

DEPARTMENT OF HEALTH SERVICES

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SACRAMENTO, CA 95814

(916) 445-1797



February 6, 1980

To: All County Welfare Directors

Letter No. 80-5

TREATMENT OF LOANS

This letter transmits an advance copy of Procedures Section 9D of the Medi-Cal Eligibility Manual which sets forth procedures for determining whether a loan requires repayment and is therefore to be considered as property rather than income in the month of receipt for Medi-Cal eligibility purposes.

These procedures have been prepared as a result of the testimony received from counties as part of the December 20, 1979 public hearing for revisions to CAC, Title 22, Sections 50483, 50507 and 50517. Most of the testimony received requested that the Medi-Cal regulations be modified to be consistent with the AFDC program's regulations found in EAS 44-111.437.

We are not currently proposing to change these regulations, however, as it is our intent that the Medi-Cal regulations regarding treatment of loans be consistent with the SSI/SSP program's policy rather than the policy of the AFDC program. This intent is in accordance with federal regulations which require that our program use the more liberal of the two cash programs' policy in evaluating items of property. The enclosed procedures were drafted, in part, from the Social Security Administration's Claims Manual.

The procedures section will be distributed shortly to all holders of the Medi-Cal Eligibility Manual. Until such time, please advise your eligibility staff of the information in this letter, so it may be used in Medi-Cal eligibility determinations.

If you have any questions regarding this letter or the enclosed procedures, contact your Medi-Cal field representative.

Sincerely,

Original signed by

Doris Z. Soderberg, Chief
Medi-Cal Eligibility Branch

Enclosure

cc: Medi-Cal Liaisons
Medi-Cal Field Representatives

Expiration Date: August 31, 1980

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9D - LOANS REQUIRING REPAYMENT

The purpose of this section is to set forth procedures to use when determining whether a loan requires repayment and is therefore considered as property rather than income in the month of receipt. It is the intent of the Medi-Cal program regulations to follow the guidelines used by the SSI/SSP program in determining whether or not a loan requires repayment. The following loans should be considered as property.

1. Commercial Loans

Commercial loans are usually negotiated between two or more individuals, or between individuals and financial institutions such as banks or finance companies. In commercial loan situations, there are formal contracts between the borrower and the individual or establishment engaged in the business of making loans. Such formal contracts usually specify the borrower's promise to pay a designated sum of money at a specified time upon demand.

If it is determined that only a portion of the total loan must be repaid, which may be the case in certain nonexempt student loans, only that portion which must be repaid should be considered as property in the month of receipt. The remainder should be considered as income and apportioned in accordance with Title 22, Section 50517.

2. Informal Loans

In many cases, loans which are negotiated between individuals are informal. Such loans may be made on the basis of a verbal or a formal written agreement. This is especially true where loans are transacted between relatives or friends. For treatment as property for Medi-Cal purposes, a loan may be established regardless of whether or not a written instrument existed as of the date of the receipt of the funds.

In order to be considered property, rather than income, the loan agreement (whether oral or written) must include the following components:

- a. The borrower's acknowledgment of obligation to repay (with or without interest) and
- b. Either:
 - (1) A timetable and plan for repayment (e.g., borrower plans to repay the loan when he receives future anticipated income)
or
 - (2) The borrower's express intent to repay either by pledging real or personal property or anticipated income. It is not necessary that the loan be secured solely by specific items of collateral such as real or personal property. It is only

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necessary that the borrower express his/her intent to repay the loan when funds become available in the future and indicate that he/she will begin repaying the loan when he/she receives future anticipated income (e.g., loan will be repaid as soon as UIB begins or employment begins).

- c. In the case of oral loans, a statement must be obtained from the borrower and the lender which documents that the conditions listed above existed at the time the loan occurred.