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

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

June 12, 1990
Letter No.: 90-50

TO: All County Welfare Directors
All County Administrative Officers

SUBJECT: NOTICE OF ACTION LANGUAGE FOR MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 (MCCA) SPOUSAL IMPOVERISHMENT APPROVALS AND DENIALS CONCERNING PROPERTY ELIGIBILITY

The purpose of this letter is to provide the counties with suggested language to include in Notices of Action for approvals and denials of MCCA spousal impoverishment cases concerning property eligibility. This suggested language covers the minimum requirements contained in Section 1924 of the federal Social Security Act.

I. LANGUAGE FOR APPROVALS

"Your application for Medi-Cal has been approved. This is how we determined how much property your community spouse may keep in his/her own name as of the date of your application for Medi-Cal:

1. The total amount of nonexempt property available to you was determined as follows:

The net nonexempt property held in the name of your community spouse	$_____
The net nonexempt property held in your name	$_____
The net nonexempt property held in both of your names	+ $_____
Total net nonexempt property	$_____

2. Your Maximum Community Spouse Resource Allowance is $_____. This amount is based upon the greatest of: (pick one)

_____1) The amount allowed under Title 22, California Code of Regulations, Section 50490.5 (c) (1); or

_____2)The amount awarded pursuant to your court order for the support of your community spouse and/or family member(s); or

_____3) The amount awarded pursuant to a fair hearing.

3. _____ Your net nonexempt property is less than the Maximum Community Spouse Resource Allowance. Therefore, your community spouse may keep all of your net nonexempt property in his/her own name. This amount is the Community Spouse Resource Allowance.

_____ Your net nonexempt property is more than the Maximum Community Spouse Resource Allowance. Your community spouse may keep $_____ in his/her own name. This amount is the Community Spouse Resource Allowance.

You may keep the remainder up to $2,000 in your own name. You have until the last day of the month in which 90 days elapse from the date of this notice in which to remove your name from the Community Spouse Resource Allowance. On and after the last day of the month of _____ you may hold no more than $2,000 (the property limit for one person) worth of property in your name; otherwise you may not be eligible to receive Medi-Cal benefits after that date. If a court order is necessary to transfer some or all of the CSRA into the name of your spouse, this date can be extended. You will have to provide verification to the County Department that you are attempting to obtain such a court order. If the county determines that you are no longer eligible to receive Medi-Cal benefits because you have not transferred the Community Spouse Resource Allowance during the time period allowed for, you will receive a notice 10 days before your Medi-Cal is discontinued.

If you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance or the determination of ownership or availability of property, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing."

II. LANGUAGE FOR DENIALS OF THE APPLICATION DUE TO EXCESS PROPERTY:

"Your application for Medi-Cal has been denied because you own an amount of available property which exceeds the limit for one person. This is how we determined that you exceeded the limit:

1. Your Maximum Community Spouse Resource Allowance is $_____ and it is the maximum amount of property which your community spouse may keep in his/her own name as of the date of your application for Medi-Cal. This amount is based upon the greatest of: (pick one)

_____1) the amount allowed under Title 22, California Code of Regulations, Section 50490.5 (c) (1); or

_____2) the amount awarded pursuant to your court order for the support of your community spouse and/or your family member(s); or

_____3) the amount awarded pursuant to a fair hearing.

2. This is how your excess property was calculated:

The net nonexempt property held in the name of your community spouse	$_____
The net nonexempt property held in your name	$_____
The net nonexempt property held in both of your names	+ $_____
Total net nonexempt property	$_____
Minus your maximum Community Spouse Resource Allowance. (This the amount the community spouse may keep in his/her own name.)	-$_____
Subtotal	$_____
Minus the property limit for one person (This is the amount you may keep in your own name.)	-$ 2,000
Amount of excess property	$_____

To be eligible for Medi-Cal you must not have an amount of property available to you which exceeds $2,000 on the last day of the month in which you apply for Medi-Cal benefits. You have $_____ worth of excess property available to you and you are, therefore, ineligible for Medi-cal benefits.

If you or your spouse are dissatisfied with the calculation of the Community

Spouse Resource Allowance or the determination of ownership or availability of property, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing."

III. LANGUAGE FOR DENIALS AFTER THE END OF THE CSRA TRANSFER PERIOD

"Your Medi-Cal benefits will be discontinued on the last day in the month of _____ because your name appears on more than $2,000 worth of nonexempt property.

If you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance or the determination of ownership or availability of property, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing."

IV. COVER LETTER FOR ASSESSMENT RESULTS

"At your request, an assessment of your property was completed on _____. Based upon the information which you have provided, this assessment tells you how your property may have been counted, valued and exempted if you had applied for Medi-Cal on the day you requested this assessment.

1. If you had applied for Medi-Cal on _____, the following property may have been exempted (not counted) in determining your eligibility:

_____
_____
_____
_____

2. Based upon the information which you have provided, this is how we determined how much property your community spouse may have been able to keep in his/her own name if an application for Medi-Cal had been made on the day that you had your assessment prepared. This amount is called the Community Spouse Resource Allowance. This was calculated as of the date of your assessment. When you apply for Medi-Cal, this amount may be different.

A. The total amount of net nonexempt property available to you was determined as follows:

The net nonexempt property held in the name of your community spouse	$_____
The net nonexempt property held in your name	$_____
The net nonexempt property held in both of your names	+ $_____
Total net nonexempt property	$_____

B. Your Maximum Community Spouse Resource Allowance would have been $_____. This amount is based upon: (pick one)

_____1) the amount allowed under Title 22, California Code of Regulations, Section 50490.5 (c) (1); or

_____2) the amount awarded pursuant to your court order for the support of your community spouse and/or your family member(s) if that amount is greater than the amount in number 1.

NOTE: A higher amount may also be awarded through a fair hearing after an application for Medi-Cal has been made. The fair hearing may order a higher amount for the Maximum Community Spouse Resource Allowance if more income generating property is necessary to provide your community spouse with the appropriate Community Spouse Income Allowance.

C. _____ Based upon the information which you provided, your net nonexempt property is less than the Maximum Community Spouse Resource Allowance. The community spouse may have been allowed to keep all of your net nonexempt property in his/her own name if an application for Medi-Cal had been made on the day of the assessment. This amount is called the Community Spouse Resource Allowance.

_____ Based upon the information which you provided, your net nonexempt property is more than the Maximum Community Spouse Resource Limit. The community spouse may have been allowed to keep $_____ in his/her own name if an application for Medi-Cal had been made on the day of the assessment. This amount is the Community Spouse Resource Allowance.

3. Based upon information which you have provided, this is how we would have determined if you own an amount of available property which exceeds the property limit for one person:

Total net nonexempt property	$_____
Minus your Maximum Community Spouse Resource Allowance	- $_____
Subtotal	$_____
The property limit for one person. (This is the amount you would have been able to keep in your own name.)	- $ 2,000
Amount of excess property	$_____

If an applicant has an amount of available property which exceeds the pertinent property limit, that applicant will be determined ineligible for Medi-Cal benefits.

As is indicated on your Medi-Cal Property Assessment Application, the property your community spouse is allowed to retain when you apply 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 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 provided may also change when the County conducts third-party verification of the information you provide at the time of application for benefits.

In addition, your assessment was completed on the basis of current regulations and those regulations may have changed by the time you do apply for Medi-Cal benefits.

Finally, after you do apply for Medi-Cal benefits, if you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance or the determination of ownership or availability of property, either or both of you have the right to request a fair hearing. Any fair hearing on

the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing."

NOTE: Counties should not include on the back of the "Cover Letter For Assessment Results" the information titled, "Your Right To Appeal This Action" and "Request For A State Hearing", the NA Back 6 or MC 239 Back which are normally included on the reverse sides of Medi-Cal Notices of Action. Fair hearings are not applicable to assessments in California since the assessment applicant is not a Medi-Cal applicant and no action is being taken and no determination is being made.

If you have any questions on the above language, please contact Sharyl Shanen at (916) 324-4956.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants