

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814

June 30, 1987

TO: All County Welfare Directors
All County Administrative Officers

Letter: 87-33

NONEMERGENCY REGULATION CHANGES EFFECTIVE JULY 3, 1987

Enclosed is an advance copy of some regulation revisions which were recently filed with the Secretary of State to become effective on July 3, 1987. These revisions will be issued shortly to all holders of the Medi-Cal Eligibility Manual. Most of the changes are either clarifying in nature or incorporate current policy into regulations. The only substantive changes are described below:

22, CAC, Section 50205(b)

There is no longer a hierarchy for establishing linkage to AFDC on the basis of deprivation. The only family situation which should be affected by this change is one in which the children's second parent is deceased, the parent is incapacitated and there is a stepparent. In the past the stepparent could not be linked to AFDC because deceased parent preceded incapacitated parent in the hierarchy. Effective with July, 1987 month of eligibility, linkage for the stepparent can be established if the parent is incapacitated.

22, CAC, Sections 50205(c) and 50373

Ineligible children can no longer be considered when establishing linkage to AFDC. This change should affect very few cases as rarely are all children in a family ineligible due to citizenship/alienage, refusal to apply for a Social Security number or similar circumstance.

22, CAC, Section 50475

As a result of the change to this section, the cash surrender value (CSV) of life insurance policies can be exempt only when

the total face value of all of the policies on the insured individual is \$1,500 or less. Formerly, the CSV of those policies with a combined face value of \$1,500 or less could be exempt, with the CSV of remaining policies (if any) included in the property value.

Example: Mr. X has three life insurance policies:

Face Value	CSV
\$ 600	-0-
\$ 500	\$ 50
<u>\$ 500</u>	<u>\$ 50</u>
Total \$1,600	\$100

Since the total face value exceeds \$1,500, the \$100 CSV must be included in the property reserve. Formerly the \$100 CSV would have been exempt as the combined face value of the two policies with a CSV are under \$1,500 ($\$500 + \$500 = \$1,000$).

These regulation changes should be applied immediately at Intake commencing with July, 1987 month of eligibility. Continuing cases should be assessed for impact at annual redetermination.

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

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: December 1, 1987

MEDI-CAL ELIGIBILITY MANUAL

50038.5

50038.5. Emergency Assistance (EA). (a) Emergency Assistance (EA) means the public assistance programs that provide assistance for 30 days to:

(1) Certain families not meeting the qualifications for the federal AFDC-U program.

(2) Those children in danger of abuse, neglect or exploitation and to families of such children.

50039. Encumbrances of Record. Encumbrances of record means obligations for which property is security as evidenced by a written document.

50041. Family Member. (a) Family member means the following persons living in the home:

(1) A child or sibling children.

(2) The parents married or unmarried of the sibling children.

(3) The stepparents of the sibling children.

(4) The separate children of either unmarried parent or of the parent or stepparent.

(b) If there are no children, family member means a single person or a married couple.

50043. Heirloom. Heirloom means any item of personal property, other than cash and securities, which has substantially sentimental value, has been owned by a family for at least two generations and is intended to be retained by the family in succeeding generations.

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(Q) The value of nonexempt property held in trust, which shall be verified by viewing either of the following:

1. A document indicating the trust's current value, executed by the trustor or executor.
2. An appraisal of the property obtained by the applicant from an agent qualified to appraise such property.

(R) Encumbrances of record on any item of property subject to verification, which shall be verified by either of the following:

1. A payment book issued by the institution or person holding the encumbrance which indicates the current amount of the encumbrance.
2. Written correspondence stating the amount of the encumbrance obtained by the applicant from the institution or person holding the encumbrance.

(S) The value of oil leases or mineral rights which shall be verified by one of the following:

1. Written or telephone contact with a member of a recognized professional appraisal society which establishes the current market value of the lease or right.
2. Viewing records maintained by the County Tax Assessor where the lease or right is located.
3. Written or telephone contact with the company/ organization developing the natural resource which establishes the current market value.

(T) Health care benefits available through employment, retirement or military service which shall be verified by viewing those insurance policies which specifically name the applicant, health benefit identification cards or letters from health care benefit providers. Health care benefits available through work related injuries or settlements from prior injuries shall be verified by viewing letters from the Workmen's Compensation Board, employers or insurance companies.

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(b) A person who meets the conditions of more than one of the following categories shall have eligibility determined on the basis of the category listed first unless the person requests otherwise:

- (1) Blindness, as defined in Section 50219.
- (2) Age, as defined in Section 50221.
- (3) Disability, as defined in Section 50223.
- (4) Linkage to AFDC, as defined in Section 50205.

(c) In order to be eligible under this program, the persons listed in (a) shall meet the property, citizenship, residence, institutional status and cooperation requirements specified in these regulations.

(d) In order to be certified and receive a Medi-Cal card under this program, the persons listed in (a) shall be determined eligible and meet the income and share-of-cost requirements specified in these regulations.

(e) Eligibility or share-of-cost determinations effective on or after January 1, 1980, shall be based on the provisions of this section.

50205. Linkage to AFDC. (a) Linkage to AFDC exists if a child is living with a relative and deprived of parental support or care. Deprivation shall be established if all conditions of any one of the following sections are met at any time during the month:

- (1) Deprivation -- Deceased Parent, Section 50209.
- (2) Deprivation -- Physical or Mental Incapacity of a Parent, Section 50211.
- (3) Deprivation -- Absent Parent, Section 50213.
- (4) Deprivation -- Unemployed Parent, Section 50215.

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(b) A child who is deprived of parental support or care for more than one reason, may have linkage to AFDC established on any basis of deprivation that is listed in (a). The advantages and disadvantages of each basis shall be explained to the applicant or beneficiary and the basis of deprivation shall be the choice of the child's parent or caretaker relative.

(c) All family members living in the home, except those children excluded from the MFBU in accordance with Section 50381 and children who are ineligible for Medi-Cal, shall be considered in determining whether linkage to AFDC exists. Family members also include persons who are PA or Other PA recipients.

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50371. Medi-Cal Family Budget Unit. (a) The Medi-Cal Family Budget Unit (MFBU) shall be the basic unit of persons considered in determining a person's or family's eligibility and share of cost. The MFBU shall be established in accordance with Sections 50373, 50375, 50377 and 50379. Members of the MFBU may be excluded from an established MFBU in accordance with Section 50381.

(b) Changes in the MFBU shall be reflected in the share of cost determination within the time frames specified in Section 50565, except that the changes may be reflected in the month the changes are reported if it is to the beneficiary's advantage. Any advantage shall be explained to the beneficiary. The beneficiary shall determine whether the change shall be reflected in the month it is reported.

50373. Medi-Cal Family Budget Unit Determination, No Family Member in LTC or Board and Care. (a) The MFBU for a family with no family member in LTC or board and care shall be determined in accordance with the following:

(1) Family members who are PA or Other PA recipients, except for persons eligible for four month or nine month continuing eligibility, shall not be included in the MFBU.

(2) All family members living in the home, other than those specified in (1), shall be included in the MFBU in accordance with (5) whether or not they are eligible for, or wish to receive, Medi-Cal. Potential members of the MFBU may be excluded in accordance with Section 50381.

(3) All family members living in the home, except those children excluded from the MFBU in accordance with 50381 and children who are ineligible for Medi-Cal, shall be considered in determining whether linkage to AFDC exists. Family members also include persons who are PA or Other PA recipients.

(4) A person who is 18 years of age or older but under age 21, and who is claimed as a dependent in order to receive a tax credit or deduction for state or federal income tax purposes shall be included in his/her parent's MFBU.

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50475. Life Insurance. (a) Life insurance policies, except term insurance, owned by a member of the MFBU on the life of any individual in the family shall be exempt if the combined face value of all of the policies on the insured individual is \$1,500 or less. If the combined face value of all of the policies exceeds \$1,500, the net cash surrender value of life insurance policies shall be included in the property reserve.

50476. Burial Insurance. The cash surrender value of burial insurance policies on any individual in the family shall be exempt.

50477. Burial Plots, Vaults and Crypts. (a) Any burial plot, vault or crypt retained for use by any member of the family shall be exempt.

(b) The net market value of any burial plot not exempted above is other real property and shall be subject to all conditions placed on other real property in these regulations.

(c) The net market value of any burial vault or crypt not exempted above is personal property and shall be included in the property reserve.

(d) The net market value of a burial plot, vault or crypt shall be the net market value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is required. If verification is required:

(1) The applicant or beneficiary shall submit a statement of value from the organization from which the plot, vault or crypt was purchased. This statement of value shall be the market value.

(2) Subtract encumbrances of record from the market value. This is the net market value.

MEDI-CAL ELIGIBILITY MANUAL

50501

Article 10. Income

50501. Income -- General. (a) Income includes benefits in cash or in kind from:

- (1) Labor.
- (2) Services provided.
- (3) Business activities.
- (4) Returns from real or personal property.
- (5) Contributions.
- (6) Other similar sources.

(b) Income from sources listed in (a) shall be considered as income only if it is currently available in accordance with Sections 50513 through 50517.

(c) Income from sources listed in (a) shall be divided into three types:

- (1) Gross earned income as described in Section 50503.
- (2) Gross unearned income as described in Section 50507.
- (3) Income in kind as described in Section 50509.

50503. Gross Earned Income. (a) Gross earned income includes:

(1) Wages, including amounts designated for meals provided by an employer or business enterprise, salaries, bonuses and commissions from an employer or business enterprise.

(2) Net profits from self-employment as determined in accordance with Section 50505.

(3) Earnings under Title 1 of the Elementary and Secondary Education Act.

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(4) Payments under the Job Training Partnership Act (JTPA). Payments which are identified by the local JTPA office as an incentive payment or training allowance shall be considered as gross unearned income.

(5) Payments under the Economic Opportunity Act.

(6) Training incentive payments and work allowances under ongoing manpower programs other than WIN or JTPA.

(7) Income received for having provided IHSS services.

(8) Net income from real or personal property as determined in accordance with Section 50508 which is the result of continuous and appreciable effort on the part of the applicant or beneficiary. This includes income from:

(A) Room and board.

(B) The rental of rooms which requires daily effort on the part of the beneficiary.

(C) A business enterprise.

(D) The sale of produce, livestock, poultry, dairy products and other similar items.

(9) Earnings from public service employment.

(10) Actual Earned Income Tax Credit (EITC) payment received for taxable year 1980 and thereafter whether received as a tax refund or received as an advance payment.

(11) Tips actually received for the performance of work activities, notwithstanding the amount calculated by the employer for tax withholding purposes.

50505. Net Profit from Self-Employment. (a) The net profit from self-employment shall be an estimation of the annual net income for the current year based on the federal tax return filed for the previous year.

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- (11) Other insurance payments.
- (12) Loans which do not require repayment.
- (13) Gifts.
- (14) Nonexempt child/spousal support, whether provided voluntarily or by court order.
- (15) Inheritances which are in the form of cash, securities or other liquid assets.
- (16) Contributions from any source.
- (17) Prizes and awards.
- (18) Net income from the rental of real or personal property which is not considered gross earned income in accordance with Section 50503(a)(8).
- (19) Dividends.
- (20) Interest payments from any source, including trust, trust deeds and contracts of sale.
- (21) Royalties, including but not limited to payments to a holder of a patent or copyright, for the use of the invention, or to the owner of a mine, oil well or similar holdings, for the extraction of the product or other use.
- (22) Income of a PA or Other PA recipient which is not used to determine the recipient's eligibility.
- (23) Incentive payments or training allowances under JTPA.
- (24) Any other income which is available to meet current needs in accordance with Section 50513.
- (25) Any of the items specified in (10) through (24) if received in a lump sum payment.

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- (14) Oglala Sioux Tribe, Pine Ridge, South Dakota.
- (15) Rosebud Sioux Tribe, Rosebud, South Dakota.
- (16) Shoshone-Bannock Tribe, Fort Hall, Idaho.
- (17) Standing Rock Sioux Tribe, Standing Rock, North and South Dakota.
- (18) Seminole Indians, Florida.
- (19) Pueblos of Zia and Jemez, New Mexico.
- (20) Stockbridge Munsee Indian Community, Wisconsin.
- (21) Burns Indian Colony, Oregon.

50538. VISTA Payments. Payments made under the Domestic Volunteer Services Act of 1973 to VISTA volunteers are exempt.

50539. Job Training Partnership Act (JTPA) Payments. (a) All earnings of a child which are derived from participation in JTPA programs shall be exempt for up to six months per calendar year. Other JTPA payments made to a child shall be exempt at all times.

(b) Payments, other than earnings, to an adult which are derived from participation in JTPA programs shall be exempt to the extent that the payment reimbursements do not exceed the adult's actual training expenses.

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50540. Executive Volunteer Programs. Payments for supportive services or reimbursement of out-of-pocket expenses made to persons serving in the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) pursuant to Section 418 of Public Law 93-113 are exempt.

50541. Senior Citizen Volunteer Programs. Compensation received by beneficiaries who are 60 years of age or older, for volunteer services performed under the Retired Senior Volunteer program, the Foster Grandparents program or the Older Americans Community Service program of the National Older Americans Act, shall be exempt.

50542. Irregular or Infrequent Income. (a) The first \$60 of casual or inconsequential unearned income per calendar quarter shall be exempt if either of the following conditions are met:

- (1) The income is received not more than twice per quarter.
- (2) The income cannot be reasonably anticipated.

(b) Earned income not exceeding \$30 per calendar quarter shall be exempt if either of the following conditions are met:

- (1) The income is received not more than twice per quarter.
- (2) The income cannot be reasonably anticipated.

50543. Student Exemption. (a) All earned income, including earnings from JTPA after the six months' exemption pursuant to Section 50539 has expired, of an AFDC-MN or MI child shall be exempt if the child is either of the following:

- (1) A full-time student.
- (2) A part-time student with a school schedule that is equal to at least one-half of a full-time curriculum, and the child is not employed full-time.

50547. Educational Expenses. (a) Documented educational expenses for college or similar training courses which are incurred by a beneficiary shall be deducted either from any income received for educational purposes, as defined in (b), or any loan received for educational purposes, which is considered as property in accordance with Section 50483 (b). Such educational expenses shall be apportioned over the period of time they are intended to cover to determine the monthly deduction. Documented expenses incurred by the beneficiary include any of the following items or services necessary for school attendance:

- (1) Tuition.
- (2) Books.
- (3) Fees.
- (4) Equipment and supplies.
- (5) Special clothing needs.
- (6) Child care services.

(7) Costs of transportation to and from school based on the mode most economically available and feasible in the particular circumstances. If it is determined that personal car usage meets these criteria, all actual transportation costs will be prorated based on the percentage of miles driven to and from school to total miles driven each month. Allowable transportation costs include, but are not limited to, car payments, car insurance and registration, and gasoline.

(b) Income for educational purposes includes, but is not limited to:

- (1) Exempt student loans, grants or fellowships, as identified in Section 50533.
- (2) Nonexempt student loans, grants or fellowships which do not require repayment.
- (3) Social Security and Veteran's Administration payments to a child attending school which are based on a deceased or disabled parent's entitlement.
- (4) Veterans Educational Assistance program payments (GI Bill).

(c) The beneficiary's educational expenses shall first be deducted from the totally exempt loans or grants identified in Section 50533. Any remaining educational expenses shall next be deducted from other loans for educational purposes that are considered property in accordance with Section 50483 (b), and finally from other income received for educational purposes.

Article 13. Period of Eligibility

50701. Beginning Date of Eligibility. (a) The beginning date of eligibility for Medi-Cal for persons who apply under any public assistance program shall be the first day of the month of application, providing the person meets the citizenship, residency, linkage and financial eligibility criteria of the appropriate program, notwithstanding the beginning date of the cash grant. For persons who do not meet these eligibility criteria during the month of application, the beginning date of eligibility shall be the first day of the first month in which the above specified eligibility criteria of the appropriate program are met.

(b) The beginning date of eligibility for Medi-Cal specified in (a) shall also apply to:

(1) Persons who apply for AFDC and meet eligibility criteria in the month of application but whose eligibility is denied because they no longer meet eligibility criteria at the time eligibility for AFDC is determined.

(2) Persons who apply for SSI/SSP and meet the eligibility criteria but are denied because they die before the application can be processed and an application is filed on their behalf at the county department within 30 days of receipt of a written notice of denial.

(c) The beginning date of eligibility for persons applying only for Medi-Cal shall be the first day of the month of application, if all eligibility criteria of the appropriate Medi-Cal program are met. If the eligibility criteria are not met during the month of application, the beginning date of eligibility shall be the first day of the month, subsequent to the month of application, during which the eligibility criteria of the appropriate Medi-Cal program are met.

(d) For the purposes of (c), eligibility criteria are considered to be met throughout the month if they are met at any time during the month, except for persons specified in Section 50273 (a).

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50786. Action on Overpayment -- Department of Health Services or County Unit Contracted to Collect Overpayments. (a) Upon receipt of a potential overpayment referral, the Department's Recovery Section or the county unit contracted to collect overpayments shall:

(1) Determine the amount of Medi-Cal benefits received by the beneficiary for the period in which there was a potential overpayment.

(2) Compute the actual overpayment in accordance with the following:

(A) When the potential overpayment was due to excess property, the actual overpayment shall be the lesser of the:

1. Actual cost of services paid by the Department during that period of consecutive months in which there was excess property throughout each month.

2. Amount of property in excess of the property limit during that period of consecutive months in which there was excess property throughout each month. This excess amount shall be determined as follows:

a. Compute the excess property at the lowest point in the month for each month.

b. The highest monthly amount determined in a. shall be the amount of the excess property for the entire period of consecutive months.

(B) When the potential overpayment was due to increased share of cost, the actual overpayment shall be the lesser of the:

1. Actual cost of services received in the share of cost period which were paid by the Department.

2. Amount of the increased share of cost for the share of cost period(s).

(C) When the overpayment was due to excess property and increased share of cost, the actual overpayment shall be a combination of (A) and (B).

(D) When the potential overpayment was due to other factors which result in ineligibility, the overpayment shall be the actual cost of services paid by the Department.

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(b) The county, in addition to meeting the requirements of Section 50157 (f) and (g), shall provide Medi-Cal Special Treatment Programs -- Supplement applicants a copy of the applicable Medi-Cal Special Treatment Programs -- Supplement Client Information statement at the initial and redetermination or reapplication interviews. A signed and dated copy of the applicable Medi-Cal Special Treatment Programs -- Supplement Client Information statement shall be placed in the case folder.

(c) A redetermination shall be required annually.

(d) The county department shall require Medi-Cal Special Treatment Programs -- Only and Medi-Cal Special Treatment Programs -- Supplement beneficiaries to complete a Medi-Cal Status Report, Form MC 176S, no later than the third month following the month of Medi-Cal Special Treatment Programs eligibility approval and at three month intervals thereafter. Status reports shall not be required during the quarter in which an annual redetermination is completed.

(1) A reevaluation shall be made when a change in circumstances affects the percentage obligation or eligibility.

(2) Information supplied on the status report shall be considered in reevaluating percentage obligation or eligibility.

(e) Retroactive eligibility, as defined by Section 50710, shall not be provided under the Medi-Cal Special Treatment Programs.

50817. Eligibility Requirements -- Medi-Cal Special Treatment Programs. (a) Applicants for Medi-Cal Special Treatment Programs shall meet cooperation, citizenship, residence, and institutional status and transfer of property requirements in Articles 4, 6, 7 and 9.

(b) Applicants shall be eligible for the Medi-Cal Special Treatment Programs -- Only coverage if they are all of the following:

(1) In need of dialysis or parenteral hyperalimentation and related services.

(2) Otherwise eligible for Medi-Cal under Section 50203 as Medically Needy or Section 50251 as Medically Indigent except for property which exceeds the limits set forth in Article 9.

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(3) Not eligible for renal dialysis Medicare if under 65 years of age. Medicare eligibility shall not affect Medi-Cal Special Treatment Programs -- Only eligibility for persons age 65 or for persons applying for parenteral hyperalimentation coverage.

(c) Applicants shall be eligible for the Medi-Cal Special Treatment Programs -- Supplement coverage if they are all of the following:

(1) Eligible under Section 50203 as Medically Needy or Section 50251 as Medically Indigent. Medicare eligibility shall not affect Medi-Cal Special Treatment Programs -- Supplement eligibility.

(2) In need of dialysis or parenteral hyperalimentation and related services.

(3) Employed, or self-employed.

(4) Earning an individual gross income that exceeds the minimum maintenance need for one person.

(d) Applicants for the Medi-Cal Special Treatment Programs shall apply for Medicare as follows:

(1) Applicants for dialysis coverage shall apply for Medicare within ten days of making application for a Medi-Cal Special Treatment Program. Applicants who fail to apply for Medicare within the prescribed time period, except for good cause as exemplified under Section 50175 (c), shall have the application denied under that specific Medi-Cal Special Treatment Program.

(2) Applicants for or beneficiaries of parenteral hyperalimentation coverage shall apply for Medicare in accordance with Section 50777.

50819. Verification Requirements -- Medi-Cal Special Treatment Programs. (a) All Medi-Cal Special Treatment Program applicants or beneficiaries shall provide the following:

(1) Applicable verification required under Article 4.