STATE OF CALIFORNIA--HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P Street
P O Box 942732
Sacramento, CA 94234-7320
(916) 657-2941

October 29, 1997

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 190

TO: All Holders of the Medi-Cal Eligibility Procedures Manual

LONG-TERM CARE INSURANCE -- MEDI-CAL PROPERTY EXEMPTION

Enclosed is Article 9F of the Medi-Cal Eligibility Procedures Manual. Information regarding these procedures was originally contained in All County Welfare Directors Letter No. 94-26.

Procedures Revision:	**Description:**
Article 9F	This section provides information on how payments from certified long-term care insurance policies or certificates may reduce the property reserve of a Medi-Cal applicant/beneficiary.

Filing Instructions:

Remove Pages:	**Insert Pages:**
Procedures Table of Contents, Page PTC-10	Procedures Table of Contents, Page PTC-10
Article 9 Table of Contents Pages TC-1 and TC-2	Article 9 Table of Contents Pages TC-1 through TC-2
Nothing to Remove	Article 9F Pages 9F-1 through 9F-11

If you have any questions on this issue, please feel free to contact either Kathy Harwell at (916) 657-0146 or Sharyl Shanen-Raya at (916) 657-2942.

Sincerely,

Original signed by

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

9F -- LONG-TERM CARE INSURANCE - MEDI-CAL PROPERTY EXEMPTION

1. BACKGROUND:

State legislation was passed in 1990 and federal authorization was received in 1992 for the development of the California Partnership for Long-Term Care.

The California Partnership for Long-Term Care is a five-year statewide demonstration project operated within the Department of Health Services (DHS). The program is designed as a partnership between the private and public sectors and was developed with four goals:

* To educate the public of the facts about long-term care (LTC) risks and costs.
* To increase LTC insurance sales to middle income Californians who, without insurance, become financially impoverished by paying the high cost for LTC services.
* To improve the quality and availability of high-quality LTC insurance at an affordable price.
* To constrain Medi-Cal costs by reducing the number of individuals who "spend-down" because of LTC expenses.

DHS has formed a partnership with private insurance companies to make available LTC insurance policies or certificates that will potentially reduce federal and state Medicaid costs and provide Medi-Cal applicants/beneficiaries a Medi-Cal property exemption equal to the amount of benefits paid under a Partnership approved LTC insurance policy. This exemption will be referred to as the Medi-Cal LTC insurance exemption or the LTC insurance exemption.

The Medi-Cal property exemption for LTC insurance results in exempt real and personal property equal to the sum of qualifying insurance benefits paid through a Partnership approved LTC insurance policy or certificate for qualifying LTC services on behalf of the Medi-Cal applicant or beneficiary.

Qualifying insurance benefits are those paid under a certified LTC insurance policy or certificate for the following services: LTC in nursing facilities, home and community based services, residential care facility services, personal care services, and adult day health care services. The policies or certificates provide LTC coverage for a minimum of one year and a maximum of five years.

Title 22, California Code of Regulations (CCR), Section 50453.7, "Long-Term Care Insurance Exemption" became effective March 31, 1994. The sale of Partnership approved LTC insurance policies and certificates began July 29, 1994.

2. IMPLEMENTATION:

Counties have been instructed to implement these procedures no later than September 1, 1994. Counties shall continue to flag all cases containing an individual who has a certified LTC insurance policy or certificate, who is receiving benefits under a Partnership approved LTC insurance policy or certificate and/or who is entitled to a Medi-Cal LTC insurance exemption pursuant to Section 50453.7.

3. VERIFICATION:

To qualify for the Medi-Cal LTC insurance exemption, the applicant or beneficiary shall provide a "Service Summary" from the insurance company, to the county welfare department. The "Service Summary" verifies that the insurance policy or certificate is Partnership approved and indicates the amount of benefits paid under the Partnership approved LTC insurance policy or certificate. The "Service Summary" shall be on company letterhead with a company seal and shall list the insured's:

- ✓ name,
- ✓ date of birth,
- ✓ Social Security number,
- ✓ address,
- ✓ policy number,
- ✓ policy issuance date, and
- ✓ total amount of qualifying benefits that have been paid to date.

A copy of the "Service Summary" form that may be used by the insurance companies is contained on page 9F-11.

✎ ***Note:*** Each Partnership approved LTC insurance policy or certificate holder will receive a Medi-Cal Property Exemption Report, from the insurance company, at least quarterly when payments have been paid out in that quarter. The report will include:

❶ the cumulative amount of benefits paid prior to the current reporting period that count towards the Medi-Cal LTC insurance exemption,

❷ the amount paid during the current reporting period that counts towards the Medi-Cal LTC insurance exemption, and

❸ the total cumulative amount paid to date that counts towards the Medi-Cal LTC insurance exemption. (This amount is clearly indicated on the "Service Summary".)

4. TREATMENT:

The Medi-Cal LTC insurance exemption is limited to insurance policies of companies that have been approved by DHS for participation in the California Partnership for Long-Term Care. The insurance companies that are authorized to sell certified LTC insurance policies and certificates are limited to:

- ☞ BANKERS LIFE AND CASUALTY
- ☞ JOHN HANCOCK MUTUAL LIFE
- ☞ CNA INSURANCE
- ☞ TIME/FORTIS LIFE
- ☞ TRANSAMERICA LIFE
- ☞ GE CAPITAL ASSURANCE (previously known as AMEX ASSURANCE)
- ☞ NEW YORK LIFE
- ☞ PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

A. PROPERTY EXEMPTION:

The amount paid out by a Partnership-approved LTC insurance policy or certificate shall be used to reduce the countable real and personal property (property reserve) of the Medi-Cal applicant or beneficiary. Nonexempt real and personal property equal to the amount of benefits paid on behalf of the Medi-Cal applicant or beneficiary shall be exempt.

The exemption continues for as long as the applicant/beneficiary lives, and regardless of whether the person is in LTC. It is also exempt for estate recovery purposes in accordance with Section 50453.7(b).

The LTC insurance exemption shall be entered on the MC 176P - Property Reserve Worksheet - Section II - line 11.

Note: When a beneficiary acquires additional property after establishing eligibility for Medi-Cal such as the sale of his/her former principal residence, inheritance, etc., the amount of additional benefits paid under a Partnership-approved LTC insurance policy must be verified again to determine if any of the newly acquired nonexempt property could be exempted.

EXAMPLE:

Husband and wife apply for Medi-Cal for the husband who is in a LTC facility. The couple have an exempt principal residence, a savings account of $87,000, other real property with a net market value of $100,000 (currently meeting utilization requirements), and stock certificates valued at $125,000. The husband owns a Partnership-approved LTC insurance policy and has provided the "Service Summary" which verifies that $225,000 has been paid out under the policy. After applying the LTC insurance exemption the applicant's total net nonexempt property is $0.

Note: The couple receives the benefit of the $225,000 exemption since property held in the name of either or both spouses is included when determining initial Medi-Cal eligibility for the institutionalized spouse under the spousal impoverishment provisions.

CALCULATION

Savings Account :			$ 87,000
Other Real Property:	$100,000 - 6,000 (utilization exemption)		$ 94,000
Stock Certificates:		+	$ 125,000
Net Countable Property (subtotal Property Reserve):			$ 306,000
Less payments from a Partnership-approved LTC insurance policy:		-	$ 225,000
Less Community Spouse Resource Allowance (CSRA 1997):		-	$ 79,020
Less Property Limit for One:		-	$ 2,000
Total Net Nonexempt Property (Total Property Reserve):			$ 0

QUESTION 1:

Given the previous example, if the wife needs LTC while her husband is still alive (either in LTC or at home), would she qualify for Medi-Cal?

ANSWER:

State law exempts the $225,000 from Medi-Cal eligibility and recovery. The $225,000 would remain exempt property if the wife applies for Medi-Cal during her husband's lifetime.

When the husband applied for Medi-Cal, a CSRA in the amount of $79,020 (1997 level) was allowed. The property in the CSRA was transferred into the wife's name. An additional $2,000 (the property limit for one) remained in the name of the institutionalized individual. Since the wife was allowed a CSRA of $79,020 at the time of her husband's approval for Medi-Cal, she would be required to spend down the CSRA and any separate property she had subsequently acquired to bring her nonexempt property to below the $2,000 limit (property limit for one person.)

QUESTION 2

The husband purchases a Partnership-approved LTC insurance policy worth $225,000 and the policy pays out $225,000. The husband recovers and never applies for Medi-Cal. The wife then enters LTC and applies for Medi-Cal. The couple has the same property as described in the example. Can the benefits paid out under the Partnership-approved LTC insurance policy be used to reduce the property limits for the wife?

ANSWER:

Yes. As long as the husband is alive, the couple receives the benefit of the $225,000 LTC insurance exemption since the property of both spouses is used in the Medi-Cal eligibility determination.

Note: Once her husband dies and after estate recovery, the LTC insurance exemption is eliminated. The $225,000 exemption would no longer exist. The wife would not be eligible for Medi-Cal until she spent down all of her nonexempt property below the $2,000 limit.

QUESTION 3

Husband and wife apply for Medi-Cal for the husband who is in a LTC facility. The couple have an exempt principal residence, a savings account of $87,000, other real property with a net market value of $100,000 (currently meeting utilization requirements), and stock certificates valued at $125,000. The husband owns a Partnership-approved LTC insurance policy and has provided the "Service Summary" which verifies that $225,000 has been paid out under the policy. After applying the LTC insurance exemption the applicant's total net nonexempt property is $0 and the husband is determined eligible for Medi-Cal. Later the husband transfers **all** of his interest in the property to his wife as her sole and separate property. While the husband remains in LTC, his wife enters LTC and applies for Medi-Cal. Is the wife eligible to a Medi-Cal LTC insurance exemption?

ANSWER:

The wife now has separate property amounting to $306,000. The husband received benefits under the Partnership-certified policy but has no property to apply the exemption against. All of his interest in the property was transferred to his wife as her sole and separate property. The $225,000 LTC insurance exemption is allowed only for the individual who received services under the policy, in this case the husband who has no property. Spousal impoverishment provisions do not apply since there is no community spouse. The wife is in an Medi-Cal Family Budget Unit of one. All of her separate property ($306,000) is countable and compared against the $2,000 property limit for one.

QUESTION 4

Can the LTC insurance exemption be allowed even if the individual applying for Medi-Cal is not in LTC?

ANSWER:

Yes. The LTC insurance exemption lasts as long as the person is alive and is applied regardless of whether he/she is in LTC. A person may have had a serious accident or illness which required the type of care provided under a certified LTC insurance policy or certificate. He/she may not have needed to apply for Medi-Cal. At some point later the individual may require acute hospitalization or some other benefit not covered under his/her LTC insurance and may need to apply for Medi-Cal. In that case, the individual is eligible to receive an LTC insurance exemption equal to the amount of benefits that have been paid out under the Partnership-approved LTC insurance policy or certificate to the date of application for Medi-Cal. The individual will have to spend down any additional excess property before Medi-Cal eligibility may be established.

Note: If an individual acquires additional property at some point after the initial eligibility determination, the amount of benefits paid to date under his/her Partnership-approved LTC insurance policy should be verified to determine if the LTC insurance exemption may be increased to exempt all or some of the net market value of the newly acquired property.

B. PAYMENTS:

1. PREMIUM PAYMENTS MADE BY THE APPLICANT/BENEFICIARY

Payments made by the applicant or beneficiary for any LTC insurance policy or certificate shall be considered an income deduction in accordance with Article 10. (This deduction applies to all health insurance premiums.)

2. INSURANCE PAYMENTS MADE UNDER AN LTC INSURANCE POLICY

Benefit payments under the LTC insurance policy may continue to be made under the policy after the individual is determined eligible for Medi-Cal. In most cases, these payments will be per diem payments. Payments received by the applicant or recipient shall be considered income in accordance with Article 10.

If payments are made under the LTC insurance policy directly to the facility, the county shall code the individual on Medi-Cal Eligibility Data System (MEDS) as having Other Health Insurance and complete the DHS 6155 form.

Note: For share of cost cases when an individual's LTC insurance policy's payment is:

- ✔ less than the private pay rate of the facility, and
- ✔ his/her share of cost is higher than the Medi-Cal payment rate but lower than the private pay rate charged by the facility,

the individual must be informed by the Eligibility Worker (EW) that he/she is allowed to make monthly voluntary payments of his/her share of cost to the county.

The county shall:

- ✓ enter the amount of the voluntary payment on MEDS to certify that the share of cost has been met, and
- ✓ forward the voluntary payment to:

Department of Health Services
Third Party Liability Branch
Recovery Branch
P.O. Box 2471
Sacramento, CA 95812-2471

Once the county certifies that the share of cost has been met, the facility will then bill at the Medi-Cal rate. This will protect the applicant/ beneficiary from being charged the private-pay rate by the facility and prevent the need to reduce his/her exempt property to pay the provider. The applicant/beneficiary shall provide verification of the facility's private-pay rate to the EW.

C. NOTIFICATION REQUIREMENTS FOR THE COUNTY:

If the "Service Summary" form provided by the insurance company:

☒ is found to be in error, resulting in the ineligibility of the applicant or beneficiary, or

☒ the verification provided by the insurance company is found to be in such a condition that the County cannot determine whether the applicant/ beneficiary is entitled to an LTC insurance exemption,

the county shall notify DHS so that appropriate action may be taken against the insurance company. The notification should be directed to:

Department of Health Services
California Partnership For Long-Term Care
714 P Street, Room 616
Sacramento, CA 95814

5. ESTATE RECOVERY

A. BACKGROUND

The DHS, Estate Recovery Unit (ERU), implemented an estate recovery program in June 1981, pursuant to Welfare and Institutions Code, Section 14009.5, in which claims are filed against the estates of certain deceased Medi-Cal beneficiaries. The person responsible for the administration of the decedent's estate is required to notify DHS regarding the death of the Medi-Cal beneficiary. Upon receipt of the notification of death, the ERU files a claim against the decedent's estate for the amount of health care premiums and services paid for by Medi-Cal, after the beneficiary's 55th birthday. The recovery amount, however, is limited to the lesser of the claim amount or the value of the assets in the decedent's estate.

The ERU is barred from claiming against:

- the estate during the lifetime of the surviving spouse, and/or
- the proportionate share of the estate passing to a child who is under the age of 21, or who is blind, or who is permanently and totally disabled.

has provided the "Service Summary" which verifies that $225,000 has been paid out under the policy. After applying the LTC insurance exemption the applicant's total net nonexempt property is $0 and the husband is determined eligible for Medi-Cal. Later the husband transfers **all** of his interest in the property to his wife as her sole and separate property. While the husband remains in LTC, his wife enters LTC and applies for Medi-Cal. Is the wife eligible to a Medi-Cal LTC insurance exemption?

ANSWER:

The wife now has separate property amounting to $306,000. The husband received benefits under the Partnership-certified policy but has no property to apply the exemption against. All of his interest in the property was transferred to his wife as her sole and separate property. The $225,000 LTC insurance exemption is allowed only for the individual who received services under the policy, in this case the husband who has no property. Spousal impoverishment provisions do not apply since there is no community spouse. The wife is in an Medi-Cal Family Budget Unit of one. All of her separate property ($306,000) is countable and compared against the $2,000 property limit for one.

QUESTION 4

Can the LTC insurance exemption be allowed even if the individual applying for Medi-Cal is not in LTC?

ANSWER:

Yes. The LTC insurance exemption lasts as long as the person is alive and is applied regardless of whether he/she is in LTC. A person may have had a serious accident or illness which required the type of care provided under a certified LTC insurance policy or certificate. He/she may not have needed to apply for Medi-Cal. At some point later the individual may require acute hospitalization or some other benefit not covered under his/her LTC insurance and may need to apply for Medi-Cal. In that case, the individual is eligible to receive an LTC insurance exemption equal to the amount of benefits that have been paid out under the Partnership-approved LTC insurance policy or certificate <u>to the date of application for Medi-Cal</u>. The individual will have to spend down any additional excess property before Medi-Cal eligibility may be established.

Note: If an individual acquires additional property at some point after the initial eligibility determination, the amount of benefits paid to date under his/her Partnership-approved LTC insurance policy should be verified to determine if the LTC insurance exemption may be increased to exempt all or some of the net market value of the newly acquired property.

Upon the death of the surviving spouse, the ERU may bill the estate for either the amount paid by Medi-Cal for medical assistance to the predeceased spouse or the value of the assets received by the surviving spouse, whichever is less. If surviving spouse received Medi-Cal benefits, the ERU will also bill the estate for those services.

B. LONG-TERM CARE INSURANCE EXEMPTION

The ERU will reduce the amount of the estate assets from which the ERU is able to claim against by the sum of qualifying insurance benefits paid through a Partnership-approved LTC insurance policy or certificate for qualifying LTC services on behalf of the deceased Medi-Cal beneficiary.

EXAMPLE:

Husband and wife apply for Medi-Cal for the husband, who is in a LTC facility. The couple have an exempt principal residence, valued at $150,000; a savings account of $75,000; other real property, with a net market value of $100,000; and stock certificates, valued at $125,000. The husband and wife each own a one-half interest in all assets. The husband owns a Partnership-approved LTC insurance policy. At the time of application, a service summary was provided which verified that $225,000 was paid out under the policy, for services received by the insured. At the time of his death, Medi-Cal had paid a total of $300,000 in benefits to the husband, after age 55.

QUESTION 1:

When the husband dies, what action will the ERU take?

ANSWER:

The ERU will not take collection action during the lifetime of the surviving spouse. However, when the spouse passes away, the ERU will present a claim, in her estate, for the husband's net recoverable assets. At the time of his death, the husband's one-half interest in the assets were:

Principal Residence	$ 75,000
Savings Account	37,500
Other Real Property	50,000
Stock Certificates	62,500
Total Assets for Husband	$225,000
Less Payments from the Partnership Approved LTC insurance policy	$225,000
Net Recoverable Assets	$ 0

The ERU would not enforce a claim against the wife's estate for the husband's Medi-Cal usage because $225,000 of the husband's assets were protected by the payments made from his Partnership-approved LTC insurance policy.

C. REPORTING RESPONSIBILITIES FOR PERSON HANDLING ESTATE

Upon the death of the Medi-Cal beneficiary, the person handling the individual's estate, after notifying DHS, in accordance with Probate Code, Sections 215 and 9202, is responsible for providing the amount of qualified benefits paid by the authorized insurance company, under the Partnership-approved LTC insurance policy or certificate.

In cases where the county accidentally receives verification which is intended for estate recovery purposes, or if a person handling the deceased individual's estate inquires, the verification should be sent to:

Department of Health Services
Third Party Liability Branch
Attention: Recovery Section
P.O. Box 2471
Sacramento, CA 95812-2471

The ERU would not enforce a claim against the wife's estate for the husband's Medi-Cal usage because $225,000 of the husband's assets were protected by the payments made from his Partnership-approved LTC insurance policy.

C. REPORTING RESPONSIBILITIES FOR PERSON HANDLING ESTATE

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Sacramento, CA 95812-2471

Form revised 9/27/94

SAMPLE "SERVICE SUMMARY" (Use the company letterhead with the company seal)

◆Name of Insured		◆Date of Birth	
◆Social Security Number			
◆Address of Insured			
◆Policy Number		◆Issue Date	
◆Insurance Company			

SERVICE SUMMARY: The Total Amount of Benefits Paid for Long-Term Care Services Countable toward the Medi-Cal Property Exemption

To the Insured: This summary provides you with a total amount of insurance payments that count towards the **Medi-Cal Property Exemption** to be applied in determining **eligibility** for the State of California's Medicaid (Medi-Cal) program. Please examine this summary and carefully compare your current asset total with the amount. If the amount of your Medi-Cal Property Exemption is close to the amount of the assets you currently have, you may be eligible for the Medi-Cal program. It is your responsibility to make application to the County (usually the Department of Social Services) for such eligibility. At the time of your application, a determination will be made whether and when you are eligible. *(Please note: You may have assets, in addition to the Property Exemption listed above, that are exempted from the determination of Medi-Cal eligibility.)*

The amount of your Medi-Cal Property Exemption will also be exempt from any recovery that the Medi-Cal program may seek from your estate.

To the County: This summary verifies that the amount indicated with the label "SERVICE SUMMARY" was paid by (company name) for long-term care services as defined in California Code of Regulations, Title 22, section 58023 on behalf of the person whose name appears as the "Name of Insured" above. As discussed in All County Welfare Directors Letter, No. 94-26, this amount is exempt from the determination of Medi-Cal eligibility (California Code of Regulations, Title 22, section 50453.7). If such person is found eligible for Medi-Cal by applying the Medi-Cal Property Exemption amount reported in this summary and after receiving Medi-Cal services is found to be ineligible solely by reason of errors in this summary, the Department of Health Services may recover from (company name) the amount of service payments as provided in California Code of Regulations, Title 22, section 58082(e).

(Name and Title) ______________________________

(Signature) ______________________ (date) __________

(Company Name) ______________________________

[Distribution] 1 Copy - Insured; 1 Copy - the CA Partnership for Long-Term Care