STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES
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March 3, 1980

To: All County Welfare Directors

Letter No. 80-9

REGULATIONS: CALIFORNIA RESIDENCE
BUSINESS PROPERTY

This letter transmits notice of a repealed regulation and advance copies of revised regulations that were currently filed and are now effective.

1. CAC, Title 22, Section 50320, (California Residence) effective 2/6/80.

2. CAC, Title 22, Section 50331, (United States Citizen Children of Aliens) repealed effective 2/6/80.

3. CAC, Title 22, Section 50485, (Business Property) effective 2/15/80.

The revision to CAC, Title 22, Section 50320, together with the repeal of CAC, Title 22, Section 50331, modifies the more restrictive California residency requirements under the Medi-Cal program for children of alien parents to be consistent with the California residency requirements under the AFDC program.

The revisions to Section 50485 add a definition as to when property is considered necessary for employment, self-support, rehabilitation or self-care. In order to be necessary for self-support, property must normally be earning income each year equal to six percent (6%) of the net market value of the property. The changes also explain that stocks and bonds are not considered business property and that a person does not have to be directly involved in a business for the business property owned by that person to be exempt. These changes have been made as a result of testimony submitted by counties and others at the regulation hearing.

These revised regulations will be incorporated into the Medi-Cal Eligibility Manual in a future manual letter. Until that time, please advise your eligibility staff of the information in this letter so it may be used in Medi-Cal eligibility determinations.

If you have any questions regarding this letter or the enclosed regulations, contact your Medi-Cal field representative.

Sincerely,

Original signed by

Doris Z. Soderberg, Chief
Medi-Cal Eligibility Branch

Enclosures

cc: Medi-Cal Liaisons
Medi-Cal Field Representatives

Expiration Date: September 30, 1980

(1) Visa, including a visitor's or a student's visa, has not expired.

(2) Parole status has not expired.

50320. California Residence. (a) California residence is a requirement for Medi-Cal eligibility.

(b) California residence shall be established by physical presence if there is no present intention of leaving, unless the applicant or beneficiary maintains a home outside the State.

(c) Children living with their parents shall have their residence determined as that of their parents, except that parents who do not meet the California residency requirements may establish California residence for their children if both of the following circumstances apply. The parents:

(1) Intend for their children to remain in California on other than a temporary basis.

(2) Have made arrangements for the children to remain in California independent of the parents.

(d) An applicant's or beneficiary's declaration on a Statement of Facts shall be accepted as proof of residence, unless there is evidence to the contrary.

50321. Temporary Absence From the State. (a) Residence shall not be affected by temporary absence from the State for periods of 60 days or less. An absence of 60 days or less shall be presumed to be a temporary absence unless there is evidence to the contrary.

(b) An application, restoration, redetermination or reapplication from an applicant or beneficiary who is temporarily absent from the State for 60 days or less shall be accepted.

50323. Absence From the State for More Than 60 Days. (a) Absence from the State for more than 60 days shall be presumptive evidence of the applicant's or beneficiary's intent to change California residence to a place outside the State unless the person declares in writing both:

(1) An intent to return to California.

(2) The existence of one of the following circumstances:

(A) Illness or emergency circumstances which prohibit return to California.

(B) Family members with whom the applicant or beneficiary lives are California residents and are physically present in the State.

(C) The applicant or beneficiary maintains California housing arrangements.

(b) Unless there is evidence to the contrary, California residence may be considered to be terminated when an applicant or beneficiary leaves California and then takes any of the following actions in another state:

(1) Purchases, leases or rents a residence.

(2) Becomes employed.

(3) Obtains an out-of-state driver's license.

(4) Applies for aid in another state.

(c) Medi-Cal shall be discontinued effective the last day of the month in which residence terminated, if the 10 day notice can be given. Otherwise, the discontinuance shall be effective the last day of the following month.

50325. Death During Absence From the State. A person who dies during an absence from the State shall be considered a resident if there is evidence that the requirements of Section 50321 or Section 50323 were met at the time of death.

50327. Persons living on Land Leased or Owned by the United States. Persons living within the boundaries of California on land owned or leased by the Federal Government shall be considered California residents.

50329. Persons on Parole From Correctional or Other Institutions. Persons on parole from correctional or other institutions may establish California residence.

50333. Foster Children Placed Out-of-State. (a) A child placed in out-of-state foster care maintains California residence if the child was placed under either of the following:

(1) Through the Interstate Compact on the Placement of Children.

(2) By a state or county agency responsible for the child's care.

50334. Out-of-State Foster Children Placed in California. (a) An out-of-state child placed in foster care in California is a California resident if both of the following conditions are met:

(1) The child was placed by an out-of-state court directly with a guardian or foster parent in California.

(2) The other state has not adopted the Interstate Compact on the Placement of Children.

(b) The remainder of the amount paid for burial trusts and prepaid burial contracts 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, for self-support or for an approved plan of rehabilitation or self-care necessary for employment shall be exempt.

(1) Equipment, inventory, licenses and materials shall be considered necessary for employment if either of the following conditions is met:

(A) The applicant's or beneficiary's employer requires that the applicant or beneficiary provide this property as a condition of employment.

(B) The applicant or beneficiary is currently unemployed but has been required to use this property for employment in the past and can provide reasonable evidence that the applicant or beneficiary is actively seeking employment which will require the use of the same property. This property shall be exempt for a maximum of one year from the date the beneficiary became unemployed if this condition is met.

(2) Equipment, inventory, licenses and materials shall be considered necessary for self-support if the applicant or beneficiary obtains a reasonable rate of return from the use of this property.

(A) A business or means of self-support that has been in existence for more than one year shall be considered to be realizing a reasonable rate of return if it is earning an annual net income equal to six percent of the net market value of the property. Net income shall be determined in accordance with Sections 50505 and 50517 (a) (5).

(B) A business or means of self-support that has been in existence for more than one year and is not earning net income equal to six percent of the net market value of the property shall be considered to be providing a reasonable rate of return for a maximum of six months if the applicant or beneficiary can show by objective evidence that the property will begin earning six percent within six months.

(C) A business or means of self-support shall not be required to realize any actual income during the first year of operation in order to meet the requirement for realizing a reasonable rate of return.

(D) A business or means of self-support that has been in existence for more than one year and is resumed after an illness, or a period of convalescence from an illness or injury, shall not be required to realize any actual income during the first six months of resumed operation in order to meet the requirement for realizing a reasonable rate of return.

(E) A business or means of self-support that has provided the applicant or beneficiary with income in the past shall be considered to be providing a reasonable rate of return for a maximum of one year during a period when it is not in operation if the applicant or beneficiary can provide evidence that both of the following conditions are met:

1. The business or means of self-support is not in operation due to reasons beyond the applicant's or beneficiary's control.

2. Operation will be resumed within one year of the date operation ceased.

(3) Equipment, inventory, licenses and materials shall be considered necessary for an approved plan of rehabilitation or self-care necessary for employment if the county department determines that the property is necessary for any of the following:

(A) Training which will lead to employment or self-support.

(B) Future employment or a means of self-support that will result from a plan of rehabilitation established by the county or the Department of Rehabilitation.

(C) Employment or a means of self-support that will continue after a period of illness or a period of convalescence or both.

(b) Motor vehicles shall be considered equipment only if used for employment or for a means of self-support other than for commuting to and from work.

(c) Cash on hand and money in checking accounts necessary for the functioning of a business or a means of self-support 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 as a means of self-support shall be considered other real property in accordance with Section 50427.

(e) Stocks, bonds, and other similar items of personal property shall not be considered property necessary for employment or self-support even in those instances where the beneficiary holds stock in the corporation in which the beneficiary is employed.

(f) A person who owns equipment, inventory, licenses and materials for self-support shall not be required to be personally involved in the business or means of self-support in order for the property to be exempt under (a).

(g) The net market value of business equipment, inventory, licenses and materials shall be the amount listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines that Sections 50442 through 50489 provide a method of valuing the specific item of property or that further verification is required.

(1) If any of the sections between Sections 50442 and 50489 can be applied as a method of valuing the specific item of property, that method shall be used.

(2) If the county determines that further verification is required and Sections 50442 through 50489 do not apply:

(A) The applicant or beneficiary shall submit an appraisal from an appropriate dealer, insurance adjuster or personal property appraiser. The value listed on the appraisal shall be the market value.

(B) The county shall subtract encumbrances of record from the market value. This is the net market value.