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## ITEM 07-6-2: County Duty to Notify Medi-Cal Applicant of Property Spenddown

In 1990 the California Department of Health Services (CDHS) implemented a major change to Medi-Cal regarding property rules and limits. ACWDL 90-01, January 8, 1990, is titled “Implementation of the Spousal Impoverishment Provisions of the Medicare Catastrophic Coverage Act of 1988 Relating to Property.”

ACWDL 90-01 included draft regulations. Although these draft regulations never went through a regulation approval process, the California Department of Health Services (CDHS) follows these draft regulations and considers them to be policy.

An important draft regulation attached to ACWDL 90-01 is Title 22 California Code of Regulations (CCR) Section 50154 which establishes informing requirements for all Medi-Cal applicants. That draft regulation states in pertinent part that **at screening or at application or restoration**, the county department shall:

- Inform all applicants of the appropriate property limits and how property is exempted, counted and valued.
- If applicable, inform all applicants of their right to reduce nonexempt excess property within the month of application. (After January 1, 1990, the requirement to receive adequate consideration for property transfers only applies to institutionalized individuals.)
- If applicable, provide options as to how excess property may be reduced and how adequate consideration may be obtained, in order to establish eligibility in that month. **This shall be done as soon as there is an indication that the applicant may own property which could result in ineligibility whether or not there is actual verification.** Such options shall include but are not limited to:
  - Paying off medical or other bills
  - Purchasing exempt items
  - Paying off mortgages or car loans, making home repairs or improvements to property.
  - Encumbering or borrowing against the cash values of nonexempt property and life insurance policies and then reducing the proceeds while receiving adequate consideration by the end of the month for which Medi-Cal is being requested.
  - Informing the applicant that the cash surrender value of nonexempt life insurance policies and any other asset will be considered unavailable as long as the applicant continues to make a good faith effort to liquidate the asset as limited by Section 50402 (defining unavailability of property)

In ACWDL 90-01 draft regulation section 50142(a)(2)(A) states that the county must provide information regarding Medi-Cal eligibility requirements on the “Medi-Cal General Property Limitations for all Medi-Cal Applicants” (MC 007) form to all persons being screened.

Prior to ACWDL 90-01, county eligibility staff was required to verbally advise the applicant of property spenddown rules as soon as the eligibility worker had knowledge the applicant may own non-exempt property in excess of the property limit. This duty included informing applicants and beneficiaries that they could establish eligibility for any month by bringing the property reserve within the property limit by the last day of the month. (see ACWDL 85-58)

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ACWDL 91-78 discussed the MC 007 form. The county was required to provide and review this form at application, screening or restoration.

By July 1, 2000 the Medi-Cal face-to-face application was eliminated for most cases and the mail-in application was provided for all persons with some exceptions (see ACWDL 00-31).

Because the Medi-Cal application is now a mail-in application instead of a face-to-face application, it is more difficult for the county to provide oral instructions advising of spenddown in all cases. In the case of a mail-in application, the county must include the MC 007 with the application packet. The MC 007 is sufficient notification of property spenddown rules if the claimant reports no property or reports property that is **clearly** below the property limit. No oral advisement is required in these cases.

However, if the applicant returns the application and reports property that exceeds the applicable Medi-Cal property limit, or reports property that **may** be over the property limit (such as when the applicant reports ownership of two vehicles) the county does not meet informing requirements by simply including the MC 007 with the application. The county must review the MC 007 with the applicant and provide appropriate spenddown options including the right to spend down in the month of application.

The county may review the MC 007 and spenddown options verbally or in writing. It will be more difficult for the county to meet its responsibility by a written explanation because of the many options to be explained. Whether written or oral, the county must review the MC 007 in the applicant's primary language.

This review must be specific to the applicant's case. For example, if the applicant applied for Medi-Cal for herself only on February 22, reported ownership of two vehicles and \$5000 in a bank account, the county would have to review the MC 007 and advise the applicant about spenddown of her specific property.

The eligibility worker would need to advise the applicant that the property limit is \$2000. The eligibility worker would need to notify the applicant that she must provide verification of the value of at least one of the two vehicles and advise the applicant that one of the vehicles is exempt. The eligibility worker would then need to advise the applicant that she could spend down the non-exempt property below \$2000 before the end of February by any method listed on the MC 007 such as by paying medical bills, buying exempt items, or any other method that would be appropriate given the item and the individual's circumstances including listing the item for sale.

Since the eligibility worker would not have verification of the value of the non-exempt vehicle, he/she should **not** advise the applicant of the value of that vehicle.

The eligibility worker would also need to advise the applicant that if she could not spend her non-exempt property below \$2000 by the end of February, she could spend her excess property on verified medical expenses under the *Principe* case to establish Medi-Cal eligibility for February.