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

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

May 10, 1989

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 89 - 39

SUBJECT: EXCESS PROPERTY DUE TO SSI OVERPAYMENTS

It has come to our attention that many Medi-Cal applicants (some residing in intermediate care facilities and skilled nursing facilities) who were Supplemental Security Income (SSI) recipients are having difficulty getting the Social Security Administration (SSA) to stop payments on grants for which they are no longer eligible. The individuals feel obligated to either allow the money to accumulate in their checking or savings accounts or to hold on to the checks without cashing them in order to repay SSA. In many cases, convalescent hospitals are not making application for Medi-Cal benefits until SSI reclaims the money because it appears that the individual is over the Medi-Cal property limits.

It is not reasonable for counties to determine that excess property exists when the property represents an amount to which the applicant is not eligible to receive and has no authority to spend. If an applicant claims that excess resources are due to the fact that SSI has not yet terminated monthly payments and:

1. if that individual verifies that the SSA has been notified that he/she is now residing in a skilled nursing or intermediate care facility, or;

2. if that individual has a notice from SSA which states that he/she is no longer eligible for SSI, then an amount of the resources which represents the amount of the SSI overpayment shall not be considered available. This amount can be determined by multiplying the monthly award by the number of months that a long term care individual has been institutionalized or from the date of ineligibility stated on a SSI notice of action.

Since, in most cases, the Medi-Cal program follows the SSI definition of availability of property, whereby the individual must have the "legal right, power and authority to liquidate the asset", we consider the SSI overpayments as unavailable property because the individual no longer has the authority to spend the money for which they are no longer eligible.

If you have any additional questions in regard to this issue, please feel free to contact Sharyl Shanen at ATSS 8-454-4956 or (916) 324-4956.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: June 30, 1990