State of California—Health and Human Services Agency
Department of Health Care Services

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December 10, 2009

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 307

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

HOME AND COMMUNITY-BASED WAIVERS -- ASSISTED LIVING WAIVER

Enclosed are revisions to Article 19 D "Home and Community-Based Services (HCBS) Waivers" in the Medi-Cal Eligibility Procedures Manual. These revisions are being made to describe the Assisted Living Waiver (ALW). The remaining sections of Article 19 D that address various HCBS waivers will be updated in the future to also address the ALW.

The purpose of the ALW is to test the efficacy of assisted living as a Medi-Cal benefit and as an alternative to long-term nursing facility placement in two settings: residential care facilities for the elderly and publicly funded senior and/or disabled housing.

The ALW began as a three-year Assisted Living Waiver Pilot Project that ran from January 1, 2006 through December 31, 2008, but has since become a federally approved waiver. Although ALW providers are currently in only a limited number of counties, all counties may be impacted because a resident of a non-ALW provider county may apply for the ALW in another county and his/her current county of residence likely will be responsible for the ALW eligibility determination.

The Procedures contain English ALW notices of action. A project is underway to simplify these notices and to provide translations in the threshold languages. Once these notices are revised and translated, counties will be notified and copies will be available at a secured website on the Medi-Cal Eligibility Data Systems home page. Important: Until these translations are available, counties must follow the instructions contained in All County Welfare Directors Letter 08-32 to ensure that applicants and beneficiaries have meaningful language access to notice of action messages.

Filing Instructions

Remove Pages:	**Insert Pages:**
Pages 19 D-11 through 19 D-14	Pages 19 D -11.0 through 19 D-14
Nothing to remove	Pages 19 D 57.1 through 57.9

If you have any questions about this revision, please contact Tammy Kaylor at (916) 552-9496 or at Tammy.Kaylor@dhcs.ca.gov.

Sincerely,

Original Signed By

Vivian Auble, Chief
Medi-Cal Eligibility Division

Enclosure

In some counties, persons in 1X may choose to be in a managed care plan. It is not mandatory unless the person resides in a county that has a County Organized Health System.

D. Assisted Living Waiver

Assisted living provides a viable alternative to long-term care for certain individuals because it allows individuals to live in the community while receiving many of the services that would be available in long-term care.

The Department of Health Care Services (DHCS) applied for and received federal approval from the federal Centers for Medicare and Medicaid Services (CMS) for an Assisted Living (AL) waiver. Approval was received in May 2005, with implementation of the waiver to run from January 1, 2006 through December 31, 2008.

During the January 2006-December 2008 period, the AL waiver operated as a pilot project with up to 1000 slots for enrollment. At the conclusion of this initial period, the pilot ended, but the waiver continues with federal approval for the waiver's renewal, but with more counties participating. During the pilot, three counties (Sacramento, Los Angeles, and San Joaquin) had facilities that have agreed to participate in the pilot. This meant these facilities met the criteria for AL waiver participation and accepted the conditions for pilot participation.

As mentioned above, as the waiver progresses, facilities in other counties will be added and slots for enrollment will be increased. Counties are not responsible for monitoring enrollment numbers. The enrollment of individuals is the responsibility of the DHCS. If enrollment maximums have been reached, DHCS, rather than the counties, will inform the waiver applicant that the waiver's enrollment is closed.

There will be instances when one county's Medi-Cal resident will want to enroll in the AL waiver and will then move to an AL waiver provider site in another county. If the assisted living provider site is in another county, the current county of residence will determine whether an intercounty transfer is appropriate in addition to conducting any necessary Medi-Cal eligibility determinations for that resident. In some situations, an intercounty transfer is not needed, for example, when a married individual with a spouse on Medi-Cal will remain the responsibility of the county where the couple resided before one spouse's move to LTC or assisted living.

Note: Any reference in these Procedures to "regular" Medi-Cal means that the county conducted an eligibility determination without applying any of the specific AL waiver rules.

1. Description

State law (Welfare and Institutions Code 14132.26 as added by Assembly Bill 499 (Chapter 557 Statutes of 2000) created the Assisted Living Waiver Pilot Project

(ALWPP) to test the efficacy of assisted living as a Medi-Cal benefit and as an alternative to long-term nursing provider site placement.

The AL waiver will test the assisted living benefit in two settings.

- Residential care facilities for the elderly (RCFEs) and
- Publicly funded senior and/or disabled housing (PSH).

As described in paragraph five of item D above, individuals from any county may request enrollment into this waiver if they are willing to move to an AL waiver provider site in a another county. Therefore, any county may be required to make a Medi-Cal eligibility determination using AL waiver eligibility rules for a waiver applicant who resides in its county but who, if enrolled in the AL waiver, will move to another county where an AL waiver facility is located.

Regular Medi-Cal rules for determining which county is responsible for the eligibility determination apply. Generally, the county of responsibility is the county of residence of the individual. An individual does not have to initially reside in the county where the AL waiver provider site is located in order to request enrollment into the waiver, but the individual must be willing to move to that provider site if enrolled.

Medi-Cal eligible persons residing in an AL waiver provider site and enrolled into the AL waiver have the following characteristics:

- Have full scope Medi-Cal eligibility without a Medi-Cal share-of-cost;
- Have enough disposable income as described in section 3a, step 4;
- Are aged or disabled; (Note: Blind applicants for the AL waiver will need to be determined disabled to be part of this waiver.)
- Meet the nursing facility (NF) A or B level of care; and
- Are at least 21 years of age.

A person residing in a nursing facility under the state-only aid code 53, a person in another limited scope aid code, an individual who is limited scope due to alien status or due to failure to meet Deficit Reduction Act (DRA) requirements for verifying identity or citizenship cannot be in the waiver. Individuals also must meet all standard Medi-Cal eligibility requirements such as California residency and cooperation to be eligible for the waiver. Because an individual must have enough disposable income to provide for the cost of assisted living, all individuals in the AL waiver will have no share-of-cost Medi-Cal.

Eligibility is restricted to one Home and Community Based Service (HCBS) waiver at a time – concurrent enrollment in another HCBS waiver is not allowed.

The AL waiver benefits include:

- Assisted living benefit as rendered by the RCFE setting

- Assisted living benefit as rendered by a Medi-Cal licensed and certified home health agency in the PSH setting
- Care coordination

2. Referring Agency:

The waiver is operated directly by the DHCS Long-Term Care Division, Monitoring and Oversight Section (MOS). The MOS provides the federal Centers for Medicare and Medicaid Services (CMS) with the assurances that necessary, appropriate, and quality care and other assisted living services are rendered as described in the wavier application. DHCS has also contracted with Care Coordinator Agencies (CCAs) to conduct some aspects of the AL waiver process. Current lists of CCAs are contained in the following website: www.californiaassistedliving.org. This website also contains information about the AL waiver.

3. Referral Process:

This section describes the referral process and although this section addresses AL waiver eligibility determinations, details about how these AL determinations are made are contained in Section 4, "Eligibility Requirements under the AL Waiver". The referral form addressed below is contained in these Procedures.

A. Initial Enrollment Process

- Step 1. Individuals who ask DHCS, a CCA, or AL waiver facilities about enrolling in the AL waiver must be eligible for full scope Medi-Cal (with or without a share-of-cost) before any AL waiver assessments are made by DHCS or CCAs. For purposes of these Procedures, any reference to Medi-Cal or Medi-Cal eligibility assumes that the individual is or will be eligible for full scope Medi-Cal.

  If an individual is already on Medi-Cal, the individual will be referred to a Care Coordinator Agency (CCA) who works on behalf of the DHCS by conducting level of care assessments. If an individual is not already a Medi-Cal beneficiary, he/she will be advised to apply for Medi-Cal at his/her county of residence and to then provide a CCA with the results of that determination.

  If a county becomes aware of an applicant or beneficiary who wants information about the AL waiver, the county should refer the individual to a CCA (see the website listed in paragraph 2 above for names of CCAs) and for an applicant, must continue to complete the regular Medi-Cal determination.

- Step 2. CCAs conduct the level of care assessment for individuals who already have had a Medi-Cal determination that resulted in either coverage for full scope Medi-Cal (with or without a share-of-cost) or if married, a denial due to excess property. No level of care assessments are made for any others who are ineligible for Medi-Cal or who have not yet had a regular Medi-Cal

determination. (Those married individuals who are ineligible due to excess property may turn out to be Medi-Cal eligible under the waiver once AL waiver rules are applied, so the level of care assessment is made.) Note: Such married individuals who would be Medi-Cal eligible once AL waiver rules are applied still must meet the AL Waiver requirement of being eligible for full scope no share of cost Medi-Cal. CCAs provide the results of the assessment to the MOS.

- Step 3. MOS staff review the results of the level of care assessments.

  (a) If the level of care criteria is not met for an individual, MOS informs the individual that he/she is not eligible for the waiver. There is no referral to any county. The AL waiver process stops.

  (b) If level of care criteria is met, MOS staff will review what kind of Medi-Cal the individual has and takes the appropriate action described below.

    (i) If the individual is eligible for regular Medi-Cal without a share-of-cost based on receipt of SSI/SSP, MOS will enroll the individual directly into the waiver and inform the family or CCA to inform the Social Security Administration of the date of the individual's entry into assisted living. There is no referral to any county.

    (ii) If the individual is not on SSI/SSP, but is eligible for regular Medi-Cal without a share-of-cost, MOS will continue with step 4.

    (iii) If the individual is eligible for Medi-Cal with a share-of-cost or the individual is married and ineligible for Medi-Cal due to excess property, MOS will continue with step 4.

- Step 4. Because the individual met the level of care criteria, he/she is potentially eligible for AL waiver enrollment but he/she must be eligible for Medi-Cal as previously determined by the county and have enough disposable income to meet the costs of the AL Waiver. **DHCS**, not the counties, will make the determination as to whether an individual has enough disposable income to meet the costs of the AL waiver based on information such as whether the individual is on SSI/SSP, what the individual's notice of action contains, and what information the county supplies on the Assisted Living Waiver Referral form, discussed in step 5 below. On May 1, 2009, this amount is $1086 which is the same amount as the SSI/SSP maximum total payment level for nonmedical board and care and includes a personal and incidental needs rate of $125. Note: This amount is subject to change, sometimes more frequently than annually. If there is such a change, it will be published via an All County Welfare Directors Letter as an update to the Pickle program handbook entitled, "SSI/SSP Section 16 Payment Standards".

Frequently, DHCS/CCAs will refer individuals to the county for another eligibility determination that is to be based on the assumption that the individual is to be enrolled in the AL waiver and will move to an AL waiver facility. For example, there will be some individuals who under regular Medi-Cal have a share-of-cost but could become zero share-of-cost and have increased disposable income under a regular Medi-Cal determination if they were to move to a licensed board and care provider site and have the excess board and care or Petit v. Bonta board and care deduction applied.

In addition, because the waiver has special eligibility provisions as explained later, some individuals who are married, but who have excess property, may be property eligible and thus eligible for Medi-Cal with or without a share-of-cost when these waiver provisions are applied in the eligibility determination.

Therefore, individuals who meet the level of care criteria and who have a share-of-cost or if married, are ineligible due to excess property will be referred back to the county for an AL waiver eligibility determination. MOS will use the AL waiver referral form listed in item 31 Section 19 D VI that has been developed to request that the county welfare department's waiver coordinator conduct another eligibility determination.

- Step 5. The county will complete an AL waiver eligibility determination for the referred individual by determining his/her potential Medi-Cal eligibility/share-of-cost as if the individual were residing in a licensed board and care provider site. Depending on the circumstances of the case, the county may be using regular Medi-Cal rules with a board and care deduction or may be using AL waiver provisions. If the referred individual is already a Medi-Cal beneficiary, the county will need to redetermine the individual's potential Medi-Cal eligibility/share-of-cost as if he/she were residing in a licensed board and care provider site unless the county already made a determination based on this living arrangement. See "Eligibility Requirements under the AL Waiver" below for detailed instructions on making this determination under AL waiver rules.

  The county shall complete the section of the AL waiver referral form dealing with potential Medi-Cal eligibility/share-of-cost and return it to the DHCS MOS by mail, fax or email.

  Important: Because MOS will need to determine whether an individual has sufficient disposable income to enroll in the AL waiver, the county must include the net nonexempt income calculation on the referral form.

- Step 6. If the individual would be eligible for Medi-Cal based on enrollment into the AL waiver, MOS will again determine whether the individual has sufficient disposable income to be enrolled into the waiver based on the county's no share-of-cost/share-of-cost determination. If the individual is ineligible due to excess

property even after AL waiver rules are applied, MOS will not enroll the individual because he/she is not Medi-Cal eligible.

(a). If MOS determines that the individual is to be enrolled in the waiver, the MOS and the individual will determine the date of the individual's enrollment and when he/she will enter an AL waiver provider site. MOS will provide this information to the county via the referral form. The county will make any needed changes to eligibility based on this information, will report any eligibility changes as of the first of the month of residence in the AL provider site, and will issue an appropriate AL waiver approval notice of action, e.g., if there are changes to the individual's current Medi-Cal eligibility that was determined under regular Medi-Cal rules.

(b). If MOS determines that the individual is not going to be enrolled in the AL waiver, MOS will inform the individual and will also provide the county with the reason. If the reason is based on a county determination of ineligibility due to excess property or insufficient disposable income based on the county's determination of net nonexempt income, the county must provide a notice of action stating that the individual is not eligible for the AL waiver and must include the income/property determination as appropriate, even if there are no changes to the individual's current regular Medi-Cal eligibility. Please see Section 6 Notices of Action for more information.

B. Ongoing process

If an individual's enrollment in the AL waiver is to end, the MOS will send this information to the county via the referral form. The county will need to redetermine Medi-Cal for the individual without applying waiver provisions. The county may also need to determine whether the individual will remain living in an assisted living provider site in making this determination.

If, at any time, the county determines that an individual's eligibility has changed, the county must provide this information to MOS via the referral form. For example, if an individual in the waiver has benefits reduced from full scope to limited scope due to DRA requirements, the county must notify MOS via the referral form of this change. MOS will inform the individual that he/she is no longer eligible for the waiver.

4. Eligibility Requirements under AL Waiver rules

At this point in the process, the county should already have completed a regular Medi-Cal determination of ineligibility or eligibility with or without a share-of-cost. The purpose of a new eligibility determination is to see whether an individual who is likely to enroll in the AL waiver and who has a share-of-cost or if married is ineligible due to excess property under regular Medi-Cal would be

eligible for Medi-Cal without a share-of-cost based on potential enrollment into the AL waiver and a move to an AL waiver provider site.

Either one or two eligibility determinations will have to be made. That is, first using the hierarchy applicable in determining eligibility for regular Medi-Cal, the county shall determine whether the individual is eligible for a no share-of-cost full scope Medi-Cal program using regular Medi-Cal rules with the assumption that the individual will be living in an AL waiver provider site. At this stage of the eligibility determination, the potential waiver individual is not considered institutionalized nor do spousal impoverishment rules apply if he/she is married. If there is no share-of-cost eligibility, the county will report the waiver individual in that program's aid code as of the first of the month in which he/she moves to the AL waiver provider site. Then, if there is no eligibility for a no share-of-cost program using regular Medi-Cal rules, the county will redetermine eligibility using the AL waiver rules described below as appropriate.

The following AL waiver provisions apply in this AL eligibility determination.

(a) The applicant is treated as if he/she were institutionalized for purposes of deeming and determining the amount of income and property the waiver applicant has. This means the following:

1. The individual is in his/her own MFBU. If other family members wish to be aided, the waiver individual is still treated similarly to a family member not living in the home.

2. Only the individual's own income and property are used to determine his/her financial eligibility after the methodology specified in (b) and (c) below is applied.

(b) Income methodology when applying institutional and spousal impoverishment rules.

If the waiver individual is married, "name on the check" rule applies. That is, the owner of the income is the one named as its recipient. Community income is equally divided between the spouses. There is no deeming of income from the non-waiver spouse to the waiver spouse.

(i) Apply the standard deductions applicable to an aged or disabled individual such as the $20 any income deduction.
(ii) Deduct the greater of (1) the amount of unavailable income pursuant to Title 22, Section 50515(a)(3) referred to as the "excess board and care deduction") or (2) the $315 Petit v. Bonta deduction for personal care services.

Two Important Factors:

Background: According to Section 50515(a)(3), unavailable income includes that portion of monthly income of a medically needy person residing in a licensed board and care facility which is both: (A) Paid to the facility for residential care and support and (B) In excess of the appropriate maintenance need level in accordance with in Section 50603. The AL eligibility determination at this point is only a potential determination – what would happen if an individual were enrolled in the AL waiver and moved to an AL facility. There are two issues. First, no amount has actually been paid to the facility yet and secondly, some individuals are having their potential eligibility determined under programs other than the Medically Needy program. Therefore, the following provisions are to be used when applying Section 50515(a)(3).

- The amount to be used as the amount paid to the licensed board and care facility is the AL facility rate as determined as follows.

  The SSI/SSP maximum total payment for nonmedical board and care is contained in Section 16-Payment Standards in the Pickle Handbook.

  Although the SSI/SSP maximum total payment level for nonmedical board and care is used by DHCS to determine whether an individual has enough disposable income to be enrolled in the AL waiver, this amount contains a personal and incidental needs rate. (For example, on May 1, 2009, the nonmedical board and care rate is $1086 and the personal and incidental needs rate ranges from a minimum of $125 to a maximum of $220.

  The personal and incidental needs rate is retained by the individual and <u>is not paid to the facility</u> and is not included in determining the excess board and care deduction. However, at this point in the income determination, it is not known whether the individual will retain the minimum or maximum personal and incidental needs rate. Therefore, for ease of administration, counties are to assume the waiver individual is retaining only the minimum personal and incidental needs allowance. For example, on May 1, 2009, the counties would assume the individual will retain $125 for personal needs and incidentals.

  AL facility rate defined: <u>The difference between the SSI/SSP nonmedical board and care payment level and the minimum personal and incidental needs rate is defined for purposes of the AL waiver as the AL facility rate.</u> Therefore, as of May 1, 2009, the AL facility rate to be used is $ 961 ($1086 - $125).

- The deduction specified in Section 50515(a)(3) also applies (if it is greater than the Petit deduction) when determining income eligibility for the Aged and Disabled FPL program. In that situation, the excess board and care deduction would be the difference between the AL waiver

facility rate and the effective income standard for one for the A&D FPL program (the greater of 100 percent of the FPL plus $230 or the SSI/SSP payment standard).

(iii) Apply any applicable earned income deductions such as the $65 and ½.
(iv) Deduct any health insurance premium payments.
(v) Deduct court ordered child support or spousal support.
(vi) Apply any deductions or disregards applicable to the specific program for which the individual is being evaluated, for example, the $230 disregard applicable in the Aged and Disabled FPL program. Note that this $230 deduction is not applicable in the situation where the county is evaluating the individual for any program other than the Aged and Disabled FPL program.
(vii) Deduct the regular income standard/maintenance need income level for the program for which the individual is being evaluated, (for example, on April 1, 2009, the income limit for the Aged and Disabled FPL program is $1133 (100 percent of the FPL plus the $230 standard disregard because it is greater than the SSI/SSP payment level for one.
(viii) Deduct the amount pursuant to the spousal impoverishment provision for allocating income to the community spouse or family member if applicable. For example, the waiver individual may allocate the maximum spousal income allocation to the spouse up to the limit for the spouse at home or may allocate a lesser amount.

If there is no remaining income, the individual is eligible for no share-of-cost Medi-Cal under AL waiver provisions and the individual would be reported in aid code 14 or 64 when the individual is enrolled in the AL waiver and enters an AL waiver facility.

(c) Property methodology when applying institutional and spousal impoverishment rules

There are no changes from the provisions applied in a regular Medi-Cal determination except that spousal impoverishment provisions for property apply. The property of both spouses is treated just as if the waiver applicant were an institutionalized individual. The non waiver spouse may retain the community spouse resource allowance which is the greatest of the following:

- the standard amount
- an amount established by fair hearing
- an amount established by court order.

The spouse deemed to be institutionalized can retain another $2000 of countable property. The full spousal impoverishment process is contained in ACWDL 90-01, except that the transfer of property penalties contained in that letter do not apply to individuals in the AL waiver.

(d) Disability Determination

As stated in the description of the waiver, an individual must either be aged or disabled to be in this waiver. If an individual requests a disability determination or needs such a determination for waiver eligibility, counties must follow all applicable regulations and procedures to ensure that such a disability determination is made. An individual determined to be presumptively disabled is disabled.

5. Aid Codes

Aid codes are being developed for this AL waiver to more easily identify AL waiver enrollees. During the AL waiver pilot, an individual who was eligible for no share-of-cost Medi-Cal by using AL waiver rules and was enrolled in the waiver was placed in aid code 14 if aged or 64 if disabled. Until the new aid codes are operational, counties shall report an individual who is eligible for no share-of-cost Medi-Cal by using AL waiver rules and is enrolled in the waiver in aid code 14 if aged or 64 if disabled.

6. Notices of Action

As described above, individuals wishing to enroll into the AL waiver must have had a Medi-Cal determination using regular Medi-Cal rules before being evaluated for enrollment into the AL waiver by DHCS. Such individuals would have then already received a regular Medi-Cal notice of action.

If an individual is to move into an AL waiver provider site and is then eligible using regular Medi-Cal rules, the county shall use a regular Medi-Cal notice of action.

However, if eligibility/ineligibility is based on use of special AL rules such as institutional deeming rules and spousal impoverishment provisions, two new notices of action have been developed that counties must use depending upon the circumstances of the case.

These notices are listed in items 28 and 29 in 19 D VI Forms, Notices and Brochures. In addition, we have developed a third notice in the unlikely event that the county is determining initial Medi-Cal eligibility under AL waiver rules. Copies of the English version of these three notices are on pages 19 D 57.1, 19 D 57.2, and 19 D 57.3. Translations in the threshold languages (as they become available) will be on the DHCS website at http://www.dhcs.ca.gov/formsandpubs/forms/Pages/MCEBForms.aspx.

Note that individuals who do not meet screening criteria, level of care criteria, or do not have sufficient disposable income to meet the costs of assisted living as determined by DHCS will be informed by the DHCS that they are not being enrolled into the waiver.

7. Examples

Example 1.

An aged/disabled individual has just moved to an assisted living provider site that is also a licensed board and care provider site. The facility is not an AL waiver facility and the facility costs are $900. The individual wants to apply for the AL waiver because of the waiver services. He contacts a Care Coordinator Agency (CCA) that tells him he must first apply for Medi-Cal. He contacts his county department of social services for a regular Medi-Cal determination.

The individual has never been on SSI so there is no Pickle determination. He has no property. The county reviews his eligibility for the A&D FPL program. The county makes the following determination based on his gross income of $2281. Assume the effective income limit for the A&D FPL program is $1133. Assume that the AL facility rate is $ 961.

1. The county first determines regular eligibility for the A&D FPL program while the individual is in the assisted living (licensed board and care) provider site. Assume the effective income limit for the A&D FPL program is $1133. The excess board and care deduction pursuant to Title 22 Section 50515(a)(3) is $0 ($ 900 facility rate - $1133). The $315 Petit deduction is used in the A&D FPL income determination because it is the larger amount. Note: Although the A&D FPL program does not apply to an individual in long term care, the waiver individual is not actually in LTC so he/she may be evaluated for the A&D FPL program.

Applicant's income	$ 2281
Any income deduction	- 20
	$ 2261
Disregard unavailable income pursuant to Petit	- 315
Net nonexempt income	$ 1946

The applicant is ineligible for the A&D FPL program under regular rules because his/her net nonexempt income exceeds $1133. Assume he is ineligible for all other no share-of-cost Medi-Cal programs but would have a share-of-cost under regular Medi-Cal rules. The county issues a regular Notice of Action that the individual provides to the CCA. The CCA sends the referral notice to the county and requests an eligibility determination as if the individual were enrolled in the AL waiver and moved to an AL facility site.

2. The county then considers his eligibility as if he were in the AL waiver. Assume the AL facility rate is $961 ($1086 - $125, the difference between the SSI/SSP nonmedical board and care payment level and the minimum personal and incidental needs rate). The county first considers his eligibility for no share-of-cost programs, but he is ineligible. The county then considers him for the ABD-Medically Needy (ABD-MN) program as if he were in an AL facility. Note that the Petit deduction of $315 is less than the $361 deduction for unavailable income pursuant to Title 22, Section 50515(a)(3) ($961 AL waiver facility rate-$600 MNIL).

Applicant's income	$	2281
Any income deduction	-	20
	$	2261
Disregard for unavailable income	-	361
(Note that this income makes him ineligible for any no cost program	$	1900
Maintenance Need Income Level	-	600
Share-of-cost	$	1300

Because the individual is unmarried, there are no AL waiver income provisions that would reduce his income and share-of-cost. The county returns the AL referral form to DHCS/CCA with this information. The CCA will screen the individual for the AL Waiver. We do not consider the share-of-cost amount available to meet costs of assisted living under the AL waiver (the SSI/SSP nonmedical board and care rate). This means that the individual has only $981 disposable income ($20 + $361 + $600) disposable income which is less than the SSI/SSP nonmedical board and care costs. The CCA/MOS staff informs the individual that he/she does not sufficient disposable income to meet the costs of assisted living under the waiver and that he/she will not be enrolled. The CCA/MOS staff also returns the referral form to the county with this information. The county sends the individual the notice of action "Denial of Enrollment in the Assisted Living Waiver and/or Medi-Cal".

Example 2.

An aged/disabled husband wants to move from the home he and his wife are living in, to live in an assisted living provider site that is also a licensed board and care provider site. His spouse will remain in their home. Neither is on Medi-Cal, but the husband wants to apply for the AL waiver and he contacts a CCA. The wife does not want Medi-Cal. The CCA tells the husband to apply for Medi-Cal and provide them the results.

The husband applies for Medi-Cal and the county makes the determination based on the following. Assume the husband has $871 from Social Security and his wife has $1509 in her name. The couple receives $820 income in both of their names. The county determines that the $820 is from community property and that the originating documentation does not specify an amount for each. Therefore, the county divides the $820 equally between the spouses so each is considered to

have $410. The husband has $1281 of income and the wife has $1919. They have $111,560 in community property. The husband pays a $100 monthly conservator fee that meets Medi-Cal rules for such a deduction and an $81 health insurance premium.

The county determines that he has never been on SSI/SSP so he would never be eligible for Pickle. Furthermore, he is not eligible for any Medi-Cal program due to excess property. The county sends him a denial notice of action. The husband provides his notice of action to the CCA. The CCA screens the individual. Assume he meets the screening criteria so that the CCA sends the AL waiver referral form to the county asking for an eligibility determination using AL waiver rules as appropriate. Assume the AL waiver facility rate is $961.

The county then completes the husband's income and property determination using AL waiver rules based on the supposition that the husband will be moving to a licensed AL waiver board and care provider site. Note that if there had been eligibility using regular rules, the county would not have needed to apply AL waiver spousal impoverishment. Assume the effective A&D FPL income standard for one is $1133. The excess board and care deduction is $0 ($961 AL waiver facility rate - $1133). Therefore, the income determination includes the $315 disregard pursuant to the Petit deduction because it is larger.

The husband is treated as if he were institutionalized for purposes of determining his own income and property so if the husband were treated as if he were in long-term care, there would be no income deemed from the spouse at home.

1. Income eligibility/share-of-cost determination

The county determines the husband's income eligibility under AL waiver rules for the A&D FPL program. Note: Because the husband is treated as if he were institutionalized for determining his own income and there is no income deemed from the spouse, the AL waiver rules supersede the regular Medi-Cal rules and there is no deduction given for the maintenance need income level of the spouse as there would be under regular Medi-Cal rules. Assume the Minimum Monthly Maintenance Need Allowance (MMMNA) is $2739. The husband may allocate up to $820 to his wife ($2739 MMMNA - $1919, the wife's income).

Waiver applicant husband's income	$	1281
Any income deduction	-	20
Unavailable income deducted pursuant to Petit	-	315
Amount deducted for conservator fee	-	100
Amount deducted for health insurance premium	-	81
Remainder	$	765
Allocation to wife pursuant to spousal impoverishment	-	765
Net nonexempt income	$	0

The husband will meet the income requirement for the A&D FPL program using AL waiver rules once he moves to an AL waiver provider site because his income is less than $1133.

2. Property determination:

The county determines whether the husband meets the property limit of $2000 for the A&D FPL program applying the spousal impoverishment provision allowed under the terms of the AL waiver. The couple's total property is $111,560. Assume the community spouse resource allowance is $109,560 and the husband transferred $109,560 to his wife by the end of the CSRA transfer period. His remaining property would be $2000 and he meets the property limit.

- The husband meets both the A&D FPL income limit and the property limit using AL waiver provisions. He therefore is eligible for the A&D FPL program and eligible for no share-of-cost full scope Medi-Cal using AL waiver rules. The county will return the AL referral form to the CCA with the income calculation and information that the husband will be eligible for Medi-Cal with no share-of-cost using AL waiver rules.

The CCA determines that the husband does not have sufficient income to pay for assisted living under the AL waiver. If he continues paying the $100 conservator fee and the $81 health insurance premium, he would have $1100 ($1281-$181), but if he pays the $765 MMMNA, he would have only $335. Assume the CCA discusses this with the husband and his family and the family agrees to pay the AL facility the difference between its AL facility rate and the amount the husband can pay the facility. (Note: The husband will continue to get the MMMNA spousal allocation deduction even if his wife is the one who agreed to use her allocation to pay the facility because we do not monitor how a community spouse uses her income including the allocation.) Assuming that the husband will be enrolled in the AL waiver, the CCA will inform the county of the husband's enrollment into the AL waiver and his expected date of entry into assisted living. The county provides the husband with the notice of action, "Approval of Enrollment in Assisted Living Waiver and Initial Medi-Cal ". The county will report his eligibility under aid code 64 for that month.

E. DHS Acquired Immune Deficiency Syndrome (AIDS) Waiver

1. Description

The AIDS Medi-Cal Waiver Program (MCWP) is limited to persons with a symptomatic Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS) with symptoms related to HIV disease who would otherwise require nursing facility or hospital level of care. Services provided include case management, skilled nursing, attendant care, psycho-social counseling, non-emergency medical transportation, homemaker services, specialized medical equipment and supplies, minor physical adaptations to the

home, a limited supplement for infants and children in foster care, nutritional supplements/home delivered meals.

The Office of AIDS contracts with MCWP projects to implement the program at the local level and provide interdisciplinary comprehensive nurse and social work case management services. The case managers at these local Waiver agencies initiate and oversee the process of assignments, care plan development, service arrangement, ongoing monitoring and reassessments of a client's needs. To arrange for services, case management staff must first explore support that might be available through family, friends, and the volunteer community. They then review existing publicly funded services and make direct referrals whenever possible. If needed services are not available through these resources, the case manager can authorize the purchase of services from MCWP funds. Referrals to the MCWP come from a variety of sources including, but not limited to, local county agencies, social service and aging organizations, hospitals, home care agencies, and a variety of other community-based groups.

2. Referring Agency: Local AIDS MCWP projects

MCWP projects will refer applicants to the county for determination of Medi-Cal eligibility. An individual must be a Medi-Cal beneficiary prior to enrollment in the AIDS MCWP.

3. Eligibility

The individual must be eligible for full scope benefits and meet all regular Medi-Cal eligibility. No special Medi-Cal income, property or institutional deeming rules apply. If the applicant is living in the home, he/she is not in a separate MFBU from his/her parent/spouse.

V. GENERAL PROCESSING INFORMATION

A. Notices of Action (NOA)

All waiver applicants should receive a NOA approving or denying Medi-Cal eligibility. The county will send a NOA to the applicant and a copy to the appropriate State referring agency, MSSP site or Regional Center. The MSSP, IHO, and DDS waiver applicants and beneficiaries have special NOAs. The MCWP projects also sends out a special NOA. Copies of these NOA's are included in these procedures.

B. Beginning Date of Waiver Eligibility

The effective date of Medi-Cal coverage for applicants of a waiver where the waiver has special eligibility rules should be the date the following two requirements are met:

1. The referring agency determines that it is medically appropriate for the waiver applicant to be in that waiver, and

2. The county determines that the waiver applicant meets the Medi-Cal eligibility requirements under that waiver.

Counties should contact IHO, the MSSP contact person, or the Regional Center to determine the effective date unless it is indicated on the referral form. NOTE: Retroactive eligibility rules as stated in Section 50710 of the California Code of Regulations remain in effect except for the MSSP Waiver.

C. There may be waiver persons requesting In-Home Supportive Services (IHSS). The IHSS residual component does not waive parental income and resources of parents or use spousal impoverishment rules; therefore, it is unlikely that the beneficiary will be eligible. Counties may refer these persons to the PCSP component of IHSS; however, a parent or spouse may not be the provider of services.

D. Annual Redetermination

The county shall redetermine eligibility as required by section 50189. Only information about the waiver beneficiary is required. Counties should check with IHO, the MSSP contact, or the referring Regional Center at the yearly determination to verify that the waiver beneficiary is still medically eligible for the waiver unless there is an agreement that the agency will notify the county if a beneficiary is no longer eligible for the waiver.

E. Medi-Cal Family Budget Unit (MFBU)

Persons in the MSSP, HCBS, and DDS waivers are in their own MFBU. Spousal Impoverishment rules apply. Since the waiver person is in his/her own MFBU, the maintenance need or income limit for the waiver person is based on a family size of one for the appropriate program rather than the $35 personal needs allowance. If there are multiple persons in the same household applying for these waivers, each person is in his/her own MFBU. If other family members are applying for or are receiving regular Medi-Cal, the IHO, MSSP, or DDS waiver applicant/beneficiary should be treated similar to public assistance (PA) recipients, e.g., they are not in the MFBU with other family members; however, they may be used to link other family members. Persons applying for the other waivers that do not use special eligibility rules are considered part of the household if they are determined to be living in the home; therefore, regular Medi-Cal MFBU rules apply. NOTE: if it is more beneficial for the person to be in the MFBU with the other family members, the waiver applicant may choose not to be in the waiver and to be determined under regular Medi-Cal rules. The county should notify the referring agency of the decision.

F. SSI Personal Needs Allowance (PNA)

Effective June 1, 1990, federal law began allowing a former institutionalized SSI child the same personal needs allowance (PNA) as an institutionalized SSI child as long as the non-institutionalized child is in a home and community-based waiver. Because the Social Security Administration (SSA) needs to confirm that such a child is in a waiver before the PNA can begin or that such child remains in a waiver for the PNA to continue, counties may be requested to verify such information at the time waiver coverage begins and then at the SSA redetermination. Since such information is confidential, counties must first have permission from the child's parent or from another appropriate adult before releasing this information to SSA. The DHS 7071 form was developed to secure this parental consent and may be used to release this information to SSA.

Although DHS has developed a system to allow the waiver aid code to continue, counties should be aware that in some cases (depending on how SSA enters the information), when the waiver beneficiary begins receiving the PNA, MEDS will convert the waiver aid code to an aid code of 60. If this occurs and the waiver person is still living in the home and is not eligible for a regular SSI payment, counties should contact DHS so this may be corrected.

G. Quality Control

Counties should indicate that a special income and resource determination was used when determining eligibility for persons in the IHO, MSSP, and DDS waivers to prevent confusion when persons such as Quality Control review the file. A copy of the DDS or CDA referral form or IHO notice should also be in the file.

VI. FORMS, NOTICES, AND BROCHURES

1. Department of Developmental Services Waiver Referral Form (DHS 7096)
2. Spanish DDS Waiver Referral Form (DHS 7096 SP)
3. Medi-Cal Waiver Information and Authorization [formerly called the "SSI Payments for Disabled Children Living at Home" (DHS 7071)
4. Approval Notice of Action for the DDS Waiver (MC 341)
5. Spanish Approval Notice of Action for the DDS Waiver (MC 341 SP)
6. Denial or Discontinuance Notice of Action for the DDS Waiver (MC 342)
7. Spanish Denial or Discontinuance Notice of Action for the DDS Waiver (MC 342 SP)
8. Regional Center Contacts
9. Department of Developmental Services Brochure
10. IHO Waiver Medi-Cal Eligibility Notice for all Applicants Except Los Angeles County (Number1)
11. IHO Waiver Medi-Cal Eligibility Notice for Los Angeles County Applicants (Number 2)
12. IHO Waiver to inform a DDS Waiver Beneficiary of a Change to the HCBS Waiver (Number 3)
13. Approval Notice of Action for the IHO Waiver (MC343)
14. Spanish Approval Notice of Action for the IHO Waiver (MC 343 SP)
15. Denial or Discontinuance Notice of Action for the IHO Waiver (MC 344)
16. Spanish Denial or Discontinuance Notice of Action for the IHO Waiver (MC 344 SP)
17. In-Home operations Brochures
18. AIDS Medi-Cal Waiver Program Notice of Action (MCWP2)
19. Spanish AIDS Medi-Cal Waiver Program Notice of Action (MCWP2 SP)
20. MSSP Site Roster
21. MSSP Contact Names
22. MSSP Approval Notice of Action (MC 365)
23. Spanish MSSP Approval Notice of Action (MC 365 SP)
24. MSSP Denial or Discontinuance of Benefits (MC 366)
25. Spanish MSSP Approval Notice of Action (MC 366 SP)
26. California Department of Aging Waiver Referral Form (MC 364)

27. County Waiver Contacts
28. Approval of Enrollment in Assisted Living Waiver with Medi-Cal Changes for Beneficiary (MC 240)
29. Denial of Enrollment in Assisted Living Waiver and/or Medi-Cal (MC 242)
30. Approval of Enrollment in Assisted Living Waiver and Initial Medi-Cal (MC 241)
31. Assisted Living Waiver Referral Form

State of California – Health and Human Services Agency
David Maxwell-Jolly, Director

Department of Health Care Services
Medi-Cal Program

NOTICE OF ACTION
APPROVAL OF ENROLLMENT IN
ASSISTED LIVING WAIVER WITH MEDI-CAL
CHANGES FOR BENEFICIARY

County Return Address

Notice date: _____
Case number: _____
Worker name: _____

Worker number: _____
Worker telephone number: _____
Office hours: _____
Notice for: _____

Medi-Cal Recipient Address Box

You have been approved for enrollment into the Assisted Living (AL) Waiver and your Medi-Cal coverage will change as described below.

- You are eligible for the AL Waiver and because special AL waiver rules were applied, you are eligible for Medi-Cal without a share-of-cost beginning _____.

  ☐ Because you have a Community Spouse, special AL Waiver deeming rules apply.

  Your Community Spouse Resource Allowance is $ _____ and it is the maximum amount of property which your community spouse may keep in his/her own name. This amount is based upon the greatest of: the standard amount, an amount awarded by court order, or an amount awarded by a fair hearing. PLEASE NOTE: To remain eligible for Medi-Cal you must not have any excess property. You have until _____ to transfer all of your net countable property, except for the $2,000 you are allowed to retain, into the name of the Community Spouse. After this date, you must have no more than $2,000 worth of net countable property held in your name.

  Your spousal income allocation that you are allowed to give to your spouse is

$ _____. If you decide not to give this amount to your spouse, you must tell your eligibility worker within 10 days. This may affect your eligibility or share-of-cost.

If you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance, the determination of ownership or availability of property, or the spousal income allocation, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing.

The AL Waiver is limited to individuals eligible for Medi-Cal without a Medi-Cal share-of-cost who instead wish to live in a residential care provider site for the elderly or in publicly funded senior and/or disabled housing. Such individuals must have sufficient funds to pay for their board and room and care and supervision, with some funds remaining to meet personal and incidental needs. In determining Medi-Cal eligibility for individuals who are applying for enrollment into the AL Waiver, AL Waiver rules are used, including special AL waiver deeming rules for most married persons.

- You do not have to fill out monthly or quarterly status reports for Medi-Cal.
- You must report to your Medi-Cal worker within 10 days if there are any changes in your income, property, medical
  conditions, household situation, or living conditions.
- You will have to complete a form for your Medi-Cal annual review.

Always present your Benefits Identification Card (BIC) to your medical provider whenever you need care. This card is good for as long as you are eligible for Medi-Cal. DO NOT THROW AWAY YOUR BIC.

This action is required by Welfare and Institutions Code Section 14132.26.

If you have any questions, ask your worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells you how.

cc: AL Waiver liaison DHCS Monitoring and Oversight Section
MC 240

State of California – Health and Human Services Agency
David Maxwell-Jolly, Director

Department of Health Care Services
Medi-Cal Program

County Return Address

MEDI-CAL
NOTICE OF ACTION
DENIAL OF ENROLLMENT IN
ASSISTED LIVING WAIVER AND/OR MEDI-CAL

Notice date: _____
Case number: _____
Worker name: _____
Worker number: _____
Worker telephone number: _____
Office hours: _____

Medi-Cal Recipient Address Box

:

Your request for enrollment into the Assisted Living (AL) Waiver has been denied. Here's why.

 You do not have sufficient funds to meet the costs of assisted living because you have a share-of-cost under regular Medi-Cal rules that is based on net countable income of $_____.

 We then used special AL Waiver rules and found you still would have a share of cost. If you are married with a community spouse, you were allowed a spousal income allocation of $ _____ in this determination. Your net countable income and share-of-cost have been calculated as follows.

 You are not eligible for Medi-Cal even when we used special AL Waiver deeming rules because your property exceeds the Medi-Cal limit of $ _____. If you are married with a community spouse, you were allowed a Community Spouse Resource Allowance of $ _____ that was based on the greatest of: the standard amount, an amount awarded by court order, or an amount awarded by a fair hearing. Your excess property was calculated as follows:

The net countable property held in the name of your community spouse:

ITEM	VALUE
_____	_____
_____	_____
_____	_____

The net countable property held in your name:

ITEM	VALUE
_____	_____
_____	_____
_____	_____

The net countable property held in both of your names:

ITEM	VALUE
_____	_____
_____	_____
_____	_____

Total net countable property _____

Minus your Community Spouse Resource Allowance. (This is the amount the community spouse may keep in his/her own name.) - _____

Subtotal _____

Minus the property limit for one person
(This is the amount you may keep in your own name.) - 2,000

Amount of excess property $ _____

To be eligible for Medi-Cal you must not have any excess property by the last day of the month in which you apply for Medi-Cal benefits. You have $ _____ worth of excess property and you are ineligible for Medi-Cal benefits unless you spenddown your excess property by the end of the month.

☐ Other _____.

If you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance, the determination of ownership or availability of property, or the spousal income allocation, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing.

IMPORTANT INFORMATION IF THIS NOTICE IS A DENIAL BECAUSE OF EXCESS PROPERTY AND YOU HAVE UNPAID MEDICAL BILLS: The MC 007 tells you about how this denial will be stopped if you use all of your excess property by paying medical bills that you owed during the month when you applied for Medi-Cal or after. This will not work if you wait more than three years. Ask your eligibility worker for an MC 007.

The Assisted Living Waiver is limited to individuals eligible for Medi-Cal without a Medi-Cal share-of-cost who require nursing provider site A or B level of care but who instead wish to live in a residential care provider site for the elderly or in publicly funded senior and/or disabled housing. Such individuals must have sufficient funds to pay for their board and room and care and supervision, with some funds remaining to meet personal and incidental needs. In determining Medi-Cal eligibility of applicants who are applying for enrollment into the AL Waiver, AL waiver rules were used.

This action is required by Welfare and Institutions Code Section 14132.26.

If you have any questions, ask your worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells you how.

cc: AL WAIVER liaison DHCS Home and Community-Based Services Branch
MC 242

State of California – Health and Human Services Agency
David Maxwell-Jolly, Director

Department of Health Care Services
Medi-Cal Program

County Return Address

MEDI-CAL
NOTICE OF ACTION
APPROVAL OF ENROLLMENT IN
ASSISTED LIVING WAIVER
AND INITIAL MEDI-CAL

Medi-Cal Recipient Address Box

Notice date: _____
Case number: _____
Worker name: _____
Worker number: _____
Worker telephone number: _____
Office hours: _____
Notice for: _____

You have been approved for enrollment into the Assisted Living (AL) Waiver and for Medi-Cal coverage as follows using AL waiver rules.

☐ You are eligible for the AL Waiver and for Medi-Cal beginning _____ .

☐ Because you have a Community Spouse, special AL Waiver deeming rules apply.

Your Community Spouse Resource Allowance is $ _____ and it is the maximum amount of property which your community spouse may keep in his/her own name. This amount is based upon the greatest of: the standard amount, an amount awarded by court order, or an amount awarded by a fair hearing. PLEASE NOTE: To remain eligible for Medi-Cal you must not have any excess property. You have until _____ to transfer all of your net countable property, except for the $2,000 you are allowed to retain, into the name of the Community Spouse. After this date, you must have no more than $2,000 worth of net nonexempt property held in your name.

Your spousal income allocation that you are allowed to give to your spouse is $ _____. If you decide not to give this amount to your spouse, you must tell your eligibility worker within 10 days. This may affect your eligibility or share-of-cost.

If you or your spouse are dissatisfied with the calculation of the Community Spouse Resource Allowance, the determination of ownership or availability of property, or the spousal income allocation, either or both of you have the right to request a fair hearing. Any fair hearing on the calculation of the Community Spouse Resource Allowance must be held within 30 days from the

date of the request for the hearing. See the reverse side of this notice for directions on how to request a fair hearing.

The AL Waiver is limited to individuals eligible for Medi-Cal without a Medi-Cal share-of-cost who instead wish to live in a residential care provider site for the elderly or in publicly funded senior and/or disabled housing. Such individuals must have sufficient funds to pay for their board and room and care and supervision, with some funds remaining to meet personal and incidental needs. In determining Medi-Cal eligibility of applicants who are applying for enrollment into the AL Waiver, AL Waiver rules are used, including special deeming rules for most married persons.

- You do not have to fill out monthly or quarterly status reports for Medi-Cal.
- You must report to your Medi-Cal worker within 10 days if there are any changes in your income, property, medical conditions, household situation, or living conditions.
- You will have to complete a form for your Medi-Cal annual review.

Always present your Benefits Identification Card (BIC) to your medical provider whenever you need care. This card is good for as long as you are eligible for Medi-Cal. DO NOT THROW AWAY YOUR BIC.

This action is required by Welfare and Institutions Code Section 14132.26.

If you have any questions, ask your worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells you how.

cc: AL Waiver liaison DHCS Monitoring and Oversight Section
MC 241

REFERRAL FORM FOR THE ASSISTED LIVING (AL) WAIVER

Date: _____

To: _____ (AL Waiver contact) _____ County
Phone Number

From: _____ Department of Care Health Services Monitoring and Oversight Section.
Phone: _____ e mail: _____
Fax_____

This notice concerns the individual named below.

Individual: _____ Case Name: _____

Address: _____ City/State: _____

Zip Code: _____ Social Security Number: _____

Date of Birth: _____ Telephone Number: _____

This individual

□ has been screened as medically eligible for the AL Waiver ,
□ will be disenrolled from the AL Waiver as of _____.

County Instructions:

 This individual is already eligible for no-cost Medi-Cal, no new determination is needed, and this form does not need to be returned to the Monitoring and Oversight Section. This referral form is to inform the county that this individual is already or will be moving to assisted living on _____.

 Please determine Medi-Cal eligibility for the above individual and then e mail or fax this form to:

Results of county determination:

 If the above individual is enrolled in the AL Waiver, he/she will be eligible for Medi-Cal with

 no share-of-cost a Medi-Cal share-of-cost of $ _____.

Special AL Waiver rules were used in this determination: □ Yes □ No

Net nonexempt income was calculated as follows:

☐ The above individual is ineligible for Medi-Cal even when AL Waiver rules are applied because _____.

County Instructions Once This Form is Returned by DHCS:

- DHCS will be enrolling the above individual in the AL Waiver effective _____. Please report his/her Medi-Cal eligibility to MEDS beginning with this month and also report any 3-month retroactive eligibility using regular Medi-Cal rules.
- DHCS will not be enrolling the above individual in the AL Waiver because
  - ☐ he/she has a share of cost under regular Medi-Cal and would have a share of cost even if enrolled in the AL waiver.
  - ☐ other: _____
- DHCS will be disenrolling the above individual from the AL Waiver because _____. Please redetermine his/her Medi-Cal eligibility without using AL Waiver rules. Note: This individual may have a change in his/her living arrangement.