STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

GEORGE DEUKMEJIAN, Governor

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

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 86-47

SUBJECT: REESE V. KIZER RETROACTIVE SETTLEMENT - INTERIM ACTIVITIES

The Department has appealed the order by the court to provide retroactive relief for January 1, 1984 through December 31, 1985 to long-term care (LTC) beneficiaries whose spouses at home were not permitted to retain one-half of the couple's community property income for his/her own use. We anticipate that it will take at least a year before the decision is rendered. Due to the length of time involved in the appeal process the court has ordered the following interim activities:

1. Identification and Notification of Potential Class Members by DHS

   The Department is sending the attached notice to persons who received Medi-Cal as an aged, blind or disabled medically needy LTC beneficiary with a share of cost of $459.00 or higher during any month of the retroactive period. This represents about 30% of the LTC Medi-Cal population. (Due to our long-standing spousal allocation regulations, if a LTC beneficiary's share of cost was under $459 the spouse at home has already received at least one-half of the total income.) Unfortunately we cannot identify which beneficiaries have spouses residing in the community, therefore notices will be sent to some persons who are not part of the Reese class. (Based upon a 1981 point-in-time study only 10% of the LTC Medi-Cal population has a spouse.)

2. Retention of Reese Class Members' Case Records by County Welfare Departments (CWDs)

   The Department will send a listing to each county of those persons to whom a notice is sent. (Each county will shortly receive its list under separate cover.) No case record appearing on the list shall be destroyed without first checking to ensure that the beneficiary did not have a spouse at home during any of the retroactive period. All cases in which the beneficiary has/had a spouse at home must be retained.

3. Maintenance of Address Changes Reported by Class Members/ Spouses of Class Members to CWDs

Each county must have a procedure for recording and maintaining address changes reported by Reese class members or their spouses. This applies to both open and closed cases and will remain in effect until the appeal decision is rendered. It is highly likely that a number of the cases will be closed when an address change is reported, therefore counties must designate personnel to perform the recording/ maintaining function (this personnel is referred to in the attached notice as the Reese v. Kizer person). Additionally, counties must provide instructions to all eligibility staff to ensure that the recording occurs in all instances. (For example, the spouse of a recently deceased LTC beneficiary may call the former eligibility worker (EW) to report an address change. Even though the case is closed and no longer the responsibility of the EW receiving the call, the EW must know that the address must be recorded and maintained either in the case file or with the designated Reese v. Kizer personnel. Likewise, switchboard operators or receptionists taking incoming calls must know to whom to transfer an individual wanting to report an address change for a Reese v. Kizer closed case.) Due to a number of factors such as the length of the appeal, staff turnover, and volume of work it is possible that staff may forget/be unaware of the necessity to record/maintain Reese class members' address changes. To prevent this from occurring county instructions or reminders must be reissued every 6 months while the appeal is pending.

4. Random Sampling Contacts with Reese v. Kizer Person

At unscheduled intervals throughout the appeal process we, along with the plaintiffs' counsel, shall contact the Reese v. Kizer person in two or three randomly selected counties to verify that the address recordation/maintenance for closed cases is occurring.

The above activities are all that are required until the appeal decision is rendered. In the event that we ultimately lose the appeal it will be necessary to identify the persons on the list who had a spouse during the retroactive period as those cases will require further action. Therefore, to the extent that it is administratively feasible, you may wish to commence the identification now. For example, if you discontinue and close a case which appears on the list you may wish to make a notation on the list itself as to whether or not there was a spouse at home

during the retroactive period. No further follow-up will be required once a determination has been made that the person did not have a spouse during the retroactive period.

If you have any questions, please contact Ruthell Ussery at (916) 322-6238, ATSS 492-6238.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: January 1, 1988

IMPORTANT NOTICE: THE STATE MAY OWE YOU MONEY

If you or your spouse has been in a nursing home at any time from January 1, 1984 through December 1985, the state may owe you money because of a court decision (Reese v. Kizer). That case enforced a statute which requires that the spouse living at home in the community have at least one-half of the couple's total income to live on. The state may owe you money if, in your case, the spouse at home got less than one-half of the couple's total income in any month after January 1, 1984.

NOTE: The state has appealed the judgment in Reese v. Kizer. You will not receive any payment until the appeal is over. There is nothing that you have to do now. Just keep your eligibility worker notified if you should move. If you do not have an eligibility worker or do not know who your worker is, write to or call and ask for the Reese v. Kizer person at the county welfare department if you move. Once the appeal is over you will receive another notice telling you what to do.