

DEPARTMENT OF HEALTH SERVICES

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May 11, 1992

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 92-32

SUBJECT: Disability Evaluations For Children Under 18 -- Sullivan v. Zebley
(Zebley) U. S. Supreme Court Decision

This All County Welfare Director's Letter (ACWDL) is a follow-up to E-Mail (DHS# 91128) dated August 5, 1991, ACWDL, Number 91-71 and ACWDL, Number 91-87.

The purpose of this letter is to inform counties of a recent federal court decision which affects disability evaluation criteria for children under the age of 18 and what counties are required to do as a result of this court decision.

BACKGROUND

On February 20, 1990, in Sullivan v. Zebley, et al., 110 S.Ct. 885 (1990), the United States Supreme Court ruled that disability standards used to determine whether a child under 18 years of age was eligible for Supplemental Security Income/State Supplemental Payment (SSI/SSP) were not authorized by federal law because the standards were more restrictive than those applied to adults. As a result of the court's ruling, some past and all future Medi-Cal only cases will be affected as Medi-Cal utilizes SSI disability criteria as required by federal law.

Prior to the court's decision, the childhood regulatory standards treated applicants who filed for childhood disability not only differently from the adult applicants, but with greater severity. An adult is allowed to show that he is incapable of engaging in any gainful activity or his disability is such that he is unable to participate in any substantial gainful activity. Prior to Zebley, a child was not allowed to prove that he was unable to engage in any substantial gainful activity. While the court acknowledged that a vocational test had little validity for children, it asserted that a functional analysis could be applied to children, which would allow a child to demonstrate that his or her disability was of comparable severity to that which would determine an adult disabled for the purposes of SSI/SSP. Thereafter, the Social Security Administration (SSA) modified the disability criteria for children to include an individualized functional assessment (how a child functions on a daily basis in conjunction with his/her physical and/or mental impairment(s)) and an assessment of the combined effects of all impairments.

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 2

Effective February 20, 1990, interim childhood disability standards were designed by SSA. State Programs, Disability Evaluation Division (SP-DED) began reviewing childhood disability cases using those interim standards on July 26, 1990. The final childhood disability standards were published on February 11, 1991. Both SSI and SP-DED were required to re-review all childhood disability cases denied under the interim standard by using the final standard. This process has been completed by SP-DED.

SSA RESPONSIBILITIES

As a result of the court's ruling, SSA entered into a stipulated agreement in which SSA was required to generate notices to all potential Zebley class members who were identified by their computer system run. Zebley class members are those individuals whose applications or benefits for SSI childhood disability payments were denied or terminated on medical grounds on or after January 1, 1980, until the date of the publication of the new childhood disability regulations on February 11, 1991. A total of 452,000 letters nationwide were mailed on July 10, 1991. In region nine, which includes California, a total of 30,838 notices were generated. The notice informed Zebley class members of the court's ruling and the proper procedure for obtaining a reevaluation for SSI, possibly retroactively to January 1, 1980. The class members will be permitted to request a reevaluation from SSA within 120 days from the date of receipt of the notice. The reevaluation will take approximately 60 to 90 days at which time SSI will notify the claimant of the outcome.

For those notices which were returned, undeliverable, by the post office, SSA will take special efforts to locate potential Zebley class members, i.e., tape matching with state social services agencies. Whenever a new address is obtained, the notice is redated and remailed.

On August 5, 1991, E-Mail (DHS #91128) was issued informing counties that there was a total of 15 childhood disability cases in which people were originally denied benefits under the interim standards that would need to be reevaluated under the final childhood regulations. Counties were informed that SP-DED would issue a letter to the affected counties requesting additional information on these fifteen cases, identified as "Zebley Pipeline" cases. SP-DED has completed the reevaluation of these cases. Upon reevaluation, there were no original determinations that were reversed, therefore, counties will not be required to do anything further on the "Zebley Pipeline" medically needy only cases.

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 3

SSA also has "Zebley Pipeline" cases. The State has been informed that federal DED offices had completed the reevaluation of their "Zebley Pipeline" cases by December 31, 1991. Neither federal DED nor SSA have any statistics as to the number of cases which were approved upon reevaluation. However, the number appears insignificant from all indications. Specifically, SSA informed the state that there has been no "Zebley Pipeline" case beneficiary who has expressed the need to obtain a retroactive Medi-Cal card. The State feels that these individuals may have had assistance for their medical needs through other means such as the Aid to Families with Dependent Children (AFDC) program or other community organizations.

COUNTY RESPONSIBILITIES

If an SSI beneficiary comes to the county welfare office with an SSA notice showing that he is eligible for SSI because of a recent court case called Sullivan v. Zebley, county staff will issue retroactive Medi-Cal benefits only as far back as February 1, 1990. (SSI example letter enclosed.) While SSA may issue SSI retroactive cash payments to Zebley class members as far back as January 1, 1980, Health Care Financing Administration (HCFA) requires Medi-Cal to issue retroactive benefits only as far back as February 1, 1990.

For the SSI childhood beneficiaries who need Medi-Cal coverage beyond the current 12 month period for services which were rendered to them in the past, county staff must use existing procedures for issuing retroactive Medi-Cal via the Letter of Authorization (LOA) process (enclosed).

Existing procedures can be found in ACWDL, Numbers 91-103 and 91-32. County staff must explicitly follow the instructions to the LOA process or the LOA will be returned for corrections.

On the LOA form, check the line which states "A court order requires that a card be issued." At the end of this line, county staff must insert (SULLIVAN V. ZEBLEY).

PROPERTY ISSUES

Counties should also be aware that some Zebley class members may only receive retroactive lump sum SSI cash awards while others may receive retroactive lump sum cash awards, as well as, continuing SSI cash benefits. For those who are eligible for SSI continuing benefits, SSA will not count lump sum retroactive cash awards as a resource for a period of six full months. If a child is not eligible for continuing SSI benefits and applies to a county for Medi-Cal only benefits, county staff will also not count the retroactive SSI lump sum cash award for a period of six months after the month in which it is received. Please refer to Title 22, California Code of Regulations (CCR), Section 50455 (b).

All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
Page 4

Furthermore, in accordance with ACWDL, Number 90-01, draft regulation, Section 50142 (a) (2) (A), county welfare offices that have established a screening procedure shall provide information contained on the "Medi-Cal General Property Limitation For All Medi-Cal Applicants", MC 007 (1/92), to the above child applicants. Draft regulation, Section 50142 (b) requires county welfare offices that have not established a procedure for screening potential applicants, prior to application, to provide the MC 007 at the time an applicant submits either a SAWS 1 or a MC 176PA-A. County staff should also inform all applicants of the appropriate property limits, as well as, their right to reduce nonexempt excess property. Please refer to ACWDL, Number 91-78. If on the first day of the seventh month, after receiving the SSI lump sum cash award, a former Zebley class member still has nonexempt resources, county departments will be required to utilize current procedures for handling resources.

If you have questions, please contact Marie Taketa at (916) 657-1250; CALNET 437-1250.

Sincerely,
ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

DETAILED EXPLANATION OF YOUR PAYMENT

How Much We Will Pay For May 15, 1983 - October 31, 1987

We are paying you at special rates for the period May 15, 1983 to October 31, 1987. These special rates are based on the average amount of SSI we paid children for each year. We are doing this to make it easier for you, since you may not have the records of income and resources we normally ask for.

If you have records and would like us to refigure your SSI based on actual income, including any payments under the Aid to Families with Dependent Children program, we can do that. This could result in your getting more or less money. You would only get more money if your records show that your income was very low.

If you think you may be due more money than the special rate for any month, you may ask for an appeal. If you appeal the amount of your monthly payments, we will not change our decision that you are disabled.

Special Rate Chart

Periods		Amount Due Each Month	Amount Due Each Period
Beginning	Through		
May 15, 1983	May 31, 1983	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
June 1, 1983	December 31, 1983	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
January 1, 1984	December 31, 1984	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
January 1, 1985	December 31, 1985	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00

TS (Cont.)

- o Case Review. You have a right to review the facts in your file. You can give us more facts to add to your file. Then we will decide your case again. You will not meet with the person who decides your case. This is the only kind of appeal you can have to appeal a medical decision.
- o Informal Conference. You will meet with the person who decides your case. You can tell that person why you think you are right. You can give us more facts to help prove you are right. You can bring other people to help explain your case.

If You Want Help With Your Appeal

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer. There are also lawyers who do not charge unless you win your appeal. We have a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

If You Have Any Questions

If you have any questions, you can call, write or visit any Social Security office. If you call or visit our office, please have this letter with you and ask for Mary Doe. The telephone number is (123) 456-7890.

Field Office Manager Name
Title

Enclosures:

Detailed Explanation of Your Payment
Important Information For Zebley Class Members About Resources
and Eligibility For SSI

HIBITS (Cont.)

resources are under the \$2,000 limit and also if your living situation and income have changed. You may be due more or less SSI at that time if any of these things have changed.

Getting Medicaid

You may be eligible for Medicaid for the past months for which we are now paying SSI. Contact the local Social Services District Office about your eligibility for Medicaid. When you contact them, please have this letter with you. It will help the people there answer your questions.

Things To Remember

- o Your payments may change if your circumstances change. Therefore, you are required to report any change in your situation that may affect your SSI payment. For example, you should tell us if you move, if anyone else moves from or into your household, if your marital status changes, if income or resources for you or members of your household change, if you start or stop attending school regularly, if your medical condition improves or if you go to work.
- o This determination replaces all previous determinations for the above period.

Do You Disagree With The Decision?

If you disagree with the decision, you have the right to appeal. We will review your case and consider any new facts you have. Then, a person who didn't make the first decision will decide your case. We will also look at those parts of the decision you agree with and may make them unfavorable or less favorable to you.

- o You have 60 days to ask for an appeal.
- o The 60 days start the day after you get this letter.
- o You must have a good reason for waiting more than 60 days to ask for an appeal.
- o To appeal, you must fill out a form called "Request for Reconsideration." The form number is SSA-561. To get this form, contact one of our offices. We can help you fill out the form.

How To Appeal

There are two ways to appeal. You can pick the one you want. If you meet with us in person, it might help us decide your case.

BENEFITS AND PAYMENTS

1 H. (Cont.)

BASIC

BITS (Cont.)

- o You should receive the check(s) by April 30, 1991.
- o We are not changing your current payment amount.
- o We have enclosed a detailed explanation of all months of the back payment and how we figured your payments from May 1983 through October 1987 at special rates.

Back Payments Will Not Count As Resources For 6 Months

We will not count your SSI back payment of \$00000.00 as a resource for 6 months after it is received. Therefore, the back payment itself will not count as a resource until November 1, 1991. However, some things bought with the money may count as a resource the month after they are bought. You need to plan what to do with your back payment so that you can stay eligible after November 1, 1991. You may be able to use the back payment for things that are not counted as resources. (Countable resources are things such as cash, stocks and bank accounts.) Examples of resources that do not count and that you could purchase are:

1. A home;
2. Household goods and personal effects;
3. A car to be used for necessary activities;
4. Property needed for self-support;
5. Resources needed to fulfill an approved plan for achieving self-support;
6. Some life insurance;
7. Burial spaces and certain funds for burial expenses.

We cannot pay you SSI if you have countable resources worth over \$2,000.

If you cannot get your countable resources below \$2,000 by November 1, 1991, you may want to consider placing some of the back payment in a trust. Under certain conditions, we do not count money in a trust as a resource.

If you are interested in setting up a trust, we can give you a list of groups that can help you or you may contact the State or local bar association or the Legal Services Corporation (or any legal aid or legal services program) for help in setting up a trust.

Please read the enclosed pages, "Important Information For Zebley Class Members About Resources and Eligibility For Supplemental Security Income." They give more information about resources and trusts.

We Will Check Your Resources In About 6 Months

To make sure that we continue to pay you accurately, we will review your case around November 1, 1991. Please keep records to show what you did with your back payment. We will see if your

BENEFITS AND PAYMENTS

BASIC 6-91

SI 02008.01

H. EXHIBITS (Cont.)

EXHIBIT 2

SOCIAL SECURITY ADMINISTRATION
Supplemental Security Income
Notice of Change In Payment

Office Address:

Telephone Number:

Date: April 3, 1991

Social Security Number:

Type of Payment:

John Claimant
Street Address
City/State/ZIP Code

We are writing to tell you that we are going to pay you supplemental security income (SSI) money for past months because of a recent court case called Sullivan v. Zebley. In the Zebley case, the Supreme Court told us to expand the rules we use to decide if a child is disabled. We have found that you were disabled as a child under our new rules.

This letter is about back payments we will pay you for May 1983 through May 1988. We have enclosed a detailed explanation of all months of payment and how we figured your payments.

Normally, we ask to see records of a person's income and resources (the things a person owns) before we can pay SSI. Rather than ask for this information for months before November 1987, we are paying you at a special rate for months from May 1983 through October 1987. The special rate usually is as much as a person would get if we used our regular rules. But, if your income was very low for any month in the period May 1983 through October 1987 and you have records to prove this, you might be able to get higher payments. For months after October 1987, we have based your SSI on the facts you gave us.

Information About Payments

- o We are sending you check(s) for a total of \$00000.00. This is a back payment due you for May 15, 1983 through May 10, 1988.

H. EXHIBITS (Cont.)

If You Have Any Questions

If you have any questions, you can call, write or visit any Social Security office. If you call or visit our office, please have this letter with you and ask for Mary Doe. The telephone number is (123) 456-7890.

Field Office Manager Name
Title

Enclosures:

Pub 05-10076

Detailed Explanation of Your Payment

Important Information For Zebbley Class Members About Resources
and Eligibility For SSI

Pub 05-11011

I. EXHIBITS (Cont.)**Do You Disagree With The Decision?**

If you disagree with the decision, you have the right to appeal. We will review his case and consider any new facts you have. Then, a person who didn't make the first decision will decide his case. We will also look at those parts of the decision you agree with and may make them unfavorable or less favorable to him.

- o You have 60 days to ask for an appeal.
- o The 60 days start the day after you get this letter.
- o You must have a good reason for waiting more than 60 days to ask for an appeal.
- o To appeal, you must fill out a form called "Request for Reconsideration." The form number is SSA-561. To get this form, contact one of our offices. We can help you fill out the form.

How To Appeal

There are two ways to appeal. You can pick the one you want. If you meet with us in person, it may help us decide his case.

- o Case Review. You have a right to review the facts in his file. You can give us more facts to add to the file. Then we will decide his case again. You will not meet with the person who decides his case. This is the only kind of appeal you can have to appeal a medical decision.
- o Informal Conference. You will meet with the person who decides his case. You can tell that person why you think you are right. You can give us more facts to help prove you are right. You can bring other people to help explain your case.

If You Want Help With Your Appeal

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer. There are also lawyers who do not charge unless you win your appeal. We have a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

H. EXHIBITS (Cont.)

If you are interested in setting up a trust, we can give you a list of groups that can help you or you may contact the State or local bar association or the Legal Services Corporation (or any legal aid or legal services program) for help in setting up a trust.

Please read the enclosed pages, "Important Information For Zebbley Class Members About Resources and Eligibility For Supplemental Security Income." They give more information about resources and trusts.

We Will Check Your Resources In About 6 Months

To make sure that we continue to pay John Claimant accurately, we will review his case around November 1, 1991. Please keep records to show what he did with his back payment. We will see if his resources are under the \$2,000 limit and also if his living situation and income have changed. He may be due more or less SSI at that time if any of these things have changed.

Getting Medicaid

An agency of his State should advise him about his eligibility for Medicaid for the period February 20, 1990 (the date of the Supreme Court's decision in Zebbley) to the present. He also may be eligible for Medicaid before then. If he has any questions about his eligibility for Medicaid now or in the past, or he needs immediate medical assistance, he should get in touch with the local Department of Social Services. He should have this letter with him. It will help the people there answer his questions.

Things To Remember

- o Payments may change if his circumstances change. Therefore, you are required to report any change in his situation that may affect his SSI payment. For example, you should tell us if he moves, if anyone else moves from or into his household, if his marital status changes, if income or resources for him or members of his household change, if he stops or starts attending school regularly, if his medical condition improves or if he goes to work. Read the booklet, "When You Get SSI--What You Need to Know," carefully for additional information about this requirement.
- o Doctors and other trained staff decided that he is disabled under our rules. But this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, his SSI payments will continue if he is still disabled, but will end if he is no longer disabled.
- o This information is also being sent to John Claimant.

BENEFITS AND PAYMENTS

SI 02008.011 H. (Cont.)

B.

H. EXHIBITS (Cont.)

usually is as much as a person would get if we used our regular rules. But, if John Claimant's and his parents' income was very low for any month in the period December 1981 through December 1989 and he has records to prove this, he might be able to get higher payments. For months after December 1989, we have based his SSI on the facts he gave us.

- o We explain in the enclosed chart how we figured his payments from December 1981 through December 1989 at special rates.
- o We are sending you check(s) for John Claimant that total \$00000.00. This includes his back payment for December 13, 1981 through March 31, 1991 and his regular monthly payment of \$000.00 for April 1991.
- o You should receive the check(s) by April 30, 1991. His regular monthly check of \$000.00 will be issued about May 1, 1991.

Back Payments Will Not Count As Resources For 6 Months

We will not count John Claimant's SSI back payment of \$00000.00 as a resource for 6 months after it is received. Therefore, the back payment itself will not count as a resource until November 1, 1991. However, some things bought with the money may count as a resource the month after they are bought. You, his parents, and a guardian (if any) need to plan what to do with his back payment so that he can stay eligible after November 1, 1991. He may be able to use the back payment for things that are not counted as resources. (Countable resources are things such as cash, stocks and bank accounts.) Examples of resources that do not count and that he could purchase are:

1. A home;
2. Household goods and personal effects;
3. A car to be used for necessary activities;
4. Property needed for self-support;
5. Resources needed to fulfill an approved plan for achieving self-support;
6. Some life insurance;
7. Burial spaces and certain funds for burial expenses.

We cannot pay John Claimant SSI if he has countable resources worth over \$2,000.

If you cannot get his countable resources below \$2,000 by November 1, 1991, you may want to consider placing some of the back payment in a trust. Under certain conditions, we do not count money in a trust as a resource.

BENEFITS AND PAYMENTS

BASIC 6-91

SI 02008

H. EXHIBITS (Cont.)

EXHIBIT 1

SOCIAL SECURITY ADMINISTRATION
Supplemental Security Income
Notice of Award

Office Address:

Telephone Number:

Date: April 3, 1991

Social Security Number:

Application Filed:
December 13, 1981

Jane Payee for
John Claimant
Street Address
City/State/ZIP Code

We are writing to tell you that we are going to pay John Claimant supplemental security income (SSI) money because of a recent court case called Sullivan v. Zebley. In the Zebley case, the Supreme Court told us to expand the rules we use to decide if a child is disabled. We have found that John Claimant is disabled under our new rules.

Our Decision About How We'll Pay

We have decided to send John Claimant's SSI payments to you as his representative payee. You must use all payments for his well-being and benefit. As representative payee, you have important responsibilities. You should read the enclosed pamphlet, "A Guide For Representative Payees," carefully.

Information About Payments

- o We have enclosed a detailed explanation that shows how much we are paying John Claimant for each month during the period December 1981 through April 1991.
- o Normally, we ask to see records of a person's income and resources (the things a person owns) before we can pay SSI. Rather than ask for this information for months before January 1990, we are paying John Claimant at a special rate for months from December 1981 through December 1989. The special rate

A transfer of the nonexempt property or the nonexempt former home to someone not listed below (e.g., a gift of the home to an adult son or daughter who is not blind or disabled and who is not living in the home) may result in a period of ineligibility for nursing facility level of care if the property was given away, sold, or otherwise exchanged at less than fair market value. The period of ineligibility could last from one to 30 months. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) and the statewide average rate for privately paid nursing facility care.

For example, assume an institutionalized individual reduces property by transferring \$24,000 in savings to a son or daughter as a gift. He/she would be ineligible for nursing facility level of care because nothing of fair market value was received in return. Suppose that the average rate for privately paid nursing care is \$2,000. The institutionalized individual would be ineligible for nursing facility level of care for 12 months starting with the month of the transfer (\$24,000 divided by \$2,000 average private pay rate). The institutionalized individual will still be eligible for all other Medi-Cal services.

TRANSFER OF THE NONEXEMPT FORMER HOME BY AN INSTITUTIONALIZED INDIVIDUAL WHICH DOES NOT RESULT IN A PERIOD OF INELIGIBILITY

The transfer of the exempt home shall not result in a period of ineligibility. A transfer of the nonexempt former home will also not result in a period of ineligibility if title of the home is transferred to:

- The spouse, who provided care which allowed that individual to reside at home rather than in the institution or facility, or
- A child under 21 or who is blind or totally and permanently disabled,
- A son or daughter not listed above, who resided in the home for two years immediately preceding the institutionalized individual's date of admission and
- A sibling who has equity interest in the home and who resided in the home for one year immediately preceding the date the institutionalized individual was admitted to the facility or institution.

Anytime a transfer results in a period of ineligibility, the ineligible individual has the right to request an appeal through a fair hearing. The form for filing a request is on the reverse side of the Notice of Action form discontinuing, denying, or restricting Medi-Cal eligibility.

IMPORTANT NOTE: After January 1, 1990, if you are applying as an institutionalized individual, or if you may be institutionalized within 30 months of the date of a transfer, nonexempt property transferred for less than fair market value may still result in a period of ineligibility for Medi-Cal.

The following are examples of ways to reduce nonexempt property without incurring a period of ineligibility:

- Pay medical bills
- Buy furnishings for the home
- Pay on the home mortgage
- Buy clothes
- Make repairs to the home
- Pay off other debts
- Pay off an auto loan
- Begin process to liquidate nonliquid assets such as obtaining the cash surrender value of nonexempt life insurance policies
- Borrow against excess property to cover the cost of medical care or request the medical provider to place a lien against the property to cover the cost of care

THE PROPERTY VALUE MUST BE REDUCED TO AN AMOUNT AT OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH IN WHICH ELIGIBILITY IS TO BE ESTABLISHED

PROPERTY TRANSFERS WHICH DO NOT RESULT IN A PERIOD OF INELIGIBILITY

The transfer of exempt property at any time, that is, property which is not counted when eligibility is determined, will not result in a period of ineligibility as long as the property was considered exempt at the time of the transfer. This includes a transfer of property used as a home. However, the money received from the sale of a home will be counted as property unless the money is to be used for the purchase of another home within six months. In addition, any money received from the sale of other exempt assets will be counted as property.

TREATMENT OF TRANSFERRED ASSETS EFFECTIVE JANUARY 1, 1990

An applicant who is not institutionalized will not be ineligible due to a transfer of nonexempt property for less than fair market value unless the individual is institutionalized within 30 months of the date of the transfer.

TRANSFERS OF NONEXEMPT PROPERTY OCCURRING ON OR BEFORE DECEMBER 31, 1989

(The information contained in the following paragraph applies only to those who apply for or who begin to receive Medi-Cal nursing facility level of care before 1/1/92.)

The transfer of nonexempt property before 1/1/90 may result in a period of ineligibility for all Medi-Cal

covered services if the property was given away, sold, or otherwise exchanged at less than fair market value by an institutionalized applicant or an individual who is institutionalized while already on Medi-Cal. The period of ineligibility could last from one month to several years. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) and the Medi-Cal maintenance need level for the number of persons in the case. The period may be reduced if the applicant has other expenses, such as medical expenses or out-of-home care costs in excess of the maintenance need level for the appropriate family size.

TRANSFERS OF NONEXEMPT PROPERTY OCCURRING ON OR AFTER JANUARY 1, 1990.

An institutionalized applicant or an individual who is institutionalized within 30 months of the date of the transfer may be ineligible due to a transfer of nonexempt property for less than fair market value unless the nonexempt property was transferred to:

- The spouse (or to another for the sole benefit of the spouse), or to
- A child of the institutionalized individual who is blind, or permanently and totally disabled.

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

The community spouse may keep a certain amount of the couple's combined community and separate property. This amount is known as the Community Spouse Resource Allowance (CSRA) and is calculated as of the date of application for Medi-Cal. The CSRA limit is based on federal law and is adjusted by the annual increase in the Consumer Price Index. Increases are effective on January 1 of each year. Effective January 1, 1992 the CSRA is \$68,700. The institutionalized spouse may also keep up to \$2,000 (the property limit for one).

THIS LAW ALLOWS THE CSRA LIMIT TO BE EXCEEDED IF:

- The community spouse obtains a court order for his or her support which authorizes a transfer to the community spouse of an amount greater than the CSRA of \$68,700 beginning 1/1/92; or,
- A fair hearing determines that:
 - a) a greater amount of resources is necessary to generate income sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance, which is \$1718 per month beginning 1/1/92; or,
 - b) additional income is necessary due to exceptional circumstances resulting in financial duress.

Because these rules affect how much money a community spouse may retain for purposes of the institutionalized spouse's Medi-Cal eligibility, you may want to consult a legal services program for seniors in your area, or a private attorney familiar with the Medi-Cal program for more information as to how you will be affected by these laws.

At any time after the date of institutionalization either spouse may request an assessment of their property even if the institutionalized spouse is not applying for Medi-Cal. If you would like to have an assessment completed, you must make an appointment at the county welfare department. Please note that the assessment cannot be completed unless you bring with you verification of the values of all your real and personal property, liquid and non-liquid assets.

Verification includes documentation from a qualified person or financial institution, of the values of any real or personal property, liquid or nonliquid assets you and your spouse own.

Verification may include such things as County Tax Assessments, checking account statements,

savings account passbooks, court orders, brokerage account statements, life insurance policies, annuity policies, trust account documents, contracts, lease agreements, life estate documents, copies of patient trust account ledgers, award letters, affidavits or statements from banks, conservators, guardians, pension funds, etc.

REDUCTION OF EXCESS PROPERTY TO WITHIN PROPERTY LIMITS

THE PROPERTY VALUE MUST BE REDUCED TO AN AMOUNT AT OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH IN WHICH ELIGIBILITY IS TO BE ESTABLISHED

A Medi-Cal applicant may reduce his or her nonexempt property to within the specified limits in any way he or she chooses except that, a transfer of nonexempt property for less than fair market value may result in a period of ineligibility. A transfer for less than fair market value is a change in ownership of property by giving away, selling, or otherwise exchanging it for less than the property is worth. After January 1, 1990, a transfer of nonexempt property generally will not result in a period of ineligibility unless the applicant is applying as an institutionalized individual or the applicant is already receiving Medi-Cal and becomes an institutionalized individual within 30 months from the date of the transfer.

Medi-Cal cannot be approved for a month until the total value of all nonexempt property, that is, property which is counted when eligibility is determined, has been reduced to or below the appropriate property reserve limit in that month. For example, a Medi-Cal applicant whose total nonexempt property consists of a savings account with a balance of \$3,300 in a month must reduce the savings account down to \$2,000 in that month. In this same situation where there is a couple, the savings account must be reduced to \$3,000.

Effective January 1, 1991, if an institutionalized and community spouse have combined property totaling more than \$70,700 (\$68,700 + \$2,000) in a month, the couple must reduce the total to \$70,700 in that month before the institutionalized spouse will meet the property requirements. The institutionalized spouse will then have at least 90 days (longer if a court order is necessary) to complete transfer(s) of the \$68,700 to the community spouse, bringing the institutionalized spouse to within \$2,000, the property limit for one.

MEDI-CAL GENERAL PROPERTY LIMITATIONS FOR ALL MEDI-CAL APPLICANTS

This form provides a general overview of Medi-Cal property requirements for all Medi-Cal applicants and institutionalized spouses admitted to a nursing facility or medical institution on or after September 30, 1989, who apply for Medi-Cal on or after January 1, 1990 and who have community spouses. A community spouse is married to an institutionalized spouse and does not reside in a nursing facility or medical institution. If you were admitted to a nursing facility prior to September 30, 1989, and have a spouse, see also the form entitled, "Community Property - Person in Long-Term Care" (MC Information Notice 005 - 9/89).

REAL PROPERTY

- Property used as a home is exempt (not counted) in determining eligibility for Medi-Cal. When an applicant or beneficiary is absent from the home for any reason, including institutionalization, the home continues to be exempt if, for example, the applicant or beneficiary's spouse or dependent relative continues to reside in the home, or the applicant or beneficiary indicates an intent to return to the home. However, the money received from the sale of a home can be exempt for six months only if the money is to be used for the purchase of another home.

- Up to \$6,000 of equity may be retained in nonbusiness real estate other than the home, mortgages, deeds of trust, or other promissory notes, but such property must produce an annual income of 6 percent of the net market or current face value (e.g., rented) to help support the Medi-Cal applicant. The equity value of real estate used in a trade or business is exempt regardless of its equity value and annual rate of income.

Note: A long-term care spouse is in the same Medi-Cal budget unit as his/her spouse's during the month of admission to the long-term care facility. When this occurs, eligibility cannot be established unless their property is at or below that for a couple (\$3000) or more depending on family size. Following the month of admission, community property laws apply.

LIFE INSURANCE POLICIES

Each person may have life insurance policies with a combined face value of \$1,500 or less and they will not be counted. If the combined face values are over \$1,500, however, the combined cash surrender values are totaled and included in the property reserve as discussed below.

PERSONAL PROPERTY LIMITS - PERSONAL PROPERTY INCLUDES SUCH AS CASH, STOCKS, BONDS, CASH SURRENDER VALUE OF LIFE INSURANCE, ETC.

An applicant or beneficiary may keep a certain amount of personal property, such as a checking/savings account or insurance policies, and still be eligible for Medi-Cal. The amount of property which may be kept is referred to as the "property reserve". The property reserve limits are \$2,000 for one person and \$3,000 for a couple. (See "Note" at the bottom of the page.)

THE FOLLOWING INFORMATION IS EFFECTIVE JANUARY 1, 1990 IF YOU ARE AN INSTITUTIONALIZED SPOUSE. AN INSTITUTIONALIZED SPOUSE IS A PERSON WHO:

- Was admitted to a nursing facility or medical institution on or after September 30, 1989;
- Is expected to remain for at least 30 consecutive days; and,
- Is applying for Medi-Cal on or after January 1, 1990 as an institutionalized spouse; and,
- Is married to a community spouse who does not reside in a nursing facility or medical institution.

If the married individual in long-term care does not meet all of the above criteria, including marriage to a community spouse, the individual is considered a "long-term care spouse" rather than an "institutionalized spouse".

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

Letter of Authorization
(must be on county letterhead)

Date: _____

(Applicant's Name)

(Address)

(Medi-Cal ID #)

Date of Application:

Date Case Approved:

Dear _____:

Regarding Medi-Cal Cards for _____
Month(s)

Worker:

Phone Number:

Attached are your replacement Medi-Cal labels for the above month(s). They are issued in accordance with Title 22, California Code of Regulations (CCR) Section 50746, which permits county welfare departments to issue Medi-Cal cards to beneficiaries more than one year after the month of service for limited reasons.

Your card is being issued for the reason checked below:

- _____ A court order requires that a card be issued.
- _____ A State Hearing or other administrative hearing decision requires that a card be issued.
- _____ The Department of Health Services requests that a card be issued.
[Signature or authorized DHS staff person _____]
- _____ An Administrative Error has occurred.
(Description) _____

Please give your doctor or other medical provider this letter, along with your Medi-Cal label(s) for the month(s) of service. The Medi-Cal program cannot pay your provider's bill unless the original of this letter is submitted with the bill and your Medi-Cal label(s) for the month(s) of service.

If you are going to give a Medi-Cal label to more than one doctor or other provider, please contact us at _____. We will send you more of these letters for each doctor or other provider you give a label to.

If you have any questions, please call your worker.

Sincerely,

(Original Signature of Authorized County Administrative Staff)

Instruction to Provider

Submit this letter, along with the claim, to:

EDS Federal Corporation
P.O. Box 13029
Sacramento, CA 95813-4029

Regulation #: 50746

BITS (Cont.)

Payment Is Based On These Facts

- o We can only pay benefits for any days in a month that you meet all eligibility requirements. You first met all requirements on May 15, 1983, the day you applied for SSI benefits.
- o In the past, we paid you from May 11, 1988 on. We are now paying you from May 1, 1988 to May 10, 1988 as shown above on the chart.
- o You were disabled from May 15, 1983 on.
- o You were a child living with others in New York from May 1983 through October 1987.
- o You had monthly income which must be considered in figuring your eligibility as follows:
 - Your rents, interest, dividends, or royalties of \$00.00 for December 1987.
 - Your wages of \$000.00 for January 1988 and \$000.00 for February 1988 on.
 - Your special one-time payment of other unearned income received March 1988 of \$000.00.

BENEFITS AND PAYMENTS

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(Cont.)

January 1, 1986	December 31, 1986	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
January 1, 1987	October 31, 1987	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00

How Much We Will Pay For November 1, 1987 - May 10, 1988

The rates we are paying for the periods below are based on our regular rules where we ask for specific information about income and resources.

Periods		Amount Due Each Month	Amount Due Each Period
Beginning	Through		
November 1, 1987	December 31, 1987	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
January 1, 1988	April 30, 1988	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
May 1, 1988	May 10, 1988	\$0000.00 (This includes \$000.00 from the State of New York.)	\$0000.00
Total Back Payment			\$00000.00