

DEPARTMENT OF HEALTH SERVICES

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SACRAMENTO, CA 94234-7320



October 2, 1992

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

Letter No.: 92-57

SUBJECT: SUPERSESSION OF ALL COUNTY WELFARE DIRECTORS LETTER (ACWDL), NO.
92-53 AND CURRENT COPY OF MC 176 PI

NOTE: ACWDL, No. 92-53 is officially superseded by this ACWDL and may be discarded. The purpose of this letter is to advise counties of corrections needed in, and a few possible misinterpretations of, the basic language contained in ACWDL, No. 92-53, for notices of action pertaining to restricted benefits resulting from transfers of property. The description of the errors and possible misinterpretations follows the corrected language of ACWDL No. 92-53. Due to the need for these additional corrections, the implementation date for issuing restricted cards has been extended to no later than November 1, 1992.

CORRECTED LANGUAGE OF ACWDL 92-53

The purpose of this memo is to advise counties of the basic language for ensuring adequate notices of adverse action for the cases which have a period of ineligibility for nursing facility level of care. Although counties need not use this specific language word-for-word, the notices must, at a minimum, show the calculations and contain the same basic elements which are included in this letter.

Please remember, do not calculate overpayments on flagged cases. Simply determine whether or not any time remains in the period of ineligibility.

The following is the basic language for the notice of action for restricted benefits resulting from a disqualifying transfer of property.

"We have reviewed all information available to us about your circumstances, and we find that:

The transfer of property you made on _____ (date) of
_____ (item/\$) with a fair market value of \$ _____
was transferred for _____ (item/\$/nothing) in return. This
transfer for less than fair market value will result in a

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period of ineligibility for nursing facility level of care.

The Medi-Cal cards that you will receive for the months remaining in your period of ineligibility for nursing facility level of care will say, "Long-Term Care Services Are Not Covered" to let providers know that you are not eligible for long-term care. You will still be eligible to receive all other Medi-Cal services.

The period of ineligibility for nursing facility level of care was calculated as follows:

1. The fair market value of the item/money transferred was: _____.
2. The amount which you received in return was: _____.
3. The amount transferred for less than fair market value is: _____.
4. The amount of your (and your spouse's if applicable)
property which would have been countable by Medi-Cal at
the time of the transfer was: _____.
5. The total of the amount transferred for less than fair
market value and countable property is: _____.
6. The Medi-Cal property limit (if this is an application
for an institutionalized spouse, include the amount for
the community spouse, if applicable) is: _____.
7. The amount that would have been transferred to be
eligible for Medi-Cal is: _____.
8. The average monthly rate for a private patient in a

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nursing facility at the time of your transfer was: _____.

By dividing the amount you transferred to be eligible for Medi-Cal (line 7) by the average monthly rate (line 8), your period of ineligibility for nursing facility level of care is _____. The period cannot be more than 30 months."

Counties should then check and complete one of the following paragraphs.

"_____ You will receive restricted cards for _____ month(s) beginning on _____ and ending on _____.

_____ Because you did not receive a notice about this before, you will receive restricted cards for only _____ month(s) beginning on _____ and ending on _____. No other penalty will be added."

NOTE: Remember to include the MC 239 BACK, "Your Right to Appeal This Action", on the back of the notice of action.

In the future, when there has been a disqualifying transfer before or after the county implementation date, and the county has not been notified of the transfer, a potential overpayment may have occurred for benefits received on or after the county implementation date. Do not calculate overpayments for benefits received before the county implementation date. For these cases the following paragraph is applicable:

"_____ Because you did not tell your worker that you made this transfer, you will receive restricted cards for only _____ month(s) beginning on _____ and ending on _____. However, you may

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have received nursing facility level of care for which you were not eligible during the period beginning on _____ and ending on _____. If this is found to be true, you will be contacted."

SPECIFIC AREAS OF ACWDL 92-53 THAT NEEDED CORRECTIONS

Page 2 of ACWDL, No. 92-53 erroneously contained notes which should not have been included. The use of these notations will result in erroneous calculations. Please omit the parenthetical notations after items 3, 5, and 7 as follows:

Item 3 should state: "The amount transferred for less than fair market value is: _____."

Item 5 should state: "The total of the amount transferred for less than fair market value and countable property is: _____."

Item 7 should state: "The amount that would have been transferred to be eligible for Medi-Cal is: _____."

Item number 6 states: "The Medi-Cal property limit: _____." This should state: "The Medi-Cal property limit (if this is an application for an institutionalized spouse, include the amount for the community spouse, if applicable) is: _____."

POSSIBLE MISINTERPRETATIONS

First of all, the basic language is to be used only for notices of action. The period of ineligibility must be computed on the attached form MC 176 PI. The basic notice language provides only the basic information about the calculations and the methodology used for determining the period of ineligibility. The information required to complete the notice of action should be transferred from the MC 176 PI and inserted into the appropriate blanks. DO NOT ATTEMPT TO CALCULATE THE PERIOD OF INELIGIBILITY ON THE NOTICE OF ACTION.

In addition, it has been brought to the Department's attention that use of the phrase "countable property" might be unclear. Countable property is property which is both nonexempt and available property. Although the Department was not subject to the court order in Turner v. McMahon, counties

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should, whenever possible, in their notices of action, utilize language at the 4th grade level. Use of the word "countable" would be closer to that level.

The most recent update of the MC 176 PI was in February, 1992 (see attached). Supplies are available in the warehouse; however, because the expected usage of this form is very small, only 10,000 copies were ordered. Therefore, please order only what you expect to use. Counties may photocopy a supply rather than order copies from the warehouse if they choose to do so.

If you have any questions on this issue, please feel free to call Sharyl Shanen-Raya at (916) 657-2942.

Sincerely,
ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

PERIOD OF INELIGIBILITY WORKSHEET

THIS ONLY APPLIES TO TRANSFERS MADE BY INSTITUTIONALIZED INDIVIDUALS
OCCURRING ON OR AFTER JANUARY 1, 1990

- The period of ineligibility can be reduced whenever the institutionalized individual receives additional compensation.
- The period of ineligibility terminates if property is transferred back.

A. DETERMINE THE UNCOMPENSATED VALUE

1. Net Market Value of nonexempt resource transferred 1. _____
2. Amount of compensation received in excess of encumbrances and closing costs 2. _____
3. Uncompensated Value (line 1 minus 2) 3. _____

B. DETERMINE THE UNCOMPENSATED VALUE TRANSFERRED TO ESTABLISH ELIGIBILITY

4. Uncompensated Value (from line 3) 4. _____
5. Amount of nonexempt resources available to the institutionalized individual at the time of the transfer. (If applicant is an institutionalized spouse with a community spouse, include nonexempt resources available to the spouse) 5. _____
6. Total of line 4 plus line 5 6. _____
7. Enter \$2,000.00 (If applicant is an institutionalized spouse with a community spouse, include the Community Spouse Resource Allowance (CSRA) in effect at the time of the transfer.) 7. _____
8. Uncompensated Value which would have resulted in excess property, transferred to establish eligibility (line 6 minus line 7) 8. _____

Note: If the remainder is zero or less, there is no property transferred to establish eligibility. DO NOT CONTINUE.

C. PERIOD OF INELIGIBILITY

9. Uncompensated Value transferred to establish eligibility (from line 8) 9. _____
10. Amount of applicable Average Private Pay Rate (APPR) 10. _____
11. Months of ineligibility (divide line 9 by line 10) 11. _____

NOTE: Period of ineligibility CANNOT exceed 30 months. Round down to the nearest whole number. If the result is less than one, there is no period of ineligibility. DO NOT CONTINUE.

12. Total the number of months between the transfer and the application, or current month if person is a beneficiary. (Begin with the month of the transfer, excluding the month of application or current month if person is a beneficiary.) 12. _____
13. Months remaining (line 11 minus 12) 13. _____

If months remaining is zero, person is eligible.

14. If months remaining is greater than zero, period expires on _____ (Begin with the month of application, or the current month if the person is a beneficiary.)
15. Did the person receive Medi-Cal, for nursing facility level of care, for any month in line 12, prior to the expiration of the number of months in line 11? ☐ YES ☐ NO

If yes, there is an overpayment for nursing facility level of care in those months.