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ARNOLD SCHWARZENEGGER  
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December 31, 2009

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 09-64  
ALL COUNTY ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS  
ALL COUNTY HEALTH EXECUTIVES  
ALL COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: INCOME-IN-KIND FOR CLOTHING

The purpose of this letter is to inform counties of a change regarding the treatment of clothing as Income-In-Kind and In-Kind Support and Maintenance. Beginning March 9, 2005, "clothing" was eliminated from the definition of In-Kind Support and Maintenance for the Supplemental Security Income (SSI) program. Therefore, to remain no more restrictive than the SSI program, In-Kind amounts for clothing must be eliminated from the Medically Needy rules and from the rule for programs following the SSI rules. The Income-In-Kind for clothing for the Section 1931(b) program remains the same. A new Medi-Cal Budget Calculation Chart for 2009 is enclosed. Also enclosed is an update to Section 14 of your Pickle Handbook, pages 14-1 through 14-10.

Due to the delay in implementing this change, the county shall rescind any discontinuance or denial due to counting In-Kind amounts for clothing whenever:

- A case is known to the county to have been denied or discontinued in error, or
- As soon as a case is brought to the county's attention, or
- When reopening a case which was closed since March 9, 2005.

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If you have any further questions, please contact Mr. Harold Higgins at (916) 552-9522 or by e-mail at [Harold.Higgins@dhcs.ca.gov](mailto:Harold.Higgins@dhcs.ca.gov).

Original Signed By

Robert Sugawara, Acting Chief  
Medi-Cal Eligibility Division

Enclosures

[illegible]

# PICKLE HANDBOOK

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## SECTION 14 IN-KIND SUPPORT AND MAINTENANCE

### **Introduction**

Pickle eligibility determinations are based on the Social Security Act. For purposes of determining eligibility under the Pickle Amendment, the Act requires that in-kind support and maintenance (ISM), along with other forms of unearned income, be considered. ISM is defined as any food or shelter that is either given to or received by a Pickle applicant/beneficiary and is paid for by someone having no legal responsibility to provide same. Shelter includes room, rent, gas, electricity, water, sewer, and garbage collection services. (Complete DHS 7044 if ISM exists.)

There are two rules used to determine the dollar amount of ISM that an applicant/beneficiary receives:

1. The value of the one-third reduction (*VTR*).
2. The presumed maximum value (*PMV*).

These two rules are mutually exclusive. When the *VTR* rule applies in any one month, the *PMV* rule cannot.

Additional ISM is never charged when an applicant/beneficiary:

1. Received ISM already valued at the one-third reduction and receives additional ISM subject to the *PMV*, e.g., a rental subsidy.
2. Receives ISM and is already being charged the *PMV*.

### **Applying the VTR**

This is a flat one-third reduction of the Federal Benefit Rate (*FBR*). It applies either in full or not at all. If the *VTR* applies, do not count any other ISM.

Do not apply the *VTR* if:

1. An applicant/beneficiary lives alone, since there are no household members from whom he/she can receive ISM. The *PMV* is applied in this situation.
2. An applicant/beneficiary lives with a minor child or a responsible relative. The *PMV* is applied in this situation.
3. The applicant/beneficiary is separately consuming or separately purchasing food. The *PMV* is applied in this situation.

## **When to Apply the VTR**

Instead of determining the actual dollar value of ISM, reduce the FBR by one-third (DHS 7021, Part F, line 1) if the Pickle applicant/beneficiary (and/or potentially eligible spouse):

1. Lives in another person's household for one full calendar month and
2. Receives both food and shelter from the person in whose household he/she lives and
3. Lives with a person other than a spouse, child, or an ineligible person whose income may be deemed to the individual.

## **Applying the PMV**

This is used whenever ISM is counted as unearned income and the VTR does not apply.

Instead of determining the actual dollar amount of any food or shelter received by the Pickle applicant/beneficiary, these items are presumed to be worth a maximum value. This maximum value is one-third of the FBR plus the \$20 any income deduction. (See chart for current values.) This value is counted as unearned income.

When the PMV is applied, an applicant/beneficiary is always allowed to attempt to prove his/her ISM is less than the PMV. This process is called rebutting. The PMV is not to be used if it can be documented by rebuttal that either of the following is less than the PMV:

1. The current market value (CMV) of any food or shelter countable as ISM minus any payment the applicant/beneficiary makes for those items: or
2. The actual amount contributed by someone else for the applicant's/beneficiary's food or shelter.

In these instances apply the actual value, instead of the PMV, as unearned income.

If the applicant/beneficiary fails to rebut the PMV, the entire amount of the PMV is counted as unearned income. In no case will the amount of ISM ever exceed the PMV.

## **When to Apply the PMV**

The PMV is always applied if the applicant/beneficiary of eligible couple receives partial or full support from someone who is not a legally responsible relative and the applicant/beneficiary:

1. Has ownership interest in his/her place of residence,

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2. Has rental liability for his/her place of residence,
3. Is sharing food or shelter, or
4. Does not receive both food and shelter.

**In addition, the PMV applies when an applicant/beneficiary is living:**

1. In another person's household but not receiving both food and shelter from that person.
2. In his/her own household except in a public assistance household 1/ or a non-institutional care situation 2/.
3. In a nonmedical institution and someone else pays for his/her support and maintenance. The nonmedical institutions include:
  - a. A public nonmedical institution.
  - b. A public or private nonprofit educational or vocational training institution.
  - c. A private nonprofit retirement home or similar institution where there is an express obligation to provide the applicant's/ beneficiary's full support and maintenance.
  - d. A for-profit institution.

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1/ A public assistance household is one in which every member receives some kind of public income maintenance payments (Aid to Families with Dependent Children (AFDC), Temporary Assistance to Needy Families (TANF), Supplemental Security Income/State Supplementary Payment (SSI/SSP), Refugee, General Assistance (GA), Veterans' Administration (VA), Disaster Relief and Emergency Assistance (DREA). In this situation, the PMV is applied only if food or shelter is received from someone outside the household.

2/ Non-institutional care means all of the following must exist: (1) placement under foster or family care program; (2) placing agency is responsible for the care; (3) placement is in a private, licensed home (e.g., a relative's home can be licensed by the county using SSA form number SSP 22.) and; (4) a public agency pays for the care. In this situation, the PMV only applies if the applicant/beneficiary pays less than the established rate (CMV) for the type of care received and someone else is paying the difference.

### **Rebutting the PMV**

The applicant/beneficiary has the right to prove that the actual value of the ISM received is less

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than the PMV. However, until such time as evidence is submitted which proves the actual value is less than the applicable PMV, the amount of ISM received is considered to be equal to or greater than the PMV. Do not charge more than the PMV even if actual value is greater.

The applicant/beneficiary must be allowed ten calendar days to notify the county welfare department (CVD) of his/her intent to rebut the PMV.

The applicant/beneficiary must be furnished any information necessary for him/her to decide whether to rebut (e.g., how the amount of ISM was computed, the necessary types of verification).

After expressing his/her intent to rebut, the CVD must allow the applicant/beneficiary five days to provide documentation for rebuttal.

The following is suggested language to be used when assigning the PMV and informing an applicant/beneficiary of his/her right to rebut the amount of ISM:

BASED ON THE INFORMATION THAT YOU GAVE US, WE FIND THAT YOU ARE RECEIVING IN-KIND SUPPORT AND MAINTENANCE IN THE FORM OF \_\_\_\_ (1) \_\_\_\_\_. UNLESS YOU HAVE EVIDENCE TO PROVE THAT THE VALUE OF THIS SUPPORT AND MAINTENANCE IS LESS THAN \_\_\_\_ (2) \_\_\_\_\_. WE WILL COUNT THIS AMOUNT AS INCOME TO YOU BEGINNING WITH \_\_\_\_ (3) \_\_\_\_\_.

YOU HAVE THE RIGHT TO SUBMIT EVIDENCE TO SHOW THAT THE SUPPORT YOU RECEIVE IS WORTH LESS THAN \_\_\_\_ (4) \_\_\_\_\_. IF YOU HAVE EVIDENCE, YOU MUST GET IN TOUCH WITH ME WITHIN TEN DAYS OF THE DATE OF THIS LETTER.

IF I DO NOT HEAR FROM YOU BY \_\_\_\_ (5) \_\_\_\_\_. I WILL COUNT \_\_\_\_ (6) \_\_\_\_\_ AS INCOME TO YOU. IF YOU HAVE ANY QUESTIONS, OR IF YOU NEED HELP IN GETTING EVIDENCE OF THE VALUE OF SUPPORT AND MAINTENANCE YOU RECEIVE, PLEASE CALL ME AT \_\_\_\_ (7) \_\_\_\_\_.

### Fill-ins:

1. Show type and source of SIM being received (e.g., “shelter because you brother pays your mortgage payment each month”).
2. Show the applicable PMV of the ISM.
3. Show the month in which ISM will be counted. **NOTE:** ISM is counted in the month following the month of receipt.
4. Same as (2)
5. Show ten days after the date of the letter.
6. Same as (2).
7. Eligibility worker’s telephone number.

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An applicant/beneficiary who disagrees with the PMV established in accordance with the instructions in this section has the right to appeal the determination. For example, if a person elects to rebut but does not successfully prove that the actual value is less than the PMV, the individual still has the right to appeal the existence or the amount of the PMV.

Whenever PMV is charged, all of the following must be documented in the case:

1. The reasons for or the source of the ISM.
2. The value placed on the ISM.
3. That the individual/couple has been advised of his/her right to rebut the PMV.
4. That the individual/couple elected not to rebut the PMV or if he/she elected to rebut that adequate documentation was not presented.

### **Determining the CMV of ISM**

This section describes procedures necessary to establish the CMV of an item of ISM. This is the first step to be used in computing the actual value of ISM that is subject to the PMV.

1. Determining the amount of household operating expenses requires a signed statement from the household member who owns or rents the dwelling. When the applicant/beneficiary has the ownership interest or rental liability, his/her signed statement estimating household expenses is acceptable verification. If no one living in the household owns or rents the dwelling, obtain a signed statement from the person who normally pays the bills.
2. If an applicant/beneficiary who owns or rents the dwelling alleges that he/she separately consumes or purchases all of his/her own food apart from other household members, obtain a corroborative statement from another adult member of the household. If separate consumption or purchase is thus verified, only count ISM for shelter.
3. If the applicant/beneficiary owns or rents the dwelling and receives ISM as the result of the contributions of other household members, determine the total amount of those contributions. If the amount exceeds the total household operation expenses, count the extra as unearned income.

### **Institutionalization (Couples)**

When one member of an eligible couple is in a nonmedical institution and receiving ISM, the PMV of the ISM is one-third of his/her half (i.e., one-sixth) of the couple's FBR plus \$10.



If the non-institutionalized member of an eligible couple lives in the household of another and receives both food and shelter from someone living in that household, the value of ISM is one-sixth of the couple's FBR. If the non-institutionalized member of a couple is in any other living arrangement, the PMV of the ISM is one-sixth of the couple's FBR plus \$10.

If one member of a couple is in long-term care for 30 days or more and is receiving Medi-Cal, the couple is treated as 2 individuals. Any countable ISM that a Pickle applicant/beneficiary receives is treated as if he/she was an eligible individual without a spouse.

### **Receipt of Both ISM and Deemed Income**

If the applicant/beneficiary lives in the household of a responsible relative, the VTR does not apply. However, if he/she lives with a responsible relative in another person's household, the VTR and the deeming rules apply.

If the applicant/beneficiary lives in the same household with someone whose income can be deemed to him/her any food or shelter, that person provides is not ISM. However, if the applicant/beneficiary receives any food or shelter from another source, it is ISM and it is valued using the PMV. Deeming also applies in this situation.

### **Sharing**

When an applicant/beneficiary cannot establish ownership interest or rental liability and he/she is living and eating meals in a household with someone other than a spouse and/or children, consider the possibility of sharing.

An applicant/beneficiary who is sharing, presumed or otherwise, is not considered as receiving any food or shelter from inside the household. Any additional ISM is valued using the PMV.

If the pro rata share is paid, the applicant is "sharing". If householder refuses to provide verification of household expenses, then "sharing" does not exist.

Sharing is established by using the Statement of Living Arrangements (DHS 7044) and averaging the household expenses and contributions for the month prior to the month of application or redetermination. Evidence must be submitted to the CWD and must include bills and receipts (e.g., cancelled checks) which establish the household expenses and verify the applicant's/beneficiary's financial contribution to the household. When such evidence is unavailable, signed statements from both the applicant/beneficiary and the householder will be accepted. (For purposes of this section, a householder is the person having ownership interest or rental liability.)

## **To determine the average monthly amount of these expenses:**

1. Ask the householder to provide bills and receipts for the last 12 months for each of the countable expenses. Average these amounts by dividing the total of all countable expenses by 12.
2. If there are no bills or receipts available for the previous 12 months, have the household provide the current month's bills and use that total as the countable monthly expenses. If the householder disagrees that the current bills represent the average, accept a sworn statement as to the correct amount.
3. If neither bills and/or receipts are available and the householder is unable to estimate the average monthly amount, contact the appropriate source (e.g., the utility company) and obtain the average monthly amount.

When determining the amount of household operating expenses, it is immaterial whether the members of the household have pooled their funds and collectively paid for food and shelter items or whether individual members assume responsibility for specific expenses and pay the bills directly.

## **Determining the Pro Rata Share Amount**

Total the monthly averages for each of the household expenses to arrive at the total average monthly household expenses. Divide this total by the number of persons living in the household. The resulting amount is the applicant's/beneficiary's pro rata share.

## **Determining the Share Status**

Compare the applicant's/beneficiary's monthly contribution to the pro rata share amount. If the amount of his/her contribution is within \$5 of the pro rata share amount, a sharing arrangement is found to exist. If the amount of the applicant's/beneficiary's contribution is not within \$5 of the pro rata share amount, sharing does not exist. Applicants/beneficiaries found to be sharing are not receiving ISM, although ISM from other sources outside the household (e.g., adult son pays the pro rata share) must still be pursued and counted using the PMV if applicable.

## **Rental Subsidies**

A rental subsidy is considered unearned income which represents ISM provided from someone who resides outside the household of the Pickle applicant/beneficiary. Whenever any member of an applicant's/beneficiary's household has rental liability and any household member is the parent or child of the landlord or the landlord's spouse, the CWD must explore the possibility that a rental

subsidy is being provided.

If the rent required under the terms of the rental agreement is less than the current market rental value (CMRV) of the shelter being rented, all members of the household are receiving ISM in the form of a rental subsidy. This is true regardless of their individual rental liability. Therefore, the value of such subsidy is allocated equally among, and is chargeable to, all members of the household, including those who are ineligible or temporarily absent. The rental subsidy is counted using the PMV.

## **Required Verification to Determine Rental Subsidy**

The following information must be obtained whenever there is an indication that rental subsidy income exists:

1. The amount of rent required under the terms of the rental agreement.

A rental subsidy is the difference between the CMRV and the required rent and not the difference between the CMRV and the rent paid.

2. The CMRV of the shelter being rented.

When the CMRV provided by the landlord or other knowledgeable source is a range (e.g., between \$250 and \$350, average the range and use the average as the CMRV (e.g., \$300).

3. The reason for requiring a rental payment which is less than the CMRV.

When the reason for requiring a lesser rental payment is because the shelter is rent-controlled, note in the case the maximum allowable rent and consider that no rental subsidy has been provided. When the reason is because the applicant/beneficiary provides services to the landlord, determine the type of services and, if applicable, count rental subsidy as earned or unearned income.

If the landlord is either unwilling or unable to provide the reason for accepting reduced rental payments, presume the difference between the CMRV and the required rent is a rental subsidy. Always attempt to obtain the rental information through contact with the landlord prior to contacting a knowledgeable source. Contact may be made by telephone or in writing.

When contacting the landlord in writing, the following language should be used:

\_\_\_\_\_(1)\_\_\_\_\_ indicates you are the landlord of the dwelling in which \_\_\_\_\_(2)\_\_\_\_\_ lives, located at \_\_\_\_\_(3)\_\_\_\_\_.

\_\_\_\_\_(4)\_\_\_\_\_ states the required rent is \_\_\_\_\_(5)\_\_\_\_\_. Is this correct? \_\_\_\_\_(yes/no). If not, what is the correct required rental amount? \_\_\_\_\_(dollar). Do you consider the required rent to be less than the rent you could receive for the property on the local open market? \_\_\_\_\_(dollar).

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Why do you charge a lesser or reduced rent? \_\_\_\_\_  
(reason).

## **Fill-ins:**

1. Show name of applicant/beneficiary.
2. He/she/they as appropriate.
3. Show residence address.
4. Same as (1) above.
5. Show amount of alleged required rent.

Contact a knowledgeable source other than the landlord when the landlord is unable or unwilling to provide a CMRV for the dwelling and ten calendar days have elapsed since the initial date of the request to the landlord. Knowledgeable sources include real estate firms or rental management agencies located in the same or a similarly situated neighborhood.

## **EXCLUDED -- TYPES OF ISM**

The following ISM is not counted for the Pickle person.

1. ISM specifically excluded by federal law (see Income Exclusions Chart).
2. ISM which meets the criteria for infrequent or irregular unearned income (see Unearned Income Chart).
3. ISM which has no CMV.
4. ISM received under a governmental medical or social service program.
5. ISM which is assistance based on need from a state or political subdivision (see Unearned Income Chart).
6. ISM provided by other members of a public assistance household.
7. ISM from a responsible relative (e.g., spouse, parent).
8. Temporary shelter provided while waiting for completion of repairs or for replacement of an exempt principal residence.
9. ISM which is excluded under a Social Security Act approved plan for self support.
10. ISM resulting from payments made under the terms of a credit life insurance or credit disability insurance policy.

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11. The receipt of the use of land without a dwelling does not constitute ISM. Similarly, third-party payments of property tax, rent, or mortgage on land alone are not counted as ISM.
12. One-third of the amount of child support received as ISM is excluded from income. The remaining two-thirds is subject to the PMV.
13. Exclude ISM food and/or shelter provided transients by non-profit community organizations supported by any State or local assistance agency; for example, subsidized meal programs or Food Stamp assistance. ISM of “no value” is excluded. “Food of no value” includes discarded or surplus food. “Shelter of no value” means the transient is sleeping in an abandoned building or in an automobile. Reminder: food/shelter not otherwise excluded even if provided to transients is PMV, e.g., food provided free for a week from a relative is PMV. Also, PMV may be rebutted (see page 14-4, Pickle Handbook).