STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY PETE WILSON, *Governor*

DEPARTMENT OF HEALTH SERVICES
744 P STREET
BOX 942732
SACRAMENTO, CA 94234-7320
(916) 657-2941

April 4, 1995

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 95-23

AUSTRIAN SOCIAL INSURANCE PAYMENTS - PROPERTY

The purpose of this letter is to instruct counties to exempt from property, payments which were based in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act (GSIA). These paragraphs grant credits to individuals who suffered a loss (i.e., were imprisoned, unemployed, or forced to flee Austria) during the period from March 1933 to May 1945 for political, religious, or ethnic reasons. (The GSIA does not specify what entity, e.g., the government or an employer, must be responsible for the loss in order for the credits to be granted.) Not all Austrian social insurance payments are based on Paragraphs 500-506.

TO DETERMINE WHETHER OR NOT THE PAYMENT IS EXEMPT: Answer the following questions to determine whether or not to exempt the income or property.

1. Does the individual have an award notice from an Austrian pension insurance agency?

   If YES, go to number 3.

   If NO, go to number 2.

2. Can a copy of the award notice or other verification directly from the Austrian agency be obtained?

   If YES, pend the application taking into consideration such time as necessary to obtain the verification. Go to number 3.

   If NO, go to number 5.

3. Does the notice include the German phrase in the paragraph below?

   If YES, retain a copy of the notice for the file and go to number 4.

   If NO, retain a copy of the notice for the file and go to number 5.

4. Exempt the income or property.

5. Does the individual allege that the payment is based, in whole or in part, on wage credits under Paragraphs 500-506 of the Austrian General Social Insurance Act?

   If YES, document the allegation. Obtain any verification of the allegation that may be available, i.e., corroborating statements from bankers, family members, guardians, conservators, etc. Go to number 4.

If NO, document the allegation. Do not exempt the income or property.

If UNKNOWN, go to number 6.

6. Does the individual allege being imprisoned, unemployed or forced to flee Austria during the period 1933 - 1945 because of political or religious reasons?

NOTE: The individual need not specify which entity caused the loss.

If YES, document the allegation. Obtain any verification of the allegation that may be available, i.e., corroborating statements from bankers, family members, guardians, conservators, etc. Go to number 4.

If NO, document the allegation. Do not exempt the income or property.

AWARD NOTICES: Austrian pension insurance agencies issue many types of award notices. Some notices contain information about wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act. The notices are written in German, and anywhere in the notice, the following language MAY appear:

"DIE BEGUENSTIGUNGSVORSCHRIFTEN FUER GESCHAEDIGTE AUS POLITISCHEN ODER RELIGIOESEN GRUENDEN ODER AUS GRUENDEN DER ABSTAMMUNG WURDEN ANGEWENDET (500FF ASVG);"

TRANSLATION: "The regulations which give preferential treatment for persons who suffered because of political or religious reasons or reasons of origin were applied (500ff ASVG)."

TREATMENT: Unspent Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are exempt from property to the extent that they are kept identifiable. Austrian social insurance payments NOT based on wage credits granted under Paragraphs 500-506 are included in the property reserve in the month following the month of receipt.

Interest earned on unspent Austrian social insurance payments is counted as income and unspent interest is included in the property reserve in the month following the month of receipt.

If these exempt funds have been commingled with nonexempt funds, it is the applicant's/beneficiary's responsibility to be able to distinguish which are the exempt commingled funds. The county can make the assumption that withdrawals from an account in which exempt and nonexempt funds have been commingled, were made from the nonexempt funds first. However, once these payments have been spent, the exemption does not carry over to whatever has been purchased. The property acquired shall be included in the property reserve, unless otherwise exempt.

EFFECTIVE DATE: There is no effective date. This rule applies to all payments described above.

IMPLEMENTATION DATE: Counties shall implement this information no later than May 1, 1995 at application, redetermination or whenever counties are made aware that these payments have been or are being received or retained.

ACTION REQUIRED: Where appropriate counties shall:

- Rescind any denials or discontinuances that have resulted due to the retention of these payments.
- Establish retroactive, current and on-going eligibility.

If you have any questions on the above information, please call either of the following individuals: Sharyl Shanen-Raya at (916) 657-2942; or Kathy Harwell at (916) 657-0146.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch