

DEPARTMENT OF HEALTH SERVICES

714 P. STREET
SANTA MONICA, CA 95814

October 6, 1988

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 88-80

SUBJECT: ADVANCE COPY OF MEDI-CAL ELIGIBILITY MANUAL REVISIONS (R-22-87)

The purpose of this letter is to forward to you an advance copy of the revisions being made to the Medi-Cal Eligibility Manual as a result of Beltran v. Kizer. These regulatory revisions were filed with the Secretary of State's office and became effective on 7/28/88. In general, these regulations reflect directives previously issued by the Department to comply with court orders in Beltran, for example, All County Welfare Directors Letters (ACWDLs) 81-44, 82-24, 82-30 and 83-55.

Title 22, California Code of Regulations revisions will be available within the next month or two. Revisions to the Medi-Cal Eligibility Manual will be distributed as expeditiously as possible.

If you have any questions regarding the attached revisions, please call Sharyl Shanen-Raya at (916) 324-4956 or ATSS 8-454-4956.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: June 31, 1989

FACE SHEET

REGISTER 88 #27

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

ENDORSED FILED
IN THE OFFICE OF THE
SECRETARY OF STATE

JUN 28 1988 PM 1508

REGISTERED IN
SECRETARY OF STATE
OFFICE OF CALIFORNIA

Department of Health Services
(AGENCY)

[Signature]
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: May 27, 1988

ENDORSED
APPROVED FOR FILING
JUN 21 1988

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Ron C. Wetherall, Chief, Office of Regulations (916) 324-4829

2. Type of filing, (check one) 30-day Review Emergency Certificate of Compliance (Complete Part 4 below)
 Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
 Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

SECTIONS AMENDED:

50408 and 50409

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 50408 & 50409

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
 prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission (Include FPPC approval stamp) Building Standards Commission (Attach approval)
 State Fire Marshall (Attach approval) Department of Finance (Attach properly signed Std. 399)
 Other (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER October 23, 1987
b. DATE OF FINAL AGENCY ACTION May 27, 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATIONS (GOV CODE SEC. 11346.8(c)) April 26, 1987-May 11, 1988

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.
b. Effective upon filing with the Secretary of State.
c. Effective on _____ as required or allowed by the following statute(s):
d. Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).) Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

50408. Transfer of Property Which Does Not Result in Ineligibility.

(a) Transfer of property shall not result in ineligibility for Medi-Cal under any of the following conditions:

(1) The property would have been considered exempt pursuant to Section 50418 of Article 9 of Division 3 of this title at the time of transfer.

~~(1)~~ (2) The net market value of the property transferred, when included in the property reserve, would not result in ineligibility. The determination of value shall be made as of the time of transfer. If eligibility exists, the value of the property shall no longer be considered.

~~(2)~~ (3) Adequate consideration is received. Adequate consideration is the fair market value of the property as defined in Section 50412 and includes:

(A) A transfer which was to satisfy a legal debt.

(B) A transfer which was to reimburse someone other than a responsible relative, as specified in Section 50351, for care or benefits provided on the basis of an agreement or understanding that

reimbursement would be made. The applicant or beneficiary shall provide evidence that clearly establishes that the value of the care or benefits provided was reasonably equivalent to the value of the property transferred.

(3) (4) Foreclosure or repossession of the property was imminent at the time of transfer, and there is no evidence of collusion.

(4) (5) The transfer was made in return for an enforceable contract for life care which does not include complete medical care. In this case, each full item of need provided under the life care contract shall be considered income in kind in accordance with Section 50509.

(5) (6) The transfer was made without adequate consideration but the applicant or beneficiary provides sufficient convincing evidence to the county as specified in Section 50409(b), to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

(b) There is a presumption that property transferred by the applicant or beneficiary more than two years preceding the date of initial application was not transferred to establish eligibility or reduce the share of cost. Such property shall not be considered in

determining eligibility, unless there is evidence that disproves this presumption.

(c) While the transfer of property by an applicant or beneficiary from one form to another, as described in (a) above, has no effect on eligibility, any property obtained by an applicant or beneficiary through such a transfer may have an effect on eligibility and therefore shall be evaluated to determine its effect.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.
Reference: Sections 14006 and 14015, Welfare and Institutions Code.

50409. Transfer of Property Which Results in Ineligibility.

(a) Transfer of property shall result in ineligibility for Medi-Cal if:

(1) the transfer did not meet at least one met none of the conditions specified in Section 50408; or,

(2) the transfer was in return for an enforceable life care contract which includes complete medical care.

(b) Transfer of property without adequate consideration shall result in ineligibility for Medi-Cal if the transfer was made to establish eligibility or to reduce the share of cost.

(1) It shall be presumed that property transferred without adequate consideration was for the purpose of establishing eligibility or to reduce the share of cost as limited by (2).

(2) To overcome the presumption, the applicant or beneficiary has the burden of establishing by objective facts, rather than statement of subjective intent, that this presumption is not correct.

(A) The applicant or beneficiary shall provide evidence which may include verification of the onset of traumatic injury or illness, diagnosis of a previously undetected disability condition or unexpected loss of income or resources after transfer and/or that adequate resources were available at the time of the transfer of property for support and medical care considering such things as the applicant's or beneficiary's age, health, life expectancy, and ability to understand extent of resources.

(A) The declaration of another purpose, such as to avoid probate, by itself, shall not be sufficient to overcome the presumption. A showing that the sole purpose of the transfer was for reasons other than to establish eligibility or to reduce the share of cost shall be supported by evidence such as that specified above.

(B) The establishment of the fact that the applicant or beneficiary did not have specific knowledge of the availability or benefits of the Medi-Cal program is not sufficient to overcome the presumption.

(B) Such evidence may also include other subjective evidence including, but not limited to, evidence that the claimant transferred in order to avoid probate and/or that the claimant had no knowledge of Medi-Cal or its benefits at the time of the transfer.

(C) However, any such evidence presented must be convincing evidence in order to overcome the presumption stated in (b)(1) above.

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

Reference: Sections 14006 and 14015, Welfare and Institutions Code.