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

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814

April 17, 1989

TO: All County Welfare Directors
All County Administrative Officers

Letter No.: 89-29

SUBJECT: PROVISIONS OF MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

The Medicare Catastrophic Coverage Act of 1988 (MCCA), signed by the President on July 1, 1988, represents the largest expansion of the benefits provided under the Medicare Program since its inception in 1965. In addition, the MCCA makes several changes to the Medicaid (Medi-Cal, in California) program. The purpose of this letter is to provide you with the following overview of the major Medicaid eligibility provisions of the MCCA. You will receive a separate ACWDL addressing the major Medicare provisions of the MCCA which may impact Medi-Cal eligibility.

The Department of Health Services (DHS) requested and was granted an extension by the Secretary of the federal Department of Health and Human Services (DHSS) of the MCCA implementation date for Medi-Cal eligibility provisions until January 1, 1990. This extension was requested to allow the State Legislature sufficient time to enact new enabling legislation. Hopefully, the extension will also allow DHS adequate time to develop new state regulations and procedures. You should also be aware that the extension may be interpreted by DHHS to take effect as follows:

- For applications filed on or after January 1, 1990, the new MCCA provisions dealing with the resource allowance impact only those institutionalized spouses who were institutionalized on or after September 30, 1989.

- For applications filed on or after January 1, 1990, the new MCCA provisions dealing with transfers of assets apply only to resources disposed of on or after July 1, 1988. The new MCCA provisions will not apply with respect to inter-spousal transfers occurring before October 1, 1989.

The Department has requested clarification from DHHS regarding the appropriate interpretation of the MCCA in this regard.

<u>PROVISIONS OF LAW AFFECTING MEDICAID</u>

- <u>Cost Sharing for Qualified Medicare Beneficiaries (QMB)</u>

  Effective January 1, 1990, Medi-Cal will be required to pay Medicare premiums, coinsurance and deductibles, including intravenous (IV) therapy drugs and immunosuppressive drug deductibles for certain low-income elderly and disabled individuals known as QMBs.

Effective January 1, 1991 Medi-Cal will also pay for prescription drug deductibles.

To qualify as a QMB, an individual must:

1) be eligible for Part A of Medicare;

2) have resources which do not exceed twice the resource level in the Supplemental Security Income (SSI) Program which, in California, is twice the property level in the Medi-Cal Program; and

3) have countable income which does not exceed 100 percent of the federal poverty level. States are allowed a three-year period to phase in the 100 percent income threshold, i.e., states may set the income threshold between 90 and 100 percent of poverty in 1990; and between 95 and 100 percent of poverty in 1991.

o <u>Medi-Cal Medically Needy Persons</u>

In California, due to the fact that the maintenance need levels for smaller size families exceed 100 percent of poverty, not all zero share of cost medically needy beneficiaries will qualify as QMBs. Therefore, each case will have to be evaluated for QMB eligibility.

o <u>SSI/SSP Persons</u>

Similarly, in California, due to the fact that the SSI/SSP payment levels exceed 100 percent of poverty, some SSI/SSP beneficiaries have income in excess of 100 percent of the poverty level yet still receive an SSI/SSP payment. Thus, not all SSI/SSP beneficiaries will qualify for QMB coverage. SSI/SSP beneficiaries who want QMB coverage will be applying at the county welfare departments for such coverage.

o <u>Spousal and Other Family Members' Income Allowance.</u>

In the case of an institutionalized spouse, effective January 1, 1990, the at-home spouse and certain relatives living with the at-home spouse will be allowed a monthly income allocation. In addition, the at-home spouse will be allowed an "excess shelter allowance" to cover actual rent or mortgage, taxes, insurance and utilities, up to a maximum of $1500 per month.

o <u>Ownership of Income</u>

Division of community property income is precluded. Effective January 1, 1990, income is owned by the spouse in whose name payment is made. If both spouses are named, each receives one-half of the payment. The same applies to income from property and trusts unless the trust or property ownership documents specify a different ownership interest.

- <u>Transfer of Assets</u>

Effective January 1, 1990, the transfer of assets rule is eliminated for all applicants and beneficiaries except for institutionalized individuals. For these individuals, a transfer of property will be examined to determine if the transfer was made for less than adequate consideration if the transfer occurred within 30 months (extended from 24 months) prior to the date of institutionalization (if the individual is already a Medi-Cal recipient), or the date of application (if the individual is applying for Medi-Cal as an institutionalized individual). The period of ineligibility for Medi-Cal which results from a transfer for less than adequate consideration will be reduced only by an average private-pay rate for institutional care. However, the maximum period of ineligibility is 30 months, beginning with the month of transfer.

For example, assume the county learned that a beneficiary transferred $8,000 without adequate consideration in April and that he/she still retained nonexempt resources equaling the property reserve limit. If the state private-pay rate is $2,000 a month, the period of ineligibility is four months ($8,000 divided by $2,000). The beneficiary is ineligible from April through July.

Transfers of the exempt home will be less frequently allowed. That is, transfer of the exempt home within the 30-month period addressed above will result in ineligibility unless the transfer is made to:

1) the at-home spouse;

2) a blind or disabled child;

3) a sibling with equity interest in the home and residing in the home for at least one year immediately prior to the individual's institutionalization; or

4) a son or daughter who was residing in the parent's home for at least two years immediately prior to the parent's institutionalization and who provided care to the parent which permitted him/her to reside at home rather than in the institution.

- <u>Community Spouse Resource Allowance.</u>

Effective January 1, 1990, in determining the amount of property available to an institutionalized spouse applying for Medicaid who has a spouse in the community, all of the couple's nonexempt assets at the time of application (regardless of whether the assets are separate or community property) are considered, except for an amount known as the Community Spouse Resource Allowance (CSRA).

The CSRA is the greater of (1) or (2):

1. $12,000

2. the lesser of one-half of the couple's total assets as of the date of the institutionalized spouse's <u>entry</u> into the institution or $60,000.

o <u>Assessment of Resources</u>

Effective January 1, 1990, at the request of either the institutionalized spouse or the at-home spouse, and upon the receipt of the necessary documentation, the county shall provide a written assessment of the couple's resources as of the date of institutionalization. States may charge a fee (not to exceed the reasonable expenses of providing the assessment) if it is not a part of a Medicaid application.

The DHS is sponsoring state legislation to implement these changes. (SB 1413 (Maddy)). As state policy, regulations, procedures, and forms are developed, we will keep you informed through the Medical Care Committee of the County Welfare Director's Association (CWDA) and through All County Welfare Directors' Letters. As you are aware, the legislators can change or modify the proposed intent and effective dates. If you have any questions regarding QMBs, resource changes and assessment of resources, please contact Marlene Ratner at (916) 324-4957. If you have any questions regarding income changes and spousal income allowance, please contact Teri Hodges at (916) 324-0651.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: February 13, 1990