STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES
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June 11, 1991

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 91-55

SUBJECT: CLARIFICATION OF MISCELLANEOUS MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 (MCCA) ISSUES

The Department has recently received a number of questions from the counties on several issues relating to the Medicare Catastrophic Coverage Act of 1988 (MCCA) and spousal impoverishment. The purpose of this letter is to provide the requested clarification.

MARRIED VS. SEPARATED

For purposes of the MCCA spousal impoverishment provisions only, relating to income and property, a couple is married until that marriage is dissolved or annulled. A legal separation means that the two spouses are still married and entitled to the Community Spouse Resource Allowance (CSRA), plus the property limit for one, and the institutionalized spouse may still provide the income allocation to the spouse in the community. The undue hardship provisions contained in All County Welfare Directors Letter (ACWDL), Number 90-01, draft regulation Section 50096.5 may also apply.

SEPARATE BUDGET UNITS IN THE MONTH OF ADMISSION

Recently released ACWDL, Number 91-28, contained a newly revised draft regulation Section 50377. That section, based upon recently received clarification, makes it clear that in certain circumstances the spousal impoverishment provisions relating to income (not just property) also begin with the month of admission to the long-term care facility and not the month following the month of admission when long-term care status is achieved. The spouses are in separate budget units beginning with the month of admission. Effective with the date of this ACWDL, counties shall allow the institutionalized spouse to provide the income allocation to the community spouse when allowed in accordance with revised draft regulation Section 50377.

COMMUNITY SPOUSE IN BOARD AND CARE

ACWDL, Number 90-01, draft regulation Section 50031.5 defines a community spouse as, "a person who is not an inpatient in a medical or nursing facility. . ." A continuous period of institutionalization" is defined in draft regulation Section 50033.5 as ". . . inpatient medical care in a medical institution or nursing facility. . .". A board and care facility does not provide medical care and is not a medical institution or nursing

facility. Therefore, because a community spouse residing in a board and care facility is not in a medical institution or nursing facility, he/she is entitled to the CSRA, and may also receive the MCCA income allocation.

MEDICALLY INDIGENT (MI) COVERAGE UNDER MCCA

ACWDL, Number 90-01, draft regulation Section 50046.5 states that the institutionalized spouse "Is not AFDC-MN." There is no MI restriction. Therefore, as long as he/she meets all the other criteria of draft regulation Section 50046.5 and there is no temporary absence from the home (as defined in Title 22, CCR, Section 50071) which could result in AFDC-MN linkage, the applicant/recipient shall be considered an institutionalized spouse. Therefore, he/she is entitled to the CSRA and may also provide the community spouse with the MCCA income allocation.

If you have any questions on these issues as they relate to income, please call Gail Schifsky at (916) 327-5586, or as they relate to property, please call Sharyl Shanen-Raya at (916) 324-4956.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: April 1, 1992