

DEPARTMENT OF HEALTH SERVICES

14744 P STREET
P.O. BOX 942732
SACRAMENTO, CA 94234-7320
(916) 657-2941



March 15, 1994

**TO: All County Welfare Directors
All County Program Administrators
All County Medi-Cal Program Specialists/Liaisons**

Letter No.: 94-30

TRUSTS WHICH CONTAIN "SPECIAL/SUPPLEMENTAL NEEDS" EXCULPATORY LANGUAGE

The purpose of this letter is to inform counties of a change in Probate Code which requires that State departments, including the Department of Health Services, be notified whenever there is a petition to the court to establish a trust containing "special needs" or "supplemental needs" exculpatory language. The State departments then have an opportunity to oppose the establishment of the trust for various reasons, e.g., whether the person has special needs and can reasonably be expected to benefit from the trust funds, whether the amount being placed in the trust is exorbitant, etc.

When the Department receives notification of a petition to establish such a trust, the Attorney General will be called upon to represent the Department in court. In each case the petitioner is informed by our legal representative that although the Department is called upon to participate in the hearing to establish such a trust, our participation in, and/or non-opposition to, the establishment of such a trust DOES NOT MEAN THAT THE TRUST WILL BE EXEMPT FOR MEDI-CAL ELIGIBILITY PURPOSES.

The inclusion of "special needs" or "supplemental needs" exculpatory language in a trust may make an individual eligible for services and benefits provided by other State departments, but it does not, in and of itself, make an individual eligible for Medi-Cal. Counties shall still review each trust pursuant to All County Welfare Directors Letters Nos. 93-07 and 94-01.

If you have any questions on this issue, please feel free to contact Sharyl Shanen-Raya at (916) 657-2942.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch