
Effective immediately, ALJs are required to write the following decisions as proposed decisions:

- Cases involving erectile dysfunction, including cases where Viagra is at issue.
- Cases involving transplant services, including solid organs or bone marrow.
- Cases involving Immunocal, a dietary supplement.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - August 29, 2000*

Item 00-08-02D

Changes in Definition of Durable Medical Equipment and Period of Validity for Authorization of Medi-Cal Benefits

Changes in Definition of Durable Medical Equipment and Period of Validity for Authorization of Medi-Cal Benefits

Effective June 5, 2000, the California Department of Health Services made emergency amendments regarding Durable Medical Equipment (DME) and the Manual of Criteria for Medi-Cal Authorization. These amendments are found at Register 2000 Number 23 dated June 9, 2000.

Former Title 22 California Code of Regulations (CCR) §51160 defined DME as "equipment prescribed by a licensed practitioner to meet the medical needs of the patient". The revised definition of DME in §51160 is "Equipment that must be able to withstand repeated use, must be used to serve a medical purpose, must be appropriate for use in the patient's home, and must not be useful to an individual in the absence of an illness, injury or congenital anomaly".

The amendments also extend the period of validity for authorization of Medi-Cal benefits from 120 to 180 days. This amendment is reflected in Title 22 CCR §51003(e). When writing a decision granting a claim in a Medi-Cal scope of benefits case such as in a Dental scope case, judges should be sure that the boilerplate portion of the order allows for a 180-authorization period instead of 120 days.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - August 29, 2000*

Item 00-08-02C

Increasing the CSRA Without Considering the Income of the Institutionalized Spouse

Increasing the CSRA Without Considering the Income of the Institutionalized Spouse

When an institutionalized spouse or a community spouse requests a state hearing to increase the CSRA, should the ALJ allocate the income of the institutionalized spouse in determining whether to increase the CSRA for the community spouse?

Under federal law, states may choose to require an institutionalized spouse to allocate income to the community spouse before an ALJ could increase the CSRA. The applicable statute is Welfare and Institutions Code (W&IC) §14006(c). That statute says, "A community spouse may retain nonexempt resources to the maximum extent permitted under Title XIX of the federal Social Security Act".

By implementing this statute, California has not chosen to be an "income first" state. This means that California has never required an institutionalized spouse to allocate income to a community spouse before either spouse requests a hearing to increase the CSRA for the community spouse. As a result, an ALJ should not allocate the income of the community spouse when the community spouse requests a hearing seeking to increase the CSRA.

The following example illustrates the issue:

The community spouse has \$600 in Social Security benefits as her only source of income. She and the institutional spouse have \$200,000 in bank accounts. They have no other property.

The county has denied Medi-Cal for the community spouse because the \$200,000 exceeds the \$84,120 CSRA. The community spouse requests a hearing to increase the CSRA.

At the hearing, the community spouse contends that at current interest rates for a six-month certificate of deposit, she could retain \$275,000 in property. She maintains that it would take \$275,000 to generate \$1503 in monthly income which combined with her \$600 Social Security income would equal the \$2103 Minimum Monthly Maintenance Need Allowance (MMMNA) for 2000.

Assuming the community spouse has correctly established the current certificate of deposit rates, the ALJ should grant the claim and increase the CSRA to \$275,000. The ALJ should not allocate any income of the institutionalized spouse to the community spouse in determining whether to increase the CSRA. Thus even if the institutionalized spouse had \$2500 in income, none of this income could be allocated to the community spouse before Medi-Cal eligibility is established.

Once the CSRA is increased and Medi-Cal eligibility is established for the institutionalized spouse, the county would have to compute a share of cost for the institutionalized spouse. At this time, the institutionalized spouse could choose to allocate some of his income to the community spouse in order to reduce his share of cost.