

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
P. O. BOX 942732
SACRAMENTO, CA 94234-7320



(916) 657-2941

September 9, 1994

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 94-73

REVISED EXEMPTION FOR CERTAIN INCOME RECEIVED BY INDIANS

Ref. E-Mail No. 94112

This All County Welfare Directors Letter informs counties of a change in Medi-Cal rules regarding exemptions to income from restricted lands received by Indians.

PREVIOUS MEDI-CAL RULE

Currently, Section 50537(e) of Title 22 of the California Code of Regulations exempts income derived from Indian lands held in trust which is paid to members of certain tribes. There is no ceiling on the exemption provided by this subsection.

NEW MEDI-CAL RULE

Under the new rule up to \$2000 of income per year received by an individual member of any Indian tribe from the proceeds from restricted lands or other property held in trust by the federal government or an agency thereof, in which the individual member has an interest, is exempt and is not counted when calculating his/her non-exempt income for the Medi-Cal program. This new rule reflects amendments provided at Section 13736 of Public Law 103-66 of the Omnibus Budget Reconciliation Act of 1993. This rule does not change the rule set forth at Section 50537(e) of Title 22 of the California Code of Regulations. Any income from restricted lands received by a member of one of the tribes listed in Section 50537(e) is exempt in its entirety under that subsection.

Restricted lands are real property held in trust by the federal government against which certain usage-limitations, including a prohibition against the sales, transfer, or conveyance of property to another from the current title holder, have been recorded by the federal government. The proceeds from restricted lands will often be from a lease of such land. This income exemption may also apply to income received from trusts, established by the federal government, which contain proceeds from usage of the restricted lands.

Counties shall verify a beneficiary's claim that income is exempt under this rule by requiring the beneficiary or recipient of such income to produce documentation from the Bureau of Indian Affairs that the income is from restricted lands, or is otherwise subject to this rule.

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IMPLEMENTATION

This new rule shall be implemented no later than November 1, 1994 and is effective back to January 1, 1994. For ongoing Medi-Cal cases, counties must notify the beneficiary, and provide him/her with the opportunity to obtain verification that his/her income is subject to this exemption, whenever the county becomes aware of reported income that the county believes could be subject to this exemption. The county should examine the Medi-Cal quarterly status report, and documents completed by the beneficiary during the redetermination process, for indications that income subject to this exemption is being received. If counties find such indications, counties must provide the beneficiary the opportunity to obtain verification that the income is subject to this rule.

For new Medi-Cal cases, counties should examine the application form to see whether unearned income which has been reported on the form could be income subject to this rule. If so, counties must provide the beneficiary the opportunity to obtain verification that the income is subject to this rule.

Please direct questions regarding this matter to Dave Rappolee of my staff at (916) 657-0163.

Sincerely,

ORIGINAL SIGNED BY

FRANK S. MARTUCCI, Chief
Medi-Cal Eligibility Branch