STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES
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To: All County Welfare Directors

Letter No. 82-43

DEPENDENT CARE DEDUCTION FOR AFDC-MEDICALLY NEEDY/MEDICALLY INDIGENT (MN/MI) PERSONS EMPLOYED PART-TIME.
CROSS REFERENCE CWD 82-12

On July 16, 1982, the Office of Administrative Law (OAL) repealed that portion of Title 22, CAC, Section 50553.2 which places a limit of $100.00 per month on dependent care costs for each child or incapacitated adult when the beneficiary is employed less than 100 hours and 13 days a month (50553.2(b)(2)). As you may be aware, AFDC regulations containing similar language were also rejected by OAL on June 7, 1982. The rejection was based on OAL's conclusion that the $100.00 limitation was inconsistent with Welfare and Institutions Code (W&IC), Section 11451.6 and 45CFR 233.20(a)(11)(c). Specifically, W&IC, Section 11451.6 states, in part, that the "reasonable and necessary costs of child care" shall be allowed. Such costs are defined as "actual costs, not to exceed the maximum allowance under Federal Law". Federal regulations require only that the amount of the dependent care disregard to be allowed for individuals employed part-time be set at a lesser amount than is allowed full time employees.

The effect of OAL's action is to increase the maximum deduction for child care or care provided to an incapacitated adult to $159.00 per month for AFDC-MN/MI persons employed part-time. This is the only change to these regulations. The requirement that dependent care costs be reasonable and necessary continues to be in force.

The Department of Health Services will issue a revised copy of these regulations to include provisions for part-time employment situations as quickly as possible. In the interim, Title 22, CAC, Section 50553.2 reads,

> "Deduction for Dependent Care. (a) The amount as determined in accordance with (b) shall be deducted from the remaining earned income of an AFDC-MN or MI person when both of the following conditions exist:
>
> (1) The person has reasonable and necessary costs of obtaining child care for a child in the MFBU or care for an incapacitated person in the MFBU.
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> (2) The county department determines that adequate dependent care cannot be provided by another member of the MFBU.

(b) The amount deducted in accordance with (a) shall be the actual amount paid as limited by the following:

(1) A maximum of $160 per child or incapacitated person if the person with earnings meets both of the following conditions:

(A) Is employed at least 100 hours in a month.

(B) Is self-employed or an employee for at least 30 days in the month.

(c) This deduction shall also apply when the care is provided by a member of the MFBU, other than a spouse or parent, who terminated employment specifically to provide the necessary care."

The effective date of the repeal of Title 22, CAC, Section 50553.2(b)(2) is July 16, 1982. Therefore, all persons impacted by this change are to have their share-of-cost adjusted starting with the July month of eligibility.

If there are any questions, please contact your Medi-Cal Program Consultant.

Sincerely,

Original signed by

Madalyn M. Martinez, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants