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AUGUST 1991

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: CALIFORNIA

TRANSFER OF RESOURCES

1902(f) and 1917
of the Act

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in section 1917(c) of the Social Security Act (Act).

1. Transfer of resources by an institutionalized individual or spouse.

a. /x/ The agency follows the procedure as specified in Section 1917(c) of the Social Security Act which provides for a period of ineligibility for nursing facility services or a nursing facility level of care in a medical institution or home and community based waiver services for institutionalized individuals where resources were transferred for less than fair market value.

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- b. X The period of ineligibility is less than 30 months, as specified below:

When the period, as calculated in accordance with 1917(c) doesn't last the entire 30 months.

- c. X The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

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2. Transfer of the home of an individual who is an inpatient in a medical institution or nursing facility.

/x/ A period of ineligibility applies to inpatients in an SNF, ICF or other medical institution as permitted under section 1917(c)(2)(B)(i).

- a. Subject to the exceptions on page 2 of this supplement, an individual is ineligible for a maximum of 30 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 30 months of care in a nursing facility, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in a nursing facility) to the uncompensated value of the home as follows:

The uncompensated value is divided by the average private pay rate for nursing facilities in the State of California.

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- b. /x/ Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan as medical assistance for 30 months of care in a nursing facility, the period of ineligibility is no more than 30 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in a nursing facility) to the uncompensated value of the home as follows:

The uncompensated value is divided by the average private pay rate of nursing facilities in the State of California. In accordance with 1917(c) of the Social Security Act, the period of ineligibility is limited to 30 months beginning with the date of transfer.

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No institutionalized individual is ineligible by reason of item A.2 if--any of the exceptions listed in 1917(c)(2)(A)-(D) of the Social Security Act apply.

(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that--

(A) the resources transferred were a home and title to the home was transferred to--

(i) the spouse of such individual;

(ii) a child of such individual who (I) is under age 21, or (II) (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;

(iii) a sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date the individual becomes an institutionalized individual, or

(iv) a son or daughter of such individual (other than a child described in clause (ii)) who was residing in such individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

(B) the resources were transferred (i) to or from (or to another for the sole benefit of) the individual's spouse, or as defined in section 1924(h)(2), (ii) to the individual's child described in subparagraph (A)(ii)(II);

(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that (i) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration, or (ii) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; or

(D) the State determines that denial of eligibility would work an undue hardship.

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3. 1902(f) States

— Under the provisions of section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under section 1917(c) of the Act, apply:

TRANSFER OF ASSETS (INCOME AND RESOURCES)

1917 of the Act

Transfers of assets occurring on or after August 11, 1993, shall be treated in accordance with Section 1917 of the Act.

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