STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, (

DEPARTMENT OF HEALTH SERVICES

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P.O. BOX 942732
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August 8, 1990

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 90-74

SUBJECT: PROPERTY REDUCTION - LTC ELIGIBILITY UNDER COMMUNITY PROPERTY RULES

This letter concerns establishing property eligibility under the division of community property rules. These are the property rules which pertain to those individuals who were institutionalized prior to September 30, 1989 and who are not affected by the property rules resulting from the Medicare Catastrophic Coverage Act of 1988.

It has recently come to our attention that some counties are applying the maintenance need to the long-term care (LTC) spouse's one-half share of the community and separate property which must be spent for his/her own benefit. These counties are dividing the amount to be reduced by the maintenance need to determine when the LTC spouse would have spent his/her separate and share of community property to be within the property limits and eligible. <u>This is incorrect</u>. Applicants must provide <u>verification</u> (to the extent that the county is satisfied) that the LTC spouse has <u>spent</u> his/her separate plus one-half share of the <u>community property</u> for his/her <u>own benefit</u>. If an LTC spouse has verification of amounts spent for his/her own benefit, including personal needs, those amounts may be used as documentation of the reduction of the property.

In those cases where the couple <u>still has property remaining to the extent that it is not clear whether or not the LTC spouse has reduced his/her share of the property</u>, there may be a need for further documentation. Since income becomes property in the month following the month of receipt, the applicant must first demonstrate that his/her property has been reduced, not that amounts of income have been used toward his/her own benefit while leaving the property intact.

One way the county may document that property was reduced is to first apply the verified <u>annual</u> expenditures for own benefit against what would have been the LTC spouse's share of the couple's <u>annual</u> income or the annualized amount of income made available to the LTC spouse for that <u>year</u>. This is the amount that would have become property if kept past the month of receipt. The couple's annual tax returns could be used for this purpose. Then, in the year of application (or the year in which the LTC spouse is close to the property limit) the county should apply the verified monthly expenditures for own benefit against what would have been his/her share of the couple's monthly income. This is one way of reasonably demonstrating that no income has become property in the month following the month of receipt. Any remaining expenditures for own benefit may then be applied toward the reduction of the LTC spouse's separate and one-half share of the community property. In this way the applicant can demonstrate that his/her property was, in fact, reduced, and that any remaining property is the property of the at-home spouse.

To summarize:

Step 1:

Annual Income Divided by 2 = LTC Share of Income

Step 2.

Annual Own Benefit Expenses
- LTC Share of Income
Own Benefit Expenses Remaining

Step 3.

LTC Spouse's Share of Property to be Reduced
- Own Benefit Expenses Remaining
Remaining Property to be Reduced the Following Year

If you have any questions on this issue, please feel free to call Sharyl Shanen at (916) 324-4956.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: August 8, 1991