

DATE: November 30, 2023

TO: ALL COUNTY WELFARE DIRECTORS Letter No.:23-28
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY MEDS LIAISONS

SUBJECT: TRANSFERS OF ASSETS BEGINNING JANUARY 1, 2024, AND
TREATMENT OF TRANSFERS OCCURRING PRIOR TO JANUARY 1,
2024.

(References: [ACWDL 90-01](#) sections 50408 through 50489 et seq., and
Medi-Cal Eligibility Procedures Manual [Section 9J.](#))

Purpose

The purpose of this All-County Welfare Directors Letter (ACWDL) is to provide counties and the Statewide Automated Welfare System with guidance regarding transfers of assets and periods of ineligibility (POIs) once assets are no longer used in determining eligibility for Non-Modified Adjusted Gross Income (Non-MAGI) Medi-Cal programs.

Background

The look-back period in California is 30 months prior to the date of application for Long-Term Care (LTC) ([ACWDL 90-01](#), section 50408.5). Periods of ineligibility for nursing facility level of care can only be imposed when an LTC applicant or member made the transfers of property to become eligible for Medicaid (Medi-Cal). The penalty for a transfer must not cause the individual undue hardship ([ACWDL 90-01](#), section 50411.5). In addition, transfers of exempt property are not penalized ([ACWDL 90-01](#), section 50408.5).

As enacted by Assembly Bill (AB) 133 (Chapter 143, Statutes of 2021), there is no asset test applied for all Non-MAGI Medi-Cal programs, including Medicare Savings Programs (MSPs) and LTC, effective January 1, 2024.

Transfers On or After January 1, 2024

Counties shall not request verification or review electronic asset verification information regarding transfers of property made, or calculate any periods of ineligibility for transfers made, **on or after January 1, 2024**, for LTC applicants, Medi-Cal members, or their

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spouses This includes transfers of lump sums and income streams, such as mortgages, loans, and annuities.

Effective January 1, 2024, the following provisions from the transfer of asset regulations in [ACWDL 90-01](#) still apply to transfers of assets made by LTC applicants, Medi-Cal members, or their spouses:

- 1) Section 50411.5(a)(2)– A transfer of property by an institutionalized individual before or after admission to the LTC facility, **shall not** result in a period of ineligibility to the extent that the property was exempt under Section 50490.1.
- 2) Section 50411.5(a)(4)(B)– A transfer of property by an institutionalized individual before or after admission to the LTC facility, **shall not** result in a period of ineligibility to the extent that the resources were transferred exclusively for a purpose other than to qualify for medical assistance.

Transfers Prior to January 1, 2024

Counties shall review transfers of assets made **prior** to January 1, 2024, by an LTC applicant, Medi-Cal member, or their spouse. Transfers made prior to January 1, 2024, **continue to be subject to the transfer of asset rules**, including periods of ineligibility, contained in [ACWDL 90-01](#), sections 50408 through 50411.5. The CEW shall utilize the asset verification report information to review for any transfers made during the look-back period. The CEW shall only request additional verification from the individual when the information in the AVP report is not sufficient to complete the Period of Ineligibility Worksheet ([MC 176 PI](#)).

Look-Back Period

On January 1, 2024, the look-back period is the 30 months prior to January 2024. The number of months that must be reviewed in the look-back period decreases by one month for each month that passes after January 1, 2024.

- Example 1:

An LTC individual applies on February 1, 2024. February 2024 is the month of application. The month of application is **not** part of the 30-month look-back period. The look-back period is the 29 months prior to January 1, 2024. The CEW shall not review or request information regarding transfers made on or after January 1, 2024.

- Example 2:

A member enters LTC in October of 2024. The CEW does not review the months of January through October of 2024 for transfers of assets—these months are **not included** in the look-back period. The applicable look-back period is the 21 months prior to January 1, 2024.

- Example 3:

Person A, a 70-year-old widow, transferred \$100,000 to their lifelong neighbor and best friend as a gift on December 15th, 2022. Person A was admitted into LTC on November 9, 2023.

Person A applies for Medi-Cal on February 20th, 2024, and does not request retroactive eligibility because Medicare covered the first three months of their LTC stay. When reviewing Person A's eligibility, the county eligibility worker (CEW) determined the \$100,000 transfer made by Person A was a disqualifying transfer, and the entire \$100,000 was transferred in one transaction.

For purposes of this example, the Average Private Pay Rate is \$13,000. In calculating the POI, the CEW determined the POI is 7 months and would run from December 1, 2022 (the month the disqualifying transfer was made), through the end of July 2023 (the end of the 7th month). Therefore, Person A's POI for nursing facility level of care expired **prior** to the month of their application of February 2024 and the CEW determined that they are eligible for full-scope Medi-Cal for LTC effective February 1, 2024.

The chart below outlines the decreasing look-back period:

Date of LTC Application	Length of Look-back Period (months)	Review Period for Transfers
January 2024	30	7/2021-12/2023
February 2024	29	8/2021-12/2023
March 2024	28	9/2021-12/2023
April 2024	27	10/2021-12/2023
May 2024	26	11/2021-12/2023
June 2024	25	12/2021-12/2023
July 2024	24	1/2022-12/2023
August 2024	23	2/2022-12/2023
September 2024	22	3/2022-12/2023
October 2024	21	4/2022-12/2023
November 2024	20	5/2022-12/2023
December 2024	19	6/2022-12/2023

Date of LTC Application	Length of Look-back Period (months)	Review Period for Transfers
January 2025	18	7/2022-12/2023
February 2025	17	8/2022-12/2023
March 2025	16	9/2022-12/2023
April 2025	15	10/2022-12/2023
May 2025	14	11/2022-12/2023
June 2025	13	12/2022-12/2023
July 2025	12	1/2023-12/2023
August 2025	11	2/2023-12/2023
September 2025	10	3/2023-12/2023
October 2025	9	4/2023-12/2023
November 2025	8	5/2023-12/2023
December 2025	7	6/2023-12/2023
January 2026	6	7/2023-12/2023
February 2026	5	8/2023-12/2023
March 2026	4	9/2023-12/2023
April 2026	3	10/2023-12/2023
May 2026	2	11/2023-12/2023
June 2026	1	12/2023

Periods of Ineligibility

Reminder: All cases must be reviewed for **undue hardship** before imposing a period of ineligibility.

A. Existing POIs

Counties shall review all current cases with an active period of ineligibility and/or restriction code for nursing facility level of care to determine if undue hardship applies. The criteria for undue hardship are set forth in ACWDL 90-01, section 50096.5. Even if the current cases did not previously meet the undue hardship criteria at application and redetermination, CEWs shall reassess for undue hardship based on the members’ current financial and medical circumstances.

B. New POIs

Effective January 1, 2024, counties shall follow the instructions contained in [ACWDL 90-01](#) regarding transfers of assets and consider undue hardship prior to imposing any periods of ineligibility for disqualifying transfers prior to January 1, 2024. The CEW shall complete the MC 176 PI and submit the form and any

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relevant documentation regarding the transfer and undue hardship to DHCS for review at NonMAGlinbox@dhcs.ca.gov if a POI is the result. Counties shall submit the completed MC 176 PI form and documentation to DHCS within 10 business days of discovery of the POI. DHCS shall review the form and documentation and issue a decision to the county within 10 business days.

The POI **shall not** be imposed without approval from the DHCS, Medi-Cal Eligibility Division. The maximum POI is 30 months from the date of the transfer ([ACWDL 90-01](#), Section 50411.3). Some months of the POI may extend beyond January 1, 2024; the **last possible month** for any POI imposed would be June 2026.

Counties shall not issue a total denial of Medi-Cal eligibility for individuals based on making disqualifying transfers of property. Counties shall instead impose a POI by granting restricted eligibility for Nursing Facility Level of Care, utilizing the restricted services codes "950" or "951" in MEDS as set forth in [ACWDL 91-107](#), and providing the appropriate Notice of Action.

If you have any questions, or if we can provide further information, please contact Sara McDonald at (916) 845-8061 or at Sara.McDonald@dhcs.ca.gov or Michael Allen at (916) 845-7554 or at Michael.Allen@dhcs.ca.gov.

Sincerely,

Yingjia Huang
Assistant Deputy Director
Health Care and Benefits
Department of Health Care Services