

DEPARTMENT OF HEALTH SERVICES

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January 20, 1999



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

Letter No.: 99-03

THE MC INFORMATION NOTICE 007, "MEDI-CAL GENERAL PROPERTY LIMITATIONS" REVISED FOR THE SECTION 1931(b) PROGRAM

The purpose of this letter is to transmit the revised MC Information Notice 007 that counties shall reproduce and begin using effective January 1, 1999, until a supply is available from the warehouse. Copies should be available from the warehouse during the first half of March 1999.

The new pages 1, 2, and 3 of the MC 007 Information Notice precede the old 1/98 version. The pages of the old 1/98 version of the MC Information Notice 007 must be renumbered to pages 4, 5, 6, and 7. The new page "Attachment A" goes on the back. Attachment A provides the Section 1931(b) income limits, spousal impoverishment standards, and the average private pay rate for nursing facility level of care. This page will be updated whenever these figures are revised.

As you know, this form must be provided to all individuals whenever a Medi-Cal application is submitted. The form must also be reviewed with the applicants during screening and/or during the face-to-face interview.

If you have any questions on this issue, please call Sharyl Shanen-Raya at of my staff (916) 657-2942.

Sincerely,

ORIGINAL SIGNED BY

Angelin Mrva, Chief
Medi-Cal Eligibility Branch

Enclosure

MEDI-CAL SECTION 1931(b) PROGRAM GENERAL PROPERTY LIMITATIONS

The Medi-Cal property requirements contained on pages 1 and 2 of this notice are to provide a general overview of the Section 1931(b) program. The main criteria are listed below.

- This Medi-Cal program is for families with deprived children who have countable income below the limits. (See page 3 on how to estimate countable family income.)
- A child is considered deprived when a parent is:
 - absent from the home,
 - deceased,
 - incapacitated, or
 - unemployed.
- The family's property cannot exceed the amounts listed below, based upon the main rules described on pages 1 and 2.

NOTE: Medi-Cal disregards property for certain pregnant women and certain children up to age of 19. Please request a mail-in application if you do not already have one. If you are aged (65 or over), blind or disabled, an institutionalized spouse with a community spouse who does not want Medi-Cal for himself/herself, or a family or child who does not fit into the program rules and limits contained on pages 1, 2 and 3, turn to page 4 for information on another Medi-Cal program (income will not make you ineligible under that program).

Property is defined as "real property" and "personal property." "Real property" is land, buildings, mobile homes which are taxed as real property, or life estates in real property. "Personal property" is any kind of liquid or nonliquid asset, i.e., cars, jewelry, stocks, bonds, financial institution accounts, boats trucks, trailers, promissory notes, mortgages, and deeds of trust, etc. Property that is not counted in determining your eligibility is called "exempt" or "unavailable" property. Countable property (property which is not exempt or unavailable) is included in the "property reserve". Your property reserve is limited by the number of family members for whom you are requesting or receiving Medi-Cal. Your countable property must not exceed the property reserve limit. Any amount over the property reserve limit will make you and/or your family ineligible for Medi-Cal. **To be eligible for Medi-Cal, you may reduce your property to the property reserve limit before the end of the month in which you are requesting Medi-Cal.**

If you are unable to reduce your property to the property limit for a month beginning with the month of application, *Principe v. Belshé* rules may apply. These rules allow individuals to spend down their otherwise excess property **retroactively** on qualified medical expenses. Qualified medical expenses are medical expenses that were incurred in any month and that were unpaid in the same month where there was excess property for the entire month. Eligibility will be granted beginning with the month of application once verification has been provided to the county that payment of those qualified medical expenses has been made with the excess property.

To be eligible for Medi-Cal, your countable property may not exceed the following property reserve limits:

Number of Persons	Property Limit	Number of Persons	Property Limit
1	\$3,000	6	\$3,600
2	\$3,000	7	\$3,750
3	\$3,150	8	\$3,900
4	\$3,300	9	\$4,050
5	\$3,450	10 or more	\$4,200

SECTION 1931(b) PROGRAM PROPERTY EXEMPTIONS

- **Exempt home.** Property used as a home is exempt. When an applicant or beneficiary is temporarily absent from the home for reasons such as illness, seasonal employment, visits, extreme climatic conditions, etc., the home will remain exempt if the applicant or beneficiary plans and appears to be able to return home when those circumstances no longer exist. This includes multiple dwelling units when the units cannot be sold separately.
- **Real property listed for sale.** Real property that the owner is making a good faith effort to sell shall be considered unavailable for no more than nine months.
- **Property of certain individuals shall be exempt.**
 - ▶ The separate and community property share of a stepparent who is not an applicant or beneficiary.
 - ▶ The exclusive personal property of a child who does not receive Medi-Cal under the Section 1931(b) program when eligibility is being determined for the rest of the family under the Section 1931(b) program.
 - ▶ Property which is considered in determining the eligibility of an SSI/SSP recipient even when owned separately by the Section 1931(b) program applicant or beneficiary.
- **Motor Vehicles.** Your motor vehicles may be exempt if they are used for:
 - ▶ Self-employment, used on the job (taxi, truck driver, etc.), for income producing purposes even if only seasonally, or for long-distance travel (other than daily commuting) essential for employment (traveling sales, migrant farmworker going from job to job, etc.), even if temporarily unemployed.
 - ▶ Transporting a disabled individual living in the home.
 - ▶ A home (only one may be exempt on this basis).
 - ▶ Transporting the primary supply of fuel/water for the home.

Other motor vehicles will not be counted if the fair market value is under \$4,650. If any vehicle is not otherwise exempt and is worth more than \$4,650, then one motor vehicle with equity under \$1,500 will be exempt.
- **Income producing property.** Personal property that produces any income shall be exempt even if only producing income on a seasonal basis. This includes promissory notes, mortgages, deeds of trust, installment contracts or agreements. This does not include nonbusiness financial accounts or instruments where cash is available upon demand.
- **Personal property used in a trade or business.**
- **Household items and personal effects** including TVs, VCRs, computers, and jewelry.
- **Pension funds or pension plans or KEOGHs** which involve a contractual relationship with someone who is not living in the home with you and who is not your parent, stepparent or spouse.
- **All life insurance policies.**
- **Musical instruments and recreational items** including collections, hobbies, guns, etc.
- **Livestock, poultry or crops.**
- **Individual items of personal property** which would produce funds equal to or less than one-half of your property limit if sold.
- **Countable property** equal to the amount of benefits paid under a state-certified, long-term care insurance policy.
- **Burial space items, irrevocable burial trusts or irrevocable prepaid burial contracts.**
- **One revocable burial fund or revocable prepaid burial contract** with a value of up to \$1,500 per person.

ESTIMATING YOUR INCOME ELIGIBILITY FOR THE SECTION 1931(b) PROGRAM

To estimate whether your family may be income eligible for the Section 1931(b) program, you need to determine whether your family's Medi-Cal countable income is less than the income limits. Medi-Cal may not count all of your income. To determine your countable income, Medi-Cal begins by adding together all of your family's gross income. From that total, Medi-Cal subtracts certain amounts called "deductions" or "exemptions". Some of the most common deductions and exemptions are listed below. You may subtract from your family's gross income those which apply to you or relate to the type of income you receive.

NOTE: The list below does not contain all of the exemptions or deductions which may be subtracted from gross income when determining countable income. The exemptions and deductions are simplified from rules that your county Medi-Cal office would use. As a result, your estimated countable income may be different from the actual countable income that would be computed by your county Medi-Cal office and used by them to determine whether your family would be eligible for Medi-Cal under the Section 1931(b) program.

- If you have your own business which generates revenue, subtract your monthly business expenses from your monthly business revenue.
- Subtract \$90 from each family member's monthly earnings (wages or salary from any employment). Only family members with earnings receive this deduction. Do not subtract this \$90 from unearned income such as Unemployment Insurance Benefits or Social Security payments.
- Subtract your monthly child care expenses from your family's combined monthly earned income. There are limits on the amount of child care expenses you may subtract. You may subtract your actual monthly child care expenses up to \$200 if your child is under 2 years of age. You may subtract your actual monthly child care expenses up to \$175 if your child is 2 years of age or older.
- Subtract the earnings of a child (18 years of age or younger) if he/she is enrolled in school at least half-time.
- Subtract any grants, scholarships, or student loans received by a student from their college.
- One twelfth of your minimum year end tax liability may be subtracted from monthly income from pensions. (Minimum year end tax liability is the amount of your taxes you would owe if you took all legally available income exemptions and deductions.)

After you have subtracted from your family's gross income any of the applicable amounts listed above, you are left with the estimated countable income of your family. Compare this estimated countable income with the income limit for your size family provided in the table on Attachment A of this form.

If your family's countable income is less than the listed income limit, there is a good chance your family will be income-eligible for the Section 1931(b) program.

If your family's countable income is equal to or greater than the listed income limit, please turn to page 4 for the general property rules of another Medi-Cal program (income will not make you ineligible under that program).

MEDI-CAL GENERAL PROPERTY LIMITATIONS

NOTE: Medi-Cal disregards property for certain pregnant women and certain children up to the age of 19. Please ask your eligibility worker.

This information notice provides a general overview of Medi-Cal property requirements for all Medi-Cal applicants and beneficiaries. Property is defined as "real property" and "personal property." "Real property" is land, buildings, mobile homes which are taxed as real property, life estates in real property, mortgages, promissory notes, and deeds of trust. "Personal property" is any kind of liquid or nonliquid asset, i.e., cars, jewelry, stocks, bonds, financial institution accounts, boats, trucks, trailers, etc. Property that is not counted in determining your eligibility is called "exempt" or "unavailable" property. Countable property (property which is not exempt or unavailable) is included in the "property reserve." Your property reserve is limited by the number of family members for whom you are requesting or receiving aid. Your countable property must not exceed the property reserve limit. Any amount over the property reserve limit will make you and/or your family ineligible for Medi-Cal. To be eligible for Medi-Cal, you may reduce your property to the property reserve limit before the end of the month in which you are requesting Medi-Cal. If you are unable to reduce your property to the property limit for a month beginning with the month of application, see the "Exception: *Principe v. Belshé*" section on page 7. To be eligible for Medi-Cal, your countable property may not exceed the following property reserve limits:

Number of Persons Whose Property is Considered	Property Limit
One person	\$ 2,000
Two persons	3,000
Three persons	3,150
Four persons	3,300
Five persons	3,450
Six persons	3,600
Seven persons	3,750
Eight persons	3,900
Nine persons	4,050
Ten persons or more	4,200

NOTE: When there is an institutionalized spouse with a community spouse, an additional amount of countable property is allowed and jewelry is exempt regardless of its value. See page 2 for additional information.

PROPERTY EXEMPTIONS

REAL PROPERTY

- **Principal residence.** 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 will remain exempt if the applicant or beneficiary intends to return home someday. The home also continues to be exempt if the applicant's or beneficiary's spouse or dependent relative continues to live in it. Money received from the sale of a home can be exempt for six months if the money is going to be used for the purchase of another home.
- **Other real property.** Up to \$6,000 of the equity value in nonbusiness real estate (excluding the home), mortgages, deeds of trust, or other promissory notes may be exempt. In order to receive this exemption, the property must produce an annual income of 6 percent of the net market value or current face value.
- **Real property used in a business or trade.** Real estate used in a trade or business is exempt regardless of its equity value and whether it produces income.

PERSONAL PROPERTY

- **One motor vehicle.**
- **Personal property used in a trade or business.**
- **Personal effects.** This includes clothing, heirlooms, wedding and engagement rings, and other jewelry with a net value of under \$100.
- **Household items.**
- **IRAs, KEOGHs, and other work-related pension plans.** These funds are exempt if the family member whose name it is in does not want Medi-Cal. If held in the name of a person who wants Medi-Cal and payments of principal and interest are being received, the balance is considered unavailable and is not counted.
- **Irrevocable burial trusts or irrevocable prepaid burial contracts.**
- **One revocable burial fund or revocable prepaid burial contract** with a value of up to \$1,500 plus accrued interest per person.
- **Burial space items.**
- **Musical instruments.**
- **Recreation items** including TVs, VCRs, computers, guns, collections, etc.
- **Livestock, poultry, or crops.**
- **Countable property equal to the amount of benefits paid under a state-certified, long-term care insurance policy.**
- **Life insurance policies.** Each person may have life insurance policies with a combined face value of \$1,500 or less plus accrued interest and dividends.

PROPERTY LIMITS FOR INDIVIDUALS ENTERING OR RESIDING IN LONG-TERM CARE

If you are **SINGLE** and residing in a long-term care facility, you must have \$2,000 or less in your property reserve.

If you are **MARRIED** and were admitted to a long-term care facility prior to September 30, 1989, and you have a spouse at home, your separate property plus one-half of the community property must be valued at \$2,000 or less. Your at-home spouse may keep all of his/her separate property plus one-half of the community property. (Refer to MC Information Notice 005.)

If you are **MARRIED** and are admitted to a long-term care facility on or after September 30, 1989, you are expected to remain for at least 30 consecutive days, you are applying for Medi-Cal on or after January 1, 1990, and you have a spouse who is living in the community, then your community spouse may keep a certain amount of the combined community and separate property. This amount is called the Community Spouse Resource Allowance (CSRA) and is calculated based on the day you apply for Medi-Cal. Increases are effective on January 1 of each year. You may ask your local county welfare department for the current CSRA. The institutionalized spouse (spouse in the long-term care facility) may keep up to an additional \$2,000 of countable property.

The CSRA limit may be increased if:

- The community spouse obtains a court order for his/her support, or
- It is determined through a fair hearing that both of the following conditions exist:
 - a. A greater amount of property is necessary to generate income sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance (MMMNA). (You may ask your local county welfare department for the current MMMNA amount.)
 - b. Additional income is necessary due to exceptional circumstances resulting in financial duress.

Please NOTE: 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 on how the law affects you.

ASSESSMENT

An institutionalized individual or his/her spouse may request an assessment of their property even if the institutionalized individual is not applying for Medi-Cal. If you would like to have an assessment completed, you must make an appointment at a county welfare department. In order to complete the assessment, you will need to bring verification of the values of **all** your real and personal property. This 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, and/or documents from qualified persons of financial institutions about the values of any real or personal property belonging to you and your spouse.

REDUCTION OF PROPERTY TO WITHIN PROPERTY LIMITS

THE PROPERTY RESERVE MUST BE REDUCED TO AN AMOUNT AT OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH BEFORE MEDI-CAL MAY BE APPROVED FOR THAT MONTH.

Medi-Cal eligibility cannot be approved for a month unless countable property is below the property limit at some time during that calendar month. If you are unable to reduce your property to the property limit for a month, beginning with the month of application, see the "Exception: *Principe v. Belshé*" section on page 6.

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. If an institutionalized spouse and a community spouse have combined property totaling more than the CSRA plus \$2,000 in a month, the couple will need to reduce the total nonexempt property to at or below the CSRA plus \$2,000 to 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 property contained in the CSRA to the community spouse, bringing the institutionalized spouse to within \$2,000, the property limit for one. To obtain the current CSRA amount, contact your local welfare department.

A Medi-Cal applicant may reduce his or her nonexempt property to within the specified limits in any way he or she chooses within the calendar month for which Medi-Cal is being requested. 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. A transfer of nonexempt property for less than fair market value is a change in the ownership of the property by giving away, selling, or otherwise exchanging it for less than the property is worth.

IMPORTANT NOTE: 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 result in a period of ineligibility for nursing facility level of care under Medi-Cal.

The following are ways to reduce nonexempt property without incurring a period of ineligibility for nursing facility level of care:

- 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 your auto loan
- Begin process to liquidate nonliquid assets such as obtaining the cash surrender value on nonexempt life insurance policies, list property for sale with a qualified broker, etc.
- 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 the care.

Exception: *Principe v. Belshé* provides that individuals who were unable to reduce their excess property during the month of application or some later month during the application process may spend down their property **retroactively** on qualified medical expenses. Qualified medical expenses are medical expenses that were incurred in any month and that were unpaid in the same month where there was excess property for the entire month. Eligibility will be granted, as otherwise eligible, after payment of those qualified medical expenses, with the excess property, occurs and verification of the payment is provided to the county.

TRANSFERS OF EXEMPT PROPERTY

The transfer of exempt property at any time (property which is not counted) will not result in a period of ineligibility as long as the property would have been considered exempt at the time of the transfer. This includes a transfer of property used as a home or former 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.

TRANSFERS OF NONEXEMPT PROPERTY

An institutionalized applicant or someone who is already receiving Medi-Cal 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. Nonexempt property may be transferred without incurring a period of ineligibility if the property is 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.

Or, if

- The property was intended to be transferred at fair market value for something of equal value, or
- The property was not transferred to establish Medi-Cal eligibility, or
- A period of ineligibility for nursing facility level of care would work an undue hardship.

A transfer of the nonexempt former home to someone listed below or the transfer of exempt property to anyone will not 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. If the nonexempt former home is transferred for less than fair market value to other individuals or other nonexempt property is transferred for less than fair market value, then the transfer may result in a period of ineligibility for nursing facility level of care. The period of ineligibility could last from 1 to 30 months. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) divided by 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 the individual received nothing in fair market value in return for the gift. Suppose that the statewide average rate for privately paid nursing care is \$3,000. This institutionalized individual would be ineligible for nursing facility level of care for eight months starting with the month of the transfer (\$24,000 divided by \$3,000 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 also ***shall not*** result in a period of ineligibility if title of the home is transferred to:

- The spouse, *or*
- A child under 21, *or*
- A child, regardless of age, who is blind or totally and permanently disabled, *or*
- 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 who provided care which allowed that individual to reside at home rather than in the institution or facility, *or*
- 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.

Prior to applying a period of ineligibility for nursing facility level of care, the county must determine if undue hardship exists. 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.

MEDI-CAL GENERAL PROPERTY LIMITATIONS - ATTACHMENT A

(From Page 3)

SECTION 1931(b) INCOME LIMITS EFFECTIVE JULY 1, 1998
PLEASE NOTE: These Figures May Change July 1, 1999
Ask Your Eligibility Worker If You Are Applying after July 1, 1999

FAMILY SIZE	SECTION 1931(b) INCOME LIMIT
1	\$381
2	\$624
3	\$775
4	\$920
5	\$1,049
6	\$1,180
7	\$1,296
8	\$1,412
9	\$1,531
10	\$1,662

(From Page 5)

These figures apply when there is an institutionalized spouse with a community spouse.

1999 COMMUNITY SPOUSE RESOURCE ALLOWANCE - \$81,960

1999 MINIMUM MONTHLY MAINTENANCE NEED ALLOWANCE - \$2,049

(From Page 6)

This figure applies when there has been a disqualifying transfer made by an institutionalized individual which may result in a period of ineligibility for nursing facility level of care.

Changes in this figure are effective on January 1st of each year. If you need the amount for a year which is not yet listed below, please contact your eligibility worker.

1990	\$2432	1994	\$3031	1998	\$3460
1991	\$2628	1995	\$3211		
1992	\$2791	1996	\$3262		
1993	\$2911	1997	\$3402		