STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

GEORGE DEUKMEJIAN, Governor

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

August 5, 1983

To: All County Welfare Directors

Letter No. 83-55

BELTRAN V. MYERS

Re: All County Welfare Directors Letters 81-24, 81-27, 81-37, 81-44, 82-24, 82-30 and 83-43

This letter is to clarify some of the complex issues in the Beltran v. Myers lawsuit regarding application of California's transfer-of-resources rules in the Medi-Cal program (Welfare and Institutions (W & I) Code Section 14015 and Title 22 of the California Administrative Code (22 CAC) Sections 50408 and 50409). The Federal Courts held that the application of these rules prior to July 1, 1981 violated federal law. In addition, the court held that as to applications and redeterminations on or after July 1, 1981, the transfer of assets rules may be applied to nonexempt resources within the limitations specified in this letter. All appeals have been exhausted and we are now implementing the court's decision. Future All County Welfare Directors Letters will transmit specific instructions necessary to comply with the court's decision. In the interim, this letter will provide information as to how a transfer of resources is to be treated in accordance with the Beltran decision.

Under California's original rules, transfers of resources made within two years prior to an application for Medi-Cal were reviewed to determine whether the transfer was for the purpose of establishing eligibility. In addition, transfers of resources by Medi-Cal recipients were evaluated to ensure that the transfer was neither for the purpose of retaining eligibility nor for reducing the share of cost.

Applications Filed On or Before June 30, 1981

For persons who applied for Medi-Cal on or before June 30, 1981, no determination is to be made regarding a transfer of any resource made at any time prior to the date of application. However, a review must be conducted of any transfer of non-exempt resources (newly acquired or an exempt resource which became non-exempt) made on or after July 1, 1981. If this review shows that adequate consideration was not received, a period of ineligibility should be assigned.

Example 1: Mr. Jones applied for Medi-Cal on June 15, 1981. On June 1, 1981 Mr. Jones had $15,000 in his savings account. On June 5, 1981, Mr. Jones gave this $15,000 to his son as a gift.

In accordance with the decision in Beltran, no period of ineligibility should have been assessed.

Example 2: Mrs. Doe applied for Medi-Cal on April 15, 1981 and was determined to be eligible. In June 1983, Mrs. Doe inherited 5 acres of land valued at $45,000. Mrs. Doe gave this land to her daughter as a gift in July 1983.

In this instance, Mrs. Doe did not receive adequate consideration from the transfer and the county must assess whether this transfer was to retain Medi-Cal eligibility. If so, a period of ineligibility must be assessed.

Applications Filed On or After July 1, 1981

Existing transfer of assets regulations shall continue to apply with the limitations specified in this letter. These limitations are as follows.

For persons who applied for Medi-Cal on or after July 1, 1981, only transfers of non-exempt (real or personal) resources (see Title 22, California Administrative Code, Sections 50425-50489) made within two years of the Medi-Cal application date must be evaluated. In addition, after eligibility has been established, any transfer of non-exempt resources (newly acquired or an exempt resource which became non-exempt) must be evaluated to determine whether adequate consideration was received and, if not, if the transfer was made to establish Medi-Cal eligibility or reduce the share of cost. A transfer of exempt property does not affect eligibility. In evaluating the purpose of the transfer, the applicant or recipient must be allowed to present any evidence on his or her behalf. The Department will amend its regulations to incorporate these changes as soon as agreement on their content is reached with the Beltran plaintiffs.

Example 3: Mrs. Smith applied for Medi-Cal on August 1, 1981. In January 1981, Mrs. Smith transferred her home to her children without receiving adequate consideration.

Since the property Mrs. Smith transferred was exempt, no period of ineligibility is assessed.

Example 4: Mr. Zip applied for Medi-Cal on October 15, 1981. In December 1980, he transferred a deed-of-trust valued at $30,000 to his daughter as a Christmas gift.

Since the property Mr. Zip transferred was not exempt and adequate consideration was not received, a determination must be made as to whether this was a transfer to establish eligibility and, if so, a period of ineligibility must be assessed.

Example 5: Mrs. Jones applied for Medi-Cal on December 1, 1981 and was determined eligible. In March 1983, Mrs. Jones inherited $10,000. Mrs. Jones gave this money to her grandson in June 1983 as a graduation present. Since this was non-exempt property and adequate consideration was not received, the county must determine whether a period of ineligibility should be assessed.

Retention of Records

The court has ordered that a search be made of all available case records and that all ABD-MN persons who applied for Medi-Cal on or before June 30, 1981 and were denied or terminated based on the transfer of resources regulations be notified of the court's decision in this matter. This Department has requested approval from the Department of Finance (DOF) to instruct counties to begin the search of case records to identify potential class members who should be notified. In accordance with 22 CAC, Section 50111, counties are instructed to continue to suspend the destruction of case files of ABD-MN persons until informed otherwise by this Department.

If you have any questions regarding this matter, please contact Marie Harder at (916) 324-4963 or (ATSS) 454-4963.

Sincerely,

ORIGINAL SIGNED BY

Caroline Cabias, Chief
Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants