

DEPARTMENT OF HEALTH SERVICES

14 P STREET
SANTO, CA 95814

December 10, 1985

To: All County Welfare Directors (ACWD)
County Administrative Officers

Letter No. 85-77

REAL PROPERTY CHANGES RESULTING FROM CRAWFORD v. RANK, BAGLEY v. RANK AND 1982 AND 1983 STATE LEGISLATION

Reference: ACWD Letters No. 83-10, 83-24, 84-37 and 84-52

As you know, numerous changes have occurred during the last few years regarding the treatment of property owned by a Medi-Cal applicant/beneficiary and in particular, property which is or has been used as the principal residence. Regulations implementing the principal residence provisions were originally filed in July 1984 but were repealed in December 1984 as those regulations did not reflect the full intent of legislation passed in 1983. New regulations have been developed and were filed on December 2, 1985. A copy of these regulations is attached to this letter (Attachment 1).

This letter supersedes instructions previously issued in ACWD Letters 83-10 (except provisions regarding the \$6,000 limit on Other Real Property [ORP]), 83-24, 84-37 and 84-52.

The provisions contained in this letter must be implemented immediately for all Medi-Cal cases.

Due to the complexity of this issue, this ACWD Letter has been arranged as follows:

I. Background on Changes Regarding the Principal Residence

- A. 1982 State Legislation
- B. Bagley v. Rank
- C. Crawford v. Rank and 1983 State Legislation

II. County Actions Required

- A. New Applications
- B. Continuing Cases
- C. Crawford Court Order Requirements
- D. List and Lien Requirements

III. Forms and Notices

I. Background on Changes Regarding the Principal Residence

A. 1982 State Legislation

On December 31, 1982, the Department of Health Services (DHS) filed regulations to implement the changes to real property contained in Welfare and Institutions (W&I) Code, Section 14006 as amended in AB 799 (Chapter 328, Statutes of 1982) and SB 2012 (Chapter 1594, Statutes of 1982). Those regulations became effective on January 1, 1983, and were transmitted to county welfare departments (CWDs) via ACWD Letter 83-10 and Manual Letter No. 73.

Those regulations: (1) reduced the limitation on other real property from \$25,000 to \$6,000; (2) specified that the market value of property in California is determined by the county assessor; (3) provided for continuing eligibility, under certain conditions, for beneficiaries in long-term care (LTC) even if the equity value of their former home (other real property) exceeded the \$6,000 limitation; and, (4) described the conditions under which liens were to be recorded against the former homes (other real property) of beneficiaries in LTC.

B. Bagley v. Rank

In March 1983, the Los Angeles County Superior Court issued a permanent injunction (Attachment II), in the case of Bagley v. Rank (formerly Griffin v. Dawson and Bagley v. Dawson). This court order prohibited DHS from requiring a Medi-Cal beneficiary in LTC to list his/her former home/other real property for sale without first providing the opportunity for a county level review of the circumstances of the particular case. It also provided that no beneficiary may sell or transfer his/her former home/other real property pending the results of the county review and/or the state hearing except:

1. Property held in joint tenancy that is transferred to the joint tenant upon the death of the beneficiary; or,
2. If the transfer or sale is court-ordered.

The court further ordered that all notices that had been issued as a result of the January 1, 1983 revisions to Title 22, California Administrative Code (22 CAC), Section 50428 be rescinded; that Medi-Cal benefits be

restored to anyone denied or discontinued as a result of those notices for failure to list property for sale; and that new notices, outlining the county level appeal process, be sent.

C. Crawford v. Rank and 1983 State Legislation

In July 1983, several regulations relating to multiple unit dwellings were challenged in the case of Crawford v. Rank (Attachment III). The plaintiffs asked the court to compel DHS to exempt, for purposes of determining Medi-Cal eligibility, any indivisible parcel of land (including improvements) serving, "in whole or in part, as the principal residence of an applicant or beneficiary" and to require that DHS treat any portion of that "home property" as exempt property.

At the time of the preliminary hearing, the court was informed of pending legislation (AB 223) that redefined the "home" as the "principal residence" and that would make changes to the definition of property that would be considered exempt as the principal residence similar to those requested by the plaintiffs. Specific to this litigation, AB 223 amended W&I Code, Section 14006(b), to exempt a Medi-Cal applicant's or beneficiary's principal residence from inclusion in the Medi-Cal property reserve and to define principal residence as: "the home, including a multiple unit dwelling, in which the applicant or beneficiary resides or formerly resided."

In light of this provision, the court ordered DHS to implement those portions of AB 223 pertaining to multiple unit dwelling when determining Medi-Cal eligibility, and to redetermine the eligibility of any person denied or discontinued due to "other real property" or "excess property" subsequent to June 30. Although AB 223 did not become law until July 1983, the court further ordered that subsequent to December 31, 1982 the multiple unit dwelling provisions of AB 223 be used to redetermine the eligibility of anyone denied or discontinued, due to ownership of a multiple unit dwelling.

The language in AB 223 was superseded by AB 1490 on September 22, 1983. The significant difference between AB 223 and AB 1490 was that AB 1490 gave DHS the authority to adopt emergency regulations implementing the new definition of "principal residence".

In addition to the new multiple unit dwelling provisions, AB 223 and AB 1490 provide that a person's home (including a life estate) continues to be the principal residence and therefore an exempt resource if any one of the following circumstances is applicable:

1. During any absence, the applicant or beneficiary intends to return to the principal residence to live. (NOTE: Should the absent owner later transfer this property, the county must evaluate whether the intent to return, and therefore the change in the property from exempt to nonexempt, was reported timely and whether adequate consideration was required and received.)
2. During any absence by the applicant/beneficiary owner, the applicant's or beneficiary's spouse, child(ren) under 21 years of age or dependent relative lives in the principal residence; the basis of dependency must be documented by obtaining the applicant's/beneficiary's written statement of dependency. However, no written statement is required when the dependent relative is a blind or disabled adult child. This fact need only be documented in the case record. (For Medi-Cal program purposes, a blind or disabled child of any age is considered a dependent relative.)
3. During the applicant/beneficiary owner's stay in a skilled nursing facility or intermediate or licensed community care facility, the applicant's or beneficiary's sibling or child 21 years of age or older lives in the principal residence and has done so for at least one year prior to the time the applicant or beneficiary entered the skilled nursing facility (SNF) or intermediate care facility (ICF);
4. The applicant/beneficiary is absent from the principal residence, does not intend to return to the residence, no specified relative resides in the residence and the property cannot be liquidated but a bona fide effort is being made to sell the property; or
5. The applicant/beneficiary is absent from the principal residence, does not intend to return to the residence, no specified relative resides in the residence but the principal residence cannot be sold because there are legal obstacles preventing the sale.

Only one property at a time may be exempt as the principal residence. In the case of a multiple unit dwelling the entire property is exempt under the conditions described above if a portion of the dwelling is the applicant's/beneficiary's principal residence or was the applicant's/beneficiary's residence. Additionally, if the residence is on land which contains other buildings, all the land appertaining to the residence and all other buildings on the land are exempt as the principal residence and no utilization is required. If legal obstacles prevent the sale (i.e., title is not clear), the property remains exempt only as long as the responsible party is taking steps to remove the obstacles.

II. County Actions Required

A. New or Pending Applications and Continuing Cases

Effective immediately all Medi-Cal cases must be processed pursuant to the attached regulations.

At annual redetermination, all beneficiaries who have an ownership interest in real property in which they do not currently reside and/or have an ownership interest in personal property which was previously used as the principal residence must be sent the principal residence questionnaire (Attachment IV) for completion. Beneficiaries must be allowed 20 days to return the principal residence questionnaire. If the form is not returned, the county worker must attempt to contact the responsible party (public guardian, conservator, relative or beneficiary if no one is acting for the beneficiary) to determine the reason for the delay. A discontinuance notice may only be sent if a valid reason for the delay cannot be established.

B. Crawford Court Order Requirements

1. The county must ensure that it has completed its review (see ACWD Letter 84-37) of all Medi-Cal applicants or beneficiaries who were denied or discontinued on or after January 1, 1983, because they own(ed) a multiple unit dwelling or land with multiple buildings on which they reside or formerly resided and have redetermined their eligibility using the new regulations.

2. The county must have completed its review of all Medi-Cal applicants or beneficiaries who were discontinued or denied due to other real property or excess property, after June 30, 1983, and have redetermined their eligibility using the new regulations.
3. Anyone identified through this search who appears to be eligible must be sent a notice rescinding the prior erroneous adverse action and a new statement of facts, if appropriate. For cases previously denied and if otherwise eligible, retroactive eligibility may be granted: a) retroactively to January 1, 1983 if the issue was ownership of a multiple unit dwelling or land with multiple buildings, or b) retroactively to July 1, 1983 if the issue was "other real property" or "excess property"
4. When necessary, provide beneficiaries with a copy of the cover letter and Provider Letter that is included in the attachments.

C. List and Lien Requirements

1. Send a copy of the Property Lien Referral (DHS 7014) to DHS - Recovery Branch for each beneficiary owning real property that may be liened in accordance with 22 CAC, Section 50428. The DHS 7014 is to be sent to DHS within 30 days of the date the List for Sale notice is sent.
2. Send a copy of the Change of Status - Liens form (DHS 7013) to DHS - Recovery Branch any time there is a change to the information reflected on the DHS 7014.

Detailed instructions regarding completion of the DHS 7014 and the DHS 7013 are included in the attachments.

3. Send the List for Sale--Persons in LTC Notice to Medi-Cal applicants and/or beneficiaries residing in SNFs, ICFs or acute care hospitals whose former principal residence is exempt only if it cannot be readily converted to cash and is listed for sale per Section 50425.

4. Send the List for Sale -- Persons not in LTC Notice to Medi-Cal applicants/beneficiaries absent from the principal residence if the property must be listed for sale in order to be exempt per Section 50425.
5. If a beneficiary fails to meet the requirements specified in the List for Sale Notice, a ten-day Notice of Action must be sent prior to the CWD taking any adverse action.
6. For applicants/beneficiaries who are known to be unable to act on their own behalf, the CWD must send the List for Sale Notice to a family member, conservator/guardian or representative.
7. Send the DHS 7014 to DHS - Recovery Branch within 30 days of the date the Notice is sent if the applicant/beneficiary is in LTC.
8. Conduct a county level review, if requested, of the circumstances surrounding each case when it appears that the property must be listed for sale. This review is to be conducted in accordance with the following:
 - a) The claimant must request the review within 30 days of the date the List for Sale Notice is issued.
 - b) The county review must be conducted by the eligibility worker (EW) assigned to the case and a written decision (MC 239Z) must be issued.
 - c) The CWD must review the case and reach a decision prior to the scheduled date for a state hearing (if any) on the matter.
 - d) The review shall be of documents submitted to the CWD by the beneficiary or his/her representative. The claimant may not be required to appear at the review.
 - e) The documents to be reviewed may consist of written declarations, letters, files or any type of written documents relevant to the issues specified below:

- i. Whether or not the applicant/beneficiary is absent from the property but intends to return to the principal residence to live.
 - ii. Any regulatory exemptions which would allow the claimant to remain or become eligible for Medi-Cal benefits without listing his/her property for sale (e.g. a dependent relative resides on the property).
 - iii. Any reason why the applicant/beneficiary is unable to comply with the requirement to list the property for sale (e.g. the applicant/beneficiary is incompetent and there is no legal conservator or guardian).
9. Inform the applicant/beneficiary that, pursuant to the court's order in Bagley v. Rank, the property in question must not be transferred or sold during the county review and/or the state hearing process, and that to do so may jeopardize his/her Medi-Cal eligibility.
10. Send the Notice of Action - Result of County Review to the applicant or beneficiary immediately upon completion of the county review.

NOTE: If the county level review decision is favorable to the applicant/beneficiary and a state hearing is pending, the EW must immediately contact the County hearing personnel in order to obtain a withdrawal from the beneficiary.

III. Forms and Notices

Attachment V contains the forms and notices necessary to implement the requirements of the court orders and the new regulations:

A. Beneficiary and Provider Letters

1. Beneficiary letter (Attachment V-A)

2. Provider letter (Attachment V-B) is a letter outlining special billing procedures for the provider.

The above letters are to be provided to the beneficiary if it becomes necessary to issue Medi-Cal cards more than ten months after the date of service.

B. List and Lien Forms and Notices - Beneficiaries in SNFs, ICFs and Acute Care Hospitals

1. List and Lien Forms

- a. Property Lien Referral (DHS 7014) (Attachment V-C) is used to provide DHS with specific information to record liens against the principal residences of institutionalized beneficiaries.
- b. Change of Status -- Liens (DHS 7013) (Attachment V-D), is to be used to update information provided to DHS on the DHS 7014. Specifically, it is used when a beneficiary is discharged from a SNF, ICF, or an acute care hospital to return home or when a beneficiary has requested either a county review, a state hearing or both. Instructions for completing these forms are included in the procedures. Copies of both forms are attached and will soon be available through the DHS Warehouse.
- c. List and Lien Notices

One or more of the following notices must be sent to applicants and beneficiaries who are affected by the new list and lien requirements.

TO ASSURE COMPLIANCE WITH THE BAGLEY COURT ORDER, CWDs MUST NOT ALTER THE CONTENT OF THESE NOTICES, ALTHOUGH FORMAT CHANGES ARE PERMISSIBLE. Any changes must be submitted for appeal to:

Department of Health Services
Eligibility Branch
714 P Street, Room 1692
Sacramento, CA 95814

These notices will be printed and will be available in the near future from the DHS Warehouse. Until they are available, CWDs must prepare their own notices using the language in the attached notices.

Notice 1

List for Sale -- Persons in LTC (MC 239-W) is for Medi-Cal applicants/beneficiaries in SNFs, ICFs or acute care hospitals whose former property may be exempt only if it is listed for sale in accordance with 22 CAC, Section 50425. Due to the Bagley court order, many of these people were not discontinued in accordance with the January 1, 1983 property regulation changes. Eligibility may continue only if such applicant/beneficiary provides evidence (in the form of a signed contract with a real estate broker) to his/her EW that the property has been listed for sale. After the property is listed for sale, it becomes exempt per Section 50425 and a lien will be recorded. When the property is sold, the State of California will be reimbursed for medical expenses, paid by Medi-Cal, on behalf of the beneficiary.

Notice 2

List for Sale -- Persons Not in LTC (MC 239-X) is for Medi-Cal applicants/beneficiaries not in LTC whose property may be exempt only if it is listed for sale in accordance with 22 CAC, Section 50425. Eligibility may be established or continued only if such applicant/beneficiary provides evidence (signed listing contract) that the property has been listed for sale.

Notice 3

Notice of Action -- Result of County Review (MC 239-Z) is to be used by the CWD to notify applicants/beneficiaries of the results of the county review.

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Notice 4

Notice of Action -- Denial/Discontinuance --
Property (MC 239-Y) is to be sent when the
applicant/beneficiary owns Other Real Property
that exceeds the property limits.

If you or your staff have questions on either this letter or the
regulations, please contact Barbara Morrison at (916) 324-4956 or
(ATSS) 454-4956.

Sincerely,

Original signed by

Doris Z. Soderberg, Chief
Medi-Cal Eligibility Branch

Attachments

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: December 31, 1986

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(1) Amend Section 50084 to read:

50084. Relative.

Relative means a mother, father, grandfather, grandmother, son, daughter, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, half-brother, half-sister, or any such person of a preceding or succeeding generation denoted by a prefix of grand, great or great-great or the suffix in-law .

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Sections 14065.7 and 14008, Welfare and Institutions Code.

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(2) Amend Section 50125(a)(2) and (3) to read:

(2) The county in which the person's home is located, provided the property is exempt as a home if the person is temporarily absent from the home as specified in Section 50071 (a) (2).

(3) The county of ~~physical presence~~, in which the person is living in all other situations.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Sections 11050, 14005.4, 14008 and 14016 (a) and (c), Welfare and Institutions Code.

(3) Amend Section 50167(a)(7)(H) and (S), add (a)(9) and amend (b) and (c) to read:

(H) The market value of real property, other than the ~~home~~, principal residence, which shall be verified by viewing any of the following:

1. A current incorporated tax statement from the county Tax Assessor's Office.

2. Records maintained by the County Tax Assessor.

3. A written statement from a member of a recognized professional appraisal society qualified real estate appraiser which gives the appraisal value of the property, when the applicant chooses to meet the conditions of Section 50412 (a) (3).

(S) The value of oil leases or mineral rights which shall be verified by one of the following:

1. Written or telephone contact with a member of a recognized professional appraisal society which establishes the current market value of the lease or right.

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2. Viewing records maintained by the county tax assessor where the lease or right is located.

3. Written or telephone contact with the company/organization developing the natural resource which establishes the current market value.

(9) Property as defined in Section 50425 (a) (7) is listed for sale with a licensed real estate broker at its fair market value and a bona fide attempt is being made to sell such property. This shall be verified by viewing a listing contract and appraisal from a qualified real estate appraiser.

(b) The provisions of this section apply to all items listed in (a) at:

~~(4)~~ (1) Initial application and reapplication.

~~(5)~~ (2) The time a change is reported or at redetermination for items not previously verified.

~~(6)~~ (3) Redetermination for items which the county determines could have appreciated in value since the last verification.

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(c) The applicant or the county shall make a diligent search to obtain documentation necessary to verify items (a) (7) (A) through (a)(7) (V) and (a)(9) above. Such a search shall include at a minimum, one contact with the appropriate person/organization from which this documentation could be obtained. When the county determines that such documentation cannot be obtained either by the applicant or by county within the promptness requirements listed in Section 50177, the county shall:

(1) List and retain in the case record all actions taken to obtain documentation required for verification.

(2) Obtain from the applicant, and retain in the case record, an affidavit dated and signed by the applicant under penalty of perjury which lists a description and value of any item for which documentation for verification purposes was determined not available.

(3) Obtain a signed and dated affidavit from the applicant under penalty of perjury which lists the amounts of any earned or unearned income received and retain this document in the case record.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code; and Section 57, Chapter 328, Statutes of 1982.

Reference: Sections 12305.5, 14001, 14005.1, 14005.3, 14005.4, 14005.7, 14006, 14008, 14008.5, 14010, 14011, 14017, 14018 and 14051.5, Welfare and

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Institutions Code; and Sections 25.6, 34.5, 34.7, 34.9 and 34.10, Civil
Code.

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(4) Amend Section 50412(a)(3) to read:

(3) The value established as the result of an appraisal by a member of a recognized professional appraisal society; qualified real estate appraiser, if the appraisal is obtained by the applicant or beneficiary and provided to the county department.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code; and Section 57, Chapter 328, Statutes of 1982.

Reference: Sections 11153.7 and 14006, Welfare and Institutions Code.

(5) Amend Section 50416(e)(1)(A) and (k) to read:

(A) A written statement from a member of a recognized professional appraisal society qualified real estate appraiser which gives the appraisal value of the property and its income potential.

(k) A utilization period shall begin whenever:

(1) An applicant, with other real property that is not being utilized, becomes eligible except as specified in (l).

(2) The other real property of a beneficiary, that has been utilized, is no longer utilized.

~~(3) The real property of a beneficiary that was exempt as a home is no longer exempt.~~

~~(4)~~ (3) The net market value of other real property, when added to the net market value of other nonexempt property, no longer falls within the limits set forth in Section 50420.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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(6) Amend Section 50425 to read:

50425. Property Used as a Home Principal Residence.

(a) Real or personal property Property which the applicant or beneficiary uses or formerly used as a home shall be exempt as the principal residence if any of the following situations exist:

(1) The applicant or beneficiary lives in on the home property.

(2) The family of the applicant or beneficiary lives in on the home property and Medi-Cal eligibility is determined in either of the following ways:

(A) With the applicant or beneficiary and the family in a single MFBU.

(B) With the income of the family considered in determining the applicant's or beneficiary's eligibility.

(3) The applicant or beneficiary is in LFC or board and care absent from the property for any reason, including admittance to LTC, and is expected, according to a verified medical determination, declares in writing that he/she intends to return home within six months of the date LFC or board and care status begins to the property to live.

(4) The applicant or beneficiary is in LTF or board and care, absent from the property and has a spouse, child under age 21 or children; a dependent relative, as defined in Section 50039, who lives in on the home property.

(5) A sibling or child age 21 or over of the applicant or beneficiary has continuously resided on the property for at least one year immediately prior to the date the applicant or beneficiary entered a SNF or LCF and continues to reside there.

(6) The property cannot be sold because there are legal obstacles preventing the sale and the applicant or beneficiary or person acting on his/her behalf provides evidence of attempts to overcome such obstacles.

(7) The applicant or beneficiary no longer lives on the property, does not intend to return to the property, the property is not otherwise exempt and the property cannot be readily converted to cash but a bona fide effort is being made to sell the property. A bona fide effort to sell means that the property is listed for sale with a licensed real estate broker for its fair market value established by a qualified real estate appraiser, a good faith effort is being made to sell the property, offers at fair market value are accepted, and the applicant or beneficiary has supplied proof of compliance with these conditions to the county.

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(b) A home principal residence may consist of real or personal property, fixed or mobile, located on land or water. The home may principal residence ~~include~~ includes land or buildings surrounding or contiguous to the residence which are:

(1) Normally used as part of the home;

(2) Not considered other real property in accordance with Sections 50427 through 50437;

(c) The following items of real property may serve as a home: principal residence:

(1) A house.

(2) A portion of a The entire multiple unit dwelling unit, in accordance with Section 50435- if any portion of the multiple unit dwelling serves as the principal residence of the applicant or beneficiary.

(3) The items listed in (d). These items shall be considered as real property when they are assessed as real property by the county assessor of the county in which the property is located.

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(d) The following items of personal property may serve as a ~~home~~ principal residence:

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(1) A mobile home.

(2) A houseboat.

(3) A motor vehicle used as a residence.

(4) Any other shelter not attached to the land and used as a residence.

(e) ~~Two~~ Only one property dwellings may be exempt as the ~~home~~ principal residence. ~~If a health condition precludes the beneficiary from living in either one throughout the year.~~

(f) Real property formerly used as a ~~home~~ principal residence shall be considered other real property, effective the first of the month following the date the property is no longer used as a ~~home~~ principal residence as specified in (a). Such property shall be subject to all conditions placed upon other real property in these regulations.

(g) Personal property formerly used as a ~~home~~ principal residence shall be evaluated as an item of personal property beginning the first of the

month following the date the property is no longer used as a home principal residence as specified in (a).

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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(7) Amend Section 50426 to read:

50426. Property Used to Purchase a ~~Home~~ Principal Residence.

(a) The proceeds from the sale of real property retained by an applicant or beneficiary who does not own a suitable ~~home~~ principal residence or who wishes to sell the current ~~home~~ principal residence and purchase a new ~~home~~ principal residence shall be exempt for a period of six months from the date of receipt of the proceeds so long as the proceeds from the sale of the real property are intended to be used to purchase a ~~home~~ principal residence. Such proceeds may also be applied to the costs of moving, necessary furnishings, and repair or alteration to the ~~home~~ principal residence.

(b) If a portion of the proceeds specified in (a) is diverted to some other purpose, the status of the remainder is not affected provided such remainder is being retained to apply toward the purchase of a ~~home~~ principal residence.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

(8) Amend Section 50427 to read:

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50427. Other Real Property.

(a) Real property not exempt as a ~~home~~, principal residence, including deeds of trust as specified in Section 50441 (b), is other real property.

(b) Other real property not exempt under any other section of these regulations shall be exempt if both of the following conditions are met:

(1) The property has a combined net market value of all other real property is \$6,000 or less.

(2) The owner meets the utilization requirements set forth in Section 50416.

(c) Other real property with a net market value of more than \$6,000 shall be considered as follows:

(1) The first \$6,000 of net market value shall be exempt if the owner meets the utilization requirements set forth in Section 50416.

(2) The net market value in excess of \$6,000 shall be included in the property reserve, unless the property was the beneficiary's home and the property satisfies the requirements of Section 50428.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code; Section 57 (c), Chapter 328, Statutes of 1982; Section 87, Chapter 1594, Statutes of 1982.

Reference: Sections 11153.7 and 14006, Welfare and Institutions Code.

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(9) Amend Section 50428 to read:

50428. Other Real Property+ Beneficiaries in Long Term Care+ Liens.

(a) The net market value of other real property shall not be included in the property reserve if all of the following conditions are met:

(1) The beneficiary is in LTR and is not expected to return home;

(2) The property was the beneficiary's home and would have been exempt under Section 50425 if the beneficiary had not entered LTR;

(3) The property is listed for sale with a licensed real estate broker for its fair market value established by a qualified real estate appraiser, and a bona fide and continuous effort is being made to sell the property;

(4) The beneficiary has supplied to the county:

(A) The appraisal of the property as determined by a qualified real estate appraiser, including a licensed real estate broker;

(B) Evidence that the property has been listed for sale;

(6) Reports of all offers of purchase and/or acceptance within 10 days of offer and/or acceptance.

(b) (a) The Department shall record a lien on such against the ownership interest in the principal residence of an institutionalized beneficiary if the property meets the provisions of Section 50425 (a) (7)-1 property unless: either of the following conditions is met:

(i) Any of the following persons is lawfully living in the home:

(ii) The individual's son or daughter who is blind or disabled;

(B) A sibling of the individual who has an equity interest in such home and was ~~living~~ in the home at least one year immediately prior to the individual entering LFE;

(c) (1) The individual did not receive a Notice of Action according to the provisions of Section 50179 or has not had the opportunity for a state hearing according to the provisions of Article 18 (commencing with Section 50951) of this Chapter. Such Notice shall include statements that the following :

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(A) The beneficiary ~~is not expected~~ has stated he/she does not intend to return home to the principal residence from long term care; therefore, the property is no longer exempt as a home.

(B) A lien will be recorded against the property for the cost of all Medi-Cal claims paid or to be paid on the beneficiary's behalf.

(C) The recording of the lien does not mean ownership of the property is lost or transferred.

(D) The requirements to list the property for sale that the applicant or beneficiary must meet to remain eligible for Medi-Cal in accordance with Section 50425.

(E) The beneficiary has the right to a county level review and a state hearing prior to recording of the lien or imposing any requirements to list the property for sale.

(F) The procedures for requesting a county level review and the time limits within which such requests must be made.

(c) (b) Any recorded lien for an amount equal to the cost of medical care provided may be foreclosed only after one of the following:

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(1) The beneficiary sells the property.

(2) The beneficiary dies and the following conditions are met:

(A) ~~The~~ There beneficiary's is no surviving spouse has died.

(B) The beneficiary has no surviving child who is under the age of 21 or who is blind or disabled.

(C) There is no sibling of the beneficiary living in the home who has lived there for at least one year immediately before the date of the beneficiary's admission to HHC and has lived there on a continuous basis since that time.

(D) There is no son or daughter of the beneficiary living in the home who has:

1. Has lived in the home for at least two years immediately before the date of the beneficiary's admission to HHC and who has lived there on a continuous basis ever since that time.

2. Can provide evidence that he or she cared for the beneficiary and as a result allowed the beneficiary to remain at home rather than in HHC.

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(c) Any lien shall dissolve when that the beneficiary is discharged from LTC and returns home to the principal residence to live.

(d) The county department shall provide to notify the Department upon a determination that:

(1) All the criteria set forth in Section 50428 (a) are met, a completed Other Real Property Questionnaire; or

(2) A person in long term care has been discharged and has returned home, a completed Change of Status-Liens form to the principal residence to live.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code; Section 57 (c), Chapter 328, Statutes of 1982; and Section 87, Chapter 1594, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

DRAFT

(10) Repeal Section 50429.

50429+ Value and Division of Real Property Where Part is Used as a Home-

(a) Real property used in part as a home shall be evaluated to determine which portions of the land or buildings are part of the home and which portions are other real property, in accordance with Sections 50431, 50433, 50435 and 50437.

(b) For purposes of Sections 50433 through 50437, rooms include any room other than the following:

(1) Bathroom

(2) Hallway

(3) Closet

(4) Unfinished basement, loft or attic

(c) If an applicant or beneficiary states that the value and division of real property made in accordance with Sections 50433 through 50437 is not accurate, the county department shall reevaluate the real property on the basis of square footage, rather than rooms.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and
Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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DRAFT

R-36-85

(11) Repeal Section 50431.

50431- Land Contiguous to the Home -- Value and Division

(a) Land contiguous to the home shall be considered part of the home when the home is located on a parcel that cannot be divided or sold separately because of zoning requirements or because such disposition would either or impair reasonable access to, or normal use of, the home as a residence. That portion of the land in excess of one acre shall be utilized in accordance with Section 50416 unless the applicant or beneficiary provides satisfactory evidence that the land cannot be utilized.

(b) Land contiguous to the home shall be other real property in either of the following cases:

(1) The property is zoned in a manner that allows the sale of those parcels on which the home is not located.

(2) The property is used in part for business or income producing purposes. The division and value of this property shall be determined in accordance with Sections 50432, 50433 and 50437.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5; Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

DRAFT

PROPERTY LIEN REFERRAL

COUNTY USE ONLY

- Name of County: _____
- Name of Beneficiary: _____
- Current Address: _____

- Responsible Party if Other Than Beneficiary: _____
- Address: _____
- Telephone: _____
- Medi-Cal Identification Number (14 digits): _____
- Social Security Number: _____
- Medicare Number, if Applicable: _____
- Property Address (include county where property is located): _____

- Legal Owner if Other Than Beneficiary: _____
- Fair Market Value - Attach Appraisal: _____
1. County Assessor's Parcel Number; Attach Copy of Deed: _____
2. Date Notice of Action Sent: _____
3. Eligibility Worker's Name: _____ Telephone Number: _____
4. Eligibility Supervisor's Signature: _____

STATE USE ONLY

- Recovery Branch Signature: _____
- All Documents Completed and Lien Filed? ☐ Yes ☐ No
- The Following Information Missing:
- | | |
|--|---|
| <input type="checkbox"/> Name of Beneficiary | <input type="checkbox"/> Medi-Cal Identification Number |
| <input type="checkbox"/> Property Address | <input type="checkbox"/> Current Address |
| <input type="checkbox"/> Appraised Amount
(if not on appraisal) | <input type="checkbox"/> Copy of appraisal |
- Recovery Branch Contact _____ Telephone Number: _____

Mail to: Department of Health Services
Recovery Branch
1250 Sutterville Road, Room 206
Sacramento, CA 95822
Telephone Number (916) 322-2280

INSTRUCTIONS
Property Lien Referral
DHS FORM 7014

- A. For each beneficiary owning real property that may be liened in accordance with Section 50428, the county shall complete the Property Lien Referral and forward it to the Department of Health Services' Recovery Branch within 30 days of the date the List Property for Sale -- Persons in LTC (MC 239-W) notice is sent to the applicant/beneficiary.
- B. The following describes the information which is to be provided on the Property Lien Referral. Items 1 through 13 must be completed by the eligibility worker. Items 15 through 18 are for DHS's use only.

County Use Only

1. Name of the county. This must be the county of responsibility regardless of where the property is located.
2. Name of the beneficiary. This must be the name that appears on the CA 1. If the beneficiary's name is different on the deed to the property, indicate with "AKA".
3. Current address of beneficiary.
4. Responsible party, if other than the beneficiary. Include his/her name, address, and telephone number.
5. Medi-Cal identification (ID) number. This must be the current entire case number. If any changes are made to this number, it must be reported to the Recovery Branch using the Change of Status - Liens form (DHS 7013). The new number should be noted in the blank area at the bottom of the form.
6. Social Security Number. This must be verified in accordance with Section 50168. If any changes are made to this number, it must be reported to the Recovery Branch using the Change of Status Liens (DHS 7013) form. The new number should be noted in the blank area at the bottom of the form.
7. Medicare number or other health insurance information.
8. Property address. Included in this section would be the county and the state, if other than California, where the property is located. If the property is in California, only the county is necessary. If the location is outside the State, both the county and state are required.
9. Other legal owner. Identify individual(s) sharing title with the beneficiary.

Instructions

Page 2

10. Fair market value (FMV). The real estate agency listing contract with the FMV appraisal shown must be attached to the Property Lien Referral. The appraisal requirements specified in Section 50425 must be followed.
11. Enter the county assessor's parcel number from a tax statement, deed, etc. Furnish a copy of the deed.
12. The date the Notice of Action - List Property for Sale (MC 239-W) was sent. A lien will be recorded by the Recovery Branch upon receipt of the Property Lien Referral.
 - o Enter the eligibility worker's name and telephone number in case additional information is needed.
 - o Enter the eligibility supervisor's signature, showing that the form is complete and contains accurate information.

State Use Only

- 13-14. The form will be signed by the Recovery Branch and a copy mailed to the county within ten days of receipt showing that the form was complete and all documents were received.
15. If information is missing that would prevent the State from filing a lien, the Recovery Branch will indicate by checking the appropriate box and returning the form and all attached documents to the county.
16. Contact the Recovery Branch, (916) 322-2280, if there are any questions regarding this form.

CHANGE OF STATUS—LIENS

Department of Health Services

Beneficiary	Medi-Cal Identification Number	Social Security Number
-------------	--------------------------------	------------------------

Charged from long-term care and returned home on _____

Requested a state hearing on _____

State hearing decision issued on _____

May be recorded: ☐ Yes ☐ No

Beneficiary's Address _____

Supervisor	Telephone Number	Date
------------	------------------	------

MAIL TO: Department of Health Services
 Recovery Branch
 1250 Sutterville Road, Room 206
 Sacramento, CA 95822
 Telephone Number: (916) 322-0647

NOTICE OF ACTION

PROPERTY FOR SALE

IN LONG-TERM CARE

CASE NAME: _____
CASE NUMBER: _____
DISTRICT: _____

This notice indicates that you own a home (principal residence). Since you currently reside in either a skilled nursing facility, intermediate care facility, or an acute care hospital and you do not intend to return to your home, changes in state law may affect your eligibility for Medi-Cal.

To establish or continue your Medi-Cal eligibility, your property must be listed for sale with a licensed real estate agent and it must be priced at its fair market value. Evidence that the property is listed with a licensed real estate broker and an appraised fair market value must be provided to your eligibility worker within 30 days of the date of this notice.

If you list this property for sale and your Medi-Cal eligibility is established or continues, a lien will be recorded against your property to cover the cost of medical care that you received under the Medi-Cal program. Your ownership of the property is not transferred when the lien is recorded.

When your property is sold, the amount of the lien (which is based on your medical costs) will be recovered from the proceeds of the sale and returned to the State of California. If, prior to the sale of your property, you are discharged from a nursing facility and resume use of your property as your principal residence, this lien will be dissolved.

You have the right to request county review of the above requirements by submitting additional written information on this matter to the county within 30 days of the date of this notice. Such action on your part will constitute a request for a review of your case by the county. You will not be required to take any action to list your home for sale and no lien will be recorded while such a review is in progress. Information on how to proceed with the county review may be obtained from your eligibility worker.

While county review and/or the state hearing results are pending, the court order in Bagley v. Rank prohibits you from transferring or selling this property without jeopardizing your eligibility for Medi-Cal benefits, except:

1. In your death, property you hold in joint tenancy may be transferred to the surviving joint tenant; or
2. You are ordered to do so by a court.

Your eligibility worker will notify you whether the additional information you submit justifies withdrawing the requirement that you list your property for sale. If the requirement is not withdrawn, you may appeal the county review determination at your local county health department.

Failure to either request a county review and/or state hearing or failure to provide evidence that you have listed your property within 30 days from the date of this notice may result in denial or termination of your Medi-Cal benefits.

Information about a state hearing on this matter is explained on the reverse side of this notice. At this hearing you may introduce evidence concerning exemptions that may apply to you.

For more information, please contact your eligibility worker.

Regulations that require this action are Title 22, California Administrative Code, Section 50425 and 50428.

Eligibility Worker

Phone Number

Date

THE ABOVE-NAMED MEDI-CAL BENEFICIARY IS UNABLE TO ACT ON HIS/HER OWN BEHALF, EITHER A FAMILY MEMBER, A CONSERVATOR, OR AN AUTHORIZED REPRESENTATIVE MUST CONTACT THE ELIGIBILITY WORKER IMMEDIATELY FOR FURTHER DETAILS ON HOW TO PROCEED.

PLEASE READ THE REVERSE SIDE OF THIS NOTICE

MEDI-CAL NOTICE OF ACTION

PROPERTY FOR SALE

PERSONS NOT IN LONG-TERM CARE

CASE NAME: _____

CASE NUMBER: _____

DISTRICT: _____

Information indicates that you own a home (principal residence). Since you currently do not reside in the principal residence and you do not intend to return to that residence, changes in state law may affect your eligibility for Medi-Cal.

To have your Medi-Cal to be established or to continue, your property must be listed for sale with a licensed real estate broker, and it must be priced at its fair market value. Evidence that the property is listed with a licensed real estate broker at its appraised market value must be provided to your eligibility worker within 30 days of the date of this notice.

Your right to a state hearing on this matter is explained on the reverse side of this notice. At this hearing you may introduce facts concerning exemptions that may apply to you.

For further information, please contact your eligibility worker.

The regulations that require this action are Title 22, California Administrative Code, sections 50425 and 50428.

Eligibility Worker

Phone Number

Date

NOTE: IF THE ABOVE-NAMED MEDI-CAL BENEFICIARY IS UNABLE TO ACT ON HIS/HER OWN BEHALF, EITHER A FAMILY MEMBER, A CONSERVATOR, OR AN AUTHORIZED REPRESENTATIVE MUST CONTACT THE ELIGIBILITY WORKER IMMEDIATELY FOR FURTHER DETAILS ON HOW TO PROCEED.

PLEASE READ THE REVERSE SIDE OF THIS NOTICE

MEDI-CAL NOTICE OF ACTION
RESULT OF COUNTY REVIEW

CASE NAME: _____

CASE NUMBER: _____

DISTRICT: _____

Dear _____:

Our notice to you dated _____ required that you list your former principal residence for sale and that a lien be recorded against the property in order for you to remain eligible for Medi-Cal. (MC 239-W)

WE HAVE RE-EXAMINED THAT FINDING AT YOUR REQUEST. BASED ON INFORMATION AVAILABLE TO US WE HAVE DETERMINED THAT:

1. ☐ The requirement that you list your former principal residence for sale was incorrect. The notice requiring listing for sale is rescinded.
2. ☐ The requirement that you list your former principal residence for sale to remain eligible was correct. You must comply with the requirements of the notice on or before _____. If you are dissatisfied with this action you may request a state hearing before a Hearing Officer of the State Department of Social Services. Your rights are explained on the reverse side of this notice.
3. ☐ _____

WHILE THE COUNTY REVIEW AND/OR THE STATE HEARING RESULTS ARE PENDING, THE COURT ORDER IN BAGLEY V. RANK PROHIBITS YOU FROM TRANSFERRING OR SELLING THIS PROPERTY, WITHOUT JEOPARDIZING YOUR ELIGIBILITY FOR MEDI-CAL BENEFITS, EXCEPT:

1. UPON YOUR DEATH, PROPERTY YOU HOLD IN JOINT TENANCY MAY BE TRANSFERRED TO THE SURVIVING JOINT TENANT:
2. IF YOU ARE ORDERED TO DO SO BY A COURT.

(Eligibility Worker)

(Phone Number)

(Date)

PLEASE READ THE REVERSE SIDE OF THIS NOTICE

MEDI-CAL
NOTICE OF ACTION,
DENIAL/DISCONTINUANCE - PROPERTY

CASE NAME: _____

CASE NUMBER: _____

DISTRICT: _____

We have reviewed all information available to us about your circumstances, and we find that:

- ☐ Your application for Medi-Cal dated _____ is denied.
Mo. Day Year
- ☐ Your eligibility to receive Medi-Cal will be discontinued effective the last day of _____
(month)

The reason for this denial/discontinuance is:

Real property, other than your principal residence, may be exempt only if the net market value is \$6,000 or less.

Your property located at _____ is valued at _____ based on the most current tax assessment. When the amount over \$6,000 is added to your Property Reserve you exceed the maximum allowed.

Property Reserve \$ _____

Excess Other Real Property \$ _____

Total Property Reserve \$ _____

Property Reserve for _____ person(s) \$ _____

The regulations which require this action are California Administrative Code, Title 22, Sections 50420 and 50427; and Section 14006, Welfare and Institutions Code.

If you are eligible for Medicare and your Medi-Cal eligibility is discontinued, this means that _____ is the last month the State will pay your premium for _____ month

supplementary insurance coverage (part B Medicare). You will receive a written notice from the Social Security Administration, or you may call your Social Security District Office if you have any questions about your Medicare status.

If you have any questions about this action or if there are any additional facts relating to your circumstances which you have not reported to us, please write or telephone. We will answer your questions or make an appointment to see you in person. Please remember that this action pertains only to the circumstances you reported to us, and that you may reapply at any time.

(Eligibility Worker)

(Phone Number)

(Date)

PLEASE READ THE REVERSE SIDE OF THIS NOTICE

YOUR RIGHT TO APPEAL THIS ACTION

If you are dissatisfied with the action described on the other side, or the county action, you may request a state hearing before a hearing Officer of the State Department of Social Services. This hearing will be conducted in an informal manner to assure that the person present is able to speak freely. Your county worker can help you request a hearing. If you decide to request a hearing, you must do so **WITHIN 90 DAYS OF THE DATE OF THIS NOTICE.**

A state hearing and aid paid pending described below will not be available if the only action you object to is an automatic change in eligibility which is required by state or federal law. This denial of a state hearing is required by Title 22, C.A.C. Section 50951.

Aid Pending

If you are now receiving Medi-Cal and ask for a state hearing before the effective date of this notice, you will delay the county's action, but your Medi-Cal will continue until the hearing begins.

Regulations Available

Regulations, including those covering state hearings, are available at the local office of the county welfare department.

Authorized Representative

You may represent yourself at the state hearing. You can also be represented by a friend, attorney or any other person, but you are responsible to arrange for the representative yourself. You can get help in getting free legal assistance by calling the toll-free number of Public Inquiry and Response Unit 1-800-952-5253.* For the deaf call 1-800-952-8349.*

Information Practices Act Notice

The information you are asked to write in below is needed to process your request, and processing may be delayed if your request is incomplete. A case file will be set up by the Chief Referee. You have a right to examine the materials that make up the record for this decision and may locate this record by contacting Public Inquiry and Response Unit (phone number shown above). Any information you provide may be shared with the county welfare department, with the U.S. Department of Health and Human Services, Authority: W&IC 14100.2.

How to Request a State Hearing

The best way to request a hearing is to contact your nearest county welfare department. That address is on the other side of this form.

You may also request a hearing by calling the toll-free number of Public Inquiry and Response Unit.* They can provide you with further information about your hearing rights or files. Assistance is also available in some languages other than English, including Spanish. You may phone, write, or come in.

Public Inquiry and Response
State Department of Social Services
744 P Street, Mail Station 16-23
Sacramento, CA 95814

STATEMENT FOR A STATE HEARING

Phone Number

Address

City

State

Zip Code

I am requesting a state hearing because of an action by the welfare department of _____ county related to Medi-Cal, or my request:

I speak a language other than English and need an interpreter for my hearing. (The State will provide the interpreter at no cost to you.)

Dialect

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R-36-85

(12) Repeal Section 50433.

50433. Single Family Dwelling Used in Part as a Business -- Value and Division.

(a) The total value of the single family dwelling shall be excepted as a home if the business conducted in the home is any of the following:

(1) Rental of rooms.

(2) Provision of board and care.

(3) Any other business which does not require that the property be zoned as commercial property.

(b) A single family dwelling which is zoned as commercial property and used in part as a business, other than as specified in (a), shall be divided, valued and exempted in accordance with the following process:

(1) Determine the number of rooms in the:

(A) Total building.

(B) Portion of the building used as a home.

DRAFT

R-36-85

(6) Portion of the building used as a business.

(2) Based on the number of rooms, determine the percentage of the buildings used as at:

(4) Home.

(5) Business.

(3) Apply the percentages determined in (2) to the total market value of the property to determine the market value of the portion used as at:

(4) Home.

(5) Business.

(4) The portion of the property used as a home shall be exempt as a home.

(5) The portion of the property used as a business is other real property and shall be subject to all conditions placed on other real property in these regulations.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and
Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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(13) Repeal Section 50435.

50435. Multiple Dwelling Unit -- Value and Division.

(a) A multiple dwelling unit used in part as a home shall be divided, valued and exempted in accordance with the following process:

(1) Determine the number of rooms in that

(A) Total buildings.

(B) Portion of the building used as a home.

(C) Portion of the building not used as a home.

(2) Based on the total number of rooms, determine the percentage of the buildings:

(A) Used as a home.

(B) Not used as a home.

(8) Apply the percentages determined in (8) to the total market value of the property to determine the market value of the portion of the property.

(A) Used as a home.

(B) Not used as a home.

(A) The portion of the property used as a home shall be exempt as a home.

(B) The portion of the property not used as a home is other real property and shall be subject to all conditions placed upon other real property in these regulations.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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(14) Repeal Section 50437.

50437+ Land with More than One Building -- Value and Exemption

(a) Property comprised of contiguous land with more than one building located on it, if at least one building is used in whole or part as a business or more than one building is habitable, shall be assessed, valued and exempted in accordance with the following processes:

(1) If the buildings on the land are assessed separately, and no single building is used both as a home and for some other purpose:

(A) Determine the market value of:

1+ All buildings together.

2+ Buildings used as a home.

3+ Buildings not used as a home.

(B) Based on the total market value of the buildings, determine the percentage:

1+ Used as a home.

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R-36-85

By Not used as a home

(E) Apply the percentages determined in (B) to the total market value of the land to determine the percentage of the land:

iv Used as a home

By Not used as a home

(D) The portion of the land and building used as a home shall be exempt

(E) The portion of the land and buildings not used as a home is other real property and shall be subject to all conditions placed on other real property in these regulations.

(F) If the buildings on the land are assessed together, or the buildings are assessed separately but at least one building is used as a home and for some other purpose:

(A) Determine the number of rooms in:

iv All buildings together

2- The portion of the buildings used as a home.

3- The portion of the buildings used as a home.

(B) Based on the number of rooms, determine the percentages:

1- Used as a home.

2- Not used as a home.

(C) Apply the percentages determined in (B) to the total market value of the land to determine the percentage of the land:

1- Used as a home.

2- Not used as a home.

(D) The portion of the property used as a home shall be exempt as a home.

(E) The portion of the property not used as a home is other real property and shall be subject to all conditions placed upon other real property in these regulations.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and
Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

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(15) Amend Section 50463(a)(1) to read:

(1) A home principal residence.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Section 14006, Welfare and Institutions Code.

R-26-95
DRAFT
(16) Amend Section 50508(a)(1) and add (b) to read:

(1) If the income is from the rental of ~~other~~ real property, subtract the following expenses, as limited by (b), from the gross income:

(A) Taxes and assessments.

(B) Interest on encumbrance payments. The principal portion of the payments shall not be deducted.

(C) Insurance.

(D) Utilities.

(E) Upkeep and repairs. The amount of this item shall be the greater of the following:

1. The actual amount expended for upkeep and repairs during the month.
2. Fifteen percent of the gross monthly rental plus \$4.17 per month.

(b) If the income is from the rental of unit(s) of a multiple unit dwelling or other dwellings on property that is exempt as the principal

DRAFT

residence and the applicant or beneficiary is living in a portion of the property, the expenses specified in (a) which are common to the property as a whole shall be prorated as follows:

(1) Determine the number of rooms in the building. If there is more than one building, determine the number of rooms in all of the buildings together. For the purpose of this section, rooms include any room other than the following:

(A) Bathroom.

(B) Hallway.

(C) Closet.

(D) Unfinished basement, loft or attic.

(2) Determine the number of rooms which are producing the rental income.

(3) Based upon the number of rooms, determine the percentage of the property which is producing the rental income.

7-2-83
(4) Apply the percentage determined in accordance with (3) to the expenses specified in (a) which are common to the property as a whole. This is the amount which shall be subtracted from the gross income.

NOTE: Authority cited: Sections 10725, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Sections 14005.4, 14005.7 and ~~14005.7~~, 1-00b, Welfare and Institutions Code.

DRAFT

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 ANNE S. PRESSMAN,
G. R. OVERTON,
3 Deputy Attorneys General
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4 Los Angeles, California 90010
Telephone: (213) 736-2912

5 Attorneys for Defendants/Respondents
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10
11 DONALD GRIFFIN AS GUARDIAN AD LITEM) CASE NO. C 446398
FOR LULA BAGLEY; ELAINE BASS AS GUARDIAN)
12 AD LITEM FOR DORA BERGMAN; LUCY DRAKE)
AS GUARDIAN AD LITEM FOR IDA BLOOM;) PERMANENT INJUNCTION
13 NANCY ROSENBLUM AS GUARDIAN AD LITEM) ORDER
FOR NATHAN LILLIE; LOUISE MILLER AS)
14 GUARDIAN AD LITEM FOR FRANCES MILLER;)
BETTY DAVIES AS CONSERVATOR FOR)
15 VIRGINIA HOWELL; CLARENCE PREVOST AS)
GUARDIAN AD LITEM FOR LILLIAN MARKS;)
16 HAZEL K. HANSON AS GUARDIAN AD LITEM)
FOR CHRISTINE KASTEN; THOMAS BRADY AS)
17 GUARDIAN AD LITEM FOR MILDRED A. BRADY,)

18 _____ Plaintiffs/Petitioners,)
19
20

v.)
21)
22)

20 WILLIAM DAWSON, as Director of the)
State Department of Health Services,)
21 State Department of Health Services, an)
agency of the State of California;)
22 MICHAEL FRANCHETTI, as Director of the)
State Department of Finances; STATE OF)
23 CALIFORNIA, a Political Entity,)

24 _____ Defendants/Respondents)
25
26

26 The court having considered the presentations and
27 arguments of counsel for all parties in camera on March 18 and

FILED

MAR 24 1983

JOHN J. CORCORAN, COUNTY CLERK

BY D. LEE DEPUTY

21, 1983; and no party having an objection to the granting of a permanent injunction resolving all issues raised in the complaint/petition in the instant matter:

IT IS ADJUDGED, ORDERED AND DECREED THAT:

The California Department of Health Services, its agents, employees, attorneys, representatives or anyone acting by or in concert with them, is hereby permanently enjoined from denying or reducing benefits to Medi-Cal beneficiaries based upon section 50428, Title 22, California Administrative Code, and any information notice or notice of action resulting from All-County Letter 83-10.

IT IS FURTHER ADJUDGED, ORDERED AND DECREED THAT:

The California Department of Health Services, its agents, employees, attorneys, representatives, or anyone acting by or in concert with them, shall issue a notice to all Medi-Cal beneficiaries affected by section 50428, Title 22, California Administrative Code.

~~Said notice shall advise the beneficiary that:~~

1. Any prior information notice suggesting the beneficiary list a home for sale in order to maintain the beneficiary's Medi-Cal eligibility or that the beneficiary's Medi-Cal has been terminated, reduced or denied for failure to list is rescinded, and that the benefits have been restored, retroactively, if necessary.

2. The beneficiary has a right to a hearing before his or her welfare worker within 30 days of the notice, which hearing shall include the following elements:

a. The hearing shall be by documents only which the beneficiary or a representative shall present to the welfare worker. The documents which may be presented may

1 consist of declarations, letters, files, or any kind of
2 writing relevant to the issues specified below.

3 b. The issues to be addressed at the hearing may
4 include:

5 i. Whether or not the beneficiary is in
6 Long-Term Care;

7
8
9 ii. The value of the beneficiary's home;

10 iii. Any exemptions specified by statute or
11 regulation which allow the beneficiary to remain
12 eligible for Medi-Cal benefits and not list his or
13 her home for sale; or

14 iv. Any reasons why the beneficiary cannot
15 comply with the requirement to list the home for
16 sale.

or representative

17 3. The notice shall advise the beneficiary that any
18 adverse decision of the welfare worker based upon the above
19 described hearing or notice of action terminating or modifying
20 the beneficiary's Medi-Cal eligibility may be appealed to the
21 Chief Referee at the California Department of Social Services.

22 4. The notice shall inform the beneficiary that an
23 appeal must be filed with the Chief Referee within ten days from
24 the notice from the welfare worker in order to receive aid paid
25 pending, but all appeals must be filed within 90 days from the
26 notice of the welfare worker.

1 5. The hearing before the Chief Referee will be
2 conducted pursuant to the provisions of Welfare and Institutions
3 Code section 10950 et seq.

4 IT IS FURTHER ADJUDGED, ORDERED AND DECREED THAT:

5 1. All determinations of the welfare worker based upon
6 the documents and writings in the review required in the
7 foregoing part of this order which require the beneficiary to
8 list his or her home for sale in order to remain eligible for
9 benefits shall be by notice to the beneficiary with a
10 description of the beneficiary's appeal right to the Chief
11 Referee as set out above.

12 2. If a beneficiary fails to comply with a
13 determination of the welfare worker that the beneficiary must
14 list his or her home for sale in order to remain eligible for
15 benefits or fails to appeal such a determination to the Chief
16 Referee, a notice of action terminating the beneficiary may be
17 sent. The notice of action shall describe the beneficiary's
18 right to appeal the termination of eligibility pursuant to
19 Welfare and Institutions Code section 10950 et seq.

20 3. No beneficiary shall transfer or sell or cause to
21 be transferred or sold any home pending the results of the hearing before
22 the welfare worker or the appeal of the welfare worker's decision to the
23 Chief Referee, as described above, but that this will not affect any
24 beneficiary's other hearing rights provided by law, except:

25 a. Property held in joint tenancy may be transferred
26 by operation of law to the joint tenant in the event of the
27 death of the beneficiary; or

28 b. Upon the order of a court of competent
29 jurisdiction.

1 4. The court shall retain jurisdiction to consider the
2 issues of attorney's fees and costs.

3 IT IS SO ORDERED.

4 DATED: March 24, 1963

5
6
7 
JUDGE OF THE SUPERIOR COURT

8 Approved:
9
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COUNTY CLERK

Attorneys for Defendants/Respondents

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

11 RUTH CRAWFORD, et al.,

12 Plaintiffs/Petitioners,

13 v.

14 PETER RANK, etc., et al.,

15 Defendants/Respondents.

CASE NO. C 458 661

STIPULATION AND JUDGMENT
BY CONSENT

STIPULATION

WHEREAS, the parties and their counsel in this action
recognize that substantive issues remain to be litigated in this
suit and are desirous of arriving at a remedial plan of resolution
in lieu of litigation,

WHEREAS, the parties and their counsel are cognizant of
the fact that Assembly Bill No. 223, which became law on July 21,
1983, effected certain amendments to Welfare and Institutions
Code section 14006 and the definition of "home" contained therein,
which amendments concern the application and interpretation of
said term for purposes of Medi-Cal program eligibility prospectively

1 from July 3, 1983, as more particularly set forth in the court's
2 Order of July 29, 1983,

3 WHEREAS, the parties and their counsel acknowledge
4 that in the light of the passage of Assembly Bill No. 223, section
5 124.8, and the presumed compliance by the Department of Health
6 Services with the conditions of the aforementioned Order of
7 July 29, 1983, the following (and only the following) issues
8 remain to be resolved in this action:

9 (1) The validity and legality of the Department
10 of Health Services' regulations (Tit. 22, Cal. Admin.
11 Code, §§ 50435 and 50437) and interpretations thereunder
12 respecting the valuation of multiple dwelling units and
13 land with more than one building;

14 (2) The standing, scope and propriety of this
15 action being maintained as a taxpayer suit, particularly
16 the availability thereunder of any relief beyond that of
17 prospective injunctive relief;

18 (3) The propriety and availability of any
19 retrospective relief to which these plaintiffs, or
20 those they purport to represent, including their
21 entitlement to redeterminations of Medi-Cal eligibility;
22 and

23 (4) The entitlement to and amount of attorney's
24 fees and costs awardable to counsel for plaintiffs,

25 WHEREAS, for the purposes of this action and the
26 resolution thereof only, the parties agree that the relief sought
in this suit shall be deemed to include and allow for retrospective

1 redeterminations and/or benefits under the Medi-Cal program, and
2 to include within the "taxpayer class" all beneficiaries and
3 applicants who were adversely affected similar to the named
4 plaintiffs herein by reason of the Department's (Counties')
5 application and interpretation of the aforementioned regulations
6 respecting the valuation of multiple dwelling units and land
7 with more than one building, and that the Complaint/Petition
8 herein shall be deemed to be amended, if necessary, to encompass
9 such relief and class,

10 WHEREAS, the parties agree that the provisions of this
11 Stipulation are for the purpose of reaching a resolution of the
12 issues in the instant action only and shall not be used against
13 the defendants herein or any other state agency, officer, or
14 employee in any fashion or for any purpose in connection with
15 any other proceeding, civil or administrative, except as to those
16 individuals defined in paragraph 2 herein for purposes of enforce-
17 ment concerning the relief provided therein,

18 IT IS THEREFORE AGREED by the parties that:

19 1. The provisions of the court's Order of July 29,
20 1983, paragraphs (a) through (e) thereof, are incorporated herein
21 and made a part hereof.

22 2. In addition to those acts required by paragraph 1
23 immediately above, the Department of Health Services shall
24 instruct all Counties to take the following action:

25 (a) Review the files of all beneficiaries
26 of the Medi-Cal program who, subsequent to December 31,
27 1982, were owners of a multiple dwelling unit.

more than one building and were determined to be ineligible for Medi-Cal benefits by reason of the Department's (Counties') application and interpretation of the regulations at issue herein, to wit sections 50435 and 50437. An All-County letter will be sent in this regard no later than 90 days from the date that Judgment is signed herein by the court.

(b) Review the files of all applicants who have timely requested fair hearings, or who personally identify themselves to the Department or the respective County agency, or whose identity is made known to either agency by counsel for plaintiffs herein, and who, in all other respects, fit the description set forth in paragraph 2(a) immediately above.

(c) Those beneficiaries and applicants described in paragraphs 2(a) and 2(b) above, including those who are otherwise eligible for such benefits, shall be redetermined.

3. For purposes of such eligibility from January 1, 1983 through June 30, 1983, "home" shall include a multiple dwelling or land with more than one building whenever the land cannot be legally subdivided, and the beneficiary uses or used one unit as a principal residence. If based upon such redetermination a beneficiary or applicant is found to be eligible, such person shall be returned or added to the Medi-Cal eligible list, issued a Medi-Cal card for each month for which eligibility exists and notified of such action forthwith.

1 The entitlement to, and amount, if any, of
2 attorney's fees and costs recoverable by plaintiffs' counsel
3 is reserved for decision by the court upon application therefor
4 by plaintiffs.

5 5. The terms and provisions of this Stipulation, if
6 and as approved by the court, shall constitute a final judgment
7 herein as to all of the issues identified herein and shall be
8 binding upon the parties until and unless modified by further
9 order of the court.

10 IT IS SO AGREED AND MOVED THAT JUDGMENT BY CONSENT BE
11 ENTERED ACCORDINGLY.

12 DATED: May 1, 1984

DATED: April 17, 1984

13 [Signature]
14 ATTORNEYS FOR PLAINTIFFS

15 [Signature]
16 ATTORNEYS FOR DEFENDANTS RANK
17 AND DEPARTMENT OF HEALTH SERVICES

JUDGMENT

GOOD CAUSE APPEARING to the court, it is hereby
ordered, adjudged and decreed that judgment be and is hereby
entered in accordance with the foregoing terms and provisions
agreed to by the parties, which terms and provisions are
incorporated herein and made a part hereof and shall constitute
the judgment of this court.

DATED: May 3, 1984

NORMAN L. EPSTEIN

JUDGE OF THE SUPERIOR COURT

Principal Residence
Questionnaire

Case Name: _____

Case Number: _____

District: _____

Changes in state law in 1983 (Chapter 1041, Statutes of 1983) require that we re-evaluate any property you own and use or formerly used as your home (principal residence). In order to correctly evaluate your property, please answer the following questions and return this form to us within 20 days.

(NOTE: If you are completing this form for someone else, the "I/We" as used in these questions refers to the person for whom Medi-Cal is being requested or received.)

1. Do you own the property on which you now live? _____
2. Do you own property on which you once lived but do not live on now? _____ If yes, where is that property located (address)? _____

If yes, do you intend to return to that property to live in the future? _____ (If this intent changes, you must notify the county within 10 days.)

If you do not intend to return to that property, does anyone live there now? _____ If so, who? (Name) _____,

(relation to you)

How long have they lived there? _____

3. Is this property currently listed for sale? _____

Completed by: _____ Date: _____

Relation to Applicant/Beneficiary: _____ Phone: _____

9H -- PROPERTY

Procedures and guidelines provided in this section are to be followed for Medi-Cal eligibility determinations involving real or personal property in which an applicant/beneficiary has an ownership interest.

A determination must be made if the property in which the applicant/beneficiary has an ownership interest can be exempt as the principal residence per Section 50425. This determination is made by the county worker based on information provided by the beneficiary, or the beneficiary's representative, on the Principal Residence Questionnaire. This questionnaire must be completed by all new applicants and at eligibility redetermination for continuing cases. The beneficiary must be allowed 20 days to return the Principal Residence Questionnaire. If the form is not returned, the county worker must attempt to contact the responsible party (public guardian, conservator, relative, or beneficiary if no one is acting on behalf of the beneficiary) to determine the reason for the delay. A discontinuance notice may be sent only if a valid reason for the delay cannot be established.

If based upon the Principal Residence Questionnaire the county determines that the former home must be listed for sale, the applicant/beneficiary must be informed of the right to (a) a county level review regarding the requirement to list for sale the principal residence and/or (b) a state hearing.

Complete all forms necessary to provide the State with information for placing a lien on the property if required.

Inform the State of any and all changes in the property status after submitting the initial lien information.

DEFINITIONS AND EVIDENCE

1. APPERTAINS (MEM 50425 (b) (2))

"Appertains" means any property or structure which is connected to and is intended to be used as a permanent part of the property.

This includes, but is not limited to:

- a. Acreage which constitutes a farm or ranch, or
- b. Separately assessed parcels used as a whole, or
- c. An entire parcel or separately assessed parcels purchased or used as a whole separated by, but not limited to, any of the following:
 - (1) Easements or right of way.
 - (2) Water courses.
 - (3) Streets, highways, and freeways.

2. COUNTY LEVEL REVIEW (MEM 50428)

A beneficiary requested review of the circumstances of the case prior to listing property for sale or the recording of a lien. The review must be requested within 30 days of the receipt of the Notice to List for Sale -- Persons in LTC.

3. DEPENDENT RELATIVE (MEM 50425)

The son, daughter, grandson, granddaughter, stepson, stepdaughter, in-laws, mother, father, stepmother, stepfather, half-sister, half-brother, grandmother, grandfather, aunt, uncle, sister, brother, stepbrother, stepsister, niece, or nephew of the applicant/beneficiary who depends on the applicant/beneficiary for assistance. The basis of the dependency must be documented by obtaining the applicant's/beneficiary's written statement of dependency. However, no written statement is required when the relative residing in the home is a blind or disabled adult child. This fact need only be documented in the case record.

4. LEGAL OBSTACLES (MEM 50425 (a) (6))

Legal obstacles may include an incompetent applicant/beneficiary who does not have a legal guardian.

ATTACHMENT V-A

Case Name: _____

Case Number: _____

Mo/Yr of Card(s): _____

Dear _____:

Attached is your Medi-Cal card(s) for the month(s) listed above. This card was issued in accordance with Title 22, California Administrative Code (CAC), Section 59746 (a) (1), which authorizes county welfare departments to issue Medi-Cal cards more than one year after the date of service if a court action requires that a Medi-Cal card be issued. You were recently found eligible for Medi-Cal benefits due to a ruling in the Crawford v. Rank lawsuit.

Also attached is a letter to your doctor or other medical provider, granting permission to bill more than one year after the date of service. Please give your provider that letter, along with your Medi-Cal proof of eligibility (POE) sticker for the month of service, so that it may be attached to the completed bill. The Medi-Cal program cannot pay your provider's bill unless a copy of that letter is submitted with the bill.

If you have questions, please call your Medi-Cal eligibility worker.

Sincerely,

Eligibility Worker

Telephone

Date

ATTACHMENT V-B

Re: _____
Patient/Client Name

Mo/Yr of Card(s): _____

Dear Provider:

Attached is a Medi-Cal identification label for the beneficiary named above for the month(s) listed. This label was issued in accordance with Title 22, CAC, Section 50746 (a) (1), which authorizes county welfare departments to issue Medi-Cal cards more than one year after the date of service if a court action requires that a Medi-Cal card be issued. The above-named beneficiary was found eligible for Medi-Cal due to a recent ruling in the Crawford v. Rank lawsuit.

A copy of this letter should be attached to your completed claim form for the month of service. The completed claim should then be submitted to:

State Department of Health Services
Fiscal Intermediary Management Division
Attn: Provider Relations Section
714 P Street, Room 950
Sacramento, CA 95814

Please note that the fiscal intermediary will not honor a claim submitted more than one year after the date of service unless a copy of this letter is attached to the claim.

Should you have any questions regarding this matter, please call.

Sincerely,

Eligibility Worker

Telephone

Date