

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET

SACRAMENTO, CA 95814

May 25, 1988



TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS

LETTER NO. 88-35

SUBJECT: EMERGENCY REGULATION CHANGES EFFECTIVE FEBRUARY 1, 1988

Attached is a final copy of the Veteran's Aid and Attendance regulation package which adopts Section 50772 of Title 22 California Code of Regulations (CCR) and amends Sections 50551.6 and 50507.

As described in All County Welfare Director's Letter 88-04, these regulations change the treatment of Veteran's Aid and Attendance (A&A) payments. For veterans and their dependents who receive Aid and Attendance and who are not in long term care (LTC), A&A payments will no longer be considered as income. These exempt payments are for attendant services which enable the A&A recipient to remain at home rather than in a facility.

The following are answers to frequently asked questions concerning A&A payments.

1. Question: Does LTC status occur if an individual is expected to remain in an acute care facility the second month after the month of admission?

Response: Yes. The definition of LTC in Section 50056 relates to inpatient medical care and not to a specific medical facility. Therefore, as discussed in ACWDL 88-04, the A&A payment will continue to be treated as income for ease of administration. The facility will receive the payment through the share of cost.

2. Question: How should A&A payments made to individuals who are residing in board and care be treated?

Response: They should be treated as though the individuals are living at home.

3. Question: How is the VA award treated in the case of applicants when there is no CA 5 in file which shows the correct amount of the A&A payment and the veteran has no award letter?

Response: The eligibility worker may try contacting the local Veteran's Administration (VA) office for verification. If the VA office cannot provide the information, the entire amount of the VA check should be counted as income (as in the past) to determine the correct share of cost. When the CA 5 is returned with the correct A&A amount, the county should readjust the share of cost for previous months.

4. Question: Is receipt of A&A to be coded on the Medi-Cal card?

Response: No. Although A&A payments are treated as third party liability, no special other health coverage coding is required on the Medi-Cal card nor does the county need to include the information on the DHS 6155 (formerly HRB 2A).

5. Questions: Should the county divide the income from aid and attendance between the LTC beneficiary and his/her spouse as required by Reese v. Kizer?

Response: No. The A & A payment is no longer treated as income; therefore, no division should be made.

If you have any questions regarding these changes, please contact Margie Buzdas at (916) 322-4129.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date:

(1) Amend Section 50507(a)(6) to read:

50507. Gross Unearned Income.

(6) Veteran's payments which include:

(A) Pensions based on need.

(B) Compensation payments.

(C) Aid and maintenance payments Educational assistance.

~~(D) Educational assistance.~~

(7) Worker's Compensation, except for any amount determined to be unavailable in accordance with Section 50515.

(8) Railroad Retirement and any other payments made by the Railroad Retirement Board.

(9) Unemployment Insurance Benefits.

(10) Proceeds from a life insurance policy which are in excess of the lesser of:

B

(A) \$1,500.

(B) The amount expended on the insured person's last illness and burial expenses.

(11) Other insurance payments.

(12) Loans which do not require repayment.

(13) Gifts.

(14) Non-exempt child/spousal support, whether provided voluntarily or by court order.

(15) Inheritances which are in the form of cash, securities or other liquid assets.

(16) Contributions from any source.

(17) Prizes and awards.

(18) Net income from the rental of real or personal property which is not considered gross earned income in accordance with Section 50503 (a) (8).

(19) Dividends.

(20) Interest payments from any source, including trust, trust deeds and contracts of sale.

(21) Royalties, including but not limited to payments to a holder of a patent or copyright, for the use of the invention, or to the owner of a mine, oil well or similar holdings, for the extraction of the product or other use.

(22) Income of a PA or Other PA recipient which is not used to determine the recipient's eligibility.

(23) Incentive payments or training allowances under JTPA.

(24) Any other income which is available to meet current needs in accordance with Section 50513.

(25) Any of the items specified in (10) through (24) if received in a lump sum payment.

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

Reference: Sections 14005.4, 14005.7, 14005.8 and 14006, Welfare and Institutions Code.

(2) Amend Section 50551.6(b) to read:

50551.6. Cost of In-Home Supportive Services--ABD-MN and SGA Disabled.

(a) The amount actually paid for in-home supportive services provided to any ABD-MN person, or to a SGA-disabled person as defined in Section 50223 (a) (2) shall be deducted from the combined nonexempt income of the SGA-disabled or ABD-MN person and the responsible relative, except as limited by (b), (c) and (d).

(b) The cost of in-home supportive services (IHSS) shall be a deduction only when ~~both~~ all of the following conditions are met:
~~The services:~~

(1) The services ~~are~~ provided by a person other than a family member living in the home.

(2) The services ~~have~~ been determined to be necessary pursuant to an IHSS needs assessment described in Section 50169 (b) 2 and:

(3) The costs for these services have been reduced by any veterans benefit designated as an Aid and Attendance payment.

(c) In-home supportive services means those services which may be provided under the IHSS program.

(d) For ABD-MN persons, the provisions of this section shall be limited to persons who, without in-home supportive services, would require 24-hour-a-day care in a health facility or community care facility as evidenced by a statement signed by a physician.

NOTE: Authority cited: Sections 10725, 14005.14 and 14124.5, Welfare and Institutions Code.

Reference: Sections 14005.3 (Section 1, Chapter 1156, Statutes of 1979) and , 14005.14 , and 14024, Welfare and Institutions Code.

(3) Adopt New Section 50772 to read:

50772. Veterans Aid and Attendance Payments.

(a) A Veterans Aid and Attendance payment is a veterans benefit designated to purchase aid and attendance services, and it shall be considered a third party payment.

(b) A beneficiary who receives Veterans Aid and Attendance payments shall be required to utilize this benefit in accordance with the following:

(1) Beneficiaries in LTC shall utilize the Aid and Attendance payments for LTC services prior to the utilization of Medi-Cal benefits. Such utilization shall occur through the share of cost process described in Article 12, that is, any amounts for Veterans Aid and Attendance payments shall be added to the share of cost amount determined in Section 50653(a)(2)(F).

(2) Beneficiaries not in LTC shall utilize the Aid and Attendance payments for the cost of IHSS prior to the application of the income deduction specified in Section 50551.6.

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

Reference: Section 14024, Welfare and Institutions Code.