STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, Governor

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

April 23, 1986

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 86-24

SUBJECT: DIVISION OF COMMUNITY PROPERTY: NOTICES

This letter is an addendum to ACWDL 86-20 issued on March 28, 1986.

In All County Welfare Directors Letter 86-20 the Department transmitted a Notice to be distributed to all Medi-Cal applicants; however, the Notice failed to inform applicants that they may transfer an interest in a home without affecting their eligibility. Attached is a revised Notice which complies with the notice requirements in Welfare and Institutions Code Section 14006.2. Please reproduce and distribute the attached revised form to all Medi-Cal applicants, including applicants who may not be entering a long-term care facility.

The Department is currently in the process of making these Notices available through the warehouse. They will be assigned an order number and will be available in Spanish as well as English. They should be available in approximately eight weeks, and you will be notified when they are in stock.

Thank you for your cooperation in this matter.

Sincerely,

Original signed by

Gary Pettigrew, for
Doris Z. Soderberg, Chief
Medi-Cal Eligibility Branch

Attachment

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: October 18, 1986

MEDI-CAL PROPERTY AND INCOME LIMITATIONS FOR PERSONS IN LONG-TERM CARE

To be eligible for Medi-Cal benefits, the value of property that may be retained by an individual or family is limited as described below.

Real Property

- A home is exempt from consideration as a property resource, provided the person in long-term care intends to return to the home or if the spouse or a dependent relative of the person in long-term care continues to reside in the home.

- Up to $6,000 of equity may be retained in real estate other than the home but such property must produce an income (e.g., rented) to help support the Medi-Cal applicant.

Personal Property Such As Cash, Stocks, Bonds, Cash Surrender Value of Life Insurance Etc.

The current (1986) limits on personal property are:

- $1700 for an individual.

- $2550 for a couple.

Medi-Cal eligibility cannot be granted until the total value of all assets has been reduced to or below the appropriate property limit. Reduction of countable property, sometimes referred to as "property spenddown", must be completed by the end of the month in which eligibility is to be established. A transfer-of-assets "without adequate consideration", that is, gift or sale for less than fair market value, will render an applicant ineligible for a period of time.

Community Property

In 1984, Welfare and Institutions Code Section 14006.2 was enacted, permitting couples to transmute (divide) their non-exempt community property by contract into equal separate property shares without triggering the transfer-of-assets rules. Under this law the separate property of a spouse will not be considered in determining whether the other spouse is eligible for Medi-Cal.

New Law. AB 987, was signed by the Governor on September 29, 1985, permits the spouse who remains at home to retain his or her share of community property and income when the other spouse enters a skilled nursing home facility (SNF) or intermediate care facility (ICF).

Division of Community Assets. A written contract between spouses dividing community property into equal shares shall be considered a transfer for adequate consideration. Such a contract may be executed prior to one spouse's entry into a nursing home. AB 987 provides that in the absence of such a contract, a couple's community property is automatically deemed split equally, for Medi-Cal eligibility purposes, as of the date one of the spouses enters a SNF or ICF. This provision assures that only one-half of the couple's community assets is available to the institutionalized spouse for Medi-Cal spenddown purposes.

AB 987 also provides that an applicant shall not be ineligible if he or she transfers all the interest in the home to his or her spouse. This provision applies whether the transfer occurs before or after the individual becomes a resident in a skilled nursing or intermediate care facility.

It should be noted that in the case of persons already in nursing homes in September 1985, the value of their community property is calculated as of the date of entry into the facility. However, eligibility for Medi-Cal based on this automatic division of assets cannot predate September 29, 1985.

Division of Income. AB 987 creates a rebuttable presumption that one-half of the total monthly income of both spouses is community property. The community property interest of the noninstitutionalized spouse in the income of the institutionalized spouse shall not be considered income to the spouse in the institution for purposes of determining Medi-Cal eligibility. However, if the noninstitutionalized spouse receives a greater income than the spouse in the facility, he or she may keep all of that income; none of it will be considered available to the institutionalized spouse.