STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, *Governor*

DEPARTMENT OF HEALTH SERVICES
1/744 P STREET
SACRAMENTO, CA 95814

July 24, 1989

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 89-54

SUBJECT: JOHNSON V. RANK FINAL SETTLEMENT

This is to provide you with information concerning the final settlement in the Johnson v. Rank lawsuit. Counties do not need to take any new actions pursuant to this case.

As a result of the final settlement in the Johnson v. Rank lawsuit, effective October 1, 1989 all Medi-Cal beneficiaries in long-term care (LTC) facilities must obtain a physician's prescription or order for any non-covered medical or remedial drug or service the cost of which is to be applied towards his/her share of cost.

Under the Johnson v. Rank judgment by consent, Medi-Cal beneficiaries must have the opportunity to use their shares of cost to purchase medically necessary medical or remedial care, supplies and/or equipment not paid for by the Medi-Cal program and which are consistent with the plan of care ordered by their physician. This judgment has now been further clarified to specify that a physician's prescription or order (or its copy) is necessary and must be in the beneficiary's medical records at the facility in order for a beneficiary to apply the cost of a non-covered drug or service against his/her share of cost.

A Medi-Cal Provider Bulletin (enclosure A) outlining the above provision is being sent to all Medi-Cal providers. Additionally, a stuffer (enclosure B) is being sent to all Medi-Cal beneficiaries currently in long-term care.

All other procedures for processing Medi-Cal applications and claims for beneficiaries affected by the Johnson v. Rank court order remain the same as those previously issued in All County Welfare Directors Letters (ACWDL). Consistent with the provisions described in ACWDL 85-28, counties will issue the revised ID 104 (enclosure C) information notice to each new LTC/SOC beneficiary. Please reproduce this revised form until it is available from the DHS warehouse. Additionally, at the time of application, counties are required to fully explain this process to all new LTC beneficiaries, or the persons acting on their behalf. The information notice should also be forwarded to LTC beneficiaries as part of the annual redetermination process.

Thank you for your continued assistance and support in complying with the terms and conditions of the Johnson v. Rank judgment. If you need additional information, contact Sandy Poindexter at (916) 324-4953.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: July 24, 1990

PROVIDER BULLETIN

As a result of the final settlement in the Johnson v. Rank lawsuit, effective October 1, 1989 all Medi-Cal beneficiaries in long-term care (LTC) facilities must obtain a physician's prescription or order for any non-covered medical or remedial drug or service the cost of which is to be applied towards his/her share of cost.

Under the Johnson v. Rank judgment by consent, Medi-Cal beneficiaries must have the opportunity to use their shares of cost to purchase medically necessary medical or remedial care, supplies and/or equipment not paid for by the Medi-Cal program and which are consistent with the plan of care ordered by their physician. This judgment has now been further clarified to specify that a current physician's prescription or order (or its copy) is necessary and must be in the beneficiary's medical records at the facility in order for a beneficiary to apply the cost of a non-covered drug or service against his/her share of cost.

Long-term care facilities have the obligation to ensure that this prescription or order (or its copy) is in the beneficiary's medical record. All records are subject to audit by the Department of Health Services (DHS) to verify: 1 - that the prescription or order is on file; 2 - that the services used to meet the share of cost are not included in the Medi-Cal per diem rate paid to the LTC facilities and 3 - the accuracy of the facility's accounting procedures.

Beneficiaries will be contacting either the business office or the Patient Coordinator if they have questions - If you are unable to answer these questions please contact Provider Relations at (916) 323-1945.

IF YOU ARE A BENEFICIARY IN LONG-TERM CARE (LTC), READ THIS IMPORTANT NOTICE.

MEDI-CAL STUFFER

Under a lawsuit entitled Johnson v. Rank you are allowed to deduct the cost of necessary medical or remedial drugs or services not covered by Medi-Cal from your share of cost. This lawsuit has just been finalized. The rules for using the cost of medical or remedial drugs or services not paid for by Medi-Cal to meet your share of cost have changed. Beginning the first of October 1989 all Medi-Cal persons in long-term care facilities must have a current physician's prescription or order for any medical or remedial drug or service that is to be used to meet the share of cost.

This physician's prescription or order (or its copy) must be kept on file in your medical record at the nursing home. Without this prescription or order the drugs or services will not be allowed as a deduction from your share of cost. If you or your relatives purchase any non-covered drugs or services you must submit a prescription (or its copy) from your physician for the drug or service to the facility along with your bill or be certain that the facility's records contain a written order by your physician for the drug or service. If you deduct expenses for non-covered drugs or services from your share of cost and the nursing home finds that there is no valid prescription or order (or its copy), they will require you to pay an additional amount toward your share of cost.

Any questions concerning this change should be directed to the patient coordinator at the nursing home or to your county welfare department eligibility worker.

**DEPARTMENT OF HEALTH SERVICES**
**IMPORTANT NOTICE ABOUT YOUR MEDI-CAL BENEFITS**

THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES MUST ALLOW MEDI-CAL BENEFICIARIES WHO HAVE A SHARE OF COST AND ARE IN A NURSING HOME TO USE THEIR SHARE OF COST TO PAY FOR NECESSARY MEDICAL OR REMEDIAL DRUGS, SERVICES, AND OTHER ITEMS WHICH ARE NOT PAID BY MEDI-CAL. HOWEVER, A DOCTOR'S PRESCRIPTION OR ORDER IS REQUIRED TO INDICATE THE ITEM IS NECESSARY.

IF YOU OR YOUR RELATIVES HAVE TO PAY FOR ANY NECESSARY MEDICAL SERVICES, SUPPLIES, OR DRUGS, YOU SHOULD BE SURE TO SUBMIT THE BILLS OR RECEIPTS TO THE NURSING HOME NO LATER THAN TWO MONTHS AFTER YOU RECEIVE THE SERVICE, SUPPLIES, OR DRUGS.

YOU HAVE THE FOLLOWING CHOICES IN SUBMITTING YOUR BILLS/RECEIPTS TO THE NURSING HOME FOR PAYMENT.

1. IF YOU PRESENT YOUR BILLS/RECEIPTS TO THE NURSING HOME AT THE BEGINNING OF THE MONTH, WHEN YOU NORMALLY PAY YOUR SHARE OF COST, YOU MAY DEDUCT THE COST OF THE DRUGS/SERVICES/REMEDIAL ITEMS FROM YOUR CURRENT MONTH'S SHARE OF COST BEFORE PAYING THE REMAINING SHARE OF COST TO THE NURSING HOME.

2. IF YOU RECEIVE A BILL/RECEIPT AFTER THE DATE YOU PAY YOUR SHARE OF COST, YOU MAY HOLD THE BILL/RECEIPT UNTIL THE FOLLOWING MONTH, AND THEN DEDUCT IT FROM YOUR SHARE OF COST. YOU MUST SUBMIT THE BILLS AND RECEIPTS NO LATER THAN TWO MONTHS AFTER YOU RECEIVE THE SERVICES, SUPPLIES OR DRUGS.

   EXAMPLES:

- IF YOU HAD A $200 SHARE OF COST IN APRIL, AND YOU SPENT $50 FOR DRUGS, SERVICES, OR REMEDIAL ITEMS IN MARCH, YOU MAY PAY THE NURSING HOME $150 FOR YOUR APRIL SHARE OF COST ($200 - $50 = 150). YOU MUST SUBMIT THE BILLS/RECEIPTS TO THE NURSING HOME AT THE SAME TIME YOU NORMALLY PAY YOUR SHARE OF COST.

- IF YOU HAD A $200 SHARE OF COST IN MAY, AND YOU PAID $75 FOR DRUGS, SERVICES, OR REMEDIAL ITEMS IN APRIL BUT DID NOT RECEIVE YOUR BILL/RECEIPT UNTIL AFTER YOU PAID YOUR MAY SHARE OF COST, THEN YOU MAY PAY THE NURSING HOME $125 ($200 - $75 = $125) FOR YOUR JUNE SHARE OF COST. YOU MUST SUBMIT THE BILL/RECEIPT TO JUSTIFY THE DEDUCTION OF THE $75.

  NOTE: YOU CANNOT DEDUCT THE APRIL EXPENSES AFTER JUNE.

DRUGS OR SERVICES, THE COST OF WHICH HAVE BEEN DEDUCTED FROM YOUR SHARE OF COST MUST HAVE BEEN PRESCRIBED OR ORDERED BY A DOCTOR. THE NURSING HOME MUST VERIFY THAT THIS REQUIREMENT IS MET BEFORE YOU CAN DEDUCT BILLS/RECEIPTS FROM YOUR SHARE OF COST. IF YOU OR YOUR RELATIVES HAVE TO PAY FOR ANY NECESSARY DRUGS OR SERVICES YOU MUST SUBMIT A PRESCRIPTION OR ORDER (OR A COPY) FROM YOUR DOCTOR TO THE NURSING HOME ALONG WITH YOUR BILL. YOU DO NOT NEED TO SUBMIT THE DOCTOR'S ORDER IF YOU ARE SURE THAT THE NURSING HOME'S RECORDS CONTAIN A WRITTEN ORDER BY YOUR DOCTOR FOR THE DRUG OR SERVICE. IF YOU DEDUCT EXPENSES FOR DRUGS OR SERVICES FROM YOUR SHARE OF COST AND THEN THE NURSING HOME DETERMINES THAT THE SERVICES WERE NOT PRESCRIBED OR ORDERED BY YOUR DOCTOR, THE NURSING HOME WILL REQUIRE YOU TO PAY AN ADDITIONAL AMOUNT TOWARD YOUR SHARE OF COST.