STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES
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September 25, 1979

All County Welfare Directors

Letter No. 79-24

PROPERTY UTILIZATION REQUIREMENTS AND TREATMENT OF LOANS

Enclosed are advance copies of regulations which have been filed on an emergency basis. They are effective September 17, 1979. These regulatory changes will be issued to all holders of the Medi-Cal Eligibility Manual.

1. Property Utilization Requirements

   Section 50416 has been amended to clarify:

   a. the property utilization determination for property limited to seasonal use; and

   b. those circumstances under which a new utilization period begins.

   In addition to these clarifications, a new provision, 50416 (b) (2), has been added which allows property which is yielding less than six percent of the net market value to meet utilization requirements, providing the county determines that the amount of income being received is reasonable based upon current circumstances.

2. Treatment of Loans

   Sections 50483, 50507, and 50517 have been amended so that loans which require repayment are now considered as property, rather than income, in the month of receipt.

If you have any questions or comments regarding these changes, contact your Medi-Cal field representative.

Sincerely,

Original signed by

Doris Z. Soderberg, Chief
Eligibility Branch

Enclosure

cc: Medi-Cal Field Representatives
Medi-Cal Liaisons

Expiration Date: March 31, 1980

50414. Share of Encumbrances Determination. (a) The share of encumbrances shall be determined as follows:

(1) Determine the total market value of the property.

(2) Determine the market value of the portion of the property that is to be considered.

(3) Divide the amount determined in (2) by the amount determined in (1) to obtain the percentage that the portion of property is of the total property.

(4) Multiply the total encumbrances on the property by the percentage determined in (3) above. This is the share of encumbrances.

50415. Net Market Value of Property. (a) The net market value of real or personal property is the owner's equity in that property.

(b) The net market value shall be determined by subtracting the encumbrances of record from the market value.

(c) The net market value of real or personal property owned jointly with other persons shall be determined by subtracting the beneficiary's share of encumbrances from the beneficiary's interest in the property.

50416. Utilization Requirements. (a) Other real property, as specified in Section 50427 (b), shall be utilized in order to be exempt unless the net market value, when added to the net market value of other nonexempt property, falls within the limits set forth in Section 50420.

(b) The property is utilized if any of the following requirements are met:

(1) The beneficiary is receiving net yearly income from the property of at least six percent of the net market value of the property.

(A) For property not [illegible], this requirement is met if the net mon[illegible] [illegible] property is one-twelfth of six percent of [illegible] market [illegible] of the property.

(B) For property limited to seasonal use, this requirement is met if the net yearly income is six percent of the net market value of the property. Property limited to seasonal use includes, but is not limited to:

1. Farmland.

2. Summer cabins.

(C) For purpose of determining net yearly income for property limited to seasonal use, the year is considered to begin in the first month of the year in which income normally begins. Income from all months of the year shall be considered in determining net yearly income of the property, regardless of the eligibility status of the beneficiary in those months.

(2) The beneficiary is receiving net yearly income from the property which is less than six percent of the net market value of the property, but the county determines that the amount of income being received from the property is reasonable under the current circumstances and that there is potential in the immediate future that the property will net a six percent return.

(3) The property has been sold, or the sale is in escrow and there is a bona fide attempt to close the sale.

(c) The applicant or beneficiary shall be allowed six months to meet utilization requirements. The six month period shall be known as the utilization period, and shall begin on the first of the month following issuance of a notice of action informing the applicant or beneficiary that the property is not yielding sufficient income, as required in (b). The utilization period shall be stayed during periods of ineligibility in accordance with (ℓ).

(d) The utilization period may be extended for a maximum of three months for good cause, as specified in Section 50417.

(e) The utilization period shall be extended for as long as the property is listed for sale, provided all of the following conditions are met:

(1) The county department determines that utilization requirements can only be met by sale of the property. This determination shall be made using evidence provided by the applicant or beneficiary, which may be, but is not limited to, either of the following:

(A) A written statement from a member of the American Institute of Real Estate Appraisers which gives the appraisal value of the property and its income potential.

(B) A certificate of condemnation.

(2) The property is listed for sale with a licensed real estate broker at the market value, as determined in accordance with Section 50412 (a).

(3) The beneficiary provides the following evidence every six months, and at any other time it is requested by the county department:

(A) A statement from the real estate agency that no bona fide offer has been rejected.

(B) Copies of any offers that have been submitted and the reasons for rejection.

(C) Evidence of the efforts being made to advertise the property for sale.

(f) If the applicant or beneficiary utilizes the property by sale, the property shall be sold for at least market value, unless the property was sold under either of the following situations and the applicant or beneficiary submits evidence that there was a bona fide attempt to sell at market value.

(1) The property was listed with a licensed real estate broker for at least three months and the final sale price was similar to comparable sales in the area.

(2) There was an inability to sell the property for the market value and the county department determines that the final sale price was reasonable.

(g) An existing environmental impact report involving a property shall be considered by the county department in determining the utilization potential of the property.

(h) A life estate interest in real property shall be utilized in accordance with this section.

(i) The applicant or beneficiary may arrange for a reassessment of the property during the utilization period. The assessment shall affect utilization as follows:

(1) The reassessment value shall be used in determining utilization requirements.

(2) The reassessment shall not affect the beginning date or the length of the utilization period.

(j) The entire net market value of property not utilized in accordance with this section shall be included in the property reserve on the first of the month following the last month of the utilization period.

(k) A utilization period shall begin whenever:

(1) An applicant, with other real property that is not being utilized, becomes eligible except as specified in (ℓ).

(2) The other real property of a beneficiary, that has been utilized, is no longer utilized.

(3) The real property of a beneficiary that was exempt as a home is no longer exempt.

(4) The net market value of other real property, when added to the net market value of other nonexempt property, no longer falls within the limits set forth in Section 50420.

(ℓ) When a utilization period has begun and the beneficiary becomes ineligible for Medi-Cal prior to its expiration, the remainder of the utilization period shall be applied if eligibility is subsequently reestablished and the property is not utilized at that time. However, if the beneficiary can verify that the property was utilized at any time during the period of ineligibility, a new utilization period shall begin.

50417. Utilization -- Good Cause. (a) Good cause, as required in Section 50416 (c), shall be found only if the applicant or beneficiary has made a bona fide effort to meet utilization requirements and is unable to do so because of circumstances beyond such person's control.

(b) Circumstances beyond a person's control shall include any of the following situations:

(1) Death of a part owner of the property and inability or refusal of the administrator or executor of the estate or other responsible person to complete disposition of the property if such person is other than the applicant or beneficiary.

(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 month in which they are any of the following:

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

(2) Treated as income in the month of receipt because no repayment is required.

(b) Loans which require repayment, except those exempted in (a) (1), shall be included in the property reserve beginning in the month of receipt.

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.

(5) Payments under the Economic Opportunity Act.

(6) Training incentive payments and work allowances under ongoing manpower programs other than WIN or CETA.

(7) Income received for having provided homemaker/chore services.

(8) Net income from real or personal property as determined in accordance with Section 50508 which is the result of continuous and appreciable effort on the part of the applicant or beneficiary. This includes income from:

(A) Room and board.

(B) The rental of rooms which requires daily effort on the part of the beneficiary.

(C) A business enterprise.

(D) The sale of produce, livestock, poultry, dairy products and other similar items.

50505. Net Profit from Self-Employment. (a) The net profit from self-employment shall be an estimation of the annual net income for the current year based on the federal tax return filed for the previous year.

(b) If there is no tax return for the previous year or there is evidence that using the tax return would give an inaccurate estimation of income, the county department shall use current business records. In this circumstance, net profit shall be determined by subtracting all business deductions allowed by the Internal Revenue Service from the gross business income.

50507. Gross Unearned Income. (a) Gross unearned income includes:

(1) Old age, survivors and disability insurance payments from the Social Security Administration (OASDI).

(2) Annuities, which are [illegible] other specific intervals in return for payment [illegible] [illegible]uitant.

(3) Pensions.

(4) Retirement payments.

(5) Disability payments from an employer or from insurance.

(6) Veteran's payments which include:

(A) Pensions based on need.

(B) Compensation payments.

(C) Aid and maintenance payments.

(D) Educational assistance.

(7) Worker's Compensation, except for any amount determined to be unavailable in accordance with Section 50515.

(8) Railroad Retirement and any other payments made by the Railroad Retirement Board.

(9) Unemployment Insurance Benefits.

(10) Proceeds from a life insurance policy which are in excess of the lesser of:

(A) $1,500.

(B) The amount expended on the insured person's last illness and burial expenses.

(11) Other insurance payments.

(12) Loans which do not require repayment.

(13) Gifts.

(14) Child support, whether provided voluntarily or by court order.

(15) Alimony payments.

(16) Inheritances which are in the form of cash, securities or other liquid assets.

(17) Contributions from an [illegible]

(18) Prizes and awards.

(19) Net income from the rental of real or personal property which is not considered gross earned income in accordance with Section 50503(a)(8).

(20) Dividends.

(21) Interest payments from any source, including trust, trust deeds and contracts of sale.

(22) Royalties, including but not limited to payments to a holder of a patent or copyright, for the use of the invention, or to the owner of a mine, oil well or similar holdings, for the extraction of the product or other use.

(23) Income of a PA or Other PA recipient which is not used to determine the recipient's eligibility.

(24) Incentive payments or training allowances under CETA.

(25) Any other income which is available to meet current needs in accordance with Section 50513.

(26) Any of the items specified in (10) through (25) if received in a lump sum payment.

50508. Net Income From Property. (a) Net income from property shall be considered in determining share of cost and shall be computed as follows:

(1) If the income is from the rental of other real property, subtract the following expenses from the gross income:

(A) Taxes and assessments.

(B) Interest on encumbrance payments. The principal portion of the payments shall not be deducted.

(C) Insurance.

(D) Utilities.

(E) Upkeep and repa[illegible] item shall be the greater of the following:

(B) Not controlled by the applicant or beneficiary or person acting on his behalf.

(2) That portion of a contribution that is both of the following:

(A) From a person living in the household who has no legal responsibility to support, such as an unrelated adult or an adult child.

(B) Used to meet the actual costs of the contributor's share of the housing, utilities, food and other household costs. If actual costs are unavailable, the amounts specified in Section 50511 shall be used. This shall be the difference between the income-in-kind values for the family size with the person included and excluded.

50517. Apportionment of Income Over Time. (a) Income shall be considered available in the month received, unless it is apportioned over time in accordance with the following:

(1) Income earned and received in more than eight but less than twelve months under an annual contract of employment shall be apportioned equally over the period of the contract beginning with the first month of the contract.

(2) Interest income which is received less frequently than monthly and is not exempt as specified in Section 50542 shall be apportioned as follows:

(A) Determine the number of months of the period during which the interest accrued.

(B) Divide the interest income by the number of months in the interest period.

(C) Consider the amount determined in (B) as income in each of the months of the next interest period.

(3) Income received other than monthly or semi-monthly shall be converted to monthly income in accordance with (4) if all of the following conditions are met:

(A) The beneficiary wishes to receive Medi-Cal for more than two months.

(B) The beneficiary is to receive the income for a full month.

(C) The income is nonfluctuating.

(4) Income shall be converted to monthly income by the following methods:

(A) Multiply weekly income by 4.33 or 4 1/3.

(B) Multiply income received every two weeks by 2.167 or 2 1/6.

(C) Divide quarterly income by 3.

(D) Divide income received every two months by 2.

(5) Income from self-employment, as determined in accordance with Section 50505, shall be determined on an annual basis and apportioned monthly.

(6) Loans which do not require repayment and are not exempt in accordance with Section 50533, and which specify that they are to cover a certain period of time shall be apportioned over that period of time.

(7) Interest income from a deed of trust or contract of sale shall be determined on an annual basis and apportioned monthly.

50517.1 Apportionment of Income Exemptions and Deductions. (a) Income exemptions and deductions shall be apportioned over time using the procedures for apportioning income over time.

50518. Fluctuating Income. (a) Fluctuating income shall be determined by estimating the amount to be received in the month unless the conditions of (b) are met. This estimate shall be made considering all of the following:

(1) The income pattern over the last year.

(2) The actual income received in the last month.

(3) The beneficiary's statement of anticipated income.