roles of the Immigration Service and the Department of Labor in dealing fairly and humanely with any persons accused of being undocumented workers. I also call your attention to the role of the Department of Justice in giving special attention to investigating and, when warranted, prosecuting possible civil rights violations against any persons of Hispanic origin.

(Over, please)

Keep Freedom in Your Future With U.S. Savings Bonds

As community action agencies you have imposed upon you the requirement to protect the basic rights of all people who come to you in need.



ALPHONSE RODRIGUEZ
Regional Director

Attachment

cc: Region IX Staff

Undocumented Aliens

Letter to State Governors. May 4, 1979

During my visit to Mexico City in mid-February, I had a frank and useful discussion with President López Portillo on the complex issue of border law violations and particularly the problem of undocumented workers. We agreed to cooperate closely to explore the question in the context of the social and economic problems involved—a solution that also respects the dignity and human rights of those concerned. One aspect of this question, the treatment of undocumented workers in the United States, has been of particular concern to me and to President López Portillo.

As I stated in Mexico, it is my responsibility to enforce our immigration laws. Those individuals who violate the law will be dealt with as the law prescribes. But it is also our responsibility to deal fairly and humanely with any persons accused of being undocumented workers.

For some time we have been making a special effort at the Federal level to ensure their fair treatment under the law. The Immigration and Naturalization Service has steadily improved the conditions under which undocumented workers are temporarily confined and has adopted a number of measures to prevent mistreatment and to allow apprehended aliens time to settle their affairs before departure. The Department of Labor is making a special effort in those areas believed to have a sizeable presence of undocumented workers to enforce wage, hour, safety and health standards and to assure that workers who are apprehended and removed from the country receive all wages due them.

Since many of the problems that undocumented aliens experience are under state and local jurisdiction, I ask that you give these concerns your close personal interest. I, in turn, would welcome your suggestions of areas you might suggest in which further Federal action would be useful.

The Department of Justice is giving special attention to investigating and, where warranted, prosecuting, possible civil rights violations against any persons of Hispanic origin.

Our country's deep commitment to standards of justice and humaneness requires us to protect the basic rights of all people who find themselves in this nation.

JIMMY CARTER

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COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL
648 HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012

JOHN H LARSON, COUNTY COUNSEL
DONALD K. BYRNE, CHIEF DEPUTY

June 10, 1976

974-1825

Mr. Mark H. Bloodgood
Auditor-Controller
525 Hall of Administration
Los Angeles, California 90012

Re: County Health Care Services for Illegal Aliens

Dear Mr. Bloodgood:

By letter, dated April 27, 1976, you requested the opinion of this office regarding the County's provision of health care services to illegal aliens. In subsequent conversations with your staff, we have been advised that your questions pertain only to those health care services rendered by the Department of Health Services (hereinafter referred to as "DHS") as County General Relief (hereinafter referred to as "GR"). Your questions, as amended by your staff, are as follows:

"1. In your opinion dated August 29, 1975, to Supervisor Peter Schabarum on the question of medical services for indigent illegal aliens, you concluded that 'the County has no authority to treat indigent illegal aliens in non-emergency cases'. With that conclusion in mind, if a patient admits to being an illegal alien, must the County refuse treatment in non-emergency cases; or must the County confirm his status with the [United States] Immigration and Naturalization Service [hereinafter referred to as 'INS'] before [refusing] services?

"2. Section 11104 of the Welfare and Institutions Code [hereinafter that code referred as 'WIC'] states that an alien who is otherwise qualified for aid shall be eligible for public assistance if he certifies he is not in the country illegally. The section also states that the 'certification by the alien shall, upon receipt, be forwarded to INS for verification'. Does WIC Section 11104, in speaking of 'public assistance', include medical services and does the Section apply to DHS? Does the Privacy Act of 1974 (Public Law 93-579), or WIC Section 10850, in any way preclude DHS from complying with the mandates of WIC Section 11104?

"3. Is DHS's position as stated in their 'Draft Policy (Attachment B) - Medical Services to Undocumented Residents' dated February 13, 1976, regarding the reporting of illegal aliens to INS, in conflict with WIC Section 11104?

"4. John Wesley Hospital is licensed as an acute care facility, and does not have an 'emergency department' as defined in Health and Safety Code Section 1481(d). However, DHS contends that 85% of all patients treated at John Wesley Hospital are treated on an emergency basis, thus exempting the patients from statutory residency and/or eligibility determination requirements which are conditions of treatment for non-emergency services. The principal types of medical services provided at John Wesley Hospital are as follows:

Inpatient - Oncology (cancer)
- Liver
- Obstetrics (Elective abortions and tubal ligations)

Outpatient - Obstetrics (Pre-natal and pre- and post-abortion)

- Oncology (Chemotherapy, radiology, and nuclear therapy)
- Neighborhood Health Center: General Unspecialized Outpatient Clinic (primary medical care)

Are the above types of services considered as medical emergencies, thus precluding the Hospital from making determinations of residency and/or eligibility determination requirements which are conditions of treatment for non-emergency services?"

OPINION

Our opinion with respect to the above is as follows:

1. The County has no authority to provide non-emergency GR in the form of health care services to illegal aliens who admit or otherwise indicate that they are not lawfully present in the United States, and the County is not required to confirm the unlawful resident status of such persons with INS before refusing such services.

2 and 3. WIC Section 11104 does not apply to GR, and therefore, no further response is necessary.

4. The question of whether a medical emergency exists is a medical, not legal, problem for determination by physicians based upon the facts of each particular case; however, statutes, regulations and case law provide certain legal guidelines. Notwithstanding that conclusion, we believe that under such legal guidelines, the courts would probably determine, as a matter of law, that certain of the health care services listed in Question No. 4, to wit, most elective abortions, routine pre- and post-abortion care and routine prenatal care, do not involve medical emergencies.

BACKGROUND

As stated above, this opinion pertains only to those health care services rendered by DHS as GR, which specifically excludes preventative health care services and programs for which Federal and/or State funding is provided, such as Medi-Cal, Medicare and the Short-Doyle mental health program.

ANALYSIS

Question No. 1

The statutory provisions pertaining to county aid and relief to indigents, known as GR, are set forth at Division 9, Part 5, commencing with Section 17000, of the WIC. Pursuant to these code sections, the County provides two basic types of GR to indigents, to wit, cash aid and material relief and support, which are administered by the Department of Public Social Services, and health care services, which are administered by DHS. See Health and Safety Code Sections 1445 and 1446; Sections 150.1, 150.14, 150.20, 160 and 160.5 of the County Administrative Code, Ordinance No. 4099.

In connection with the above-referenced code sections, as indicated in Question No. 1, our opinion to Supervisor Schabarum, dated August 29, 1975, concluded that the County has no authority to provide GR in the form of health care services to persons who are not lawful residents of the County, such as illegal aliens, except in cases of medical emergency. A copy of that opinion and a prior opinion to the Director of Health Services, dated August 30, 1974, 88 O.C.C. 249, which extensively discussed the County's authority to provide health care services to illegal aliens, are attached hereto as Exhibits "A" and "B" for your reference.

With respect to whether the County must refuse to provide non-emergency health care services to those persons who admit to being illegal aliens or, alternatively, whether the County must confirm the unlawful resident status of such persons with INS before refusing such

services, this office concluded in a recent opinion to Supervisor Edelman, dated January 23, 1976, on the subject of County General Relief for Illegal Aliens, that the County has no authority to provide non-emergency GR to applicants who admit or otherwise indicate that they are not lawfully present in the United States as of the date of application for GR. A copy of that opinion is attached hereto as Exhibit "C" for your reference.

Although our opinion to Supervisor Edelman pertained only to GR in the form of cash aid and material relief and support which are administered by the Department of Public Social Services, the same statutory residency requirements govern eligibility for GR in the form of health care services administered by DHS. See WIC Sections 17000, 17100 and 17101; Health and Safety Code Sections 1445 and 1446. In that opinion we stated as follows:

> "With respect to present County procedure and experience in determining whether GR applicants are lawful residents of the County, we understand from DPSS that the vast majority of illegal aliens that apply for GR admit or otherwise indicate to Eligibility Workers that they are not lawfully present in the United States. Under the provisions of WIC Section 17000, DPSS must and does deny GR to these GR applicants. However, in those instances where there is a question as to the status of GR applicants as lawful residents [as of the date of application for GR, under present procedure], the applicants have the burden to prove, as a condition of eligibility for GR, that they are lawful residents, such as by an alien registration card."

In light of the foregoing analysis, it is clear that the County has no authority to provide non-emergency GR in the form of health care services to persons who admit or otherwise indicate that they are illegal aliens, and the County is not required to confirm the unlawful resident status of such persons with INS before refusing such services.

Questions No. 2 and 3

WIC Section 11104, which is contained in Division 9, Part 3, commencing with Section 11000, of the WIC, states as follows:

"Any alien who is otherwise qualified for aid shall be eligible to receive <u>public assistance</u> if he certifies under penalty of perjury that to the best of his knowledge he is in the country legally and is entitled to remain indefinitely, or if he certifies that he is not under order for deportation, or if he certifies that he is married to an individual not under order for deportation.

"Such certification by the alien shall, upon receipt, be forwarded to the United States Immigration and Naturalization Service for verification. Aid shall continue pending such verification.

"If an alien has been residing in the United States continuously for five years or more at the time the county department requests certification of his legal right to reside, the affidavits of two U.S. citizens attesting to such continuous residence by the alien shall constitute a rebuttable presumption that the alien is entitled to be in the country for purposes of determining eligibility.

"If an alien subject to the provisions of this section is not fluent in English, it shall be the duty of the county department to provide an understandable explanation of the requirements of this section in a language in which the alien is fluent." (Emphasis added.)

As stated in the above quotation of WIC Section 11104, that code section pertains only to aliens who apply for "public assistance." The term "public assistance" is defined in WIC Section 10061 as follows:

"'Public assistance' and 'public assistance programs' refer to those public social services programs provided for in <u>Part 3 of this [D]ivision [9]</u>." (Emphasis added.) See WIC Sections 10050-10053.

As stated in the above-quoted code section, the term "public assistance," refers only to those public social services programs provided for under Part 3 of Division 9 of the WIC, which includes those provisions pertaining to Medi-Cal and other programs for which Federal and/or State funding is provided, such as Aid to Families with Dependent Children and the State Supplementary Program for the Aged, Blind and Disabled. The WIC provisions which pertain to GR, however, are set forth at Part 5 of Division 9 of the WIC, which Part is entitled "County Aid and Relief to Indigents" and commences with Section 17000.

In light of the foregoing analysis, it is clear that WIC Section 11104 has no applicability to GR, and therefore, further analysis of Questions No. 2 and 3 is not necessary.

<u>Question No. 4</u>

As discussed in the analysis of Question No. 1 <u>supra</u>, the County has the authority to provide GR in the form of health care services to persons who are not lawful residents of the County, such as illegal aliens, only in cases of medical emergency. Thus, for purposes of determining the eligibility of illegal aliens for GR, it is necessary for DHS, as the County department charged with the administration of County health care services, to determine whether a medical emergency exists. See Section 150.1 of the County Administrative Code, Ordinance No. 4099.

Our opinion to Supervisor Schabarum, dated August 29, 1975, which is attached hereto as Exhibit "A," extensively discussed the definition of medical emergency. In addition to the definitions of medical emergency referred to in that opinion, the State Medi-Cal regulations, which are set forth at Section 50001 <u>et seq</u>. of Title 22

of the California Administrative Code, provide a definition of the term "emergency services" at Section 51056 of that Title as follows:

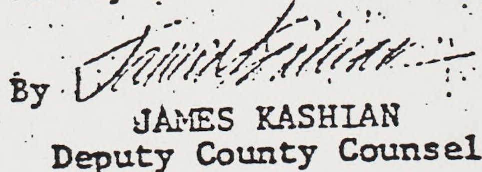
> "Emergency services means those services required for alleviation of severe pain, or immediate diagnosis and treatment of unforeseen medical conditions, which, if not immediately diagnosed and treated, would lead to disability or death."

In our opinion to Supervisor Schabarum, we concluded that within certain legal guidelines provided by statutes and case law, the determination as to whether a medical emergency exists is a medical, rather than a legal, problem which must ultimately be decided by physicians based upon the facts of each particular case. Notwithstanding that conclusion, we believe that under the legal guidelines referred to _supra_, the courts would probably hold, as a matter of law, that certain of the health care services listed in Question No. 4 do not involve medical emergencies. These health care services include routine prenatal care, which was discussed in our opinion to Supervisor Schabarum, as well as most elective abortions and routine pre- and post-abortion care. With respect to the other health care services listed in Question No. 4, we believe that the courts probably would not determine, as a matter of law, whether a medical emergency is involved, and therefore, that issue must ultimately be determined by physicians on a case-by-case factual basis within the legal guidelines discussed _supra_.

If you have any further questions regarding these matters, please do not hesitate to contact this office.

Very truly yours,

JOHN H. LARSON
County Counsel

By 
JAMES KASHIAN
Deputy County Counsel

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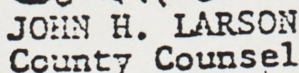
JOHN H. LARSON
County Counsel

COUNTY OF LOS ANGELES / AUDITOR-CONTROLLER
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MARK H. BLOODGOOD
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J. TYLER McCAULEY, CHIEF
AUDIT DIVISION

August 3, 1976

Mr. Mark H. Bloodgood
Auditor-Controller
525 Hall of Administration

Dear Mr. Bloodgood:

Department of Health Services -
John Wesley County Hospital -
Fiscal Year 1973-74 Audit

Pursuant to Section 84 of the County Administrative Code and Section 26883 of the Government Code, we have examined the accounting records and procedures of the Department of Health Services' John Wesley County Hospital for the year ended June 30, 1974, to determine whether financial operations have been appropriately conducted, County assets have been safeguarded, and whether the Hospital has complied with applicable laws and regulations.

Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We also reviewed and tested the Hospital's system of internal control to the extent we considered necessary to establish a basis for reliance thereon in determining the nature, timing, and extent of our auditing procedures.

Our study and evaluation of the Hospital's system of internal control was made for the purpose set forth in the first paragraph. It was not designed for the purpose of expressing an opinion on internal accounting control and would not necessarily disclose all weaknesses in the system. Any weaknesses disclosed by our review and evaluation of internal control were discussed with the Hospital during the audit or are discussed in the Supplemental Information section of this report.

In addition, we reviewed certain Hospital policies and procedures subsequent to June 30, 1974, relating to admission and billing practices.

Our examination disclosed the following major problem areas:

- The Hospital is providing services to illegal aliens. In 1973-74, services to illegal aliens cost $.7 million and in 1974-75 the cost of these services was $1.5 million. A County Counsel opinion dated August 30, 1974 stated that the County has no authority to provide services to illegal aliens except in emergency cases.

John Wesley Hospital is licensed as an acute-care facility, and does not have an "emergency department" as defined in Health and Safety Code Section 1481(d). However, the Department of Health Services contends that a substantial number of patients treated at John Wesley Hospital are treated on an emergency basis, thus exempting the patients from statutory residency and/or eligibility determination requirements which are conditions of treatment for non-emergency services.

We requested a County Counsel opinion to determine whether the services provided by John Wesley Hospital would be considered as "emergency services". In his opinion dated June 10, 1976, County Counsel stated the following regarding medical emergencies:

"The question of whether a medical emergency exists is a medical, not legal, problem for determination by physicians based upon the facts of each particular case; however, statutes, regulations and case law provide certain legal guidelines. Notwithstanding that conclusion, we believe that under such legal guidelines, the courts would probably determine, as a matter of law, that . . . most elective abortions, routine pre- and post-abortion care and routine prenatal care, do not involve medical emergencies."

The Hospital's 1973-74 costs attributable to the above noted non-emergency services were $1,383,359.

- The Hospital is treating patients who refused to participate in, or failed to provide sufficient information for determining eligibility for, Federal and State medical assistance programs. These patients are billed as non-program patients, for which there is a cost recovery of approximately 28%, substantially below the recovery rate for program patients.

  Further, the Hospital does not obtain from these patients assignments of insurance benefits or property liens prior to, or as a condition of, treatment. The Hospital attempts to secure these assignments and liens from patients on a voluntary basis subsequent to admission. These practices are not conducive to maximum recovery of costs for medical care.

- From April 1974 to November 1975, the Hospital conducted a pilot billing project whereby non-program outpatients were charged on their "ability to pay". This resulted in substantial outpatient costs not being charged.

  Section 150.21 of the County Administrative Code requires all hospitals to charge patients for the full cost of services. The Hospital did not obtain the Board of Supervisors' approval before initiating this project which conflicted with the requirements of the Administrative Code.

OPINION

John Wesley Hospital operations, with regard to the admission problems noted in the preceding paragraphs, were consistent with Department of Health Services' policies then and now in effect. We do not believe the policies are fiscally sound or in the best interests of the County. The Department of Health Services should examine and modify their admission policies to ensure: (1) the policies restrict admission and treatment to persons whom the County has the legal authority to provide services; and (2) the policies reflect the intent of Section 150.21 of the County Administrative Code which requires maximum recovery of costs of medical care.

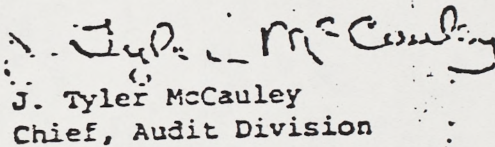
Other problems noted during the audit of John Wesley Hospital are discussed in the Supplemental Information section of this report.

REVIEW OF REPORT

The report was discussed with the Hospital's Administrator, who will prepare a written response.

We wish to acknowledge the cooperation extended to us by the employees of DHS and John Wesley Hospital.

Very truly yours,



J. Tyler McCauley
Chief, Audit Division

JTM:GW:JLN-df

cc: Supervisor Baxter Ward, Fifth Supervisorial District
Supervisor Kenneth Hahn, Second Supervisorial District
Clerk of the Board, Executive Office
Mr. Harry L. Hufford, Chief Administrative Officer
Mr. John K. Van De Kamp, District Attorney

Department of Health Services
Mr. Liston A. Witherill, Director
Mr. Gerald Bosworth, Acting Deputy Director, Central Health Services Region
✓Mr. Paul J. Drozd, Administrator, John Wesley County Hospital

COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
JOHN WESLEY COUNTY HOSPITAL
SUPPLEMENTAL INFORMATION
1973-74

Organization and Operations

John Wesley County Hospital is primarily an acute-care facility providing inpatient services for liver diseases, cancer, and therapeutic abortions. During 1973-74, the Hospital provided services equivalent to 39,666 in-patient days and 19,577 outpatient visits. The Hospital has 139 beds and approximately 545 employees.

The Hospital derives revenue primarily from governmental agencies for patients covered under various Federal and State reimbursement programs. The Hospital's expenditures (Schedule B) include services for Medi-Cal patients; however, Medi-Cal revenue was budgeted and reported centrally by the Department of Health Services. Further, revenue collected and accounted for by the Bureau of Resources and Collections for the fiscal year 1973-74 was $906,606 and is not included in the Hospital's total revenue (Schedule A).

Statements

Statements of Revenue (Schedule A) and Expenditures (Schedule B) for the year ended June 30, 1974 are presented following the recommendations for informational purposes only.

COMMENTS AND RECOMMENDATIONS

Department of Health Services Treatment Policy

The Hospital is providing services to many patients whom the County is not legally required to treat.

These patients can be classified into the following groups:

- Illegal aliens (non-emergency services).
- Indigent legally resident patients who refused to participate in Federal and State medical assistance programs (e.g., Medicare and Medi-Cal).
- Indigent legally resident patients who failed to provide sufficient information for determining eligibility for Federal and State medical assistance programs.

The Hospital records show the patient care costs for these patients were over $1.25 million in 1973-74. This represents over 14% of the total costs for patient care at John Wesley County Hospital during that year. Since the patients in these groups would not or could not provide sufficient information to determine eligibility for Federal and State medical assistance programs, the County had to absorb over $.9 million in patient care costs for their treatment. (The $1.25 million total patient care costs were reduced by approximately $.35 million in collections from the patients. The Hospital's collection rate is approximately 28%.)

1. Illegal Aliens

Hospital records indicate that services costing $.7 million in 1973-74 and $1.5 million in 1974-75 were provided to "temporary aliens". According to Hospital staff and our analysis of patient records, these temporary aliens were, in fact, illegal aliens. Since illegal aliens are ineligible for Federal and State medical assistance programs, the County taxpayer must bear most of the costs of their treatment.

In a County Counsel opinion addressed to the Director of Health Services August 30, 1974, the following was stated: ". . .illegal aliens . . .are not lawful residents and would only be eligible for emergency care." This opinion was re-affirmed in an August 29, 1975 letter from County Counsel to Supervisor Schabarum.

John Wesley Hospital is licensed as an acute-care facility and does not have an "emergency department" as defined in Health and Safety Code Section 1481(d).

However, the Department of Health Services contends that a substantial number of patients treated at John Wesley Hospital are treated on an emergency basis, thus exempting the patients from statutory residency and/or eligibility determination requirements which are conditions of treatment for non-emergency services.

We requested a County Counsel opinion to determine whether the services provided by John Wesley Hospital would be considered as "emergency services". In their opinion dated June 10, 1976, County Counsel stated the following regarding medical emergencies:

> "The question of whether a medical emergency exists is a medical, not legal, problem for determination by physicians based upon the facts of each particular case; however, statutes, regulations and case law provide certain legal guidelines. Notwithstanding that conclusion, we believe that under such legal guidelines, the courts would probably determine, as a matter of law, that . . . most elective abortions, routine pre- and post-abortion care and routine prenatal care, do not involve medical emergencies."

John Wesley Hospital's 1973-74 costs attributable to the above noted non-emergency services were $1,383,359.

While we were unable to determine the proportion of non-emergency services in the $.7 million of services provided illegal aliens during 1973-74, we believe that a significant portion of that amount could have been avoided if services had been limited to "medical emergencies".

The Department of Health Services should establish clear policy guidelines with regard to "emergency" versus "non-emergency" services. In establishing these guidelines, DHS should follow the State Medi-Cal regulations, which are set forth at Section 50001 et seq. of Title 22 of the California Administrative Code. The term "emergency services" is defined at Section 51056 of that Title as follows:

"Emergency services means those services required for alleviation of severe pain, or immediate diagnosis and treatment of unforeseen medical conditions, which, if not immediately diagnosed and treated, would lead to disability or death."

We recognize that within certain legal guidelines as cited above, the determination as to whether a medical emergency exists is a medical, rather than a legal problem which must ultimately be decided by physicians based upon the facts of each particular case. However, notwithstanding this point, certain legal guidelines do exist upon which DHS can formulate Departmental guidelines to categorize medical services as emergency or non-emergency treatment.

Recommendation

- DHS establish definitive guidelines categorizing medical services as emergency or non-emergency treatment.

- The Hospital discontinue providing non-emergency services for illegal aliens.

In addition to the guidelines recommended above, DHS must also adopt more stringent procedures for determining patients' residential eligibility for receiving medical treatment.

DHS' policy in regard to residency determination is that the designation of "illegal alien" can legally be made only by the Immigration and Naturalization Service. We reviewed a limited number of John Wesley Hospital cases in the "temporary alien" classification and noted instances where patients, when questioned regarding their residency, stated that they were illegal aliens. However, these patients were admitted to the Hospital.

In the opinion requested by our office dated June 10, 1976, County Counsel stated with regard to health care services for illegal aliens:

> "The County has no authority to provide non-emergency GR in the form of health care services to illegal aliens who admit or otherwise indicate that they are not lawfully present in the United States, and the County is not required to confirm the unlawful resident status of such persons with INS before refusing such services."

We were unable to determine whether these illegal aliens were treated as "medical emergencies". However, under current DHS policies, they could be admitted and treated in non-emergency situations.

In an opinion to Supervisor Edelman dated January 23, 1976 on the question of County General Relief for illegal aliens, County Counsel stated:

". . . in those instances where there is a question as to the status of GR applicants as lawful residents, the applicants have the burden to prove, as a condition of eligibility for GR, that they are lawful residents, such as by an alien registration card."

Expanding on this point, County Counsel stated in his opinion of June 10, 1976:

"Although our opinion to Supervisor Edelman pertained only to GR in the form of cash aid and material relief and support which are administered by the Department of Public Social Services, the same statutory residency requirements govern eligibility for GR in the form of health care services administered by DHS. . ."

The County Department of Public Social Services (DPSS) currently requires aliens to provide proof of state and county residence in addition to national residence prior to granting General Relief. They also exclude aliens in the country on temporary visas from eligiblity on the basis that permanent residence cannot be established.

DHS' residential eligibility determination policies are in conflict with State statutes and should be revised. DHS should adopt procedures for determining patients' residential eligibility similar to the procedures currently used by DPSS.

Recommendation

The Department of Health Services adopt residential eligibility determination procedures similar to those currently used by DPSS.

Response

The problem regarding the provision of medical care arises from the Department's mandated responsibility to provide emergency and public health (preventive) services to all persons physically present in Los Angeles County. In order to determine the existence of an emergency or communicable disease, each individual who presents themselves for care, must be examined and evaluated by a physician who has by law the sole authority to make such a decision. Once care had been initiated, the County may not be able to abandon the patient without risk of malpractice liability.

Whenever possible, the Department of Health Services does attempt to refer ineligible patients to other facilities. This can occur only when the required care is available elsewhere and the patient has sufficient resources to pay for the care.

The Auditor-Controller's quantification of the problem is based on estimates of deductions from medical assistance program revenue contained in the financial management report submitted to Health Services and the CAO on the 15th of each month. This information source does not provide dependable data. The Department of Health Services has recognized this inadequacy, and on November 26, 1976, with the support of the CAO, Auditor-Controller and the Board of Supervisors, entered into a multi-million dollar contract for the MASTER Project Management Information System.

The audit team did not review our accountability reports which are based on billing instructions and denial codes. This more accurate report is prepared subsequent to the 15th of the month when actual rather than estimated data is available, and it more accurately reflects appropriate deductions from revenue figures. For instance, by using estimates the audit team attributes $.7 million in 1973-74 and $1.5 million in 1974-75 to care for temporary aliens, the accountability reports for these periods attribute $443,822 in 1973-74 and $732,439 in 1974-75. This is a significant difference in gross billable revenue. Even though this is a more accurate assessment, it still does not provide the same reliability which will be achieved when MASTER is fully implemented and debugged. It should also be pointed out that these costs are billed to the patient.

However, the Director of Health Services has appointed a task force to review the patient care admission and treatment policies of the Department of Health Services. This task force will consider applicable codes, regulations, legal opinion, financial ramifications, and community relations. The task force will recommend, where required, changes in the existing patient care admission and treatment policies, keeping in mind the possible added liability from any change in policy.

2. Services Provided Without Eligibility Determination

In 1973-74, John Wesley County Hospital provided services costing $550,000 to persons who either refused to participate in, or failed to provide sufficient information for determining eligibility for, Federal and State medical assistance programs (e.g., Medicare and Medi-Cal). Some patients refused to give a financial statement, and others stated they would provide this information but failed to after treatment.

Since the County absorbs most of the costs of treating non-program patients, it is not sound fiscal policy to provide services, except in emergency cases, to persons who refuse to participate in, or provide information for determining eligibility for, Federal and State medical assistance programs. DHS should adopt a policy of refusing treatment, except in emergency cases, to such persons. Such a policy should be similar to Section 160.45 of the County Administrative Code pertaining to public assistance administered by the Department of Public Social Services.