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

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
O. BOX 942732
ACRAMENTO, CA 94234-7320

TO: All County Welfare Directors
All County Administrative Officers

January 5, 1990
Letter No.: 90-01

SUBJECT: IMPLEMENTATION OF THE SPOUSAL IMPOVERISHMENT PROVISIONS OF THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 RELATING TO PROPERTY

The purpose of this letter is to officially instruct county welfare departments to implement January 1, 1990, the provisions contained in the attached set of draft regulations. Minor changes have been made in almost all of these regulations since the training package was prepared. Although none of the major concepts have changed, please review them to determine their impact on your implementation.

IMPORTANT NOTE REGARDING TRANSFERS OF ASSETS: It appears that the Omnibus Reconciliation Act of 1989 (OBRA 89) recently signed by President Bush has changed the treatment of assets transferred by the individual's spouse prior to the individual's institutionalization as well as those made by the community spouse. However, until DHS has had time to evaluate the impact and issue new instructions, counties are to follow the instructions in the draft regulations. Counties are to flag all cases in which there is a disqualifying transfer based upon these draft regulations.

We also have discovered an error on the Period of Ineligibility Worksheet (MC 176 PI). Therefore, before using the MC 176 PI, counties must strike the words "after the month" in the third line of item number 7. Number 7 should read: "Total the number of months between the transfer and the application or current month if person is a beneficiary. (Begin with the month of the transfer excluding the month of application or current month if person is a beneficiary.)"

In addition, DHS will not have the ability to print the language regarding the restricted services on the Medi-Cal cards until 3/1/90. Therefore, counties must continue to issue full scope cards until further notice even if a disqualifying transfer occurred.

FORMS

Photocopies of the forms for implementation have also been attached. Each form has been listed here with a corresponding date after which you will be able to submit orders to the state warehouse. Please duplicate a supply until the printed forms are available.

MC 176 PA-1 Property Worksheet/Assessment - Institutionalized Spouses (pg. 1) (available 5/1/90)
MC 176 PA-2 Property Worksheet/Assessment - Institutionalized Spouses (pg. 2) (available 5/1/90)
MC 176 PA-A Property Assessment Application (available 4/15/90)
MC 176 PA-A (SP) Property Assessment Application (available 5/1/90)
MC 176 PI Period of Ineligibility Worksheet (available 2/15/90)
MC 210 PA Property Assessment Statement of Facts (available 2/15/90)
MC 210 PA (SP) Property Assessment Statement of Facts (available 3/1/90)
MC Information Notice 005 Community Property - Person in Long-Term Care (available 1/15/90)
MC Information Notice 005 (SP) Community Property - Person in Long-Term Care (available 1/15/90)
MC Information Notice 007 Medi-Cal General Property Limitations for all Medi-Cal Applicants (available 1/15/90)
MC Information Notice 007 (SP) Medi-Cal General Property Limitations for all Medi-Cal Applicants (available 3/15/90)

Suggested language for the Notices Of Action will follow under separate cover.

QUESTIONS AND ANSWERS

Finally, here are the answers to questions that were raised during the training sessions.

1. Does an applicant or beneficiary have to fulfill the requirements of Section 50402 (make a bona fide effort and have a good faith intent to render the property unavailable) if including the net market value of the subject property in the property reserve would not result in excess property?

Answer: No. The applicant or beneficiary need only make a bona fide effort and good faith intent to fulfill the requirements of 50402 when there is property which would otherwise result in excess property.

2. Does the 45 day period to complete an assessment begin from the date the MC 176 PA-A is signed or received?

Answer: The draft regulations were changed to read that the 45 day period begins from the date the MC 176 PA-A is received by the county department.

3. When a non-institutionalized individual or family applies for Medi-Cal and they have made transfers of nonexempt property, what is verified with

regard to that transferred property?

Answer: The county department would verify that the property was no longer owned by the applicant or beneficiary and no longer available (that the transfer was truly made). For instance, title to real property must be changed.

4. Can an institutionalized or community spouse request a fair hearing on an assessment or before a determination of eligibility has been made?

Answer: Current regulations at Section 50951 provide that a Medi-Cal applicant or beneficiary may request a fair hearing on any action or inaction by the county department. There is no right to request a fair hearing until at least an application has been made.

There is no federal requirement for a fair hearing on the assessment because (1) no action must be promptly taken based upon an assessment, (2) eligibility or ineligibility is not determined based upon information contained in an assessment, (3) and in California we have chosen not to implement the formulated amount of the Community Spouse Resource Allowance (CSRA) which would have involved a determination during the assessment of a "spousal share". Instead California has implemented at the maximum limit for the CSRA which is determined only after an application has been made and is based solely upon resources available to the couple at that time. The assessment is providing the institutionalized and community spouse only with information on how their property would be exempted, counted and valued. Therefore, there is no federal requirement to provide fair hearings based upon information provided during the assessment even after an application has been made.

Federal law with regard to the spousal impoverishment provisions specifically state that the institutionalized spouse, community spouse, or their representative(s) have the right to a fair hearing once a determination has been made. The draft regulations state that, in accordance with federal law, after an application has been made, an institutionalized spouse, community spouse, or their representative(s) have the right to request a fair hearing on the determination of the community spouse resource allowance and the ownership and availability of resources. Otherwise, as with all other Medi-Cal applicants and beneficiaries, they may still request fair hearings on any action or inaction by the county department.

5. When a request for a fair hearing is filed, that request is simply forwarded to the Department of Social Services and the fair hearing is scheduled. If the person does not have the right to the fair hearing, a determination is made to that effect at the fair hearing. Will a new system

be devised to prevent the county from having to do position papers when the institutionalized spouse, community spouse or their authorized representative did not yet have the right to a fair hearing because a determination had not yet been made?

Answer: Training is being scheduled for the administrative law judges with regard to the new spousal impoverishment provisions and rights to fair hearings. In addition, the county department shall not give the institutionalized spouse, community spouse, or their representative a definitive statement of eligibility or ineligibility during the face-to-face interview unless the county department will be simultaneously handing the institutionalized and community spouse or their representative a Notice of Action. However, a county should advise them of the property limits and the options of how to reduce property by the end of the month if it appears there may be excess property. Remember, the 90-days within which to request a fair hearing begins with the date of the Notice of Action.

6. If property is unavailable based upon bona fide effort and good faith intent to sell, what is to prevent the non-institutionalized person or family from giving the excess property away since there is no transfer of assets rule?

Answer: If a non-institutionalized person transfers property prior to applying for Medi-Cal and that transfer occurred after 1/1/90, there would be no penalty for having done so. On the other hand, if the property is retained but unavailable based on a bona fide effort and good faith intent to sell, the draft regulations state that the property will be considered <u>available</u> from the date the bona fide effort and good faith intent to sell ceases. Therefore, once the property becomes available, the individual then may have excess property. If eligibility were established while an individual was in possession of this excess property, there may be an overpayment. In cases where property was unavailable based on bona fide effort to sell and the individual then gives the property away, the county department may be able to establish a date when bona fide efforts and good faith intent ceased. For example, perhaps reasonable offers were refused, or perhaps a couple tried to keep the property as long as they could but taxes came due and they simply did not have the funds to keep the property any longer so they gave it away. In the first case good faith efforts ceased when the first offer was refused and in the second case, good faith intent ceased when the tax statement was received and the couple acknowledges that they then decided that they could no longer afford to keep the property.

Although an overpayment would be calculated from the date the bona fide effort or good faith intent ceased, the transfer would not affect eligibility unless the individual were institutionalized within 30 months

from the date the asset was transferred. Remember, however, if eligible one day of the month, eligible the whole month. So, unless the bona fide effort or good faith intent ceased on the first day of the month, no overpayment would actually result until the first of the following month.

7. Can an institutionalized individual still transfer an exempt resource without affecting his/her eligibility?

Answer: Yes. Federal law states that there is no period of ineligibility if a satisfactory showing is made to the state that the asset was not transferred to establish eligibility. DHS has decided that a satisfactory showing is made when the county department documents in the case record that the asset was exempt at the time of transfer. This is based on the premise that retention of an exempt resource would not have affected eligibility and therefore transfer of such a resource could not have been made to establish eligibility.

In addition, when calculating a period of ineligibility, the county departments must use only the amount of nonexempt resources transferred which would have resulted in excess property as of the date of the transfer if included in the property reserve ($2,000 limit for one individual in 1989 and on-going) of the institutionalized individual plus the CSRA ($62,580 limit in 1990) if the institutionalized individual is also a institutionalized spouse. Although the resources included in the property reserve and the CSRA are not exempt resources, the premise is the same as above; the transfer of such resources could not have been made to establish eligibility.

8. What if the principal residence is exempt on the basis of intent to return and then the institutionalized spouse gives it away to someone not listed in the draft regulations to whom the nonexempt principal residence may be transferred?

Answer: When an institutionalized individual transfers the principal residence which has been exempt on the basis of intent to return, the basis for the exemption is questionable. Just as it has been our policy prior to 1/1/90, if the applicant or beneficiary provides an affidavit from the person to whom the property was transferred stating that, for instance, "My mother/father may still return to the residence to live at any time", then the property will be considered exempt at the time of the transfer even if the property has since been transferred. If verification that the property was not exempt at the time of the transfer is not provided when requested by the county department, a period of ineligibility for having made the transfer must be calculated.

9. Since the exemption for pension funds held in the name of the at-home spouse (if the at-home spouse does not wish Medi-Cal) is not effective until 1/1/90, should the county include the otherwise exempt pension funds in the automatic division as of the date of admission to long-term care?

Answer: No. The draft regulations require that the pension funds held in the name of the applicant's or beneficiary's spouse be exempt if that person is either ineligible or does not wish Medi-Cal. If the applicant is an LTC spouse for whom the automatic division applies, the only way to provide the applicant with the exemption is to exempt those funds as of the date of admission as well. Exempt pension funds shall be treated as if they were exempt as of the date of admission as long as the date of application for benefits is after 1/1/90.

10. To establish eligibility for Medi-Cal under the new spousal impoverishment provisions, can an LTC spouse be discharged from the facility for one day and then be readmitted after 9/30/89 and apply after 1/1/90?

Answer: Yes. This is contradictory to information provided during training. DHS has reversed its policy requiring a break in institutionalization for one full calendar month before the new CSRA provisions may be applied to an LTC spouse. Upon further research we have found that contrary to information provided to DHS earlier, the Supplemental Security Income (SSI) program does not define a break in a continuous period as a full calendar month. Rather, SSI, pursuant to Program Operations Manual System, Sections SI 00520.120, 00520.130, and 00520.220, defines the end of a period of institutionalization as the date of discharge. Finally Section 1924 of the federal Social Security Act is silent on this issue.

When considering new applications, look only to the most recent date of institutionalization if it was preceded by at least one full calendar day of residence outside a medical institution or nursing facility and the individual is expected to remain institutionalized for 30 consecutive days. That means that if the individual is not institutionalized for one full calendar day, he/she may have their eligibility established under the new rules.

For example, assume an individual was institutionalized on 9/1/89 and is in the process of spending down his/her one-half of the community property which amounts to only $30,000. If he/she were to be discharged on 1/10/90 and readmitted on 1/12/90, the individual would have resided outside of a medical institution or nursing facility for one full calendar day (1/11/90). If he/she applied for Medi-Cal on or after 1/12/90, the date of institutionalization would be 1/12/90, the new provisions would apply and if otherwise eligible, he/she would be eligible for Medi-Cal for the month of January. If the date of discharge were 1/10/90 and the new admission date

1/11/90, the individual was still institutionalized for a consecutive period of days.

In addition, transferring from one facility to the next, which may involve discharges one day and admissions the next, would not constitute the end of a period of institutionalization.

11. If an institutionalized individual makes consecutive transfers of resources, are the cumulative periods of ineligibility limited to 30 months?

Answer: No. A period of ineligibility is calculated for each transfer beginning with the month of the transfer. This may result in concurrent periods of ineligibility which when combined may extend cumulatively beyond 30 months.

12. What does the county department do with an increased CSRA awarded by an administrative law judge in order to fund an increase in the Minimum Monthly Maintenance Need Allowance (MMMNA)? If the new CSRA was based on durational exceptional circumstances resulting in financial duress, what happens once the duration of the exceptional circumstance expires?

Answer: When an administrative law judge awards a new maximum CSRA, the CSRA shall be that amount. When the institutionalized and community spouse reduce property to within the property limit for one plus the new maximum CSRA, eligibility is established. The institutionalized spouse has 90 days to remove his/her name from the property awarded to the community spouse as the new maximum CSRA. During that transfer period, the CSRA is considered unavailable to the institutionalized spouse. In that the property awarded as the new maximum CSRA will be income producing property and since the property must be transferred into the community spouse's name, the community spouse may start to receive the income in his/her name on a permanent basis even though the exceptional circumstance itself was durational in nature.

Once initial eligibility has been established and the CSRA transfer period begins, the county department does not concern itself with the property of the community spouse or the property included in the CSRA. The CSRA would be recomputed only if the institutionalized spouse were discontinued and that discontinuance was not rescinded. Discontinuances may occur if at the end of the CSRA transfer period, the institutionalized spouse's name appears on more than $2,000 worth of property. The county would also discontinue if the institutionalized spouse returns to the home for a full calendar month and there then is excess property because then the couple's combined property is considered.

13. How will the counties verify whether or not the institutionalized individual is receiving nursing facility level of care with regard to

transfers of property?

Answer: The counties must contact the provider. Nursing facility level of care is receipt of care in a skilled nursing facility, including care in a distinct-part SNF and in a subacute care facility, or in a SNF bed in a swing-bed hospital, intermediate care facility (ICF), or intermediate care in other facilities such as swing-bed hospitals. Providers recognized this level of care as "long-term care" and bill Medi-Cal on a specific "long-term care" claim form. Counties may use the phrase "long-term care" when obtaining verification. The provider's billing department may be of assistance in providing this verification. Please be aware that to avoid overpayments due to transfers of property, county departments must obtain such verification whenever an individual who is institutionalized transferred property.

14. What is acceptable verification of property transferred "for the sole benefit of" the spouse or community spouse?

Answer: An affidavit under penalty of perjury from the trustee, public or private guardian, adult son or daughter or from whomever the property was transferred, stating that the property is to be used only for the sole benefit of the spouse or community spouse.

15. What is the definition of "neighboring communities" as it is used in Section 50402 requirements for advertising when making a bona fide effort to sell?

Answer: The term "neighboring communities" was removed from the draft regulations. An applicant or beneficiary will only be required to advertise in at least one local newspaper or if there is no local newspaper, then a newspaper with local distribution.

16. Can spouse number 1, prior to the institutionalization of spouse number 2, retransfer nonexempt property if that transfer is for sole benefit of spouse number 1?

Answer: A retransfer on the part of the spouse number 1, when made for his/her sole benefit would not have been made to establish the Medi-Cal eligibility for the now institutionalized spouse number 2. Verification must be provided from the trustee, public or private guardian, adult son or daughter, or whomever the property was transferred, that the property is to be used for the sole benefit of the spouse number 1 (who has now become the community spouse).

17. The nonexempt principal residence may be transferred to certain individuals including a "child under 21" and a "child who is blind or

totally and permanently disabled". Is the term "child" meant to be defined in accordance with the definition in Title 22?

Answer: No. The draft regulations have been changed. "Child" in this case refers simply to a son or daughter.

18. What if parents transfer prior to a child being institutionalized?

Answer: The 30 month look-back period would be triggered to determine whether or not the child, or someone acting on the child's behalf, had transferred property. The transfer of assets rule pertains to institutionalized individuals only.

19. What happens when the conditions necessary for undue hardship (as it relates to either the CSRA or transfers of property) cease to exist?

Answer: When undue hardship ceases to exist, the county department should either determine the CSRA at that point and begin the CSRA transfer period, or compute the remainder of the period of ineligibility (and/or overpayment if applicable) if 30 months from the date of the transfer of property have not yet elapsed.

20. Must property be reduced for the institutionalized individual's "own benefit" (i.e., reduced on payment of mortgages or for improvements on property only in proportion to ownership interest in the property) after 1/1/90?

Answer: No. There is no "own benefit" requirement after 1/1/90, although the institutionalized individual may still have a period of ineligibility if property has been inappropriately transferred.

21. What if the ownership of property has been previously determined to be the property of someone outside the MFBU by a fair hearing or by statement or affidavit in accordance with regulations in effect prior to 1/1/90? Must the ownership of the property be reestablished by requiring the beneficiary to provide clear evidence beyond a statement or affidavit?

Answer: The draft regulations at Section 50402 have been clarified to include only property to which ownership has not been previously determined by the county department or through fair hearing.

22. Could a non-institutionalized couple, for example, an AFDC-MN couple, where one spouse wants Medi-Cal and the other does not, liquidate the pension funds of the spouse wishing Medi-Cal and use those funds to purchase pension funds in the name of the spouse not wishing Medi-Cal (i.e., an Individual Retirement Account)?

Answer: Yes. There is no penalty for reducing nonexempt assets by purchasing exempt assets.

23. What if an LTC couple for whom the division of community property would be appropriate, had an interspousal agreement which divided the pension funds of the ineligible spouse equally between both spouses? Does the LTC spouse have to reduce his/her half of the pension funds?

Answer: No. Notwithstanding any interspousal agreements, if the pension funds are held in the name of the ineligible spouse they are exempt.

24. When making a bona fide effort and good faith intent to sell other real property, the property must be listed for sale at the fair market value determined by a qualified real estate appraiser. Does that mean the assessed value is no longer used when determining eligibility?

Answer: No. When determining the eligibility of a Medi-Cal applicant always use the assessed value unless the applicant provides an appraisal value and the appraisal value is lower.

25. What is a qualified real estate appraiser?

Answer: As defined in the Procedures Section of the Medi-Cal Eligibility Manual, page 9H-3, "a qualified real estate appraiser is a person employed as a real estate appraiser for a real estate company, a bank, a title company or an appraisal company".

26. What is a continuous period of institutionalization?

Answer: A continuous period is 30 consecutive days and begins when an institutionalized spouse is expected to remain institutionalized for a least 30 consecutive days. Persons are considered "expected to remain", even though they do not actually remain in an institution, when it was determined at the beginning of the period of institutionalization that he/she was "expected to remain" for 30 consecutive days. After eligibility has been established, a break in the continuous period is a full calendar month because in Medi-Cal we have whole month eligibility pursuant to 42 Code of Federal Regulations, Section 435.914 (b). To do otherwise would disadvantage both of the spouses.

27. What is a full calendar month for purposes of institutionalization?

Answer: A full calendar month is one in which the institutionalized spouse was never institutionalized for any instant in that month. For example, if an institutionalized spouse were discharged on 1/31/90 or 2/1/90 and readmitted on 2/28/90, a full calendar month would not have elapsed. If

however, the institutionalized spouse were discharged on 1/15/90 and readmitted on 3/1/90, a full calendar month (February) would have elapsed.

28. Since the law with regard to transfer of assets has changed effective with transfers occurring on or after 1/1/90, can an LTC spouse who has an automatic division or interspousal agreement dividing the couple's community property (for whom the CSRA does not apply) transfer his/her remaining one-half to the at-home spouse and establish eligibility for Medi-Cal on or after 1/1/90?

Answer: Yes. As long as the transfer of LTC spouse's one-half occurs on or after 1/1/90 and is transferred to the at-home spouse, this would not be a disqualifying transfer. If all other conditions of eligibility are met, the LTC spouse would be eligible.

29. If the county is processing an application for an institutionalized spouse who was expected to remain institutionalized for 30 consecutive days and the institutionalized spouse goes home before 30 days of institutionalization have elapsed, does the county deny the application?

Answer: No. The county determines eligibility as if the person were institutionalized through the end of the month in which the date of discharge occurred. This is consistent with information HCFA has included in their State Medicaid Manual. Please note that the draft regulations specify that only the applicant's or beneficiary's physician may make that 30-day determination.

For example, a married individual was institutionalized on 1/15/90, applied as an institutionalized spouse on 1/16/90, and was discharged on 1/29/90. Verification from the physician that the institutionalized individual is expected to remain institutionalized for 30 consecutive days from the date of admission is not received until 2/1/90 but it is dated 1/20/90. Today's date is 2/11/90.

As long as the date of the physician's determination that the person is expected to remain precedes the date of discharge, then the county should consider the person an institutionalized spouse as of 1/15/90 (the date of admission) and grant eligibility for the month of January if all other conditions of eligibility are met.

If the date of admission occurred in one month and the date of discharge occurred in the next month then there would be two full months of eligibility. Remember, if eligible one day of the month, eligible for the whole month.

If you have any additional questions on these or other property issues, please feel free to contact Sharyl Shanen at (916) 324-4956.

Sincerely,

ORIGINAL SIGNED BY

FRANK S. MARTUCCI, Chief
Medi-Cal Eligibility Branch

Enclosures

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: January 1, 1991

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF HEALTH SERVICES

PROPERTY WORKSHEET/ASSESSMENT FOR INSTITUTIONALIZED SPOUSES

1

HOJA DE TRABAJO DE BIENES/ EVALUACION PARA ESPOSO(A) INTERNADO EN UNA INSTITUCION MEDICA

Name / Nombre _____ Case / Caso NO. _____ Month / Mes _____

REAL PROPERTY		PROPIEDAD DE BIENES RAICES
A. PRINCIPAL RESIDENCE? (¿RESIDENCIA PRINCIPAL?) YES / SI ☐ NO ☐		IF YES, REAL PROPERTY / SI ES ASI, BIENES RAICES ☐ PERSONAL PROPERTY / PROP. PERSONAL ☐
B. OTHER REAL PROPERTY (ORP) Determine market value and encumbrances of ORP, and list in B1 and B2. Note: If ORP owned jointly with persons not in MFBU, list only the share of market value and encumbrances of persons in MFBU.		B. OTROS BIENES RAICES (ORP) Indique en B1 y B2 en valor en el mercado y gravámenes de ORP. Nota: Si ORP es prop. conjunta con personas no en MFBU, indique sólo la porción del valor en el mercado y gravamen de personas en MFBU.
1. Market Value per Section 50412	$	1. Valor en el mercado (Según la sección 50412)
2. Encumbrances per Section 50413	$	2. Gravámenes (Según la sección 50413)
3. Net Market Value (line 1 minus 2)	$	3. Valor neto en el mercado (renglón #1 menos #2)
4. Life estate (determine value per Section 50442 and procedure 9A)	$	4. Herencia en vida (determine valor según la sección 50442 y # 9A)
5. Net market value of notes, mortgages, deeds of trust from sale of real property owned by MFBU member.	$	5. Valor neto en el mercado de pagarés, hipotecas, título de propiedad de la venta de bienes raíces propiedad de miembros de MFBU
6. Total net other real property (add line 3, 4, and 5) Enter in line D1	$	6. Total neto de otros bienes (sume renglones # 3, 4 y 5) Indique total en el renglón D1.
C. INCOME FROM PROPERTY		C. INGRESOS DE PROPIEDADES
1. Rental Income ☐ Monthly ☐ Yearly, if yes, $ _____ ÷12	$	1. Ingresos de rentas ☐ mensual ☐ anual, $ _____ ÷12
2. Upkeep and Repair a. $_____ (Line C1) X .15	$	2. Mantenimiento y reparación a. $_____ (renglón C1) X .15
b. + $4.17	$ 4.17	b. + $4.17 $ 4.17
c. Line a + b	$	c. Renglón a + b $
d. Actual upkeep and repair	$	d. Costo real mantenimiento y reparación $
e. Greater of line 2c or 2d	$	e. Cantidad mayor entre renglón 2c o 2d
3. Interest ☐ Monthly ☐ Yearly, if yes, $ _____ ÷12	$	3. Interés ☐ mensual ☐ anual, $ _____ ÷12
4. Taxes & Assessments ☐ Monthly ☐ Yearly, if yes, $ _____ ÷12	$	4. Impuestos y tasación ☐ mensual ☐ anual, $ _____ ÷12
5. Utilities ☐ Monthly ☐ Yearly, if yes, $ _____ ÷12	$	5. Servicios públicos ☐ mensual ☐ anual, $ _____ ÷12
6. Insurance ☐ Monthly ☐ Yearly, if yes, $ _____ ÷12	$	6. Seguro ☐ mensual ☐ anual, $ _____ ÷12
7. Total expenses (add lines 2e through 6)	$	7. Gastos totales (sume del renglón 2e al 6)
8. Net rental income (line 1 minus 7) (Enter on MC 176M, Column I or II)	$	8. Ingreso neto de rentas (renglón # 1 menos # 7) (Anote en MC 176M, columna I o II)
9. Income from ORP other than rental income (Section 50508) (Enter on MC 176M, Column I or II)	$	9. Ingreso de ORP que no sea ingreso de rentas (sección 50508) (Anote en MC 176M, columna I o II)
10. Total income from ORP (line 8 plus line 9)	$	10. Ingreso total de ORP (región # 8 + # 9)
D. UTILIZATION		D. UTILIZACION
1. Total net market value of ORP (from line B6)	$	1. Valor total neto en el mercado de ORP (del renglón B6)
2. 6% per year utilization requirement	$	2. Requisito de utilización de 6% anual
3. Income needed	$	3. Ingresos necesarios
4. a) Is C10 greater than D3? Yes ☐ No ☐ If yes, utilization met. If no, recompute rental income with actual upkeep and repair, if lower. b) Is C10 then greater than or equal to D3? Yes ☐ No ☐ If yes, utilization met. c) If still no, is utilization period implemented? Yes ☐ No ☐		4. a) La cantidad en C10 es mayor que D3. Sí ☐ No ☐ Si es Sí, es utilización. Si es menor recompute ingreso de rentas, mantenimiento y reparación actual. b) La cantidad en C10 es mayor o igual que D3. Sí ☐ No ☐ Si es Sí, es utilización. c) Si es No, ¿se llevó a cabo el período de utilización? Sí ☐ No ☐
5. Exemption: If 4a, b, or c is yes, enter lesser of $6000 on line D1. Otherwise, enter Ø.	$	5. Exención: Si contesta Sí a 4a, 4b o 4c, anote menos de $6000 en el renglón D1. De otra manera , anote cero (0).

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF HEALTH SERVICES

PROPERTY WORKSHEET/ASSESSMENT FOR INSTITUTIONALIZED SPOUSES

2

HOJA DE TRABAJO DE BIENES/ EVALUACION PARA ESPOSO(A) INTERNADO EN UNA INSTITUCION MEDICA

Name
Nombre _____

Case
Caso NO. _____

Month
Mes _____

PROPERTY RESERVE		RESERVA DE BIENES
A. NUMBER OF PERSONS IN THE MFBU	▶	◀ A. NUMERO DE PERSONAS EN MFBU
B. PROPERTY INCLUDED IN PROPERTY RESERVE		B. BIENES INCLUIDOS EN LA RESERVA DE BIENES
1. Excess Value ORP a) enter from PA-1, line D1		1. Exceso Valor de ORP a) total PA-1, renglón D1
b) enter from PA-1, line D5		b) total PA-1, renglón D5
c) line 1a less line 1b	▶ $	◀ c) renglón 1a menos 1b
2. Notes, mortgages, deeds of trust NOT from the sale of real property owned by MFBU member.	$	2. Pagarés, hipotecas, títulos de propiedad NO de la venta de bienes raíces propiedad de miembros de MFBU.
3. Liquid assets (money, checking/savings accounts, stocks, bonds, etc. (other than for business)).	$	3. Bienes en efectivo (dinero, cuenta de cheques/ahorros, acciones, bonos, etc. (aparte de los del negocio)).
4. CSV of nonexempt life insurance.	$	4. Valor redimible de seguro de vida no exento.
5. Burial plots, vaults, or crypts not for family use and not exempt as other real property.	$	5. Lotes, gavetas y criptas para entierro, no para uso de la familia y no exentos como otros bienes inmuebles.
6. Value of burial reserves in excess of $1,000 if revocable, or $1,800 if irrevocable for each person.	$	6. Reserva revocable para gastos funerarios mayor de $1,000 o $1,800 por persona si es irrevocable.
7. Vehicles, boats, campers, or trailers, other than one exempt for transportation.	$	7. Vehículos, lanchas/botes, casas rodantes o remolques aparte del que es exento y se use para su transportación.

ITEM	MARKET VALUE, e.g. DMV LICENSE FEE X 50 OR APPRAISED VALUE	ENCUMBRANCE	CLASE	VALOR EN MERCADO, p.ej. registro DMV x 50 o VALOR DE AVALUO	GRAVAMEN

8. BUSINESS PROPERTY		8. BIENES DESTINADOS AL NEGOCIO
a. Property necessary for employment or rehabilitation that is NOT exempt.	$	a. Bienes necesarios para empleo o rehabilitación que NO son exentos.
b. Property necessary for self-support		b. Bienes necesarios para mantenimiento propio
(1) Net value of property (list on separate sheet)	$	(1). Valor neto de bienes (Anótelos en hoja por separado) $
(2) 6% per year return	X.005	(2). Ganancia de 6% anual X.005
(3) Reasonable rate of return	$	(3). Promedio razonable de ganacias $
(4) Monthly income	$	(4). Ingresos mensuales $
(5) Is 8b(4) equal to or greater than 8b(3)? Yes ☐ No ☐ If yes, enter ø. If no, determine if property will earn reasonable rate of return per section 50485. If no, enter line 8b(1)	▶ $	(5). Cantidad 8b(4) es igual o mayor que 8b(3). SI ☐ No ☐ Si es SI, anote cero (0). Si es No, determine si los bienes ganarán un promedio razonable de ganancia de acuerdo a la sección 50485. Si No anótelo en el renglón 8b(1). ◀
9. a. Liquid assets for means of self-support	$	9. a. Bienes en efectivo para mantenimiento propio $
b. Average monthly expenditures for means of self-support _____ X 3.	$	b. Promedio de gastos mensuales para mantenimiento propio. _____ X 3. $
c. Countable liquid assets from means of self-support (line 9a minus line 9b)	$	c. Bienes contables en efectivo de medios para mantenerse a sí mismo (renglón #9a menos #9b)
10. Other countable property	$	10. Otros bienes contables
11. Total property reserve (add lines 1 through 10)	$	11. Reserva total de bienes (sume renglones del #1 al #10)
12. Property limit for MFBU (from line "A" above) (Include CSRA for assessment and during transfer period)	$	12. Límite de propiedad para MFBU (del renglón "A", arriba) (Incluya la CSRA para evaluación y durante períodos de transferencia)

13. Is line 12 greater than or equal to line 11? ☐ Yes – property eligible; ☐ No – excess property – ineligible. Explain property requirements.

13. Renglón #12 es mayor o igual que #11. ☐ SI – bienes elegibles; ☐ No – bienes en exceso - no elegibles. Explique requisitos de los bienes.

IMPORTANT: This information applies to you if you do not apply for Medi-Cal at the same time this assessment was done.

This notice is providing you with information on what property is counted for Medi-Cal purposes and how that property would be valued if you or your spouse were applying for Medi-Cal benefits as an institutionalized spouse. The property the community spouse is allowed to retain when the institutionalized spouse applies for Medi-Cal is computed at the time of application for benefits. Please be aware that the amounts shown on the property assessment may change when you do apply for Medi-Cal. This can be caused by the appreciation in the values of real estate, changes in the values of stocks and bonds, accumulation of interest and dividends, the sale of property considered exempt for Medi-Cal purposes, the acquisition of new property, etc. In addition, please be aware that the values that you provide may also change when the County conducts third-party verification of the information you provide at the time of application for benefits.

IMPORTANTE: Esta Información aplica en su caso si usted solicitó beneficios de Medi-Cal al mismo tiempo en que se hizo esta evaluación.

Esta notificación le proporciona información sobre cuáles bienes se toman en consideración para propósitos de Medi-Cal y cómo se evaluará la propiedad si usted o su esposo(a) solicitaran beneficios de Medi-Cal como esposo(a) internado en una institución médica. Los bienes comunitarios que se le permiten conservar al esposo(a) cuando el otro esposo(a) internado en una institución médica solicita Medi-Cal se computa al tiempo de solicitar estos beneficios. Tenga en cuenta que las cantidades indicadas en la evaluación de bienes pueden cambiar cuando usted solicite beneficios de Medi-Cal. Esto puede ser debido al aumento en el valor de los bienes raíces, fluctuaciones en el valor de acciones y bonos, la acumulación de intereses y dividendos, la venta de la propiedad considerada exenta para propósitos de Medi-Cal o si ha adquirido nuevos inmuebles, etc. Además, tenga en cuenta que los valores que usted nos proporcione también puedan cambiar cuando el condado lleve a cabo la

MEDI-CAL PROPERTY ASSESSMENT APPLICATION

For either the institutionalized spouse if institutionalized on or after September 30, 1989, or his/her spouse

This assessment will provide you with information on what property is counted for Medi-Cal purposes and how that property would be valued if you or your spouse were applying for Medi-Cal benefits as an institutionalized spouse.

You are eligible for this assessment, only if:

- One spouse is institutionalized on or after September 30, 1989, and
- The other spouse does not reside in a nursing facility or medical institution receiving a nursing facility level of care, and
- You have verification with you at the time of your appointment of the values of all your real and personal property, liquid and non-liquid assets.

IMPORTANT:

The property the community spouse is allowed to retain when the institutionalized spouse applies for Medi-Cal is computed at the time of application for benefits. If you are not applying for Medi-Cal at the same time that this assessment is being done, please be aware that the amounts shown on the property assessment may change when you do apply for Medi-Cal. This can be caused by the appreciation in the value of real estate, changes in the values of stocks and bonds, accumulation of interest and dividends, the sale of property considered exempt for Medi-Cal purposes, the acquisition of new property, etc. In addition, please be aware that the values that you provide may also change when the County conducts third-party verification of the information you provide at the time of application for benefits.

I understand that this assessment will be completed on the basis of current regulations and information which I provide. I also understand that unless this assessment is being done at the same time as my or my spouse's application for Medi-Cal, the amounts shown may be different when an application for benefits is eventually made.

Institutionalized Individual's Signature ..... Date: .....

Community Spouse's Signature ..... Date: .....

Signature of Representative of Either Spouse ..... Date: .....

NOTE: This form must be signed by at least one of the above.

I have read and reviewed the Property Assessment Application and Statement of Facts with the assessment applicant(s).

Eligibility Worker's Signature ..... Date: .....

SOLICITUD DE EVALUACION DE BIENES PARA MEDI-CAL.

Para el esposo(a) internado en una institución médica si fue internado en o después del 30 de septiembre de 1989, o su esposo(a)

Esta evaluación le proporcionará información sobre qué propiedad se toma en consideración para propósitos de Medi-Cal y cómo se avaluará dicha propiedad si usted o su esposo(a) solicitaran beneficios de Medi-Cal como esposo(a) internado(a) en una institución médica.

Usted es elegible para esta evaluación, solamente si:

- Uno de los esposos es internado el 30 de septiembre de 1989 o después, y si
- El otro esposo no reside en un establecimiento de cuidado médico continuo no intenso o en una institución médica recibiendo un nivel de cuidado no intenso, y si
- Usted tiene verificación consigo al presentarse a su cita del valor de todos sus bienes y propiedad personal, recursos en efectivo y bienes materiales no en efectivo.

IMPORTANTE:

Los bienes que se le permiten conservar al esposo(a) con comunidad de bienes cuando el esposo(a) internado(a) en una institución médica solicite beneficios de Medi-Cal se computarán de la fecha en que se soliciten estos beneficios. Si usted no está solicitando beneficios de Medi-Cal cuando esta evaluación se esté haciendo, tenga en cuenta que las cantidades que aparecen en la evaluación de bienes pueden cambiar cuando solicite beneficios de Medi-Cal. Esto puede ser debido al aumento en el valor de los bienes raíces, fluctuaciones en el valor de acciones y bonos, la acumulación de intereses y dividendos, la venta de la propiedad considerada exenta para propósitos de Medi-Cal, o se han adquirido otros inmuebles. Además, tenga en cuenta que los valores que usted nos proporcione también pueden cambiar cuando el condado lleve a cabo la verificación, hecha por terceros, de la información que proporcione cuando solicite los beneficios.

Tengo entendido que esta evaluación será hecha de acuerdo a los ordenamientos en vigor y la información que yo proporcione. Entiendo, igualmente, que a menos que esta evaluación sea hecha al mismo tiempo que se presente mi solicitud o la de mi esposo(a) para beneficios de Medi-Cal, las cantidades que aparezcan pueden ser diferentes de las que existan en la fecha en que se presente la solicitud para beneficios.

Firma de la persona internada en una institución médica ..... Fecha: .....

Firma del esposo(a) con comunidad de bienes ..... Fecha: .....

Firma del representante de cualquiera de los esposos ..... Fecha: .....

NOTA: Esta forma debe ser firmada por lo menos por uno de los arriba citados.

He leído y revisado la Solicitud de Evaluación de Bienes y la Declaración de Datos con el solicitante de la evaluación.

Firma del trabajador(a) de elegibilidad ..... Fecha: .....

PERIOD OF INELIGIBILITY WORKSHEET

- Period of ineligibility can be reduced whenever the institutionalized individual receives additional compensation.
- Period of ineligibility terminates if property is transferred back.

A. DETERMINE NET UNCOMPENSATED VALUE

1. Net Market Value — 1. _____
2. Amount of compensation received in excess of encumbrances and closing costs — 2. _____
3. Uncompensated Value (line 1 minus 2) — 3. _____

B. PERIOD OF INELIGIBILITY

4. Uncompensated Value (from line 3) — 4. _____
5. Amount of average monthly cost of care at private rate — 5. _____
6. Computation of months of ineligibility (divide line 4 by line 5) — 6. _____

NOTE: Period of ineligibility CANNOT exceed 30 months

7. Total the number of months between the transfer and the application or current month if person is a beneficiary. (Begin with the month ~~after the month~~ of the transfer excluding the month of application or current month if person is a beneficiary.) — 7. _____
8. Months remaining (line 6 minus 7) — 8. _____

   If months remaining is zero, person is eligible.

9. If months remaining is greater than zero, period expires on _____. (Begin with the month of application or the current month if the person is a beneficiary.)

10. Did the person receive Medi-Cal, for nursing facility level of care, for any month in line 7, prior to the expiration of the number of months in line 6? ☐ YES ☐ NO

    If yes, there is an overpayment for nursing facility level of care in those months.

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF HEALTH SERVICES

PROPERTY ASSESSMENT STATEMENT OF FACTS

NAME OF APPLICANT OR AUTHORIZED REPRESENTATIVE BY WHOM ASSESSMENT IS REQUESTED

TELEPHONE NUMBERS
HOME:
WORK:

HOME ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)

MAILING ADDRESS (IF DIFFERENT FROM ABOVE)

2 COMPLETE FOR PERSON RESIDING IN A NURSING HOME OR MEDICAL INSTITUTION RECEIVING A NURSING FACILITY LEVEL OF CARE

NAME (First, Middle, Last)	SOCIAL SECURITY NUMBER	BIRTHDATE	SEX (✓)
		/ /	M ☐ F ☐

ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)

PREVIOUS ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)

DATE ENTERED NURSING FACILITY	PLAN TO RETURN HOME?	MARITAL STATUS (✓)
	☐ YES ☐ NO If yes, When?	Married Never Married Separated Divorced Common Law Widow/er

3 COMPLETE FOR "AT HOME" (COMMUNITY) SPOUSE.

NAME (First, Middle, Last)	SOCIAL SECURITY NUMBER	BIRTHDATE	SEX (✓)
		/ /	M ☐ F ☐

ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)

A. DO YOU OR ANY FAMILY MEMBER HAVE ANY OF THE PROPERTY/RESOURCES LISTED BELOW? CHECK (✓) EACH ITEM EITHER "YES" OR "NO".

- Include all resources owned, used, controlled or held jointly with or for another person(s).
- Include resources on which persons listed in 2 and 3 are named (even for convenience only).
- The county will determine whether or not these resources count.

	YES	NO		YES	NO
• CASH (on hand or elsewhere)			• MONEY MARKET ACCOUNTS		
• UNCASHED CHECK (on hand or elsewhere)			• TRUST FUNDS (whether or not available)		
• SAVINGS ACCOUNTS - Children's & Adult's			• NOTES, MORTGAGES, TRUSTS, DEEDS, CONTRACT OF SALES, etc.		
• CHECKING ACCOUNTS - Whether or not they are used			• IRA OR KEOGH PLANS		
• CREDIT UNION ACCOUNTS			• RETIREMENT FUNDS (such as PERS) available if you stop work		
• STOCKS or BONDS			• EMPLOYEE DEFERRED COMPENSATION PLANS		
• CERTIFICATES OF DEPOSIT			• OTHER (type)		

IF "YES", COMPLETE THE SECTION BELOW

TYPE OF RESOURCE	OWNER	ACCOUNT NUMBER	NAME & ADDRESS OF BANK	CURRENT VALUE

COUNTY USE ONLY

☐ Trust Fund Not Court Ordered

☐ Court Petitioned Date: _____

☐ Resources Verif. Explain How:

B. HAVE YOU OR ANY MEMBER OF YOUR FAMILY CLOSED OR TRANSFERRED A BANK ACCOUNT DURING THE PAST 30 MONTHS (2 1/2 YEARS)? ☐ YES ☐ NO

If "YES":

TYPE OF ACCOUNT	DATE ACCOUNT(S) CLOSED OR TRANSFERRED?	BALANCE AT TIME OF CLOSING OR TRANSFER?

COUNTY USE ONLY

LTC ONLY:

Adequate Consideration ☐

Spenddown ☐

5 DO YOU OR ANY FAMILY MEMBER OWN LIFE INSURANCE? ☐ YES ☐ NO

INSURANCE COMPANY	1. PERSON INSURED 2. POLICY OWNED BY	FACE VALUE	POLICY NUMBER	DATE POLICY ISSUED	CURRENT CASH VALUE
A.	1. 2.	$			$
B.	1. 2.	$			$
C.	1. 2.	$			$

EXEMPT ☐ YES ☐ NO CSV $ _____

EXEMPT ☐ YES ☐ NO CSV $ _____

EXEMPT ☐ YES ☐ NO CSV $ _____

Total CSV $ _____

6 DO YOU OR ANY FAMILY MEMBER OWN A BURIAL PLOT, VAULT, OR CRYPT? ☐ YES ☐ NO

FOR USE OF IMMEDIATE FAMILY? ☐ YES ☐ NO

IF "YES", complete the following:

Description _____ Owned by _____

Current value $ _____ Amount owed $ _____

Location:

7 DO YOU OR ANY FAMILY MEMBER OWN A BURIAL RESERVE OR TRUST? ☐ YES ☐ NO

IF "YES": Purchase price $ _____ Amount Owed $ _____

$ _____ $ _____

For whom purchased _____

From whom purchased _____

☐ REVOCABLE

☐ IRREVOCABLE

CURRENT VALUE $ _____

8 LIST ALL VEHICLE(S) (EVEN IF NOT RUNNING) OWNED BY YOU OR YOUR FAMILY. IF NONE, STATE NONE.

LIST EXEMPT VEHICLE:

MAKE & MODEL	YEAR	CLASS (Registration)	OWNER	AMOUNT OWED	USED FOR TRANSPORTATION	
					YES	NO

☐ VERIFICATION OF NONEXEMPT VEHICLES

DO YOU OR ANY FAMILY MEMBER OWN BOATS, CAMPERS (do not include trucks), MOTOR HOMES, MOBILE HOMES OR TRAILERS WHICH ARE NOT USED AS HOME AND ARE NOT TAXED AS REAL PROPERTY BY THE COUNTY? ☐ YES ☐ NO

If "YES", list:

☐ VERIFICATION OF PERSONAL PROPERTY

DESCRIPTION	YEAR	CLASS (Registration)	OWNER	PURCHASE PRICE	ONLY MODE OF TRANSPORTATION	
					YES	NO
				$		
				$		
				$		
				$		

NOTE: If you think the value of the items above based on Department of Motor Vehicles registration tables will be too high, you may provide three appraisals of the actual value and the average will be used.

10 DO YOU OR ANY FAMILY MEMBER OWN BUSINESS EQUIPMENT, VEHICLES, TOOLS, INVENTORY, OR MATERIALS (including livestock or poultry not for personal use)? ☐ YES ☐ NO

If "YES" list:

DESCRIPTION	ESTIMATED VALUE	AMOUNT OWED
	$	$
	$	$
	$	$

COUNTY USE ONLY

11 ARE YOU OR ANY FAMILY MEMBER BUYING OR THE OWNER OF ANY LAND AND/OR BUILDINGS IN WHICH YOU DO NOT NOW LIVE? (Be sure to include property in any state or country and all land you own, have title to, or share title in.) FOR EXAMPLE: Lots, houses, trailers, apartments, mobile home which are taxed as real property by the county, etc. ☐ YES ☐ NO

If "YES":

VERIFICATION OF "GOOD CAUSE" FOR UTILIZATION OF PROPERTY

VERIFICATION OF INCOME & EXPENSES (LIST):

Address of other property _____

Description of property _____

Name of owner _____

Does anyone live there now? ☐ YES ☐ NO

If so, who lives there now? _____

What is their relation to you? _____

How long have they lived there? _____

Do you plan to return to that property to live? ☐ YES ☐ NO

(If you later change your mind, you must notify the county within 10 days.)

Is the property currently listed for sale? ☐ YES ☐ NO

Full value (from tax statement) $ _____ Amount owed $ _____

Rent collected each month $ _____

Expenses on property:

Interest $_____ Yearly/Monthly Insurance $_____ Yearly/Monthly

Taxes & Assessments $_____ Yearly/Monthly Upkeep & Repairs $_____ Yearly/Monthly

Utilities $_____ Yearly/Monthly

12 DO YOU OR ANY FAMILY MEMBER HAVE A LIFE ESTATE INTEREST(RIGHT TO THE USE OF) IN ANY PROPERTY? ☐ YES ☐ NO

If "YES":

☐ REVOCABLE

☐ IRREVOCABLE

What is the address? _____

DO YOU OR ANY FAMILY MEMBER HAVE AN INCOME INTEREST IN A LIFE ESTATE? ☐ YES ☐ NO

Is the Life Estate producing income? ☐ YES ☐ NO

How much and how often received? $_____ per _____

13 HAVE YOU OR ANY FAMILY MEMBER TRANSFERRED, SOLD, OR GIVEN AWAY ANY PROPERTY (INCLUDING MONEY) DURING THE PAST 30 MONTHS (2 1/2 YEARS)? ☐ YES ☐ NO

If "YES" list:

LTC ONLY:

Adequate Consideration ☐

Spenddown ☐

DESCRIPTION OF ITEM	DATE OF SALE TRANSFER OR GIFT	VALUE	AMOUNT RECEIVED
		$	$
		$	$

14 HAVE YOU RECEIVED MONEY FROM INSURANCE OR COURT SETTLEMENTS, INHERITANCE, LOTTERY OR BACK PAY IN THE PAST 30 MONTHS (2 1/2 YEARS)? ☐ YES ☐ NO

If "YES":

LTC ONLY:

Adequate Consideration ☐

Spenddown ☐

SOURCE	DATE RECEIVED	AMOUNT
		$
		$
		$

15 A. HAVE YOU OR ANY FAMILY MEMBER ENCUMBERED PROPERTY, MADE A PAYMENT FOR HEALTH CARE SERVICE YOU RECEIVED OR WILL RECEIVE DURING A PERIOD FOR WHICH YOU ARE ASKING FOR MEDI-CAL BENEFITS? ☐ YES ☐ NO

Payment or lien used to bring property within property limits

B. HAS A LIEN BEEN RECORDED AGAINST YOUR PROPERTY OR THE PROPERTY OF A FAMILY MEMBER AS SECURITY FOR HEALTH CARE SERVICES RECEIVED OR TO BE RECEIVED DURING A PERIOD FOR WHICH YOU ARE ASKING FOR MEDI-CAL BENEFITS? ☐ YES ☐ NO

☐ YES ☐ NO

If YES:

☐ Notice to provider

C. IF YES TO A OR B, complete below:

AMOUNT OF PAYMENT/ ENCUMBRANCE OR LIEN	ENCUMBRANCE OR PAYMENT MADE TO OR LIEN RECORDED BY	DATE & TYPE OF MEDICAL CARE RECEIVED OR TO BE RECEIVED
$		

STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY

DEPARTMENT OF HEALTH SERVICES

DECLARACION DE DATOS Y EVALUACION DE BIENES

NOMBRE DEL SOLICITANTE O REPRESENTANTE AUTORIZADO PARA QUIEN SE NECESITE LA EVALUACION	NUMEROS DE TELEFONO CASA: _____ TRABAJO:
DIRECCION (NUMERO, CALLE, CIUDAD, ESTADO, ZONA POSTAL)	
DIRECCION POSTAL (SI ES DIFERENTE DE LA DE ARRIBA)	

2 COMPLETE PARA PERSONA INTERNADA EN UNA INSTITUCION MEDICA RECIBIENDO CUIDADO A NIVEL DE ESTABLECIMIENTO MEDICO CONTINUO NO INTENSO

NOMBRE (nombre, segundo nombre, apellido)	NUMERO DEL SEGURO	FECHA NACIMIENTO / /	SEXO (✓) M ☐ F ☐
DIRECCION (NUMERO, CALLE, CIUDAD, ESTADO, ZONA POSTAL)			
DIRECCION ANTERIOR (NUMERO, CALLE, CIUDAD, ESTADO, ZONA POSTAL)			

FECHA DE ADMISION AL ESTABLECIMIENTO MEDICO CONTINUO NO INTENSO	¿PLANEA REGRESAR A CASA? ☐ SI ☐ NO Si es SI, ¿cuándo?	ESTADO CIVIL (✓) ☐ Casado(a) ☐ Nunca casado(a) ☐ Separado(a) ☐ Divorciado(a) ☐ Cohabitante ☐ Viudo(a)

3 COMPLETE PARA ESPOSO(A) CON COMUNIDAD DE BIENES QUE PERMANECE EN EL HOGAR.

NOMBRE (nombre, segundo nombre, apellido)	NUMERO DEL SEGURO SOCIAL	FECHA NACIMIENTO / /	SEXO (✓) M ☐ F ☐
DIRECCION (NUMERO, CALLE, CIUDAD, ESTADO, ZONA POSTAL)			

A. ¿UD./ MIEMBRO DE LA FAMILIA TIENE ALGUNOS DE LOS BIENES/RECURSOS QUE SE MENCIONAN ENSEGUIDA ?
MARQUE (✓) CADA ARTICULO CON "SI" O "NO".

- Incluya recursos que posea, use, controle o sea copropietario con o para otra persona(s).
- Incluya recursos de las personas cuyos nombres aparecen en renglones # 2 y # 3 (aunque sea sólo por conveniencia).
- El condado determinará si estos resursos cuentan o no.

	SI	NO		SI	NO
• DINERO (a la mano o donde lo tenga)			• CUENTAS EN MERCADO DE VALORES		
• CHEQUES SIN COBRAR (a la mano o donde lo tenga)			• FIDEICOMISOS (aun cuando no estén a la disposición)		
• CUENTAS DE AHORROS - de niños/adultos			• PAGARÉS, HIPOTECAS, FIDEICOMISOS, TITULOS DE PROPIEDAD, CONTRATOS DE VENTA, ETC.		
• CUENTAS DE CHEQUES - Aunque no las use			• PLANES DE PENSION "IRA o KEOGH"		
• CUENTAS EN UNION DE CREDITO			• PENSION (tal como "PERS") a la disposición si usted deja de trabajar		
• ACCIONES o BONOS			• PLAN DE COMPENSACION DIFERIDO AL EMPLEADO		
• CERTIFICADOS DE DEPOSITO			• OTRO (tipo)		

SI CONTESTO "SI", COMPLETE LA SECCION QUE SIGUE

TIPO DE RECURSO	DUEÑO	NO. DE CUENTA	NOMBRE/DIRECCION DE BANCO	VALOR ACTUAL

COUNTY USE ONLY

☐ Trust Fund Not Court Ordered

☐ Court Petitioned
Date: _____

☐ Resources Verif.
Explain How:

B. ¿UD./MIEMBRO DE LA FAMILIA HA CERRADO O TRANFERIDO UNA CUENTA BANCARIA DURANTE LOS ULTIMOS 30 MESES (2 1/2 AÑOS)? ☐ SI ☐ NO
Si contesta "SI" indique:

TIPO DE CUENTA	FECHA CIERRE/TRANSFERENCIA DE CUENTA	SALDO AL CERRAR O TRANSFERIR CUENTA

COUNTY USE ONLY

LTC ONLY:
Adequate Consideration ☐
Spenddown ☐

5 ¿UD./MIEMBRO DE LA FAMILIA POSEEN SEGURO DE VIDA? ☐ SI ☐ NO

COMPANIA DE SEGUROS	1. PERSONA ASEGURADA / 2. DUEÑO DE LA POLIZA	VALOR REDIMIBLE	NUMERO POLIZA	FECHA EXPEDICION POLIZA	VALOR LIQUIDO ACTUAL
A.	1. / 2.	$			$
B.	1. / 2.	$			$
C.	1. / 2.	$			$

EXEMPT ☐ YES ☐ NO CSV $ _____
EXEMPT ☐ YES ☐ NO CSV $ _____
EXEMPT ☐ YES ☐ NO CSV $ _____
Total CSV $ _____

6 ¿UD./MIEMBRO DE LA FAMILIA POSEEN LOTES, GAVETAS O CRIPTAS PARA ENTIERRO? ☐ SI ☐ NO
¿PARA EL USO DE LA FAMILIA INMEDIATA? ☐ SI ☐ NO
Si contesta "SI", proporcione la siguiente información:

Descripción _____ Dueño _____
Valor actual $ _____ Cantidad que debe $ _____
Ubicación:

7 ¿UD./MIEMBRO DE LA FAMILIA POSEEN UNA RESERVA O FIDEICOMISO PARA GASTOS DE FUNERAL? ☐ SI ☐ NO
Si es "SI": Precio al comprar $ _____ Cantidad que debe $ _____
$ _____ $ _____

¿Para quién fue comprado? _____
¿De quién fue comprado? _____

☐ REVOCABLE
☐ IRREVOCABLE
CURRENT VALUE $ _____

8 ANOTE TODO VEHICULO(S) (AUNQUE NO FUNCIONEN) QUE UD.O SU FAMILIA POSEEN.
SI NO TIENE NINGUNO, ANOTE NINGUNO.

LIST EXEMPT VEHICLE:

MARCA Y MODELO	AÑO	CLASE (Registro)	DUEÑO	CANTIDAD QUE DEBE	USADO PARA TRANSPORTACION SI	NO

☐ VERIFICATION OF NONEXEMPT VEHICLES

9 ¿UD./MIEMBRO DE LA FAMILIA POSEEN BOTES/LANCHAS, CASAS RODANTES (no incluya camiones de carga), CASAS MOTORIZADAS, CASAS MOVIBLES O REMOLQUES QUE NO SEAN USADOS COMO VIVIENDAS Y QUE NO SON TASADOS POR EL CONDADO COMO BIENES RAICES? ☐ SI ☐ NO
Si es "SI", anote lo siguiente:

☐ VERIFICATION OF PERSONAL PROPERTY

DESCRIPCION	AÑO	CLASE (Registro)	DUEÑO	PRECIO AL COMPRARSE	UNICO MEDIO DE TRANSPORTACION SI	NO
				$		
				$		
				$		
				$		

NOTA: Si en su opinión el valor de los vehículos anotados arriba será muy alto de acuerdo a las tablas de registro del Departmento de Vehículos Motorizados (DMV), usted puede proporcionar tres avalúos del valor actual y se usará el promedio de estos.

10 ¿UD./MIEMBRO DE LA FAMILIA POSEEN EQUIPO PARA NEGOCIO, VEHICULOS, HERRAMIENTAS, INVENTARIO, O MATERIALES (INCLUYENDO GANADO O AVES DE CORRAL QUE NO SEAN PARA USO PROPIO)? ☐ SI ☐ NO

Si contesta "SI", anote lo siguiente:

DESCRIPCION	VALOR APROXIMADO	CANTIDAD QUE DEBE
	$	$
	$	$
	$	$

11 ¿UD./MIEMBRO DE LA FAMILIA ESTAN COMPRANDO O SON DUEÑOS DE TERRENOS Y/O FINCAS EN LAS CUALES NO VIVEN ACTUALMENTE? (Asegúrese de anotar propiedades en otros estados o países y toda propiedad donde Ud. sea dueño, tenga escrituras, o sea copropietario.) Por ejemplo: Lotes, casas, remolques, apartamentos, casa movible que sea tasada por el condado como bienes raíces, etc. ☐ SI ☐ NO

Si contesta "SI", anote lo siguiente:

Dirección de otra propiedad _____
Descripción de la propiedad _____
Nombre del dueño _____
¿Vive alguien ahí ahora? ☐ SI ☐ NO
Si es así, ¿quién? _____
¿Qué parentesco tiene con Ud.? _____
¿Cuánto tiempo han vivido ahí? _____
¿Planea regresar a vivir en esa propiedad? ☐ SI ☐ NO
(Si después cambia de opinión, debe notificarle al condado dentro de 10 días.)
¿Está en venta la propiedad actualmente? ☐ SI ☐ NO
Valor total (según recibos de impuestos) $_____ Cantidad que debe $_____
Renta que se cobra cada mes $ _____
Gastos en el inmueble:
Intereses $_____ anual/mensual Seguro $_____ anual/mensual
Impuestos prediales $_____ anual/mensual Mantenimiento y
Servicios públicos $_____ anual/mensual reparaciones $_____ anual/mensual

12 ¿UD./MIEMBRO DE LA FAMILIA SON COBENEFICIARIOS DE UNA HERENCIA EN VIDA DE ALGUN BIEN (TIENEN DERECHO DE USARLO)? ☐ SI ☐ NO

Si contesta "SI" indique lo siguiente:

¿Cuál es la dirección? _____

¿UD./MIEMBRO DE LA FAMILIA SON COBENEFICIARIOS DE ALGUN INGRESO DE UNA HERENCIA EN VIDA? ☐ SI ☐ NO
¿Está produciendo ingresos la herencia en vida? ☐ SI ☐ NO
¿Cuánto recibe y cada cuándo? $ _____ cada _____

13 ¿UD./MIEMBRO DE LA FAMILIA TRANSFIRIO, VENDIO, O REGALO ALGUN BIEN (INCLUYENDO DINERO) EN LOS ULTIMOS 30 MESES (2 1/2 AÑOS)? ☐ SI ☐ NO

Si contesto "SI", indique lo siguiente:

DESCRIPCION DEL ARTICULO	FECHA EN QUE VENDIO, TRANSFIRIO O REGALO	VALOR	CANTIDAD RECIBIDA
		$	$
		$	$

14 ¿HA RECIBIDO DINERO PROCEDENTE DE UN SEGURO, POR CONVENIO DE LA CORTE, HERENCIA, LOTERIA, O PAGOS QUE LE DEBIAN EN LOS ULTIMOS 30 MESES (2 1/2 AÑOS)? ☐ SI ☐ NO

Si contesta "SI", indique lo siguiente:

FUENTE/PROCEDENCIA	FECHA QUE RECIBIO	CANTIDAD
		$
		$
		$

15 A. ¿UD./MIEMBRO DE LA FAMILIA HA GRAVADO INMUEBLES, HECHO UN PAGO POR SERVICIOS MEDICOS QUE RECIBIO O QUE RECIBIRA DURANTE UN PERIODO EN EL CUAL UD. ESTE SOLICITANDO BENEFICIOS DE MEDI-CAL? ☐ SI ☐ NO

B. ¿SE HA REGISTRADO UN GRAVAMEN CONTRA SU PROPIEDAD O LA PROPIEDAD DE UN MIEMBRO DE LA FAMILIA COMO GARANTIA PARA SERVICIOS MEDICOS QUE RECIBIO O RECIBIRA DURANTE UN PERIODO EN EL CUAL UD. ESTE SOLICITANDO BENEFICIOS DE MEDI-CAL. ☐ SI ☐ NO

C. SI CONTESTA "SI" A LA SECCION A o B, complete lo siguiente:

CANTIDAD DEL PAGO O GRAVAMEN	PAGO O GRAVAMEN HECHO A O GRAVAMEN REGISTRADO POR	FECHA Y CLASE DE CUIDADO MEDICO QUE RECIBIO/RECIBIRA
$		

COUNTY USE ONLY

VERIFICATION OF "GOOD CAUSE" FOR UTILIZATION OF PROPERTY

VERIFICATION OF INCOME & EXPENSES (LIST):

☐ REVOCABLE
☐ IRREVOCABLE

LTC ONLY:
Adequate Consideration ☐
Spenddown ☐

LTC ONLY:
Adequate Consideration ☐
Spenddown ☐

Payment or lien used to bring property within property limits
☐ YES ☐ NO
If YES:
☐ Notice to provider

COMMUNITY PROPERTY - PERSON IN LONG-TERM CARE (LTC)

THIS INFORMATION APPLIES TO YOU *ONLY IF*:

- You were admitted to LTC *before* September 30, 1989; or
- You were admitted to LTC *between* September 30, 1989 *and* December 31, 1989 *and* you are eligible for Medi-Cal in December 1989, and you have remained eligible continuously since that time.

PLEASE NOTE - Changes made by the Medicare Catastrophic Coverage Act of 1988 (MCCA) regarding the division of your community and separate property do not apply to you.

In 1984 Welfare and Institutions (W&I) Code Section 14006.2 was enacted, permitting couples to transmute (divide) their nonexempt community property by contract into equal separate property shares without triggering the transfer-of-property 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.

Legislation (AB 987) was signed by the governor on September 29, 1985 permitting 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 facility(SNF) or intermediate care facility (ICF). This new legislation provides the following:

DIVISION OF COMMUNITY ASSETS

W&I Code Section 14006.2 states that a written contract between spouses dividing nonexempt 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 an SNF or ICF. 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 an SNF or ICF. A written contract may be executed after a spouse enters an SNF or ICF and be valid for Medi-Cal purposes if it ratifies the automatic division the county would have done at entry. A contract completed at this point may appear to be an unequal division due to spenddown of property. Verification of spenddown must be provided to the county. This provision assures that when the institutionalized spouse is in his or her own Medi-Cal budget unit only one-half of the couple's nonexempt community assets is available to the institutionalized spouse for Medi-Cal spenddown purposes.

Important:

An institutionalized spouse must spend his or her separate and/or one-half community property on his or her OWN BENEFIT to qualify for Medi-Cal under this new statute.

This section of the law also provides that an institutionalized applicant or beneficiary shall not be ineligible if he or she transfers all the interest in exempt property used as a home to the at-home spouse. This provision applies whether the transfer occurs before or after the individual becomes a resident in an SNF or ICF.

Note: The eligibility of the institutionalized spouse is not affected if the at-home spouse transfers, sells, or gives away his or her separate property.

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.

Note: There are situations where an institutionalized spouse is not in a Medi-Cal budget unit separate from his/her spouse's. If this occurs, eligibility cannot be established unless their property is at or below that for a couple ($3000 in 1989) or more in relation to family size.

BIENES COMUNITARIOS - PERSONA RECIBIENDO SERVICIOS DE CUIDADO A LARGO PLAZO (LTC)

ESTA INFORMACION LE CONCIERNE A USTED *SOLAMENTE SI:*

- Usted fue admitido para recibir servicios de Cuidado a Largo Plazo (LTC) *antes del* 30 de septiembre de, 1989; o si
- Usted fue admitido para LTC *entre* el 30 de septiembre de1989 *y* el 31 de diciembre de 1989 *y* usted es elegible para recibir beneficios de Medi-Cal en diciembre de 1989, y ha continuado siendo elegible desde esa fecha sin interrupción.

POR FAVOR TOME NOTA - Que los cambios hechos por el Acta de Cobertura Catastrófica de Medicare en 1988 (MCAA) con respecto a la división de los bienes comunitarios o separación de bienes, no aplican en su caso.

En 1984, la sección 14006.2 del Código de Bienestar e Instituciones (W&I) se promulgó, permitiendo a las parejas transmutar (dividir) los bienes no exentos por medio de un contrato y dividir los bienes separados en partes iguales sin la necesidad de iniciar la reglamentación con respecto a la transferencia de los bienes. Bajo esta regla, los bienes separados de uno de los esposos no serán considerados para determinar si el otro esposo(a) es elegible para beneficios de Medi-Cal.

La iniciativa de ley (AB 987) firmada por el gobernador el 29 de septiembre de 1985, permite que el esposo(a) que permanece en el hogar conserve la porción de los bienes comunitarios e ingresos propios cuando el otro esposo sea internado en un establecimiento de cuidado médico continuo no intenso (SNF) o en un establecimiento de cuidado médico intermitente no intenso (ICF). Este nueva iniciativa de ley proporciona lo siguiente:

DIVISION DE BIENES COMUNITARIOS

La sección 14006.2 del Código de Bienestar e Instituciones (W&I), indica que un contrato celebrado entre esposos dividiendo los bienes comunitarios no exentos en partes iguales, se considerará como una transferencia con compensación debida. Tal contrato se podrá llevar a cabo antes de que uno de los esposos sea internado en un establecimiento SNF o ICF. Si no existe tal contrato, los bienes comunitarios de la pareja serán automáticamente considerados como divididos en partes iguales para propósitos de elegibilidad para beneficios de Medi-Cal a partir de la fecha en que uno de los esposos sea internado en un establecimiento SNF o ICF. Se podrá celebrar un contrato después de que el esposo(a) sea internado en un establecimiento SNF o ICF, y será válido para propósitos de Medi-Cal si ratifica la división automática que el condado hubiera hecho cuando la persona fuere internada. Un contrato ejecutado en tal momento puede aparentar ser una división desigual debido a la manera en que hayan sido utilizados los bienes. Se deben proporcionar al condado pruebas de cómo se utilizaron estos bienes. Esta medida asegura que cuando uno de los esposos internado en una institución médica esté en su propia unidad de presupuesto de Medi-Cal, solamente la mitad de los bienes comunitarios no exentos de la pareja estará a la disposición para ser utilizada para cubrir gastos en el programa de Medi-Cal para el esposo(a) internado en una institución médica.

Importante:

Bajo este nuevo ordenamiento, el esposo(a) internado en una institución médica deberá gastar sus bienes separados y/o la mitad de los bienes comunitarios en BENEFICIO PROPIO para ser elegible a recibir beneficios de Medi-Cal.

Esta sección de la ley, también estipula que un solicitante o beneficiario internado en una institución médica no será inelegible si él o ella transfiere toda la porción considerada como propiedad exenta que sirve de hogar al esposo(a) que permanece en el hogar. Esta medida aplicará si la transferencia ocurre antes o después de que la persona sea residente en un establecimiento SNF o ICF.

Nota: La elegibilidad del esposo(a) internado en una institución médica no será afectada si el esposo(a) que permanece en el hogar transfiere, vende, o regala la porción de su propiedad separada.

En el caso de aquellas personas que ya se encuentran internadas en una establecimiento de cuidado médico continuo no intenso en septiembre de 1985, el valor de los bienes comunitarios de ambos será calculado a partir de la fecha de ingreso a este establecimiento. Sin embargo, la elegibilidad para servicios de Medi-Cal basada en esta división de bienes automática no podrá ser anterior al 29 de septiembre de 1985.

Nota: Habrá situaciones en que el esposo(a) internado en una institución médica no esté en una unidad de presupuesto de Medi-Cal aparte de la del otro cónyuge. Si esto ocurre, no se puede establecer su elegibilidad a menos que su propiedad (de ambos) esté al nivel, o sea menos que el límite establecido para una pareja ($3,000 en 1989) o más de acuerdo al tamaño de la familia.

MEDI-CAL GENERAL PROPERTY LIMITATIONS FOR ALL MEDI-CAL APPLICANTS

This form provides a general overview of Medi-Cal property requirements for all Medi-Cal applications and institutionalized spouses admitted to the nursing facility and medical institutions for nursing facility level of care, on or after September 30, 1989, who apply for Medi-Cal on or after January 1, 1990 and who have community spouses. A community spouse is married to an institutionalized spouse and does not reside in a nursing facility or medical institution. If you were admitted to a nursing facility prior to September 30, 1989, and have a spouse, see also the form entitled, "Community Property - Person in Long-Term Care" (MC Information Notice 005 - 9/89).

REAL PROPERTY

- Property used as a home is exempt (not counted) in determining eligibility for Medi-Cal. When an applicant or beneficiary is absent from the home for any reason, including institutionalization, the home continues to be exempt if the applicant or the beneficiary's spouse or a dependent relative continues to reside in the home. However, the money received from the sale of a home can be exempt for six months only if the money is to be used for the purchase of another home.

- Up to $6,000 of equity may be retained in real estate other than the home, mortgages, deeds of trust, or other promissory notes, but such property must produce an annual income of 6 percent of the net market or current face value (e.g., rented) to help support the Medi-Cal applicant.

LIFE INSURANCE POLICIES

Each person may have life insurance policies with a combined face value of $1,500 or less and they will not be counted. If the combined face values are over $1,500, however, the combined cash surrender values are totaled and included in the property reserve as discussed below.

PROPERTY LIMITS - PERSONAL PROPERTY SUCH AS CASH, STOCKS, BONDS, CASH SURRENDER VALUE OF LIFE INSURANCE, ETC.

An applicant or beneficiary may keep a certain amount of personal property, such as a checking/savings account or insurance policies, and still be eligible for Medi-Cal. The amount of property which may be kept is referred to as the "property reserve". The property reserve limits in 1989 are $2,000 for one person and $3,000 for a couple.

Effective January 1, 1990, if you are an institutionalized spouse who was admitted to a nursing facility or medical institution on or after September 30, 1989, and are married to a community spouse who does not reside in a nursing facility or medical institution, and you apply for Medi-Cal on or after January 1, 1990 as an institutionalized spouse, the community spouse may keep up to $60,000 (to be increased on 1/1/90) of the couple's combined community and separate property.

Note: There are situations where an institutionalized spouse is not in a Medi-Cal budget unit separate from his/her spouse's. If this occurs, eligibility cannot be established unless their property is at or below that for a couple ($3000 in 1989) or more in relation to family size.

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

This amount is known as the Community Spouse Resource Allowance (CSRA) and is calculated as of the date of application for Medi-Cal. The CSRA limit is based on $60,000 in the federal law which will be adjusted by the annual increase in the Consumer Price Index beginning January 1, 1990. An institutionalized spouse must be expected to remain institutionalized for a continuous period of at least 30 days before these laws will apply. The institutionalized spouse may also keep up to $2,000 (the property limit for one). This law also allows the CSRA limit to be exceeded, if ordered by a court, for the "support of" the community spouse.

At any time after the date of institutionalization either spouse may request an assessment of their property even if the institutionalized spouse is not applying for Medi-Cal. If you would like to have an assessment completed, you must make an appointment at the county welfare department. Please note that the assessment can not be completed unless you bring with you verification of the values of all your real and personal property, liquid and non-liquid assets.

Verification may include such things as County Tax Assessments, checking account statements, savings account passbooks, court orders, brokerage account statements, life insurance policies, annuity policies, trust account documents, contracts, lease agreements, life estate documents, copies of patient trust account ledgers, award letters, affidavits or statements from banks, conservators, guardians, pension funds, etc. Basically, verification includes documentation from a qualified person or financial institution, of the values of any real or personal property, liquid or nonliquid assets you and your spouse own.

REDUCTION OF PROPERTY TO WITHIN PROPERTY LIMITS

THE PROPERTY VALUE MUST BE REDUCED TO OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH IN WHICH ELIGIBILITY IS TO BE ESTABLISHED

Medi-Cal cannot be approved for a month until the total value of all nonexempt property, that is, property which is counted when eligibility is determined, has been reduced to or below the appropriate property reserve limit in that month. For example, a Medi-Cal applicant whose total nonexempt property consists of a savings account with balance of $3,300 in a month must reduce the savings account down to $2,000 in that month. In this same situation where there is a couple, the saving account must be reduced to $3,000.

Effective January 1, 1990, if an institutionalized and community spouse have combined property totaling more than $62,000 in a month, using the base figures in federal law, the couple must reduce the total to $62,000 in that month before the institutionalized spouse will meet the property requirements. The institutionalized spouse will then have 90 days (longer if a court order is necessary) to complete transfer(s) of the $60,000 (to be adjusted on 1/1/90) to the community spouse, bringing the institutionalized spouse to within $2,000, the property limit for one.

Until January 1, 1990, a Medi-Cal applicant may reduce his or her nonexempt property to within the specified limits in any way he or she chooses except that, a transfer of nonexempt property by anyone for less than fair market value may result in a period of ineligibility. A transfer for less than fair market value is a change in ownership of property by giving away, selling, or otherwise exchanging it for less than the property is worth. After January 1, 1990, a transfer of nonexempt property generally will not result in a period of ineligibility if you are not an institutionalized individual.

IMPORTANT NOTE: After January 1, 1990, if you are an institutionalized individual, or if you may be institutionalized within 30 months, nonexempt property transferred for less than fair market value may still result in a period of ineligibility for Medi-Cal!

The following are examples of ways an applicant may reduce his or her nonexempt property:

- Pay medical bills
- Buy furnishings for the home
- Pay on the home mortgage
- Buy clothes
- Make repairs to the home
- Pay off other debts
- Pay off an auto loan
- Begin process to obtain the cash surrender value of nonexempt life insurance policies
- Borrow against excess property to cover the cost of medical care or request the medical provider to lien against the property to cover the cost of care

THE PROPERTY VALUE MUST BE REDUCED TO OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH IN WHICH ELIGIBILITY IS TO BE ESTABLISHED

TRANSFERS OF PROPERTY OCCURRING ON OR BEFORE DECEMBER 31,1989

RESULTS OF TRANSFERS OF PROPERTY OCCURRING ON OR BEFORE DECEMBER 31, 1989, FOR LESS THAN FAIR MARKET VALUE

The transfer of nonexempt property any time within the 24 months before or any time after the Medi-Cal application will result in a period of ineligibility if the property was given away, sold, or otherwise exchanged at less than fair market value. The period of ineligibility could last from one month to several years. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) and the Medi-Cal maintenance need level for the number of persons in the case. The period may be reduced if the applicant has other expenses, such as medical expenses or out-of-home care costs in excess of the maintenance needs.

For example, assume an applicant couple reduces their property by transferring $25,000 in savings to a son as a gift. They would be ineligible for Medi-Cal because they did not receive fair market value in return. If the couple has no other allowable expenses, the applicants would be ineligible for 26 months ($25,000 divided by $934 maintenance need for a couple).

PROPERTY TRANSFERS OCCURRING ON OR BEFORE DECEMBER 31, 1989, WHICH DO NOT RESULT IN INELIGIBILITY

The transfer of exempt property, that is, property which is not counted when eligibility is determined, will not result in a period of ineligibility as long as the property was considered exempt at the time of the transfer. This includes a transfer of property used as a home. However, the money received from the sale of a home must be counted as property unless the money is used for the purchase of another home within six months. In addition, any money received from the sale of other exempt assets will be counted as property until it is reduced to or below the property limits.

TRANSFERS OF NONEXEMPT PROPERTY OCCURRING ON OR AFTER JANUARY 1, 1990

NON-INSTITUTIONALIZED INDIVIDUALS

An individual who is not institutionalized will not be ineligible due to a transfer of property for less than fair market value unless the individual is institutionalized within 30 months of the date of the transfer.

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

INSTITUTIONALIZED INDIVIDUALS

An institutionalized individual may be ineligible due to a transfer of nonexempt property for less than fair market value unless the nonexempt property was transferred to:

- The community spouse (or to another for the sole benefit of the community spouse),
- A child of the institutionalized individual who is blind, permanently or totally disabled, or to
- The spouse (prior to the admission of the institutionalized spouse to the medical institution or nursing facility) provided that the spouse did not transfer the property to another person (other than back to the spouse from which the property came) for less than fair market value.

A transfer of the nonexempt former home to someone not listed below (e.g., a gift of the home to an adult son or daughter who is not blind or disabled and who is not living in the home) or the transfer of nonexempt propert, anytime within the 30 months before, or any time after, the date the person is both institutionalized and applying for or receiving Medi-Cal may result in a period of ineligibility for nursing facility level of care if the property was given away, sold, or otherwise exchanged at less than fair market value. The period of ineligibility could last from one to 30 months. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) and the average rate for privately paid nursing facility care.

For example, assume an institutionalized individual reduces property by transferring $24,000 in savings to a son or daughter as a gift. He/she would be ineligible for Medi-Cal because nothing of fair market value was received in return. Suppose that the average rate for privately paid nursing care is $2,000. The institutionalized individual would be ineligible for 12 months ($24,000 divided by $2,000 average private pay rate).

TRANSFER OF THE NONEXEMPT FORMER HOME BY AN INSTITUTIONALIZED INDIVIDUAL WHICH DOES NOT RESULT IN A PERIOD OF INELIGIBILITY

An institutionalized individual will not be ineligible due to a transfer of the nonexempt former home if title to the home is transferred to:

- The spouse,
- A child under 21 or who is blind or totally and permanently disabled,
- A son or daughter not listed above, who resided in the home for two years immediately preceding the institutionalized individual's date of admission and who provided care which allowed that individual to reside at home rather than in the institution or facility, or
- A sibling who has equity interest in the home and who resided in the home for one year immediately preceding the date the institutionalized individual was admitted to the facility or institution.

Anytime a transfer results in a period of ineligibility, the ineligible individual has the right to request an appeal through a fair hearing. The form for filing a request is on the reverse side of the Notice of Action form discontinuing or denying Medi-Cal eligibility.

LIMITACIONES GENERALES DE BIENES PARA LOS SOLICITANTES DE BENEFICIOS DE MEDI-CAL

Esta forma proporciona una descripción general de los requisitos y de las limitaciones generales con respecto a bienes que puede tener cualquier persona al solicitar beneficios de Medi-Cal y para aquellas personas que tienen bienes comunitarios y cuyo esposo(a) esté internado en una institución médica recibiendo cuidado a nivel de un establecimiento de cuidado médico continuo no intenso a partir de o después del 30 de septiembre de 1989, y que solicite beneficios de Medi-Cal en o después del 1 de enero de 1990.

El esposo(a) que tiene bienes comunitarios, y que no vive en un establecimiento de cuidado médico continuo no intenso o institución médica, es la persona casada con la persona internada en una institución médica. Si usted fue admitido en un establecimiento de cuidado médico continuo no intenso antes del 30 de septiembre de 1989 y tiene un esposo(a), favor de ver la forma titulada "Bienes Comunitarios-Personas Recibiendo Servicios de Cuidado a Largo Plazo (LTC)" (Información MC, aviso 005 - 9/89).

BIENES RAICES

- La propiedad que se dedica al hogar está exenta (no cuenta) para determinar la elegibilidad para recibir beneficios de Medi-Cal. Cuando un solicitante o beneficiario, por cualquier razón, se ausenta del hogar, incluyendo su admisión en una institución médica, la casa continúa siendo exenta si el solicitante o el esposo(a) del beneficiario o un pariente considerado como dependiente, continúa viviendo en el hogar. Sin embargo,el dinero que se reciba de la venta de una casa será exento solamente durante seis meses si el dinero va a ser usado para la compra de otra casa.

- Usted podrá conservar hasta la cantidad de $6,000 del valor de una casa después del saldo del préstamo (equity) en bienes raíces, aparte de lo que tenga invertido en su hogar, hipotecas, valores en fideicomiso o pagarés; sin embargo, estas inversiones deben producir un ingreso anual equivalente al 6% del valor neto en el mercado o valor nominal (p.ej.: rentas) para ayudar en el mantenimiento del solicitante de beneficios de Medi-Cal.

POLIZAS DE SEGURO DE VIDA

Cada persona puede tener una póliza de seguro de vida cuyo valor total combinado sea de $1,500 o menos sin que esta cantidad se tome en consideración. Sin embargo, si se excede esta cantidad, el valor combinado redimible será sumado e incluído en la reserva de bienes que se detalla enseguida.

RESERVA DE BIENES - BIENES PERSONALES TALES COMO DINERO EN EFECTIVO, ACCIONES, BONOS, VALOR REDIMIBLE DE POLIZAS DE SEGURO DE VIDA, ETC.

Un solicitante o beneficiario puede conservar una cantidad estipulada de bienes tales como cuentas de cheques o ahorros, o pólizas de seguro y aún puede seguir siendo elegible para beneficios de Medi-Cal. A la cantidad de bienes que se le permite retener se le llama "bienes de reserva". El límite de esta reserva de bienes en 1989 es de $2,000 para una persona y $3,000 para una pareja.

A partir del 1 de enero de 1990, si usted es un esposo(a) internado en una institución médica que ha sido admitido a un establecimiento de cuidado médico continuo no intenso o a una institución médica en o después del 30 de septiembre de 1989, y está casado bajo comunidad de bienes y su esposo(a) no reside en un establecimiento

Nota: Habrá situaciones en que el esposo(a) internado en una institución médica no esté en una unidad de presupuesto de Medi-Cal aparte de la del otro esposo. Si esto ocurre, la elegibilidad no puede establecerse a menos que sus bienes (de ambos) estén al nivel o sean menos que lo de una pareja ($3,000 en 1989) o más de acuerdo al tamaño de la familia.

PARA MAS INFORMACION POR FAVOR LEA EL REVERSO DE ESTA FORMA

de cuidado médico continuo no intenso o institución médica y usted solicita beneficios de Medi-Cal en o después del 1 de enero de 1990 como esposo(a) internado en una institución médica, entonces el esposo(a) que tiene bienes comunitarios puede conservar hasta la cantidad de $60,000 (esta cantidad será aumentada a partir del 1/1/90) de los bienes comunitarios y bienes separados combinados de la pareja.

A esta cantidad se le llama Asignación de Bienes de Reserva Comunitarios (CSRA) y se calcula en la fecha en que se solicitan beneficios de Medi-Cal. El límite de CSRA, de acuerdo a la ley federal, es de $60,000. Este límite será aumentado cada año a partir del 1 de enero de 1990, de acuerdo al Indice de Precios al Consumidor. El esposo(a) internado en una institución médica deberá permanecer en la institución por un período de tiempo ininterrupido de por lo menos 30 días antes de que este reglamento aplique a su caso. El esposo(a) internado en una institución médica también podrá conservar hasta la cantidad de $2,000 (límite de propiedad para una persona). Este reglamento también permite que el límite de CSRA se exceda, si lo ordena la corte para "el mantenimiento" del esposo(a) que tiene bienes comunitarios.

En cualquier fecha después de que la persona haya sido internada uno, o el otro, de los esposos puede solicitar una evaluación de la propiedad de ambos aun si el esposo(a) internado en una institución médica no esté solicitando beneficios de Medi-Cal. Si le interesa obtener una evaluación completa debe hacer una cita con el departamento de bienestar de su condado. Tome en cuenta que la evaluación no podrá completarse a menos que usted traiga consigo la verificación del valor de sus bienes ya sean bienes raíces, bienes en efectivo y bienes no en efectivo.

Esta verificación puede incluir documentación tal como tasación de impuestos del condado, estados de cuentas de cheques, libreta de depósitos en cuentas de ahorros, órdenes de la corte, estados de cuentas de agencias de inversiones y comisionistas, pólizas de seguros de vida, depósitos diferidos, fideicomisos, contratos, contratos de arrendamiento, transferencia de la herencia en vida, cuentas de fondos administrados por la institución a nombre del paciente, cartas de notificación de beneficios, declaraciones o estados de cuentas procedentes de un banco, curador (protector), tutor, pensiones, etc. En otras palabras, la documentación proviene de una persona autorizada o de una institución bancaria que verifica el valor de sus bienes raíces, bienes personales y los valores en efectivo y no en efectivo que usted o su esposo(a) tengan.

REDUCCION DE LOS BIENES PARA CONCORDAR CON EL LIMITE PERMITIDO DE BIENES

EL VALOR DE LOS BIENES DEBE REDUCIRSE A, O SER MENOS QUE, EL LIMITE PERMITIDO DE BIENES, A MAS TARDAR EL ULTIMO DIA DEL MES EN EL CUAL SE ESTABLECERA SU ELEGIBILIDAD

Los beneficios de Medi-Cal no podrán ser aprobados para el mes hasta que el valor total de los bienes no exentos, o sea, aquellos bienes que se toman en cuenta cuando se determina su elegibilidad, hayan sido reducidos a, o sean menos que el límite permitido de bienes en ese mes. Por ejemplo, una persona que solicita beneficios de Medi-Cal, cuya propiedad total no exenta consiste de una cuenta de ahorros con un saldo de $3,300 en un mes, debe reducir el saldo de su cuenta en ese mes a $2,000. En la misma situación, en el caso de una pareja, el saldo de la cuenta de ahorros debe ser reducido a $3,000.

A partir del 1 de enero de 1990, si el esposo(a) que tiene bienes comunitarios y el internado en una institución médica tienen bienes conjuntos con un valor total de más de $62,000 en un mes, la pareja debe reducir el total a $62,000 en ese mes antes de que el esposo(a) internado en una institución médica llene los requisitos con respecto al límite permitido de bienes usando como base las cantidades establecidas por el gobierno federal. A la persona internada en una institución médica se le concederán 90 días (o más tiempo si esta persona tiene que hacer la transacción por medio de una orden de la corte) para llevar a cabo la transferencia de los $60,000 (esta cantidad se ajustará nuevamente en 1/1/90) al esposo(a) que tiene bienes comunitarios, y de esta manera la persona internada en una institución médica contará con $2,000 o sea, el límite estipulado para una persona.

Hasta el 1 de enero de 1990, un solicitante de Medi-Cal puede reducir sus bienes no exentos para conformar con los límites especificados de la manera en que él o ella deseén. Sin embargo una transferencia de bienes no exentos, llevada a cabo por cualquiera de éstos, por una cantidad menor del valor justo de la propiedad, podrá resultar en un período de inelegibilidad. Una

transferencia de bienes por menos del valor justo en el mercado, representa un cambio de propietario al regalar, vender o intercambiar de cualquier manera la propiedad por menos de su valor.

Después del 1 de enero de 1990 una transferencia de bienes no exentos no resultará, normalmente, en un período de inelegibilidad si usted no es una persona internada en una institución médica.

NOTA IMPORTANTE: Después del 1 de enero de 1990, si usted es una persona internada en una institución médica o puede ser internada en una de estas instituciones dentro de los siguientes 30 meses, los bienes no exentos que sean transferidos por menos de su valor justo podrá resultar en un período de inelegibilidad para beneficios de Medi-Cal.

Los siguientes son ejemplos de las maneras en que un solicitante puede reducir sus bienes no exentos:

- Pague sus cuentas médicas
- Compre mobiliario para su casa
- Haga pagos a la hipoteca de su casa
- Cómprese ropa
- Haga reparaciones a su casa
- Pague otras deudas
- Pague el saldo del préstamo de su auto
- Empiece a tramitar el proceso para obtener el valor redimible de sus pólizas de seguro
- Pida un préstamo repaldado por otros bienes para cubrir el costo de servicios médicos o solicite que el proveedor médico establezca un gravamen contra la propiedad para cubrir tales gastos.

EL VALOR DE LOS BIENES DEBE REDUCIRSE A, O SER MENOR DEL LIMITE DE BIENES, A MAS TARDAR EL ULTIMO DIA DEL MES EN EL CUAL SE ESTABLECE SU ELEGIBILIDAD

TRANSFERENCIA DE BIENES QUE OCURRA EN O ANTES DEL 31 DE DECIEMBRE DE 1989

CONSECUENCIAS DE LA TRANSFERENCIA DE BIENES QUE OCURRA EN O ANTES DEL 31 DE DICIEMBRE DE 1989 POR MENOS DEL VALOR JUSTO EN EL MERCADO

Los bienes no exentos que sean transferidos dentro de los 24 meses antes de, o en cualquier tiempo después de haber solicitado beneficios de Medi-Cal, le resultará en un periodo de inelegibilidad si es que los bienes fueron regalados, vendidos, o intercambiados de alguna manera por menos del valor justo en el mercado. El período de inelegibilidad puede durar desde un mes hasta varios años. Este período de inelegibilidad está basado en el valor de los bienes no remunerados (cantidad de dinero que no recibió) y el nivel de ingreso necesario para su mantenimiento de acuerdo a Medi-Cal tomando en cuenta el número de personas en su caso. Es posible que el período sea reducido si el solicitante tiene otros gastos, tales como gastos médicos o gastos de cuidado fuera del hogar en exceso del ingreso necesario para su mantenimiento.

Por ejemplo, digamos que una pareja que ha solicitado beneficios haya reducido sus bienes al transferir $25,000 de sus ahorros a un hijo como un regalo. Ellos serían inelegibles para beneficios de Medi-Cal puesto que no recibieron un valor justo en el mercado a cambio. Si la pareja no tiene otros gastos permitidos, los solicitantes serían inelegibles durante 26 meses ($25,000 divididos entre la cantidad de $934 que se determina es el ingreso necesario para el mantenimiento de una pareja).

TRANSFERENCIA DE BIENES QUE OCURRA EN O ANTES DEL 31 DE DECIEMBRE DE 1989 QUE NO RESULTAN EN INELEGIBILIDAD

La transferencia de bienes exentos, o sea, bienes que no se cuentan cuando se determina su elegibilidad, no resultarán en un período de inelegibilidad siempre y cuando los bienes se consideraron exentos cuando se llevó a cabo la transferencia. Esto incluye la propiedad que sirve de hogar. Sin embargo, el dinero que reciba de la venta de la casa debe contarse como bienes a menos que el dinero se use para la compra de otra casa dentro de los siguientes seis meses. Además, cualquier dinero que reciba por la venta de otros bienes exentos será contado como bienes hasta que éstos se reduzcan al límite, o bajo el límite, de propiedad.

TRANSFERENCIA DE BIENES NO EXENTOS QUE OCURRA EN O ANTES DEL 1 DE ENERO DE 1990

PERSONAS NO INTERNADAS EN UNA INSTITUCION MEDICA

Una persona que no esté internada en una institución médica no será inelegible si transfiere bienes por menos del valor justo en el mercado a menos que la persona sea internada dentro de los siguientes 30 meses después de esta transferencia en una institución médica.

PARA MAS INFORMACION POR FAVOR LEA EL REVERSO DE ESTA FORMA

PERSONAS INTERNADAS EN UNA INSTITUCION MEDICA

Es posible que una persona internada en una institución médica sea inelegible si transfirió bienes no exentos por menos del valor justo en el mercado a menos que estos bienes no exentos hayan sido transferidos a:

- El esposo(a) que tiene bienes comunitarios (o a otra persona para el beneficio exclusivo del esposo(a) que tiene bienes comunitarios), o a
- Un hijo(a) de la persona internada en una institución médica el cual esté ciego o total y permanentemente incapacitado, o a
- El esposo(a) (antes de que el esposo(a) internado en una institución médica sea admitido a la institución médica o a un establecimiento de cuidado médico continuo no intenso) siempre y cuando éste no haya transferido los bienes a otra persona (a menos que se transfieran nuevamente los bienes al esposo(a) de donde provinieron originalmente) por menos del valor justo en el mercado.

La siguiente transacción resultará en un período de inelegibilidad para cuidado a nivel de un establecimiento médico continuo no intenso si la propiedad se regaló, vendió, o se intercambió por menos del valor justo en el mercado y si transfirió la casa no exenta, que fue su hogar, a una persona que no sea una de las personas que se indican enseguida, (p. ej.: el regalarle la casa a un hijo(a) adulto el cual no esté ciego o incapacitado y que no está viviendo en la casa), o si transfirió bienes no exentos 30 meses antes, o en cualquier período después, de la fecha en que fue internado(a) en una institución médica, y haya solicitado o esté recibiendo beneficios de Medi-Cal. El período de inelegibilidad podrá ser de un mes hasta 30 meses. Este período de inelegibilidad está basado en el valor no remunerado de los bienes (cantidad de dinero que no recibió) y la cantidad promedio del costo del cuidado basado en tarifa privada en un establecimiento de cuidado médico continuo no intenso.

Por ejemplo, digamos que una persona internada en una institución médica haya reducido sus bienes al transferir $24,000 de sus ahorros a un hijo(a) como un regalo. Esta persona sería inelegible para beneficios de Medi-Cal puesto que no recibió un valor justo en el mercado a cambio. Supongamos que la cantidad promedio del costo del cuidado basado en tarifa privada en un establecimiento médico continuo no intenso sea $2,000. La persona internada en una institución médica sería inelegible durante 12 meses ($24,000 divididos entre $2,000 que es la cantidad promedio del costo del cuidado basado en tarifa privada).

TRANFERENCIA DE LA CASA NO EXENTA POR UNA PERSONA INTERNADA EN UNA INSTITUCION MEDICA QUE NO RESULTA EN UN PERIODO DE INELEGIBILIDAD

Una persona internada en una institución médica no será inelegible debido a la transferencia del hogar que fue su hogar si se escritura a:

- Su esposo(a),
- Un hijo(a) menor de 21 años, o uno que sea ciego o total y permanentemente incapacitado,
- Un hijo(a) que no se describe anteriormente, que vivió en el hogar por dos años antes de la fecha en que la persona fue internada si este hijo(a) le proporcionó el cuidado necesario que le permitió permanecer en el hogar en vez de tener que recibir este cuidado en un establecimiento o institución médica, o a
- Un hermano(a) de la persona internada en una institución médica, socioproprietario en el valor de la casa y que vivió en el hogar por un año antes de la fecha en que la persona fue internada en un establecimiento o institución médica.

Cada vez que una transferencia traiga como resultado un período de inelegibilidad, la persona inelegible tiene el derecho de solicitar una apelación por medio de una audiencia. La forma que debe completar para solicitar la audiencia se encuentra al reverso de la Notificación de Acción donde se le avisa si le han descontinuado o negado su elegibilidad para beneficios de Medi-Cal.

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Add Section 50023.5 to read:

50023.5. Average Private Pay Rate. For purposes of determining the period of ineligibility for transfers of nonexempt property without adequate consideration under Section 50411.3, the monthly average private pay rate shall be an amount established on an annual basis by the Department, and provided to the county departments.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14015, Welfare and Institutions Code; and 42 United States Code Section 1396p.

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Amend Section 50029 to read:

50029. Certification for Medi-Cal. Certification for Medi-Cal means the determination by the county department or the Department that a person is eligible for Medi-Cal and has no share of cost, has met the share of cost or is eligible as an institutionalized spouse oris-in has long-term care status and has a share of cost which is less than the cost of ~~long-term~~ that care at the Medi-Cal rate.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14005 and 14005.9, Welfare and Institutions Code.

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Add Section 50031.5 to read:

50031.5. Community Spouse. A person who is not an inpatient in a medical or nursing facility and who is married to an institutionalized spouse or for income purposes, a person with LTC status.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002, Welfare and Institutions Code; and 42 United States Code Section 1396r-5.

Add Section 50031.7 to read:

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50031.7. Community Spouse Resource Allowance (CSRA). The community spouse resource allowance (CSRA) shall be an amount of combined nonexempt community and separate property belonging to either or both the institutionalized and community spouses which the community spouse is allowed to retain when the institutionalized spouse applies for Medi-Cal benefits.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002 and 14006, Welfare and Institutions Code; and 42 United States Code Section 1396r-5.

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Add Section 50033.5 to read:

50033.5. Continuous Period of Institutionalization. A continuous period of institutionalization is 30 or more consecutive days of inpatient medical care in a medical institution or nursing facility. A continuous period of institutionalization begins when a institutionalized person is expected to remain an inpatient for 30 consecutive days and ends when the institutionalized person is no longer an inpatient for a full calendar month. Persons are considered "expected to remain", even though they do not actually remain in an institution, when it was determined at the beginning of the period of institutionalization that he/she was "expected to remain".

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002 and 14006, Welfare and Institutions Code; 42 United States Code Section 1396r-5; 42 Code of Federal Regulations, Section 435.914 (b) and State Medicaid Manual, Part 3 - Eligibility, Section 3260.1.

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Add Section 50046.4 to read:

50046.4. Institutionalized Individual. Effective January 1, 1990, an institutionalized individual is residing in a nursing facility or medical institution and receiving nursing facility level of care.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002, Welfare and Institutions Code; and 42 United States Code Section 1396p.

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Add Section 50046.5 to read:

50046.5. Institutionalized Spouse. Beginning with the date of admission into the nursing facility or medical institution, an institutionalized spouse is one who is all of the following:

(a) Applying for Medi-Cal on or after January 1, 1990.

(b) Beginning a continuous period of institutionalization on or after September 30, 1989 as an inpatient in a medical institution or nursing facility as defined in Section 50048 and 50064.7.

(c) Is expected to remain in the medical institution or nursing facility for a continuous period of at least 30 consecutive days as evidenced by a statement, signed and dated by the physician of the institutionalized spouse. Non-receipt of nursing facility level of care for a full calendar month shall be considered a termination of a continuous period of institutionalization.

(d) Is married to a community spouse.

(e) Is not AFDC-MN.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002 and 14005; and 42 United States Code Section 1396r-5.

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Amend Section 50056 to read:

50056. Long-Term Care (LTC) Status. Long-term care (LTC) status means inpatient medical care which lasts for more than the month of admission and is expected to last for at least one full calendar month after the month of admission.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14050.3, Welfare and Institutions Code.

Add Section 50056.5 to read:

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50056.5. Long-Term Care (LTC) Facility. A long-term care (LTC) facility is a medical institution or nursing facility as defined in Section 50048 and 50064.7.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002 and 14050.3, Welfare and Institutions Code.

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Add Section 50064.7 to read:

50064.7. Nursing Facility. A nursing facility is a intermediate care facility or a skilled nursing facility.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002, Welfare and Institutions Code; and 42 United States Code Sections 1396p and 1396r-5.

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Add Section 50064.9 to read:

50064.9. Nursing Facility Level of Care. Nursing Facility Level of Care is received by inpatients in skilled nursing facilities, in intermediate care facilities, in subacute care facilities, in the distinct-part of distinct-part facilities and when an inpatient is receiving either skilled nursing or intermediate care in a swing-bed hospital. Nursing facility level of care is commonly known to Medi-Cal providers as "long-term care".

NOTE: Authority Cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002, Welfare and Institutions Code; 42 United States Code Section 1396p; 42 Code of Federal Regulations, Sections 440.40 and 400.150.

Amend Section 50071 to read:

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50071. Persons Living in the Home. (a) Persons living in the home means all of the following:

(1) Persons physically present in the home;

(2) Persons temporarily absent from the home because of hospitalization, visiting, vacation, trips in connection with work, or because of similar reasons as limited by (d).

(3) Persons away at school or vocational training who will resume living in the home as evidenced by the person returning home for vacations, weekends and at other times.

(b) A temporary absence is normally one in which the person leaves and returns to the home in the same month or the following month.

(c) Whether a person is living in the home while in an LTC facility or board and care shall be determined in accordance with Section 50377.

No change to the remainder of the regulation.

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Add Section 50096.5 to read:

50096.5. Undue Hardship. Denial of eligibility would work an undue hardship against an institutionalized individual if the conditions in (a) and (c), or (b) and (c) exist:

(a) For purposes of reducing property and establishing and maintaining eligibility as an institutionalized spouse under Section 50490, the property is legally unavailable without the signature of the community spouse, and

(A) The community spouse's whereabouts are unknown, or

(B) There has been a break in marital ties and the community spouse refuses to cooperate.

(b) For purposes of Section 50411.5 (a) (5), when one of the following conditions exist:

(1) The institutionalized individual was incompetent at the time of the transfer as evidenced by a statement signed by the institutionalized individual's physician, or

(2) The institutionalized individual was competent but unduly influenced at the time of the transfer, or

(3) When all of the following conditions exist:

(A) The LTC facility is threatening the institutionalized individual with eviction,

(B) Eviction of the institutionalized individual would result in increased

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medical problems or a decrease in the physical health of the institutionalized individual as evidenced by a statement by the attending physician, and

(C) The institutionalized individual, or the person acting on his/her behalf makes a satisfactory showing to the county department that the transferee no longer has the property that was transferred to him/her and that the transferee does not have adequate funds to pay for the institutional care of the institutionalized individual (both the past due amount and for the remainder of the period of ineligibility).

(c) The institutionalized individual is:

(1) Otherwise eligible for Medi-Cal, and

(2) Unable to obtain medical care without Medi-Cal.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Sections 1396p and 1396r-5.

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Amend Section 50125 to read:

50125. County of Responsibility -- Persons with No Family. (a) The county of responsibility for determining Medi-Cal eligibility for persons whose eligibility as MN, MI or Other PA is not determined as part of a family, nor based on family income, shall be:

(1) The placing county for:

(A) Persons placed by a county agency in a private or county-administered LTC facility~~, in order to receeived long term care~~.

(B) Children placed by a county agency in foster or adoptive care under Aid Codes 04, 43, 44, 45, 46 and 47.

(2) The county in which the person's home is located, if the person is temporarily absent from the home as specified in Section 50071 (a) (2).

(3) The county in which the person is living in all other situations.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code. Reference: Sections 11050, 14005.4, 14006, 14008 and 14016(a) and (c), Welfare and Institutions Code.

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Amend Section 50131 to read:

50131. Placement in Long-Term Care Facility After Release from a State Hospital.

No change to the remainder of the regulation.

Amend Section 50142 to read:

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50142. Screening. (a) County departments that have established a procedure for screening potential applicants prior to application shall:

(1) Determine the Medi-Cal program under which the person's or family's application should be processed.

(2) Provide information regarding Medi-Cal eligibility requirements to all persons being screened, including but not limited to the eligibility requirements contained:

(A) On the "Medi-Cal General Property Limitations for all Medi-Cal Applicants" (MC Information Notice 007).

(B) On the "Community Property - Person in Long-Term Care (LTC)" (MC Information Notice 005) to all potential applicants with LTC status who have entered an LTC facility prior to September 30, 1989.

(3) Provide the Medi-Cal Property Assessment Application (MC 176 PA - A) and the Property Assessment Statement of Facts (MC 210 PA) for institutionalized and community spouses if requested to do so by either spouse. The information contained on the MC 176 PA - A shall be explained to the institutionalized spouse, community spouse and/or either spouse's representative, and signed by at least one of the above and the eligibility worker.

(A) The original shall be retained by the county.

(B) Copies shall be provided to each of the spouses and/or their representative(s).

(4) Inform each person being screened of that person's rights under the Medi-Cal program, even if it appears that the person in ineligible. Rights of Persons Requesting Medi-Cal, MC 216, shall be explained to, and signed by the person being screened.

(A) The original shall be retained by the county department.

(B) A copy shall be given to the person being screened.

(b) County departments that have not established a procedure for screening potential applicants prior to application shall provide, at the time an applicant submits either the Application for Public Assistance (CA 1) requesting Medi-Cal or the Medi-Cal Property Assessment Application (MC 176 PA - A):

(1) The "Medi-Cal General Property Limitations for All Medi-Cal Applicants" (MC Information Notice 007) to all applicants.

(2) "The Community Property - Person in Long-Term Care (LTC)" (MC Information Notice 005) to all applicants with LTC status who have entered an LTC facility prior to September 30, 1989.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14005, 14006, 14006.2 and 14006.6, Welfare and Institutions Code; and 42 United States Code Sections 1396a, 1396p and 1396r-5.

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Add Section 50142.5 to read:

50142.5. Assessment of Resources for Institutionalized and Community Spouses.

(a) Upon receipt of a Medi-Cal Property Assessment Application (MC 176 PA - A) signed by either an institutionalized or community spouse or their representative(s) whether or not the request is accompanied by an application for Medi-Cal, and upon completion of the "Property Assessment Statement of Facts", (MC 210 PA) and receipt of all relevant documentation or verification of resources, the county department shall complete and explain the "Property Worksheet/Assessment for Institutionalized Spouses", (MC 176 PA).

(b) A copy of the MC 176 PA and the MC 176 PA - A shall be provided to each spouse and/or their representative.

(c) The original shall be retained by the county department. If the institutionalized spouse does not apply for Medi-Cal, the form shall be retained for the retention periods required under Section 50111.

(d) The county department shall follow the procedures outlined in Section 50153 (b) (5), explain the form, "Medi-Cal General Property Limitations for All Medi-Cal Applicants", (MC Information Notice 007) and if applicable, Section 50153 (b) (8).

(e) The county department may conduct the assessment interview either in person or over the telephone.

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(f) The assessment must be completed within 45 days from the date the "Medi-Cal Property Assessment Application", (MC 176 PA - A) is received by the county department.

(1) At the option of the county department, the 45 days may be extended if there is a delay in receiving all relevant verification. The assessment may not be delayed any longer than 45 days from the receipt of such verification.

(2) Where verification is not provided by the assessment applicant, or where the county chooses not to extend the initial 45-day period, the county department shall use the value provided on the "Property Assessment Statement of Facts", (MC 210 PA) and document on the "Property Worksheet/Assessment for Institutionalized Spouses", (MC 176 PA) that verification was not provided.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14006 and 14006.6, Welfare and Institutions Code; and 42 United States Code Sections 1396a and 1396r-5.

Amend Section 50147 to read:

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50147. Application for Medi-Cal Only. (a) A person or family applying for Medi-Cal- only shall submit a completed application form to the county department.

(b) The county department shall, within 30 days of receipt of a referral from the Department pursuant to 50183.5, contact an ABD person in a long-term care facility and assist the ABD person with the completion of an application form for Medi-Cal only.

(1) An application for Medi-Cal- only shall be completed when:

(A) The ABD person ~~has been in long term care for more than the month of admission and~~ is expected to remain in the LTC facility for at least 30 days.

(B) The ABD person has nonexempt monthly gross income in excess of $44.90.

(2) The county department shall advise the Department immediately that an inappropriate referral has been received when the conditions in (1) do not exist.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 11004 and 14016, Welfare and Institutions Code.

Add a new Section 50154 to read:

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50154. County Department Responsibilities for Informing All Medi-Cal Applicants or Potential Applicants at Screening. (a) At screening or at application and restoration, the county department shall:

(1) Inform all applicants of the appropriate property limits, and how property is exempted, counted, and valued. As appropriate, inform applicants how property is divided as community property under Section 50403, or divided between institutionalized and community spouses.

(2) Review the "Community Property -- Person in Long-Term Care (LTC)" (MC Information Notice 005) with all applicants with LTC status who have entered an LTC facility prior to 9/30/89 and review with all applicants, the Medi-Cal General Property Limitations for All Medi-Cal Applicants" (MC Information Notice 007) including clarification of the provisions listed in subsection (8) below.

(3) If applicable, inform all applicants of their right to reduce nonexempt excess property within the month of application, provided the applicant receives adequate consideration. After January 1, 1990, the requirement to receive adequate consideration applies only to an institutionalized individual as defined in Section 50046.4.

(4) If applicable, provide options as to how excess property may be reduced and how adequate consideration may be obtained, in order to establish eligibility in the month. This shall be done as soon as there is an indication that the applicant may own property which could result in

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ineligibility whether or not there is actual verification. Such options shall include but are not limited to:

(A) Paying off medical or other bills.

(B) Purchasing exempt items.

(C) Paying off mortgages or car loans; making home repairs or improvements to property. If the applicant has LTC status, is not an institutionalized spouse, and is reducing excess nonexempt property in this manner, the payments must be made in no more than the same proportion to which the applicant holds ownership interest in these items.

(D) Encumbering (in accordance with Section 50039) or borrowing against the cash values of nonexempt property and life insurance policies and then reducing the proceeds while receiving adequate consideration, by the end of the month for which Medi-Cal is being requested.

(E) The county shall inform the applicant that the cash surrender value of nonexempt life insurance policies and any other asset will be considered unavailable as long as the applicant continues to make a good faith effort to liquidate the asset as limited by Section 50402.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14005, 14006, 14006.2 and 14006.3, Welfare and Instituions Code; and 42 United States Code Sections 1396a and 1396r-5.

Amend Section 50157 (g) to read:

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50157. Face-to-Face Interview.

(g) During the interview, the representative of the agency conducting the interview shall complete and explain the contents of the following forms:

(1) The "Property Worksheet/Assessment for Institutionalized Spouses" (MC 176 PA), if requested by either an institutionalized or community spouse;

(2) The "Important Information for Persons Requesting Medi-Cal" (MC 210 Coversheet) or "Rights of Persons Requesting Medi-Cal" (MC 216) ~~form~~ whichever is appropriate, ~~and the Medi-Cal Responsibilities Checklist~~ if the forms were not completed and explained during an assessment for institutionalized and community spouses, or during screening~~.~~;

(3) The Medi-Cal Responsibilities Checklist (MC 217) if the MC 210 Coversheet is not done;

(4) The Child Support Questionnaire Form (CA 2.1) and the Child Support Notice and Agreement (CA 2.1); and

(5) Any other form specified by the district attorney and approved by the Department of Health Services.

(~~1~~h) The person being interviewed shall sign and date the ~~forms~~ MC 210 Coversheet or the MC 216, whichever is appropriate.

(~~2~~i) The original of ~~each~~ the ~~form~~ MC 210 Coversheet (or MC 216) and if applicable, the MC 176 PA and MC 176 PA-A shall be placed in the case file.

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(3j) A copy of the ~~form~~ MC 210 Coversheet (or MC 216) and if applicable, the MC 176 PA and MC 176 PA-A shall be given to the person being interviewed or if applicable, to each spouse, and their representative(s).

(hk) An informational pamphlet on the CHDP program shall be given to the applicant, if there are persons under 21 years of age in the family.

(il) The representative of the agency conducting the interview shall document by a notation on the Statement of Facts that the requirements of the CHDP program, as specified in (f) (4) and (hk) and Section 50184 (b), have been met.

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Amend Section 50179 (c) to read:

(c) The Notice of Action shall include the following:

(1) The approval, denial or discontinuance of eligibility or the change in the share of cost and the effective date of the action.

(2) The amount of the share of cost, if any, and the amount of the net nonexempt income used to determine the share of cost.

(3) The amount of, and the method for calculating, the community spouse resource allowance.

(34) The reason an action is being taken and the law or regulation that requires the action, if the action is a denial, discontinuance or increase in share of cost.

(45) The applicant's or beneficiary's responsibility to report to the county department not later than 10 calendar days following the date of the change, any:

(A) Change of address.

(B) Change in property or income.

(C) Change in family composition.

(D) Change in other health care coverage.

(56) The requirement to report to the county department, and to utilize fully, any contractual or other legal entitlement to health care coverage;

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and that willful failure to report such benefits and utilize them, when available, before obtaining Medi-Cal benefits is a misdemeanor.

(67) The right to request a State hearing if dissatisfied with:

(A) Any action or inaction by the county department that affects the applicant's or beneficiary's Medi-Cal eligibility or share of cost, except as limited in Section 50951 (a).

(B) Any action taken by, or on behalf of, the Department that affects the applicant's or beneficiary's Medi-Cal benefits.

(8) The right by either or both the institutionalized spouse or the community spouse or their representative(s) to request, after an application has been made, a fair hearing regarding the determination of the community spouse resource allowance, or the ownership and availability of resources.

(79) The procedures for requesting a State hearing and the time limits within which a State hearing must be requested.

(810) The circumstances under which aid will be continued if a hearing is requested.

(911) A statement, when appropriate, regarding the information or action necessary to reestablish eligibility or determine a correct share of cost.

No changes to the remainder of the regulation.

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Amend Section 50183.5 to read:

50183.5. Action Following Medi-Cal Discontinuance by the Department.

(a) The Department shall inform the county department of any ABD person whose Medi-Cal eligibility as an SSI/SSP PA recipient has been discontinued because the condition in (1) (A) and (B) exist.

(1) The county department shall contact the person and assist the person with the completion of an application for Medi-Cal- only pursuant to Section 50147 when the following conditions exist.

(A) The person has been in the long-term care facility for more than the month of admission and is expected to remain in the LTC facility for at least 30 days.

No change to the remainder of the regulation.

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Amend Section 50351 to read:

50351. Responsible Relative. (a) The responsibility of a relative to contribute to the cost of health care services of a Medi-Cal applicant or beneficiary shall be limited to spouse for spouse and parent for child.

(b) In determining Medi-Cal eligibility and share of cost, relative responsibility shall be determined in accordance with the following:

(1) Relative responsibility shall be spouse for spouse when the spouses are living together in the home.

(2) If one or both of the spouses is in an LTC facility or board and care, the spouses income and property shall be considered available in determining each others eligibility and share of cost in accordance with the MFBU composition provision of Section 50377.

(3) If neither of the spouses is in an LTC facility or board and care but the spouses are living apart, the spouses shall have their eligibility and share of cost determined as single persons the day following the separation, if it is known that the separation will not be temporary in accordance with Section 50071 (b).

No change to the remainder of the regulation.

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Amend Section 50373 to read:

50373. Medi-Cal Family Budget Unit Determination, No Family Member in an LTC facility or Board and Care.

No change to the remainder of the regulation.

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Amend Section 50377 to read:

50377. Medi-Cal Family Budget Unit (MFBU) Determination, Family Member in a Long-Term Care Facility or in Board and Care. (a) Notwithstanding subsection (e) an institutionalized spouse, for purposes of determining the community spouse resource allowance and completing the transfer of property under the community spouse resource allowance provisions in Section 50490.5 and 50490.7, shall be considered to be in his/her own MFBU at the beginning of a continuous period of institutionalization in a nursing facility or medical institution.

(a b) An aged, blind, or disabled person ~~who is in~~ with LTC status or in board and care shall be in his/her own MFBU, except as provided in ~~(e) and~~ (d).

(b c) An aged, blind, or disabled person's spouse ~~who is in~~ with LTC status or in board and care shall be in his/her own MFBU, except as provided in ~~(e) and~~ (d).

(e d) Spouses and their children shall be in the same MFBU for property evaluations only, from the date the first spouse entered the facility until the end of the sixth full month of LTC status or board and care status when all of the following conditions are met:

(1) Both spouses are aged, blind or disabled.

(2) ~~One or b~~ Both spouses is reside in an LTC facility or board and care.

(3) Both spouses apply for and are eligible for Medi-Cal.

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(de) A person who is in an LTC facility or in board and care who is not aged blind or disabled and whose spouse is not aged, blind or disabled shall be included in the MFBU with the person's spouse, and/or children or, where the person is a child, with the child's parents.

(ef) A child who is a ward of the court or the responsibility of a public agency due to a voluntary placement by a parent or guardian and who is a patient in a medical facility shall be in the child's own MFBU.

(fg) A child who is not blind or disabled, who ~~is in~~ has LTC status and who was not living with the child's parents immediately prior to entering the LTC facility shall be in the child's own MFBU.

(gh) Income and property available to the MFBU established in accordance with this section shall be determined in accordance with Section 50557, ~~and~~ 50402 and 50403.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code; and Section 5, Chapter 1221, Statutes of 1985. Reference: Sections 14005.4, 14005.7, 14005.16, 14002, 14005.16, 14005.17, 14006, 14006.2 and 14008.

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Amend Section 50402 to read:

50402. Availability of Property. (a) Property to which the applicant or beneficiary has the legal right, power and authority to liquidate is to be considered available and shall be used in determining eligibility.

(b) If there is excess property and the applicant or beneficiary provides evidence that he/she implements and continues a good faith intent and bona fide effort to liquidate the property or otherwise fulfill the requirements of this section, the property shall be considered unavailable beginning the first day of that month. A good faith intent and bona fide effort is demonstrated when the person intends and continues to hold the property for sale by taking all necessary steps to liquidate the property. The property shall remain unavailable until the consideration is received.

(c) If the applicant or beneficiary discontinues his/her good faith intent or bona fide efforts to liquidate the property or otherwise fulfill the requirements of this section, the property shall be considered available the day the intent or efforts cease.

(d) Other real property, regardless of value, shall be considered unavailable beginning the first day of the month in which a good faith intent and bona fide effort to sell, as defined in subsection (b), is started and shall remain unavailable until the last day of the month in which the property has been sold.

(1) Necessary steps demonstrating a bona fide effort to sell shall include but are not limited to:

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(A) Listing the property for sale with a licensed real estate broker for its fair market value established by a qualified real estate appraiser.

(B) Advertising the property for sale in at least a local newspaper. If there is no local newspaper, the property must be advertised in a newspaper with local distribution.

(C) Accepting bona fide offers within two-thirds of the fair market value, and

(D) Supplying copies of all offers.

(2) The applicant or beneficiary shall supply verification to the county department every six months and at any other time it is requested by the county department, that all of the conditions of subsection (c) are being met.

(3) Good cause for ceasing bona fide efforts include:

(A) Misplaced reliance by the applicant or beneficiary upon what appeared to be a bona fide offer. The county department shall require a copy of the written offer for the property as evidence that the offer was bona fide. Misplaced reliance may have resulted if the offer was either of the following:

(i) Bona fide but the purchaser was unable to complete the purchase.

(ii) Apparently bona fide but eventually found not to be bona fide.

(e) The cash surrender value, or balance, of pension funds and annuities.

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regardless of value shall be considered unavailable if the applicant or beneficiary is receiving periodic payments of interest and principal. The periodic payments shall be considered income in accordance with Section 50507 and the remaining principal and interest accumulated shall be considered unavailable.

(1) If the applicant or beneficiary is not receiving periodic payments and has the option of selecting either a cash lump sum payment or periodic payments, the applicant or beneficiary shall select one of these options. If the applicant or beneficiary elects to receive the periodic payments, the balance of the pension fund shall be considered unavailable pursuant to subsection (e). A cash lump sum payment shall be considered property under Section 50455.

(2) Upon receipt of verification from the applicant or beneficiary, a pension fund or annuity will be considered unavailable from the first of the month in which the applicant or beneficiary has taken steps to begin lump sum or periodic payment(s). The asset will remain unavailable until such payment(s) are received as long as the applicant or beneficiary continues a good faith intent and bona fide effort to receive payment(s). A bona fide effort shall be demonstrated by taking all necessary steps in a timely manner to receive payment(s) and providing verification as requested by the county department.

(3) If the pension fund or annuity does not allow the applicant or beneficiary to exercise one of the options described in subsection (1), it shall be considered unavailable under subsection (a).

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(4) If payment(s) are deferred at any time while the person is a Medi-Cal applicant or beneficiary, the cash surrender value shall be considered available and shall be included in his/her property reserve until the property can be considered unavailable again as provided above.

(f) If evidence clearly establishes that property held in the name of an applicant or beneficiary or shared with another person does not belong to the applicant or beneficiary but belongs to a person who is not an MFBU member, then such property shall not be considered available to the applicant or beneficiary.

(1) Such evidence may include but is not limited to:

(A) Corresponding withdrawals and deposits from the non-MFBU member's accounts to the account belonging to the applicant or beneficiary, or

(B) A postmarked envelope with the letter from the non-MFBU member discussing the property in question and providing instructions as to its use which corresponds with dates and amounts of deposits into the applicant or beneficiary's account, or

(C) Copies of paystubs belonging to the non-MFBU member and corresponding dates and deposits into the account the applicant or beneficiary.

(2) Such evidence shall not consist only of statements or affidavits but must be supported by other evidence as described in subsection (1).

(3) If the county department determines that the property belongs to a non-MFBU member, it shall be considered unavailable from the day the property

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was received by the applicant or beneficiary. The property shall remain unavailable until the day the applicant or beneficiary's name is separated from the property or until the day the applicant or beneficiary's access to the funds or property is restricted, as long as the applicant or beneficiary implements and continues a good faith intent and bona fide effort to do so unless the property is real property. The applicant or beneficiary shall not be required to change the title to such real property.

(A) The applicant or beneficiary demonstrates a good faith intent and bona fide effort by taking all the necessary steps in a timely manner to separate his/her name from the property or restrict his/her access to the property and providing verification as requested by the county department.

(B) The applicant or beneficiary shall have 10 days from the date of the county determination, to provide verification to the county department that necessary steps have been implemented.

(4) For purposes of subsection (f) a Community Spouse shall not be considered a non-MFBU member where the MFBU member is the Institutionalized Spouse.

(5) If the ownership of property, upon which the name of the Medi-Cal beneficiary appears, has been determined by the county department or through fair hearing prior to January 1, 1990, the ownership of that property need not be reestablished.

(g) Property which is not available shall not be considered in determining eligibility.

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NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14006 and 14006.2, Welfare and Institutions Code; 42 United States Code Sections 1396a and 1396r-5; 20 Code of Federal Regulations, Section 416.1245, and Supplemental Security Income Program Operation Manual SI 00510.015, 01110.010, 01120.001, 01120.005, 01130.001, and 01130.100.

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Amend Section 50403 to read:

50403. Treatment of Property. (a) In determining the eligibility of an institutionalized spouse, property shall be treated in accordance with Section 50490 through 50490.7.

(b) ~~(a)~~ The separate property and share of community property of any person included in the MFBU other than an MFBU including an institutionalized spouse shall be considered in determining Medi-Cal eligibility.

(c)~~(b)~~ A spouse's share of community property is always one-half of the current total community property.

(d)~~(c)~~ For purposes of establishing eligibility, and interspousal agreement entered into pursuant to Welfare and Institutions Code Section 14006.2 shall:

(1) be written, dated and signed by both spouses or by a person who has the legal authority to enter into such agreements on behalf of either spouse;

(2) list each asset being transmuted;

(3) clearly designate the owner of each asset;

(4) list the value of each asset; and

(5) evidence an equal division of the nonexempt community property.

(e)~~(d)~~ If an interspousal agreement does not comply with (ed) (4) of this section, the county shall request additional information from the applicant,

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or other party mentioned in (ed) (1) to supplement the agreement and verify the methodology used to value assets. Such information may be necessary pursuant to verification requirements contained in Article 4 of this Division.

(f)(e) If an interspousal agreement evidences an unequal division of the nonexempt community property, and the applicant received the smaller share of such property under the agreement, the county shall determine whether the transfer was for adquate consideration in accordance with Sections 50408 and 50409.

(1) If the county determines that the transfer was not for adequate consideration and was made in order to establish eligibility or to reduce the share of cost, the county shall give the applicant's spouse the option of reconveying to the applicant in accordance with Section 50411 (d)(1) an amount of property sufficient to provide each spouse with equal share of the total nonexempt community property identified in the interspousal agreement.

(2) If the applicant's spouse does not reconvey property pursuant to subsection (ef) (1) above, the county shall assess a period of ineligibility for the applicant in accordance with Section 50411.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006, 14006.2, 14008, 14008.5 and 14015; and 42 United States Code Sections 1396a and 1396r-5.

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Amend 50408 to read:

50408. Transfers Of Property Occurring Before January 1, 1990 Which Does Do Not Result in Ineligibility. (a) Transfers of property made by an institutionalized individual occurring before January 1, 1990, shall not result in ineligibility for Medi-Cal under any of the following conditions:

No change to the remainder of the regulation.

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Add a new Section 50408.5 to read:

50408.5. Transfers of Nonexempt Property On Or After January 1, 1990. (a) These provisions are effective for transfers of nonexempt property made on or after January 1, 1990.

(b) There is a presumption that nonexempt property, as limited by (e) below, transferred by an institutionalized individual was transferred to establish eligibility or to reduce the share of cost. Such transfers shall be considered in determining a period of ineligibility for Medi-Cal unless they were made more than 30 months immediately preceding the date of application for Medi-Cal (if the applicant is an institutionalized individual) or the date of institutionalization (if the institutionalized individual is already a Medi-Cal beneficiary).

(c) There will be no such presumption for any applicant or recipient other than an institutionalized individual.

(d) Transfers of nonexempt property by institutionalized persons without adequate consideration shall result in a period of ineligibility (as limited by Section 50411.5) for nursing facility services and in a medical institution for a level of care equivalent to that of nursing facility services.

(e) For purposes of this section, property shall be considered exempt in accordance with 50490.1.

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NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Sections 1396p and 1396r-5.

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Amend Section 50409 to read:

50409. Transfers of Property Occurring Before January 1, 1990, Which Results in Ineligibility. (a) Transfers of property occurring before January 1, 1990, made by an institutionalized individual or by a person who was a beneficiary prior to January 1, 1990 and such transfer is later discovered by the county department through such methods as IEVS shall result in ineligibility for Medi-Cal if:

No change to the remainder of the regulation.

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Amend Section 50411 to read:

50411. Period of Ineligibility Due to Transfers of Property Occurring Before January 1, 1990. (a) Following a determination of ineligibility due to the transfer of property under Section 50409, there shall be a period of ineligibility. This period shall be the time during which the net market value of the property at the time of transfer, less consideration received, would have supported the applicant of beneficiary and the applicant's or beneficiary's family.

No changes to the remainder of the regulation.

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Add Section 50411.3 to read:

50411.3 Calculation of the Period of Ineligibility for Transfers of Nonexempt Property Which Occurred on or after January 1, 1990. (a) The period of ineligibility for transfers of property for less than fair market value under Section 50408, shall begin with the month in which the property was transferred.

(b) The number of months in such period shall be equal to the lesser of:

(1) 30 months, or

(2) the uncompensated value as determined in (c) below, divided by average private pay rate as provided by the Department.

(c) The uncompensated value shall be the net market value of the property at the time of the transfer, less any consideration received in excess of encumbrances and closing costs, which when included in the property reserve (and the CSRA if eligibility is being established for an institutionalized spouse) would have resulted in excess property as of the date of the transfer.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Section 1396p.

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Add Section 50411.5 to read:

50411.5. Transfers of Property Occurring On or After January 1, 1990, Which Do Not Result in a Period of Ineligibility. (a) A transfer of property occurring on or after January 1, 1990, by an institutionalized individual before or after admission to the LTC facility, shall not result in a period of ineligibility to the extent that:

(1) The property transferred was previously exempt as the principal residence under Section 50425 (c) (1-7) and its title was transferred to:

(A) The spouse or community spouse,

(B) A son or daughter under 21,

(C) A son or daughter who is blind, totally or permanently disabled as verified in accordance with 50167 (a) (1),

(D) A sibling who has equity interest in such home and who was residing in the institutionalized individual's home for a period of at least one year immediately before the date the person became an institutionalized individual.

(E) A son or daughter who resided in the home for a period of at least two years immediately before the date the person became an institutionalized individual, and who provided care to the person which permitted the individual to reside at home rather than in the medical institution or nursing facility.

(2) The property transferred was exempt property under Section 50490.1.

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(3) The nonexempt property was transferred to:

(A) The community spouse (or, as of the date of the transfer, to another for the sole benefit of the community spouse),

(B) A son or daughter of the institutionalized individual who is blind, permanently or totally disabled as verified in accordance with Section 50167 (a) (1), or

(C) Prior to the admission of the institutionalized spouse to the LTC facility, to the spouse, (or as of the date of the transfer, to another for the sole benefit of the spouse), provided that the spouse did not transfer the property to another person (other than back to the spouse from which the property came) for less than fair market value.

(D) If the property was transferred under subsection (B), verification shall be required in accordance with Section 50167 (a)(1).

(4) A satisfactory showing is made that:

(A) The institutionalized individual intended to transfer the nonexempt property at fair market value or for other equally valuable consideration, or

(B) The resources were transferred exclusively for a purpose other than to qualify for medical assistance.

(5) The period of ineligibility would work an undue hardship as defined in Section 50096.5.

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(6) The property was transferred pursuant to Section 50490.7.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code 1396a, 1396p and 1396r-5.

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Amend Section 50416 to read:

50416. Utilization Requirements. (a) Other real property, as specified in Section 50427 (b), shall be utilized in order to be exempt unless the net market value, when added to the net market value of other nonexempt property, falls within the limits set forth in Section 50420.

(b) The property is utilized if ~~any of the following requirements are met:~~

~~(1)~~--T the beneficiary is receiving net yearly income from the property of at least six percent of the net market value of the property.

~~(A)~~ (1) For property not limited to seasonal use, this requirement is met if the net monthly income from the property is one-twelfth of six percent of the net market value of the property.

~~(B)~~ (2) For property limited to seasonal use, this requirement is met if the net yearly income is six percent of the net market value of the property. Property limited to seasonal use includes, but is not limited to:

~~1.~~ (A) Farmland.

~~2.~~ (B) Summer cabins.

~~(C)~~ (3) For purpose of determining net yearly income for property limited to seasonal use, the year is considered to begin in the first month of the year in which income normally begins. Income from all months of the year shall be considered in determining net yearly income of the property, regardless of the eligibility status of the beneficiary in those months.

(2) The property has been sold, or the sale is in escrow and there is a bona fide attempt to close the sale.

(c) The applicant or beneficiary shall be allowed six months to meet utilization requirements. The six month period shall be known as the utilization period, and shall begin on the first of the month following issuance of a notice of action informing the applicant or beneficiary that the property is not yielding sufficient income, as required in (b). The utilization period shall be stayed during periods of ineligibility in accordance with (j).

(d) The utilization period may be extended for a maximum of one year for good cause, as specified in Section 50417.

(e) If the county department determines that utilization requirements can only be met by sale of the property, Tthe utilization period shall be extended for as long as the property is listed for sale and meets the requirements to be considered otherwise unavailable in accordance with Section 50402. ~~;-provided-all-of-the-following-conditions-are-met:~~

~~(1)--The-county-department-determines-that-utilization-requirements-can-only-be-met-by-sale-of-the-property.---This-determination-shall-be-made-using-evidence-provided-by-the-applicant-or-beneficiary;-which-may-be,-but-is-not-limited-to;-either-of-the-following:~~

~~(A)--A-written-statement-from-a-qualified-real-estate-appraiser-which-gives-the-appraisal-value-of-the-property-and-its-income-potential.~~

~~(B)--A-certificate-of-condemnation.~~

(2) The property is listed for sale with a licensed real estate broker at the market value, as determined in accordance with Section 50412 (a).

(3) The beneficiary provides the following evidence every six months, and at any other time it is requested by the county department:

(A) A statement from the real estate agency that no bona fide offer has been rejected.

(B) Copies of any offers that have been submitted and the reasons for rejection.

(C) Evidence of the efforts being made to advertise the property for sale.

(f) If the applicant or beneficiary utilizes the property by sale, the property shall be sold for a least market value, unless the property was sold under either of the following situations and the applicant or beneficiary submits evidence that there was a bona fide attempt to sell at market value.

(1) The property was listed with a licensed real estate broker for at least three months and the final sale price was similar to comparable sales in the area.

(2) There was an inability to sell the property for the market value and the county department determines that the final sale price was reasonable.

(g e) An existing environmental impact report involving a property shall be considered by the county department in determining the utilization potential of the property.

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(~~h~~f) A life estate interest in real property shall be utilized in accordance with this section.

(~~i~~ g) The applicant or beneficiary may arrange for a reassessment of the property during the utilization period. The assessment shall affect utilization as follows:

(1) The reassessment value shall be used in determining utilization requirements.

(2) The reassessment shall not affect the beginning date or the length of the utilization period.

(~~j~~ h) The entire net market value of property not utilized in accordance with this section shall be included in the property reserve on the first of the month following the last month of the utilization period.

(~~k~~ i) A utilization period shall begin whenever:

(1) An applicant, with other real property that is not being utilized, becomes eligible except as specified in (j).

(2) The other real property of a beneficiary, that has been utilized, is no longer utilized.

(3) The net market value of other real property, when added to the net market value of other nonexempt property, no longer falls within the limits set forth in Section 50420.

(~~l~~ j) When a utilization period has begun and the beneficiary becomes

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ineligible for Medi-Cal prior to its expiration, the remainder of the utilization period shall be applied if eligibility is subsequently reestablished and the property is not utilized at that time. However, if the beneficiary can verify that the property was utilized at any time during the period of ineligibility, a new utilization period shall begin.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code. Reference: Section 14006 and 14006.2, Welfare and Institutions Code; and United States Code 1396a.

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Amend Section 50417 to read:

50417. Utilization -- Good Cause. (a) Good cause, as required in Section 50416 (e d), shall be found only if the applicant or beneficiary has made a bona fide effort to meet utilization requirements and is unable to do so because of circumstances beyond such person's control.

(b) Circumstances beyond a person's control shall include any of the following situations:

(1) Death of a part owner of the property and inability or refusal of the administrator or executor of the estate or other responsible person to complete ~~disposition~~ utilization of the property if such person is other than the applicant or beneficiary.

~~(2) Misplaced reliance by the applicant or beneficiary upon what appeared to be a bona fide offer. The county department shall require a copy of the written offer for the property as evidence that the offer was bona fide. Misplaced reliance may have resulted if the offer was either of the following:~~

~~(A) Bona fide but the purchaser was unable to complete the purchase.~~

~~(B) Apparently bona fide but eventually found not to be bona fide.~~

(32) Prolonged illness causing the seller applicant or beneficiary to be homebound or hospitalized during the utilization period and unable to take the necessary action to meet utilization requirements or to arrange for an

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agent to do so.

(4 3) Like reasons which the county department determines meet the general intent of good cause.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 11153.7, 14006, and 14006.2, Welfare and Institutions Code; and 42 United States Code Section 1396a.

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Amend Section 50425 to read:

50425. Property Used as a Principal Residence. (a) A principal residence may consist of real or personal property, fixed or mobile, located on land or water. The principal residence includes land or buildings surrounding, contiguous to or appertaining to the residence.

(b) The following items of real property may serve as a principal residence:

(1) A house.

(2) The entire multiple unit dwelling if any portion of the multiple unit dwelling serves as the principal residence of the applicant or beneficiary.

(3) The items listed in (d) shall be considered as real property when they are assessed as real property by the county assessor of the county in which the property is located.

(c) Property which the applicant or beneficiary uses or formerly used as a home shall be exempt as the principal residence if any of the following situations exist:

(1) The applicant or beneficiary lives on the property.

(2) The family of the applicant or beneficiary lives on the property and Medi-Cal eligibility is determined in either of the following ways:

(A) With the applicant or beneficiary and the family in a single MFBU.

(B) With the income of the family considered in determining the applicant's

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or beneficiary's eligibility.

(3) The applicant or beneficiary is absent from the property for any reason, including admittance to an LTC facility, and declares in writing that he/she intends to return to the property to live.

No change to the remainder of the regulation.

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Amend Section 50428 to read:

50428. Liens. (a) The Department shall record a lien against the ownership interest in the principal residence of an institutionalized beneficiary if the property meets the provisions of Section 50425 (c) (7) unless:

(1) The individual did not receive a Notice of Action according to the provisions of Section 50179 or has not had the opportunity for a state hearing according to the provisions of Article 18 commencing with Section 50951) of this Chapter. Such Notice shall include the following:

(A) The beneficiary has stated he/she does not intend to return to the principal residence from the long-term care facility.

(B) A lien will be recorded against the property for the cost of all Medi-Cal claims paid or to be paid on the beneficiary's behalf.

(C) The recording of the lien does not mean ownership of the property is lost or transferred.

(D) The requirements to list the property for sale that the applicant or beneficiary must meet to remain eligible for Medi-Cal in accordance with Section 50425.

(E) The beneficiary has the right to a county level review and a state hearing prior to recording of the lien or imposing any requirements to list the property for sale.

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(F) The procedures for requesting a county level review and the time limits within which such requests must be made.

(b) Any recorded lien for an amount equal to the cost of medical car provided may be foreclosed only after one of the following:

(1) The beneficiary sells the property.

(2) The beneficiary dies and the following conditions are met.

(A) There is no surviving spouse.

(B) The beneficiary has no surviving child who is under the age of 21 or who is blind or disabled.

(c) Any lien shall dissolve when the beneficiary is discharged from an LTC facility and returns to the principal residence to live.

(d) The county department shall notify the Department upon a determination that:

(1) All the criteria set forth in Section 50428 (a) are met; or

(2) A person in a long-term car facility has been discharged and has returned to the principal residence to live.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code: Section 57(c), Chapter 328, Statutes of 1982; Section 87, Chapter 1594, Statutes of 1982. Reference: Section 14006, Welfare and Institutions Code.

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Add Section 50455.5 to read:

50455.5. Cash Payments for Medical and Social Services.

Cash received by an applicant or beneficiary specifically for a medical or social service is exempt as property for one calendar month following the month of its receipt. Cash reimbursement of a specific medical or social service expense already paid for by the individual, however, is not exempt.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14005.7 and Section 14006, Welfare and Institutions Code; 20 Code of Federal Regulations (CFR) Parts 416.1102 (a) and (b) and Part 416.1201 (a) and Supplemental Security Income Program Operation Manual SI 01110.011.

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Add Section 50458 to read:

50458. Pension Funds. (a) For purposes of this section pension funds are funds held in Individual Retirement Accounts (IRAs) or in work related pension funds for income when employment ends which are administered by an employer or union including such plans as Deferred Compensation Plans and Thrift Plans, and including such plans for self-employed individuals as KEOGH plans.

(b) Notwithstanding any interspousal agreement, pension funds shall be exempt from consideration as a resource if the funds are held in the name of the applicant's or beneficiary's spouse, community spouse, parent or parent's spouse if that person is either ineligible or does not choose to receive Medi-Cal.

(c) Pension funds shall continue to be nonexempt for purposes of determining if an interspousal agreement under Section 50403 was equally divided.

(d) If payment of nonexempt pension funds are deferred anytime while the owner is a Medi-Cal applicant or beneficiary, the cash surrender value of the pension fund will be deemed available to the owner and counted in his/her property reserve.

(e) If the applicant or beneficiary has the option of selecting a cash lump sum payment or periodic payments of accumulated principal and interest from a nonexempt pension fund, the applicant or beneficiary may choose either option. The pension fund shall be considered unavailable in accordance with

Section 50402 once the applicant provides evidence that he/she has notified the pension fund to begin payment(s).

(f) If, or once, periodic payments of the principal and accumulated interest of the nonexempt pension funds have started, the periodic payments shall be considered income and the remaining principal and interest shall be considered unavailable property. A cash lump sum payment of principal and interest shall be considered property in accordance with Section 50455.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14006, Welfare and Institutions Code; 20 Code of Federal Regulations, Part 416.1202.

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Amend Section 50483 to read:

50483. Loans.

(a) Loans shall be exempt as property in the month in which they are any of the following:

(1) Exempt as income in accordance with Section 50533.

(2) Treated as income in the month of receipt because no repayment is required.

(b) Loans which require repayment, except those exempted in (a) (1) shall be included in the property reserve beginning in the month of receipt.

(c) Loans may be made on the basis of a written agreement or, except as prohibited by state law, an oral agreement.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14006, Welfare and Institutions Code, and Supplemental Security Income Program Operation Manual SI 01110.020 (E) (3).

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Add Section 50490 to read:

50490. Property Treatment for Institutionalized and Community Spouses. The property of institutionalized spouses and community spouses shall be treated in accordance with Section 50490.1 through Section 50490.7. These sections shall supersede any other section(s) of this article that are inconsistent with it.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002 and 14006, Welfare and Institutions Code; and 42 United States Code Section 1396a and 1396r-5.

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Add Section 50490.1 to read:

50490.1. Exempt Property - Community Spouse Resource Allowance (CSRA) and the Property Reserve of the Institutionalized Spouse. Notwithstanding the limitation on jewelry in Section 50467 (b) (3), all property considered exempt under Section 50418 shall be considered exempt and shall not be included in the CSRA or the property reserve of the institutionalized spouse.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14002 and 14006, Welfare and Institutions Code; and 42 United States Code Sections 1396a and 1396r-5.

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Add Section 50490.3 to read:

50490.3. Property Considered Available to the Institutionalized Spouse.

(a) In determining the eligibility of an institutionalized spouse at the time of application for Medi-Cal, regardless of any State laws relating to community property or the division of marital property, the net market value of all the nonexempt property available under Section 50402 and held by either the institutionalized spouse, community spouse or both, shall be considered to be available to the institutionalized spouse.

(b) During the continuous period in which an institutionalized spouse is in an LTC facility and after the determination of the CSRA in accordance with Section 50490.5, the amount determined as the CSRA shall not be included in the property reserve of the institutionalized spouse during the CSRA transfer period defined in Section 50490.7 (d).

(c) During the continuous period in which an institutionalized spouse is in an LTC facility and after the completion of the CSRA transfer period under Section 50490.7 (d), if any nonexempt property available under Section 50402 remains in the name of the institutionalized spouse or in the name of both the institutionalized and community spouses, 100% of the net market value of such property shall be available to the institutionalized spouse and included in his/her property reserve.

(d) The eligibility of the institutionalized spouse may be denied at the initial eligibility determination or discontinued at the end of the CSRA transfer period due to property in excess of the CSRA plus the property limit for one only if such denial would not work an undue hardship.

(e) During the continuous period in which an institutionalized spouse is in an LTC facility and after the determination of the CSRA in accordance with Section 50490.5, new nonexempt property acquired by the community spouse and held in his/her name only shall not be considered available to the institutionalized spouse.

NOTE: Authority cited: Section 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Sections 1396a and 1396r-5.

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Add Section 50490.5 to read:

50490.5. Calculation of the Community Spouse Resource Allowance (CSRA).

(a) The CSRA shall be calculated at the time of application for Medi-Cal by totaling the net market value of all the nonexempt property available under Section 50490.3 (a) as of the date of application for Medi-Cal.

(b) The maximum CSRA shall be the greatest of:

(1) $60,000 for the calendar year 1989 and shall be increased on January 1 each year by the same 12-month percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 12 month period up to and including the September before January 1 of the calendar year involved, or

(2) The amount established by a court order as of the date of, or specified in such court order if the court has ordered, or authorized, the transfer of resources for the support of the community spouse or a family member as defined in subsection (g), unless the net market value of such property has decreased and is no longer the greatest option under this subsection, or

(3) The amount granted through a fair hearing under Section 50951.

(4) If the maximum CSRA is an amount established by a court order, the amount of the CSRA shall be calculated as of the date of, or specified in the court order regardless of increases in the value of the property awarded since such date. Such increases shall not be included in determing the eligibility of the institutionalized spouse or the CSRA.

(c) If the amount calculated in (a) is less than or equal to the maximum CSRA under subsection (b), the CSRA shall be that amount.

(d) If the amount calculated in (a) is greater than the maximum CSRA in subsection (b), the CSRA shall be the maximum under subsection (b). The amount in excess of the CSRA shall be included in the property reserve of the institutionalized individual and shall be subject to the property limitation for one as provided in Section 50420.

(e) Notwithstanding Section 50177, the county department may extend the 45 and 60 day requirements for determining the initial eligibility of an institutionalized spouse if a court order pursuant to subsection (b) is being sought and verification is provided that the necessary steps have been and continue to be taken to obtain such an order. Verification may include, but is not limited to such things as a copy of a filed petition, a copy of a notice of a court date, or a copy of a contract with the attorney hired to obtain the court order.

(f) If a court has entered an order against an institutionalized spouse for the support of the community spouse or family member(s) defined in subsection (g), amounts of property transferred pursuant to such order shall not result in a period of ineligibility.

(g) In subsections (b) and (f), the term "family member" includes:

(1) Minor or dependent children,

(2) Dependent parents, or

(3) Dependent siblings of the institutionalized or community spouse who are

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residing with the community spouse.

(h) The eligibility of the institutionalized spouse may be denied due to property in excess of the CSRA plus the property limit for one pursuant to subsection (d) only if such denial would not work an undue hardship.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Section 1396a and 1396r-5.

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Add Section 50490.7 to read:

50490.7. Transfer of the Community Spouse Resource Allowance to the Community Spouse. (a) The institutionalized spouse shall transfer into the community spouse's name, all or any portion of the CSRA which is not already the separate property of the community spouse or community property held in the name of the community spouse. The institutionalized spouse need not relinquish his/her community property interest in the community property included in the CSRA unless it is necessary to do so in order to transfer such property into the community spouse's name only.

(b) Such transfer(s) shall not result in a period of ineligibility to the extent that the property is transferred to (or, as of the date of the transfer, for the sole benefit of) the community spouse.

(c) The institutionalized spouse shall complete such transfer(s) by the end of the CSRA transfer period under subsection (d).

(d) The period of time during which the CSRA is considered unavailable and not counted in the property reserve of the institutionalized spouse pending its transfer under subsection (c) shall be known as the CSRA transfer period. The CSRA transfer period shall extend from the date of the initial determination of eligibility to whichever comes first:

(1) The end of the month in which the transfer(s) occur(s), or

(2) The end of the month in which 90 days have elapsed.

(e) The CSRA transfer period in subsection (d) may be extended to the end of the

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month in which a court enters an order necessary to accomplish such transfer(s). Property transferred pursuant to such order shall not result in a period of ineligibility.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002, 14006 and 14015, Welfare and Institutions Code; and 42 United States Code Sections 1396p and 1396r-5.

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Amend Section 50951 to read:

50951. Right to State Hearing. (a) Applicants or beneficiaries shall have the right to a State hearing if dissatisfied with any action or inaction of the county department, the Department of Health Services or any person or organization acting in behalf of the county or the Department relating to Medi-Cal eligibility or benefits. There is no right to a state hearing where the sole issue is the application of a State or federal law and both of the following conditions are met:

(1) The applicant or beneficiary does not question that the State or federal law has been correctly applied.

(2) The State or federal law requires a reduction in Medi-Cal entitlement for some or all beneficiaries.

(b) In addition to subsection (a) when an application for Medi-Cal has been made, the institutionalized spouse or community spouse shall have the right to a State hearing if either is dissatisfied with a determination of:

(1) The determination of the CSRA in Section 50490.5. Any such hearing respecting the determination of the CSRA shall be held within 30 days of the date of the request for the hearing.

(2) The ownership or availability of property.

(c) If either spouse establishes in a fair hearing under (b) that the CSRA (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly

maintenance needs allowance, there shall be substituted for that CSRA an amount adequate to provide such a minimum monthly maintenance needs allowance.

(bd) The right to a State hearing shall be governed by the provisions of Section 10950 through 10965, Welfare and Institutions Code.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 10950 - 10965, 14002, 14006 and 14015, Welfare and Institutions Code.