

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.

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 cash, stocks, bonds, cash surrender value of life insurance, etc. An applicant or beneficiary may keep a certain amount of personal property 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.

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 spouse living in the community, the individual is considered a "long-term care spouse" rather than an "institutionalized spouse". Community property laws apply to some long-term care spouses (see MC Information Notice 005-9/89).

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

Under the new law pertaining to institutionalized spouses, 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, 1993 the CSRA is \$70,740 (see note). 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 for an amount greater than the CSRA listed above; 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 (MMMNA), which is \$1769 per month beginning 1/1/93; (see note) 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, 1993, if an institutionalized and community spouse have combined property totaling more than \$72,740 (\$70,740 + \$2,000) in a month, the couple must reduce the total to \$72,740 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 \$70,740 to the community spouse, bringing the institutionalized spouse to within \$2,000, the property limit for one (see note).

NOTE: Contact your local county welfare department for these amounts for 1994 and after.

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

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 EXEMPT PROPERTY

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.

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

An institutionalized applicant or Medi-Cal recipient 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.

A transfer 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.

EXCEPTIONS:

A transfer of nonexempt property will not result in a period of nursing facility level of care if the nonexempt property was transferred to:

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

Or if :

- The property was supposed to be transferred at market value or for something of equal value, or
- The property was not transferred to qualify for medical assistance, or
- A period of ineligibility would work an undue hardship.

PLEASE READ THE BACK OF THIS FORM FOR MORE INFORMATION

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

In addition to those provisions listed above, a transfer of the home or former home will not result in a period of ineligibility if title of the home is transferred to:

- The spouse, or community spouse, or
- A child under 21, or
- A son or daughter 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.

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.

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