TO: All County Welfare Directors
    All County Administrative Officers

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
impoveryment 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
facilities. 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-Ray 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