STATE OF CALIFORNIA — HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., *Governor*

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814

June 7, 1979

To: All County Welfare Directors

Letter No. 79-14

EXEMPTION OF BUSINESS PROPERTY AND ELIGIBILITY DETERMINATIONS FOR COMATOSE OR OTHERWISE INCOMPETENT PERSONS

Enclosed are advance copies of regulations that were filed on an emergency basis last month.

1. Business Property

California Administrative Code, Title 22, Sections 50485 and 50473 have been revised to exempt from consideration as property all equipment, inventory, licenses and materials necessary for employment. This includes livestock and poultry. In addition, money necessary for the functioning of the business is exempt up to a maximum of three times the average monthly expenditures of the business.

The revisions to Sections 50485 and 50473 are effective May 17, 1979. Eligibility determinations for the month of May 1979 and any month thereafter should be made in accordance with these regulations.

2. Eligibility Determinations for Comatose or Otherwise Incompetent Persons

California Administrative Code, Title 22, Sections 50163 and 50173 have been amended and a new Section 50166 has been adopted to clarify the eligibility determination process for persons who are comatose or otherwise incompetent and who have no one to act on their behalf. The regulations provide that the determination shall be based upon the eligibility information obtained through a diligent search by the county department. These regulations were filed on an emergency basis and are effective June 1, 1979. Eligibility determinations for the month of June 1979 and any month thereafter should be made in accordance with these regulations.

The enclosed regulations, along with procedures for the performance of the diligent search, will be issued in Medi-Cal Eligibility Manual Letter No. 21. This manual letter will be distributed shortly.

If you have any questions regarding these regulations, contact your Medi-Cal Eligibility Field Representative at (916) 445-1912.

Sincerely,

Original signed by

Doris Z. Soderberg, Chief
Eligibility Branch

Enclosures
cc: Medi-Cal Liaisons
Medi-Cal Field Representatives

Expiration Date: December 31, 1979

50163. Persons Who May Complete and Sign the Statement of Facts.
(a) The applicant or spouse of the applicant shall complete and sign the Statement of Facts, unless:

(1) The applicant is a child. Generally, the person or agency having legal responsibility for the child shall complete and sign the Statement of Facts. The child shall complete and sign the Statement of Facts if the child is competent and either of the following applies:

(A) The child is not living with the child's parents and the county has determined that no person or agency accepts legal responsibility for the child.

(B) The child is applying on his or her own behalf in accordance with Section 50147.1 (a).

(2) The applicant has a conservator, guardian or executor. In this case, the conservator, guardian or executor shall complete and sign the Statement of Facts.

(3) The applicant is incompetent, in a comatose condition or suffering from amnesia, and there is no spouse, conservator, guardian or executor. In this case:

(A) The county department shall evaluate the applicant's circumstances and determine whether or not there is a need for protective services.

(B) The Statement of Facts may be completed and signed on the applicant's behalf by a relative, a person who has knowledge of the applicant's circumstances, or a representative of a public agency or the county department.

(C) The person completing the Statement of Facts on behalf of the applicant shall provide all available information required on the Statement of Facts regarding the applicant's circumstances.

(D) If a county department representative completes and signs the Statement of Facts, another representative of that county department shall:

1. Confirm, by personal contact, the applicant's inability to act on his own behalf.

2. Countersign and approve any recommendations for eligibility.

(4) The applicant dies or cannot be located before completing the Statement of Facts. In this case, the county department shall obtain as much information as possible regarding the applicant's circumstances. In such cases, a relative, friend, or a representative of a public agency or the county department may complete the Statement of Facts on behalf of the applicant in accordance with (a) (3) (B), (C) and (D) 2.

50165. Filing the Statement of Facts. (a) At the time the Statement of Facts is given or mailed to an applicant, the county department shall:

(1) Set a reasonable deadline for returning the Statement of Facts to the county department.

(2) Inform the applicant of the deadline.

(b) If the Statement of Facts is not returned personally or by mail by the deadline specified in (a), the county department shall:

(1) Attempt to contact the applicant or beneficiary to determine the reason for the delay.

(2) Extend the deadline for returning the Statement of Facts if a valid reason for the delay, such as incapacity, is found.

(3) Deny the application or discontinue eligibility if a valid reason for the delay cannot be established.

(c) A copy of the completed Statement of Facts shall be provided to the individual who signed it, at the request of that individual.

50166. Obtaining Information for the Completion of the Statement of Facts. (a) The county department or the representative of a public agency completing the Statement of Facts in accordance with Section 50163 (a) (3) shall:

(1) Perform a diligent search to obtain available information regarding the applicant's circumstances applicable to a Medi-Cal eligibility determination.

(2) Complete the Statement of Facts based upon the findings of the diligent search.

(3) Establish disability in accordance with Section 50167 (a) (1).

50167. Verification - Prior to Approval. (a) With regard to information on the Statement of Facts, the county department shall obtain verification of the following items in the manner specified below, prior to approval of eligibility:

(1) Blindness and disability shall be verified by any of the following methods:

(A) By determining that the person was eligible as an MN person on the basis of blindness or disability in December 1973, and that there has been continuing eligibility since that time.

(B) By obtaining verification that a prior determination of blindness or disability is still valid. This shall be obtained by viewing any of the following or similar items:

1. A Social Security Administration Title II or SSI/SSP award letter indicating receipt of disability benefits provided the reexamination date has not passed or a reexamination date is not indicated.

2. A Social Security Administration notification that disability benefits have been increased or decreased.

3. A Railroad Retirement Board notification of a disability award.

4. A signed statement from the Social Security Administration that states that the person is eligible for Title II benefits on the basis of a disability.

5. Documentation of a prior determination of disability under the EVH or MN program, if the determination was done after December 1973.

6. Data on the SDX which shows that a person entering LTC was discontinued from SSI/SSP for reasons other than cessation of disability.

(2) The county department determines that the information provided on the Statement of Facts is sufficient to determine eligibility. If the information on the Statement of Facts is insufficient, the county department shall accept a signed statement, from the person who signed the Statement of Facts, providing the necessary supplemental information.

(b) The county department shall state on the Statement of Facts that this is the only method of verification available, if this method of verification is used.

50173. Eligibility Determination. (a) The county department shall determine the person's or family's eligibility and share of cost after the applicant for Medi-Cal has applied, completed the Statement of Facts, and provided all essential information. The eligibility and share of cost determination shall be completed in the following manner:

(1) Those persons whose eligibility is being determined as Other PA recipients shall have their eligibility determined in accordance with the regulations and procedures governing the program to which they are linked and any other requirements applicable to their aid category, as specified in Sections 50237 through 50247.

(2) Those persons whose eligibility is being determined as MN or MI shall have their eligibility and share of cost determined in accordance with Articles 4 through 13 (commencing with Section 50141).

(b) A determination based on the results of a county search for information under Section 50166 shall be completed in the same manner as any other determination.

(1) Citizenship and residency requirements shall be considered to be met, in the absence of information to the contrary.

(2) Only the income and resources discovered through the search shall be considered available.

50175. Denial or Discontinuance Due to Lack of Information, Noncooperation or Loss of Contact. (a) The application shall be denied or eligibility discontinued under any one of the following circumstances:

(1) There is insufficient information available to make an eligibility determination, after the county department has made a reasonable effort to obtain the necessary information.

(d) The net market value of jewelry shall be the net market value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is required. If verification is required:

(1) The applicant or beneficiary shall submit three appraisals by jewelers, insurance adjustors or personal property appraisers. The average of these appraisals shall be the market value.

(2) Subtract any encumbrances of record from the market value. This is the net market value.

50469. Recreational Items. (a) All recreational items shall be exempt, except for:

(1) Recreational motor vehicles, such as motor homes and snowmobiles, which shall be considered in accordance with Section 50461.

(2) Boats, campers and trailers, which shall be considered in accordance with Section 50463.

50471. Musical Instruments. All musical instruments shall be exempt.

50473. Livestock and Poultry. (a) Livestock and poultry retained primarily for personal use shall be exempt.

(b) The net market value of livestock and poultry retained primarily for profit shall be included in the property reserve except to the extent it is exempt as business property in accordance with Section 50485.

(c) The net market value of livestock and poultry shall be the net market value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is required. If verification is required:

(1) The applicant or beneficiary shall submit three appraisals from persons or businesses dealing in livestock and poultry. The average of these appraisals shall be the market value.

(2) Subtract any encumbrances of record from the market value. This is the net market value.

(1) Held with either of the following:

(A) A banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds.

(B) Not fewer than three persons, one of whom may be an employee of the funeral director who is entering into a Preneed Funeral Arrangement as provided in Sections 7735 through 7742, Business and Professions Code.

(2) Securities or debentures issued by a licensed cemetery authority which, by the terms of the securities or debentures, are convertible only into payment for funeral, cremation or interment expenses.

(b) The entire net market value of burial trusts not exempted in (a) shall be included in the property reserve.

50483. Loans. (a) Loans shall be exempt as property in the current month if they are any of the following:

(1) Exempt as income, in accordance with Section 50533.

(2) Income in the current month.

(3) To be considered income in a future month in accordance with Section 50517.

50485. Business Property. (a) Equipment, inventory, licenses and materials owned by the applicant or beneficiary which are necessary for employment or for an approved plan of rehabilitation or self-care necessary for employment shall be exempt.

(b) Motor vehicles shall be considered equipment only if they are used for employment purposes, other than for commuting to and from work.

(c) Cash on hand and money in checking accounts necessary for the functioning of a business shall be exempt up to a maximum of three times the average monthly cash expenditures of the business.

(d) Real property used in whole or in part as a business or for self-employment shall be considered other real property in accordance with Section 50427.

50487. Stocks Held by Natives of Alaska. Shares of stock in a regional or village corporation held by natives of Alaska for a 20 year period during which such stock cannot be conveyed, transferred or surrendered, shall be exempt.

50489. Property Held in Trust. (a) Real or personal property held in trust for the applicant or beneficiary shall be exempt if the applicant or beneficiary cannot obtain access to the principal of the trust.

(b) To determine whether the trust is available, the applicant or beneficiary shall take whichever of the following actions is appropriate within 30 days of being advised by the county department of the responsibility to do so.

(1) Request the trustee to release the funds.

(2) Request that the trustee petition the court for the release of the funds.

(3) Petition the court directly if the trustee refuses to take the action specified in (1) or (2).

(c) The trust shall be exempt pending completion of the action specified in (b).

(d) The trust shall be included in the property reserve, or considered as other real property, under either of the following conditions: