

DEPARTMENT OF HEALTH SERVICES

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June 4, 1981

All County Welfare Directors

Letter No. 81-24

BELTRAN V. MYERS UNITED STATES SUPREME COURT DECISION

This is to advise you that the U.S. Supreme Court has vacated and remanded back to the Ninth Circuit Court of Appeals the subject court case which involves our transfer of property regulations. The reason for this action was the passage of P.L. 96-611 which mandates a transfer of property restriction under the SSI/SSP program and permits states to apply similar restrictions under the Medicaid program.

Since the federal regulations implementing P.L. 96-611 have not yet been finalized, we do not know whether or not our current transfer of property statute/regulations will have to be modified. This means that you should continue to employ our current transfer of property regulations, CAC, Title 22, Sections 50408, 50409 and 50411 in Medi-Cal-only eligibility determinations.

If you have any questions contact your Medi-Cal Program Consultant.

Sincerely,

Original signed by

Madalyn M. Martinez, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

This is Beltran v. Myers, of course. The date is May 18, 1981, and it reads as follows:

PER CURIAM. We granted a writ of certiorari to review a decision of the United States Court of Appeals for the Ninth Circuit holding that California's transfer of assets statute applicable to "medically needy" recipients of Medi-Caid benefits does not conflict with governing federal law. (Dawson v. Myers [citation].) Petitioner is an individual considered "medically needy" under California's Medi-Caid plan who represents the class of all such persons who have been denied Medi-Caid benefits because of previous transfers of assets for less than full consideration. She argues that this exclusion is impermissible because it is based on a rule applicable only to "medically needy" recipients and could not apply under federal law to "categorically needy" recipients.

After our grant of certiorari on November 3, 1980, Congress passed section 5 of Public Law 96611 (Dec. 28, 1980, the Boren-Long Amendment), which made material changes in the law in this area. This section creates a presumption that assets disposed of for less than full consideration within the preceding 24 months should be included in the resources of an applicant for SSI benefits. The applicant can overcome this presumption with "convincing evidence to establish that the transaction was exclusively for some purpose" other than establishing eligibility. This section goes on to allow state Medi-Caid plans to apply similar rules to Medi-Caid recipients, including both the

categorically needy and the medical needy. [Then it gives the Public Law citation. that's 96611, etc.] It states that if the state plan includes a transfer of assets rule, it shall specify a procedure for implementing the denial of benefits "which, except as provided in paragraph 2 is not more restrictive than the procedure specified" for SSI. Paragraph 2 provides that where the uncompensated value of the disposed of resources exceeds \$12,000, the states may impose a period of ineligibility exceeding 24 months as long as this period bears "a reasonable relationship to such uncompensated value." In sum, it would appear that in the future the states will be permitted to impose transfer of assets restrictions generally similar to that of California. This change will take effect on July 1, 1981, a matter of weeks from now. This raises the question whether it is appropriate for the Courts to decide the merits of the underlying dispute as considered by the Court of Appeals. We have determined that the change caused by the recent statutory amendment requires reconsideration of the decision below by the Court of Appeals. Because of the statutory change, the federal standards governing state plans with respect to transfer of assets rules have been altered significantly. Although it is fair to say that Congress generally endorsed rules like California's, the detailed provisions recently enacted may require some changes in the California rules. We note in particular that California seems to include the residence of the claimant among the assets that may not be given away without a corresponding loss in Medi-Caid coverage. Under the Boren-Long-amendment, however, arguably such an asset must be excluded. Petitioner should have the opportunity to

argue the validity of the California law under the new federal law, an issue that was not addressed by the parties in this court. We vacate the decision below and remand this case to the Court of Appeals for reconsideration of its decision in light of the recent statutory change.

IT IS SO ORDERED.

Then there is a brief--a much briefer minority opinion. Justice Stevens, with whom Justice Brennan, Justice White, and Justice Marshall join concurring in the judgment. And the minority opinion reads as follows:

For the reasons stated by the United States Court of Appeals for the Second Circuit in Caldwell v. Blum, the application of California's transfer of assets rule to the medically needy class members prior to the effective date of the Boren-Long amendment, Public Law No. 96611, is prohibited by existing federal law. The judgment of the Court of Appeals for the Ninth Circuit in this case must, therefore, be set aside. On remand, the Court of Appeals should, of course, consider the impact of the statutory change on the class members' future rights, but it also should determine what relief is appropriate to remedy past violations. [It cites Goxn v. Jordan.] Accordingly, I concur in the Court's decision to vacate the judgment of the Court of Appeals and to remand this case for further proceedings.