

DEPARTMENT OF HEALTH SERVICES

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March 9, 2000

TO: All County Welfare Directors
All County Administrators Officers
All County Medi-Cal Program Specialists/Liaisons
All County Mental Health Directors
All County Public Health Directors
All County QMB/SLMB/QI Program Coordinators

Letter No.: 00-11

REQUIREMENTS FOR DISTRIBUTING THE "NOTICE REGARDING STANDARDS FOR MEDI-CAL ELIGIBILITY" (FORM NUMBER DHS 7077)

Ref.: All County Welfare Directors Letters 90-01, 98-08, and 99-03

Pursuant to Welfare and Institutions Code, Sections 14006.3 and 14006.4, and effective January 1, 2000, the counties must provide the enclosed form containing specific language, in 10-point type, to all long-term care applicants, their spouses and/or agents/authorized representatives. This form must be provided and reviewed during an assessment or the face-to-face interview. The form must be signed by, and a copy must be provided to the applicant and his or her spouse, legal representative, or agent, if any, and a copy retained in the case record.

If the applicant or spouse is not competent, the form may be reviewed with, signed by, and provided to the competent spouse, if any, attorney and/or agent. If the legal representative or agent is a public guardian or conservator and that person is not attending a face-to-face interview, then the form must be mailed to the guardian or conservator for their signature. The county must request that a signed copy be returned to the county for retention in the case record.

In reviewing the form with the individual(s) please underscore that there is NO PERIOD OF INELIGIBILITY FOR NURSING FACILITY LEVEL OF CARE FOR TRANSFERS OF EXEMPT PROPERTY, INCLUDING THE PRINCIPAL RESIDENCE, AS LONG AS THE PROPERTY WAS EXEMPT AT THE TIME OF THE TRANSFER. IF AN APPLICATION WAS NOT FILED BY THE TIME OF THE TRANSFER, THEN THE COUNTY MUST DETERMINE IF THE PROPERTY, INCLUDING THE PRINCIPAL RESIDENCE, WOULD HAVE BEEN CONSIDERED EXEMPT AT THE TIME OF THE

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TRANSFER AS IF AN APPLICATION HAD BEEN SUBMITTED FOR THE MONTH OF THE TRANSFER.

Furthermore, since exempt property, nonexempt property included in the Community Spouse Resource Allowance and nonexempt property under the property limit can all be retained without affecting Medi-Cal eligibility, then only excess property could be transferred in order to establish eligibility for Medi-Cal. Before a period of ineligibility for nursing facility level of care may ever occur, the county must make a determination that the nonexempt property transferred would have been considered excess nonexempt property at the time of the transfer. If no application was filed by the time of the transfer, then the county must determine that the nonexempt property transferred would have been considered excess nonexempt property as if an application had been submitted for the month of the transfer.

Remember, counties must complete the MC 176 PI when calculating a potential period of ineligibility for nursing facility level of care. Counties must also contact the Medi-Cal Eligibility Branch, Property Analyst before sending a Notice of Action granting restricted services to a Medi-Cal applicant, or restricting services of an institutionalized Medi-Cal beneficiary.

PLEASE NOTE: This does not change the requirement to provide the Medi-Cal Information Notice 007 (MC 007) which must be provided to all Medi-Cal applicants whenever a Medi-Cal application is submitted or information is requested about Medi-Cal. It must be reviewed with the individual during the face-to-face interview or at screening/assessment.

The DHS 7077 will be printed in quadruplicate and will be available in the warehouse by January 31, 2000.

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If you have any questions on this issue, please call Sharyl Shanen-Raya of my staff at (916) 657-2942.

**ORIGINAL SIGNED BY
GLENDA ARELLANO**

Angeline Mvra, Chief
Medi-Cal Eligibility Branch

Enclosure

NOTICE REGARDING STANDARDS FOR MEDI-CAL ELIGIBILITY

If you or your spouse is in or is entering a nursing facility, read this important message!

You or your spouse do not have to use all your resources, such as savings, before Medi-Cal might help pay for all or some of the costs of a nursing facility.

You should be aware of the following to take advantage of these provisions of the law:

Unmarried Resident

An unmarried resident is financially eligible for Medi-Cal benefits if he or she has less than \$2,000 in available resources. A home is an exempt resource and is not considered against the resource limit, as long as the resident states on the Medi-Cal application that he or she intends to return home. Clothes, household furnishings, irrevocable burial plans, burial plots, and an automobile are examples of other exempt resources.

If an unmarried resident is financially eligible for Medi-Cal reimbursement, he or she is allowed to keep from his or her monthly income a personal allowance of \$35 plus the amount of the health insurance premiums paid monthly. The remainder of the monthly income is paid to the nursing facility as a monthly deductible called the "Medi-Cal share of cost."

Married Resident

If one spouse lives in a nursing facility, and the other spouse does not live in a nursing facility, the Medi-Cal program will pay some or all of the nursing facility costs as long as the couple together does not have more than \$84,120 in available assets. The couple's home will not be counted against this \$84,120, as long as one spouse or a dependent relative, or both, lives in the home, or the spouse in the nursing facility states on the Medi-Cal application that he or she intends to return to the couple's home to live.

If a spouse is eligible for Medi-Cal payment of nursing facility costs, the spouse living at home is allowed to keep a monthly income of at least his or her individual monthly income or \$2,103, whichever is greater. Of the couple's remaining monthly income, the spouse

in the nursing facility is allowed to keep a personal allowance of \$35 plus the amount of health insurance premiums paid monthly. The remaining money, if any, generally must be paid to the nursing facility as the Medi-Cal share of cost. The Medi-Cal program will pay remaining nursing facility costs.

Under certain circumstances, an at-home spouse can obtain an order from an administrative law judge that will allow the at-home spouse to retain additional resources or income. Such an order can allow the couple to retain more than \$84,120 in available resources, if the income that could be generated by the retained resources would not cause the total monthly income available to the at-home spouse to exceed \$2,103. Such an order also can allow the at-home spouse to retain more than \$2,103 in monthly income, if the extra income is necessary "due to exceptional circumstances resulting in significant financial duress."

An at-home spouse also may obtain a court order to increase the amount of income and resources that he or she is allowed to retain, or to transfer property from the spouse in the nursing facility to the at-home spouse. You should contact a knowledgeable attorney for further information regarding court orders.

The paragraphs above do not apply if both spouses live in a nursing facility and neither previously has been granted Medi-Cal eligibility. In this situation, the spouses may be able to hasten Medi-Cal eligibility by entering into an agreement that divides their community property. The advice of a knowledgeable attorney should be obtained prior to the signing of this type of agreement.

Note: For married couples, the resource limit (\$84,120 in 2000) and income limit (\$2,103 in 2000) generally increase a slight amount on January 1 of every year.

Transfer of Home for Both a Married and an Unmarried Resident

A transfer of a property interest in a resident's home will not cause ineligibility for Medi-Cal reimbursement if either of the following conditions is met:

- (a) At the time of transfer, the recipient of the property interest states in writing that the resident would have been allowed to return to the home at the time of the transfer, if the resident's medical condition allowed him or her to leave the nursing facility. This provision shall only apply if the home has been

considered an exempt resource because of the resident's intent to return home.

(b) The home is transferred to one of the following individuals:

- (1) The resident's spouse.
- (2) The resident's minor or disabled child.
- (3) A sibling of the resident who has an equity interest in the home, and who resided in the resident's home for at least one year immediately before the resident began living in institutions.
- (4) A son or daughter of the resident who resided in the resident's home at least two years before the resident began living in institutions, and who provided care to the resident that permitted the resident to remain at home longer.

This is only a brief description of the Medi-Cal eligibility rules; for more detailed information, you should call your county welfare department. You will probably want to consult with the local branch of the state long-term care ombudsman, an attorney, or a legal services program for seniors in your area.

I have read the above notice and have received a copy.

Signature _____ Date _____

Signature _____ Date _____

Signature _____ Date _____