

SHD Paraphrased Regulations - Medi-Cal

450 MFBU Composition

450-1

The following chart, with footnotes, sets forth the CDHS interpretation as to how to deal with persons under 21, living away from their parent's home.

Persons under Age 21 Living Away from the Parent's Home

Living Situation		Person's Characteristics		Status		Who Completes Statement of Facts	Whose Income and Property is Counted	Contact with Parent ¹
				Adult	Child			
1	Any living situation, claimed as tax dependent by parent.	A	18- to 21-year-old. ⁹		X	Parents.	Parent's, 18- to 21-year-old's, other MFBU members.	Yes
		B	Under 18.	Determine in accordance with 2 through 5, below				
2	Independent living situation. ⁹	A	18- to 21-year old.	X		18- to 21-year old.	18- to 21-year-old's.	No
		B	14- to 18-year-old handling all of his/her own financial affairs.	X		14- to 18-year-old.	14- to 18-year-old's. ²	No
		C	14- to 18-year-old with a parent, caretaker relative, or legal guardian handling some or all of his/her financial affairs.		X	Parent, caretaker relative, or guardian. If they will not and public agency also refuses, 14- to 18-year-old may complete.	14- to 18-year old's. ²	Yes/No

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		D	Under 14.		X	Parent, caretaker relative, or legal guardian. If they will not and public agency also refuses, child may complete.	Under 14-year-old's.	Yes/No
3	Living on the parent's property in a building that would be considered the parent's "other real property" for Medi-Cal purposes.	A	18- to 21-year-old not receiving any financial support from parents. ⁹	X		18- to 21-year old.	18- to 21-year-old's.	No
		B	18- to 21-year-old receiving financial support from parents. ⁹		X	Parent.	Parent's, 18- to 21-year-old's, other MFBU member's.	Yes
		C	14- to 18-year-old.		X	Parent.	Parent's, 14- to 18-year-old's, other MFBU member's.	Yes
		D	Under 14.		X	Parent.	Parent's, under 14-year-old's, other MFBU members.	Yes
4	Attending school away from parent's home. ⁹	A	18- to 21-year old who always returns home when not in school or considers the parent's home his/her home. ³		X	Parent.	Parent's, 18- to 21-year-old's, other MFBU member's.	Yes

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		B	18- to 21-year-old who handles his/her own financial affairs and considers himself/herself to be living on his/her own and returns home only for visits. ³	X		18- to 21-year-old.	18- to 21-year-old's.	No
		C	14- to 18-year-old handling all his/her own financial affairs.	Determine as in 4. A and B.				
		D	14- to 18-year-old with parent handling his/her financial affairs.		X	Parent.	Parent's, 14- to 18-year-old's, other MFBU member's.	Yes
		E	Under 14.		X	Parent.	Parent's, under 14-year-old's, other MFBU member's.	Yes
5	Out-of-home care (non-medical) public agency assuming financial responsibility in whole or part (aid Code 45) ^{4, 5}	A	Under 21.		X	Public agency assuming financial responsibility.	N/A—assumption that public agency has made needy determination (form MC 250).	No
6	Out-of-home care (non-	A	18- to 21-year-old.	Determine in accordance with 1 or 2, above.				

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	medical) including custodial care in the state hospital).	B	Under 18.	Determine in accordance with 2, above.				
7	Long-term care (LTC)	A	Disabled, 18- to 21-year-old.	X		18- to 21-year-old.	18- to 21-year-old's.	No
		B	Disabled, under 18.		X	Parent or person or agency responsible for child. ⁶	Disabled child's.	Yes
		C	Living with parents prior to LTC status, not disabled. ⁷		X	Parent.	Parent's, LTC child's, other MFBU member's.	Yes
		D	Independent living, attending school, out-of-home care prior to LTC status, not disabled.	Determine as in 1 through 4, above.				No
		E	Aid Code 45 or in foster care prior to LTC status, not disabled.		X	Person or agency responsible for child.	Child's. ⁸	No

FOOTNOTES:

1. Except for minor consent cases, contact with parents is not precluded where it is necessary to verify information provided by the child, and a release of information is obtained.
2. The source of the 14- to 18-year-old's income does not affect his/her status as an adult. It may be a contribution from a parent, earnings, or income from any other source so long as the 14- to 18-year-old controls it and how it is spent. If the 14- to 18-year-old's only income is income in kind from a friend or nonrelative, the 14- to 18-year-old could still be considered an adult.
3. Generally, an 18- to 21-year-old away from home to attend school would be considered to be living in the parent's home if either of the following is true.

- a. The 18- to 21-year-old always resumes living in the parent's home when not in school.
- b. The 18- to 21-year-old considers the parent's home as his/her home when not in school.

An 18- to 21-year-old away from home to attend school would not be considered to be living in the parent's home if all of the following are true:

- a. The 18- to 21-year-old handles his/her own financial affairs, i.e., pays for his/her own bills, etc.
- b. The 18- to 21-year-old considers himself/herself to be living on his/her own.
- c. The 18- to 21-year old returns home only for visits.

These are general criteria, not an all-inclusive list. Each 18- to 21-year-old's circumstances should be evaluated separately. The fact that the parents provide 18- to 21-year-old with some financial support should not be a deciding factor in determining the 18- to 21-year-old's home.

4. The basic questions in determining whether a child is eligible for Medi-Cal under Aid Code 45 is whether a public agency is assuming financial responsibility for the child's care in whole or in part. Per §50077, a public agency is any administrative division of federal, state, or local government. The agency must be assuming the responsibility to see that the child's care is paid for. This responsibility must exist even when the child's own income is used to pay for a part of the care. The amount contributed to the child's care by the public agency does not have to be any certain amount, but it is not sufficient that the public agency be contributing a set amount that has no relation to the cost of care. In addition, the agency that is providing the financial support must have responsibility for the child's placement, i.e., have the responsibility to decide where the child will live. Receipt of a cash grant or other income from a public source is not sufficient to make a child an Aid Code 45.
5. Included in this category are children detained or placed under Welfare and Institutions Code, §300 or 601. These sections allow the court to detain or place a child when that child is not adequately being cared for or when the child cannot be controlled at home.
6. If the disabled child was 14 to 18 years old and met the criteria in part 2B of this chart prior to LTC status, the disabled 14- to 18-year-old would complete the Statement of Facts. Likewise if the conditions of 2B are not met and no person or agency will accept responsibility or the child is under 14 and no person or agency will accept responsibility, the child may complete the Statement of Facts.
7. A child who was AFDC-MN prior to LTC status retains this linkage as he/she is still

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considered to be living in the parent's home.

8. These children would lose their status as Aid Code 45 and would be MI children, Aid Code 82 or 83, with one exception. If the public agency which assumed financial responsibility for the Aid Code 45 child continues to pay for his/her personal (nonmedical) needs in whole or in part, the child would continue to be considered an Aid Code 45 child and the MC 250 would be the appropriate Statement of Facts.
9. Exception: The §1931(b) program does not cover children up to age 21. This program covers children up to age 18 or a child who is 18 years of age up to age 19 who is enrolled in school and expected to graduate prior to age 19. To be eligible for §1931(b), the child must be deprived and live with a parent or relative. If the person is 18-21 years old and not enrolled in school, he/she is considered an adult and is not eligible for §1931(b) as a child, but may apply as an adult if he/she has a deprived child in the home or she has a deprived unborn and is in her last trimester.

(Medi-Cal Eligibility Procedures Manual §8C-1, 2, 3, effective April 23, 2003)

450-1A

A child means a person under the age of 21, except for those considered adults per §50014. (§50030(a)) An unborn is considered a child for Medi-Cal purposes (§50030(b))

450-1B ADDED

10/15

Medi-Cal Family Budget Unit (MFBU) means the persons who will be included in the Medi-Cal eligibility and share of cost determination. (§50060)

450-2

Adult means:

1. A person 21 years of age or older.
2. A blind or disabled Medically Needy (MN) person 18 to 21 years of age; living in the home of a parent; and not currently enrolled in school, college, university or a course of vocational or technical training in preparation for gainful employment.
3. A person 18 to 21 years of age; not living in the home of a parent or caretaker relative; not claimed by a parent as a tax dependent; and not receiving out-of-home care from a public agency.
4. A person 14 to 18 years of age; not living in the home of a parent or caretaker relative; and there is no parent, caretaker relative or legal guardian handling this person's financial affairs.

(§50014, effective January 8, 1998)

451-1

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In determining the MFBU, family members living in the home shall be included in the MFBU, except those who are PA or Other PA recipients. Potential members of the MFBU may be excluded in accordance with §50381. (§50373)

451-2

A "family member" means the following persons living in the home: a child or its siblings; the parents or stepparents of the sibling children; and the separate children of either parent or stepparent. (§50041(a)) When there are no children, family member means a single person or married couple. (§50041(b))

451-3

When a couple who is married but legally separated lives together in the same home containing common facilities (such as eating and bathing facilities), the couple must be in the same MFBU. (All-County Welfare Directors Letter No. 95-07, January 25, 1995, Answer 1, interpreting §§50351 and 50373)

452-1

Section 50377(a) provides that an aged, blind or disabled person who is in Long-Term Care (LTC) or board and care shall be in his/her own MFBU except as provided in (c).

(c) Spouses and their children shall be in the MFBU until the end of the sixth full month of LTC or board and care status when all of the following conditions are met:

- (1) Both spouses are aged, blind or disabled.
- (2) One or both spouses is in LTC or board and care.
- (3) Both spouses apply for and are eligible for Medi-Cal.

Although §50377(a) has not been formally amended as part of December 1, 2002, the following rules have been in effect since October 1, 1990 based on federal law.

An institutionalized spouse, or for income purposes, an LTC spouse, shall be considered to be in his/her own MFBU at the beginning of the continuous period of institutionalization. (All-County Welfare Directors Letter No. 91-28, March 22, 1991)

452-2

Generally, an aged, blind, or disabled person who is in long term care or board and care shall be in his/her own MFBU. (§50377)

452-3 REVISED 9/08

"Long-Term Care Status" means inpatient medical care in a medical facility (including a hospital) which lasts for more than the month of admission and is expected to last for at least one full calendar month after the month of admission. (Welfare and Institutions Code (W&IC))

§14050.3; ACWDL 90-01, draft regulation §50056)

452-4

The following are among those who are considered inmates of public institutions, and as such, are ineligible for Medi-Cal:

1. Inmates in a prison, including those there prior to arraignment, conviction, or sentencing.
2. Inmates of county, city, or tribal jails.
3. Incarcerated individuals who can leave prison or jail but must return at specific intervals.
4. Inmates who would be incarcerated except that a medical emergency exists.
5. Minors in juvenile detention centers due to criminal activity prior to disposition.
6. Minors placed on probation by a juvenile court or intensive probation with specific conditions of release.
7. Minors placed on probation by a juvenile court or intensive probation to a secure treatment facility which is part of the criminal justice system.

(All-County Welfare Directors Letter No. 93-42, July 7, 1993; 42 Code of Federal Regulations §435.1009; §50273(a))

452-4A

Individuals who are inmates of public institutions are not eligible for Medi-Cal. (§50273(a))

The following are considered inmates of a public institution.

(1)-(4) Individuals in a prison, or city, county, or tribal jail, including:

Those who have not yet been arraigned, convicted or sentenced.

Those who are incarcerated, but can leave the prison or jail on, e.g., work release or work furlough but must return at specific intervals.

Those who are released from prison or jail only because of a medical emergency.

(5)-(8) Minors who are:

In a juvenile detention center prior to judgment due to the minor's criminal activity.

Placed, after disposition, in a detention or correctional facility which is part of the criminal justice system.

Placed on juvenile intensive probation with specific conditions of release, or ordered to a

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secure treatment facility, which is part of the criminal justice system, by a juvenile court.

(§50273(a)(1)-(a)(8))

452-4B

State regulations provide that individuals between the ages of 21-65 who are in an institution for mental diseases (IMD) shall be considered inmates of a public institution until they are unconditionally released. As such, they are not eligible for Medi-Cal. (§50273(a)(9))

452-4C

State law provides that inpatient services provided to individuals from 21 to 64 years of age, in an IMD operating under a consolidated license with a general acute care hospital pursuant to §1250.8 of the Health and Safety Code, shall not be eligible for Medi-Cal benefits unless federal financial participation (FFP) is available for such inpatient services. (W&IC §14053(c), as amended effective July 22, 1999)

452-5

The caretaker relative of children receiving AFDC-Foster Care grants may be eligible for Medi-Cal benefits. This is similar to parents or caretaker relatives linked to children receiving AFDC or SSI benefits. In each of these cases, the caretaker relative is in his/her separate MFBU. (All-County Welfare Directors Letter No. 95-07, January 25, 1995, Answer 6)

452-6

If the unmarried father of an unborn has no other mutual children living in the home who are requesting Medi-Cal, he does not have to be included with the mother and the unborn in the MFBU until the unborn child is born, and reaches one year of age. (All-County Welfare Directors Letter No. 95-07, January 25, 1995, Answer 4)

452-7

It is the position of the CDHS that non-parent caretaker relatives are not required to be in the MFBU if they are not requesting benefits for themselves. They are linked because the parent is absent from the home. (For §1931(b) purposes only, they may be linked if the parent lives in the home, but the parent does not have care and control of the child.)

Only one such caretaker relative may be linked to a child. If there is more than one child in the home, each caretaker relative may establish eligibility by being linked to a different child. If the caretaker is linked because he/she is, e.g., aged, blind or disabled, or has a deprived child in the home, that caretaker need not be included in the child's MFBU.

(Medi-Cal Eligibility Procedures Manual (MEPM) §8D-3)

452-8

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Any "child", other than an unborn or an infant during the first two months of life, may be excluded from the MFBU. The person who is legally responsible for the child shall make that choice. Excluded children shall not:

1. Apply separately (except for minor consent services).
2. Be included in the MFBU for eligibility or SOC purposes.
3. Be considered in determining the program for which the MFBU is eligible.
4. Have their health care costs used to meet the SOC of the MFBU.

(§50381(a))

453-1

Generally, persons living in the home include persons physically present in the home, or persons temporarily absent from the home. A child temporarily absent from the home shall be considered to be living in the home as long as the parent continues to have responsibility for the care and control of the child. A parent continues to have responsibility for the care and control of the child until the court removes this responsibility or the parent voluntarily relinquishes it. (§50071; All-County Welfare Directors Letter No. 90-55, June 15, 1990)

453-2 ADDED

10/15

Students up to age 21, who are out of the home temporarily to attend college and are still claimed for their parents' income tax deductions, remain in the family's MFBU. When a family informs the county that the Medi-Cal beneficiary attends college outside of the family's residence county, the student's health plan in the family's county is discontinued and the student must choose a health plan in the new county. While the student is waiting to be enrolled in the new health plan, the student has fee-for-service Medi-Cal. If the student needs medical attention in the family's county during a break, the family must report to the county and the county must update the student's address to reflect the appropriate county in SAWS and MEDS. (Medi-Cal Eligibility Division Information Letter (MEDIL) No. I 15-32, October 20, 2015)

454-1

The Federal District Court, 9th Circuit ruled that Medi-Cal regulations governing the treatment of income and resources belonging to a stepparent, child, and an unmarried couple and their separate and mutual children violated federal law. Federal law limits financial responsibility for medical care to parent for child and spouse-for-spouse. Individuals in these categories may be in their own MFBUs. (All-County Welfare Directors Letter (ACWDL) No. 90-12, January 12, 1990; *Sneede v. Kizer*) Implementation of the *Sneede* decision began January 2, 1991 and the counties were to issue multiple MC 177S Forms by February 1, 1991. Maintenance Need Income Levels (MNIL) were set forth. (ACWDL No. 90-76, August 31, 1990)

454-3

To determine whether a child or a pregnant woman in an MBU is eligible under the federal poverty level (FPL) programs, compare the net income of the individual and his/her spouse or

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parent(s) (not the allocated amount) with the FPL for the total number of persons in the MFBU. If the net income is less than the FPL level for the MFBU, the eligible child or pregnant woman shall receive a free Medi-Cal card. (All-County Welfare Directors Letter (ACWDL) No. 92-09, January 24, 1992, p. 11) In determining net income, do not allow deductions for health insurance premiums, or those deductions which apply solely to the aged, blind, or disabled. (ACWDL No. 92-23, March 23, 1992) While these rules continue to apply, as of December 1, 1999, if the MBU of the pregnant woman, infant, or child(ren) does not have an SOC and is property eligible, do not consider them for the special zero SOC programs. (Medi-Cal Eligibility Procedures Manual §8F-17, replacing ACWDLs No. 92-09 and 92-23)

454-4

When the MFBU has an SOC, a child is considered to have income and shall be in a separate MBU when he/she receives:

1. Child support.
2. Interest income (no matter how little) from a savings account or time deposit.
3. In-kind income, including prorated unearned in-kind income provided by someone outside the MFBU.

(Medi-Cal Eligibility Procedures Manual §8F-10, 11, replacing All-County Welfare Directors Letter No. 92-09, January 24, 1992, pp. 20, 21, 25)

454-5

When an MFBU has an SOC, and a potential *Sneede* person in that MFBU has nonexempt income but no net income, that individual is still considered a *Sneede* class member. Mini Budget Units (MBUs) must be established. (Medi-Cal Eligibility Procedures Manual §8F-13, replacing All-County Welfare Directors Letter No. 92-09, January 24, 1992, p. 24)

454-6

A *Sneede* situation exists when an MFBU has an SOC, or is property ineligible, and there is a "nonresponsible" relative in the MFBU with nonexempt income or resources. (The only relatives who are responsible for each other are spouse for spouse and parent for child.)

In this situation, Mini Budget Units (MBUs) are established. The following chart sets forth the MBU rules.

1. Unborn is in same MBU as its mother. If mother is PA/Other PA and not in MFBU, put unborn in father's MBU. If neither parent is in the MFBU, don't put unborn in MFBU nor in an MBU.
2. Each child with own nonexempt income or property is in a separate MBU.
3. Married spouses are in one MBU.
 - a. Their mutual children with no income/property are in parents' MBU.

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- b. Parent A's separate children with no income/property are in a single, separate MBU.
- c. Parent B's separate children with no income/property are in a single, separate MBU.
- 4. Unmarried couple are in separate MBUs.
 - a. Their mutual children with no income/property are in a single, separate MBU.
 - b. Each parent's separate children with no income/property are in parent's MBU.
- 5. Single parent and children with no income/property are in a single MBU.
- 6. Nonparent caretaker relative is in own separate MBU.
 - a. All other children with no income/property of their own are in a single, separate MBU.
- 7. Ineligible family members are included in the MBUs.
- 8. Excluded child(ren) or PA or other PA persons are not in an MBU.
- 9. Child with own exempt income/property is treated the same as child with no income/property.

(Medi-Cal Eligibility Procedures Manual §8F-3, 4, replacing All-County Welfare Directors Letter No. 92-09, January 24, 1992, p. 34)

454-6A

The term "mini budget unit" (MBU) refers to the family sub-units established when the MFBU has either an SOC or excess property and the MFBU contains a *Sneede* class member.

Net income to the MBU is determined as follows:

A parent retains \$600 in net income and then allocates any net income in excess of that amount equally to the individuals for whom the parent is responsible, i.e., a spouse and/or child(ren).

If the parent is in his/her own MBU, the net income is equal to or less than the \$600 the parent retains for his/her needs.

If the parent is in an MBU with others, the MBU has countable net income up to \$600 from the parent, plus any income allocated to the member(s) for whom the parent is responsible, plus net income of the parent's spouse.

If the child(ren) is in his/her own MBU, net income is that income allocated to the child from his/her parent(s), plus the child's net income.

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The net income which exceeds the MBU's maintenance need income level (MNIL), set forth in the MNIL charts (in Medi-Cal Eligibility Procedures Manual (MEPM) §8F-60) is the *Sneede* SOC. If net income is equal to or less than the MNIL for the MBU, the SOC is zero.

(MEPM §8F-3, 6, 7, 8)

454-7

Under *Sneede*, there is an equal allocation of income and property from the spouse and/or parent to himself/herself, to his/her spouse, and to his/her natural or adoptive child(ren). Income and property can only be allocated in that one way direction. (All-County Welfare Directors Letter No. 90-91, December 20, 1990, p.13) Following the *Gamma v. Belshé* case, decided on November 16, 1995, each parent is allowed a \$600 income deduction for his/her needs prior to allocating income to the family members for whom he/she is responsible. The parent receives no part of the allocation of the amount of income exceeding \$600. (Medi-Cal Eligibility Procedures Manual §8F-4)

454-8

If the MFBU is property eligible, but has a share of cost (SOC), the *Sneede* procedures will apply only to the SOC determination. If the MFBU has excess property and an SOC, the county shall make two separate determinations, first for property and then for SOC.

Eligible, ineligible, and excluded family members were to receive an equal parental or spousal property and/or income allocation. These rules were revised following the *Gamma v. Belshé* 9th circuit federal court case, decided on November 16, 1995, and were formally repealed May 10, 1999. (Medi-Cal Eligibility Procedures Manual §8F, replacing All-County Welfare Directors Letter No. 90-91, December 20, 1990, pp. 13 and 14)

454-9

Under *Sneede*, there is never an allocation of property or income to the unborn. (Medi-Cal Eligibility Procedures Manual §8F-5, replacing ACWDL No. 90-91, December 27, 1990, p. 13)

454-10

Counties must apply the Principé property exemption to whichever is the most beneficial or whichever the family chooses; the MFBU or MBU(s), if *Sneede* applies. (All-County Welfare Directors Letter No. 97-41, October 24, 1997)

456-1

The United States District Court (USDC) modified the Order in *Sneede v. Coye*.

Effective November 16, 1995, in each case in which Mini Budget Units (MBUs) have been established, and there is a parent(s) in one of the MBUs, that parent will be allowed a \$600 income deduction to meet his/her needs prior to allocating income to the family members for whom he/she is responsible. Any income in excess of \$600 will be equally divided and attributed to those members for whom the parent is responsible. (*Gamma v. Belshé*, U.S.D.C., N.D. Cal.,

November 16, 1995; ACWDL No. 96-29, June 21, 1996)

456-2

Under *Sneede v. Kizer* and *Gamma v. Belshé*, financial responsibility for medical care is limited to parent-for-child and spouse-for-spouse. Thus, when an MFBU has an SOC or is ineligible due to excess property, the following income and property rules apply:

- (1) Only a natural/adoptive parent(s)' income or property, or the child's own income or property, may be used to determine the child's eligibility and SOC.
- (2) Income or property of spouses may be used to determine the SOC or property eligibility of each other.
- (3) An unmarried parent's income or property can only be used to determine SOC or property eligibility for the parent, or the parent's natural or adoptive children.
- (4) The income or property of a nonparent caretaker relative, who is in the same MFBU as the eligible child, can be used to determine SOC or property eligibility only for the caretaker relative.

If an MFBU has excess property or an SOC and it contains a *Sneede* class member, the county must apply *Sneede* to determine the eligibility and SOC of each MBU.

(Medi-Cal Eligibility Procedures Manual (MEPM) §8F-1, 2)

456-3

The term "mini budget unit" (MBU) refers to the family sub-units established when the MFBU has either an SOC or excess property and the MFBU contains a *Sneede* class member.

Net income to the MBU is determined as follows:

A parent retains \$600 in net income and then allocates any net income in excess of that amount equally to the individuals for whom the parent is responsible, i.e., a spouse and/or child(ren).

If the parent is in his/her own MBU, the net income is equal to or less than the \$600 the parent retains for his/her needs.

If the parent is in an MBU with others, the MBU has countable net income up to \$600 from the parent, plus any income allocated to the member(s) for whom the parent is responsible, plus net income of the parent's spouse.

If the child(ren) is in his/her own MBU, net income is that income allocated to the child from his/her parent(s), plus the child's net income.

The net income which exceeds the MBU's maintenance need income level (MNIL), set forth in the MNIL charts (in Medi-Cal Eligibility Procedures Manual (MEPM) §8F-60) is the *Sneede* SOC. If net income is equal to or less than the MNIL for the MBU, the SOC is zero.

(MEPM §8F-3, 6, 7, 8)

456-4

An MFBU which is determined to be property ineligible may be divided into MBUs, some of which may be property ineligible while others are property eligible. For those MBUs which are property ineligible, the persons in the MBU are ineligible and may not be used to establish AFDC linkage.

However, property ineligibility for a child is not established until the county determines the child is ineligible for a Percent program where property is disregarded.

(Medi-Cal Eligibility Procedures Manual §8F-5)

456-7

Generally, the "name on the check" determines the owner of income from the check. However, sometimes agencies, such as the Social Security Administration, issue benefits for more than one person in a check made out to that person, or to another person who is not the check's owner. Thus, counties must verify the beneficial owner of the income so that they can properly allocate income to the actual owner of the income. (Medi-Cal Eligibility Procedures Manual §8F-10)