

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814

January 31, 1983

TO: All County Welfare Directors

Letter No. 83-10

OTHER REAL PROPERTY

Attached are the regulations to implement the Other Real Property provisions of Welfare and Institutions Code, Section 14006, amended by Assembly Bill (AB) 799 (Chapter 328, Statutes of 1982) and Senate Bill (SB) 2012 (Chapter 1594, Statutes of 1982). These regulations were filed with the Secretary of State on December 31, 1982 with an effective date of January 1, 1983.

These regulations (1) establish the limitation for utilized other real property at \$6,000, (2) specify that the market value of property in California is determined by the county assessor, (3) provide for continuing eligibility under certain conditions for beneficiaries in long-term care (LTC) even if the net market value of their nonexempt property which was their home exceeds the \$6,000 limitation for utilized other real property, and (4) describe the conditions under which liens are to be recorded against the property (former home) of the beneficiaries in LTC.

Also attached to this letter are two forms which the county must use to implement these regulations. One form, the Other Real Property Questionnaire, is to provide the Department of Health Services (DHS) with specific information to record liens against the former homes of beneficiaries. A companion form, the Change of Status -- Liens, is to be used to update information provided DHS on the Other Real Property Questionnaire. Specifically, it is used when a beneficiary is discharged from LTC to return home and/or when a beneficiary has requested a fair hearing. Procedures which include instructions for completing these forms also are attached. They will be incorporated into the Procedures Manual at a later date.

Four sample Notice forms are attached. Three informational Notices (Attachments 1, 2, and 3) are to inform certain LTC beneficiaries that their former homes must be listed for sale in order for their Medi-Cal eligibility to continue.

Each of these notices is tailored to a specific circumstance. The first such notice, Continuing Beneficiaries -- Utilized Property Over \$6,000 (Attachment 1), is for those in LTC who are currently eligible because the value of their former home was \$25,000 or less and the property is currently being utilized. Under the reduced limitation of \$6,000 for utilized property, eligibility can continue only if they list their homes as required and provide evidence of this within 30 days to their eligibility worker. The second notice, List or Utilize Property Up to \$6,000 (Attachment 2), is

for those who are currently eligible and who are entering LTC and can either utilize the property valued up to \$6,000 or list the former home for sale and have a lien recorded against that property. The third notice, List Property Over \$6,000 (Attachment 3), is for those entering LTC who must list the former home for sale and have a lien recorded against that property because its value exceeds the \$6,000 limit for utilized property.

As mentioned above, these three notices are informational and a subsequent timely and adequate Notice of Action will have to be sent if the county intends to take an adverse action affecting eligibility.

The fourth notice, Notice of Action -- Liens (Attachment 4), is to inform beneficiaries who already have listed their former homes for sale about the lien which is to be recorded.

The following are several examples of how and when these forms and notices are to be used when dealing with other real property.

Example 1

On January 10, 1983, a person in LTC applies for Medi-Cal. His former home has a net market value of \$22,000 based on the tax assessor's determination less any encumbrances. The home is unoccupied. On the MC 210, the applicant states he is not expected to return home within six months.

During the face-to-face interview, the county worker explains that the beneficiary's former home is not exempt as property since it is not exempt as a home under California Administrative Code (CAC), Section 50425 (a), nor is it exempt under Section 50427 since the property exceeds \$6,000 and is not being utilized. The worker goes on to explain that there are regulations, however, which would allow for Medi-Cal eligibility (if the person is otherwise eligible) after certain conditions are met. The worker outlines the requirements in Section 50428 (a), including the requirement that a bona fide and continuous effort must be made to sell the former home. The applicant is informed that DHS will record a lien against this property. The applicant is told to supply to the county a copy of the listing of the property for sale, a letter from the licensed real estate broker verifying that the property is listed at its fair market value, and a copy of the listing contract between the applicant and the broker. The county in this example uses the listing contract to determine that a continuous effort will be made during the life of the contract to sell the property.

The applicant supplies the necessary information to the county, and the worker determines that eligibility is established. The applicant is sent a Notice of Action approving Medi-Cal benefits. In addition, the beneficiary is sent a second Notice of Action concerning the lien provision, Liens (Attachment 4).

The worker then completes the Other Real Property Questionnaire and sends it to DHS (Recovery Branch). The worker establishes a tickler file indicating when the listing contract will expire in order to verify that a continuous effort is being made to sell the property.

Example 2

Early in January 1983, a county evaluates a continuing case with other real property to determine what effect these new regulations have on the continuing eligibility of the beneficiary. There is other real property with a net market value of \$6,000 or less. Net yearly income of at least six percent of the net market value is being received. According to Section 50427, the property is exempt and eligibility continues. No Notice of Action needs to be sent.

Example 3

Early in January 1983, the county evaluates a continuing case with other real property with a net market value of \$20,000. The property was the beneficiary's home before his LTC status began. Net yearly income from the property is at least six percent of its net market value. Since, however, the net market value of the property exceeds \$6,000, the property, though utilized, is not exempt under Section 50427. The county sends the attached sample informational notice, Continuing Beneficiaries -- Utilized Property Over \$6,000 (Attachment 1). This notice lists the requirements of Section 50428, which require the beneficiary to provide the county with evidence that the property is listed for sale with a licensed real estate broker at its fair market value.

The following are four scenarios which could occur under the facts of Example 3.

- A. The beneficiary fails to supply the necessary information to the county within 30 days. Since the first notice is informational, a second notice must be sent in order to discontinue the recipient. On February 14, 1983, the county sends a Notice of Action discontinuing the beneficiary effective February 28, 1983 for having property in excess of the \$1,500 property reserve for a Medi-Cal Family Budget Unit (MFBU) of one person.
- B. The beneficiary supplies the required information and eligibility continues. The county completes the Other Real Property Questionnaire and sends it to the Recovery Branch, DHS. A Notice of Action -- Liens is sent to the beneficiary informing him/her about the lien provision.
- C. The beneficiary supplies the required information and eligibility continues. A Notice of Action -- Liens is sent to the beneficiary. The county sends a completed Other Real Property Questionnaire form to the Recovery Branch. In January 1983, the beneficiary requests a state hearing. We do not consider that aid paid pending (APP) is

granted even though the filing was timely because there was no proposed action to discontinue or reduce benefits and aid was already established. The county completes a Change of Status -- Liens form indicating that a state hearing was requested and sends it to the Recovery Branch. When the decision is issued, a second Change of Status -- Liens form is sent indicating whether a lien may be recorded.

- D. The beneficiary requests a state hearing on eligibility before any information is provided. The county does not send the Other Real Property Questionnaire form to the Recovery Branch before the state hearing decision is issued. If the decision upholds the county's action, the county sends the Other Real Property Questionnaire to the Recovery Branch indicating a lien may be recorded and a Notice of Action -- Liens to the beneficiary.

Example 4

The Medi-Cal beneficiary informs the county that he is entering LTC and does not expect to return home within six months. Once he enters the facility, his home is unoccupied. The net market value of the home is \$4,000. The county sends the beneficiary an informational notice, List or Utilize Property Up to \$6,000 (Attachment 2). This informs the beneficiary that eligibility can continue if either (1) the property is utilized according to the requirements of Section 50416 (e.g., it generates a net yearly income of at least six percent, or the county allows him to list the property for sale at its fair market value with a licensed real estate broker and furnish certain evidence every six months) or (2) the requirements of Section 50428 are met (e.g., the property is listed for sale at its fair market value with a licensed real estate broker and such evidence is provided. A lien is recorded against the property.).

If the beneficiary chooses to utilize the property, the county sends a Notice of Action similar to the MC 239U (Utilization of Property).

If the beneficiary lists the property for sale according to the requirement of Section 50428, the county completes the Other Real Property Questionnaire form and sends it to the Recovery Branch. The county sends the Notice of Action -- Liens to the beneficiary.

Example 5

In January 1983, the county evaluates a continuing LTC case with other real property in the form of a deed of trust worth \$10,000. This property was exempt under former Section 50427 since it was being utilized. However, under the new \$6,000 limitation, it no longer is exempt. In addition, it does not satisfy the provisions of Section 50428 (e.g., it was not the home of the beneficiary). Therefore, the county sends a timely and adequate Notice of Action to the beneficiary discontinuing him for property in excess of the property reserve of \$1,500.

Example 6

In June 1983, a beneficiary is discharged from LTC and returns home. While in LTC, the beneficiary met the requirements of Section 50428 and remained eligible for Medi-Cal even though the net market value of his home was \$15,000. The county sent an Other Real Property Questionnaire form to the Recovery Branch on March 10, 1983. After his discharge from LTC, the county sends a Change of Status -- Liens form to the Recovery Branch informing them of the beneficiary's discharge from LTC to return home. The Recovery Branch will take steps to dissolve the lien.

If you have any questions, please contact Doug MacDonald or Marie Harder at (916) 445-1797.

ORIGINAL SIGNED BY

Madalyn M. Martinez, Chief
Eligibility Branch

Attachments

cc: Medi-Cal Liaison
Medi-Cal Program Consultants

INFORMATIONAL NOTICE
CONTINUING BENEFICIARIES -- UTILIZED
PROPERTY OVER \$6,000

The purpose of this notice is to inform you of recent changes in state law which may affect your eligibility for Medi-Cal. From information available to us, we have determined on _____ that you are not expected to be discharged from your long-term care facility within six months to return home.

State law (Section 14006, Welfare and Institutions Code) and regulations now require that utilized other real property may be exempt only if its net market value is \$6,000 or less. Since you are not expected to return home within six months, your home becomes other real property. As its net market value exceeds \$6,000, it is not exempt even though it is being utilized.

For your Medi-Cal to continue, your home must be listed for sale at its fair market value with a licensed real estate broker and evidence of this provided to your eligibility worker within 30 days of the date of this notice. A bona fide and continuous effort must be made to sell this property. Otherwise, the net market value of your home will cause the property maximum of \$1,500 for one person to be exceeded.

If you do list this property for sale and your Medi-Cal eligibility continues, a lien will be recorded against your home for the costs of your medical care. Before the lien is recorded, you will receive a Notice of Action advising you of your right to a state hearing.

The regulations which require this action are California Administrative Code, Title 22, Sections 50425, 50427, and 50428.

For further information, please contact your eligibility worker.

Eligibility Worker

Phone Number

Date

**INFORMATIONAL NOTICE
LIST OR UTILIZE PROPERTY (UP TO \$6,000)
CONTINUING BENEFICIARIES ENTERING LONG-TERM CARE**

The purpose of this notice is to inform you of recent changes in state law which may affect your eligibility for Medi-Cal. From information available to us, we have determined on _____ that you are not expected to be discharged from your long-term care facility within six months to return home.

Based on this determination, your home is no longer exempt and is defined by law as other real property. The net market value of your home when added to the net market value of your other property would cause the property maximum of \$1,500 for one person to be exceeded.

For your Medi-Cal eligibility to continue, you must do one of the following:

- 1. Utilize the property. You must receive net income from this property each year which is equal to six percent of the net market value of the property. The monthly net income (gross income minus expenses) you must receive from your property is:

Net market value of property		\$ _____
1/12 of 6%		x.005 _____
Net income you must receive from property each month		\$ _____

- 2. List the property for sale at its fair market value with a licensed real estate broker and provide evidence of this to your eligibility worker within 30 days of the date of this notice. A bona fide and continuous effort must be made to sell this property. A lien will be recorded against your home for the costs of your medical care. Before the lien is recorded, you will receive a Notice of Action advising you of your right to a state hearing.

The regulations which require this action are California Administrative Code, Title 22, Sections 50416, 50425, 50427, and 50428.

For further information, please contact your eligibility worker.

Eligibility Worker	Phone Number	Date
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INFORMATIONAL NOTICE
LIST PROPERTY (OVER \$6,000)
CONTINUING BENEFICIARIES ENTERING LONG-TERM CARE

The purpose of this notice is to inform you of recent changes in state law which may affect your eligibility for Medi-Cal. From information available to us, we have determined on _____ that you are not expected to be discharged from your long-term care facility within six months to return home.

Based on this determination, your home is no longer exempt and is defined by law as other real property. The net market value of your home when added to the net market value of your other property would cause the property maximum of \$1,500 for one person to be exceeded.

For your Medi-Cal eligibility to continue, you must list the property for sale at its fair market value with a licensed real estate broker and provide evidence of this to your eligibility worker within 30 days of the date of this notice. A bona fide and continuous effort must be made to sell this property. If you do list this property for sale and your Medi-Cal continues, a lien will be recorded against your home for the costs of your medical care. Before the lien is recorded, you will receive a Notice of Action advising you of your right to a state hearing.

The regulations which require this action are California Administrative Code, Title 22, Sections 50425 and 50428.

For further information, please contact your eligibility worker.

Eligibility Worker

Phone Number

Date

FRONT

(County Stamp)

MEDI-CAL

NOTICE OF ACTION
LIENS

State No.: _____

District: _____

Based on information available to us, we have determined on _____ that you are not expected to be discharged from your long-term care facility within six months to return home.

Based on the determination that you are not expected to return home within six months, your home is no longer exempt and is defined by law as other real property. For your Medi-Cal eligibility to continue, this property must continue to be listed for sale at its fair market value with a licensed real estate broker and a bona fide and continuous effort made to sell the property. Otherwise, its net market value would cause the property maximum of \$1,500 for one person to be exceeded.

A lien will be recorded against your home for the costs of your medical care beginning _____ as a result of the determination that you are not expected to return home within six months. Your ownership of your home is not lost or transferred when the lien is recorded.

When your home is sold, the amount of the lien which is based on your medical costs is recovered from the proceeds of the sale and returned to the State of California.

Your right to a state hearing on the determination that you are not expected to return home within six months is explained on the other side of this notice.

The regulations which require this action are California Administrative Code, Title 22, Sections 50425 and 50428.

PLEASE READ THE REVERSE SIDE OF THIS NOTICE.

Eligibility Worker

Phone Number

Date

YOUR RIGHT TO APPEAL THIS ACTION -LIENS

If you are dissatisfied with the action described on the other side, you may request a state hearing before a Hearing Officer of the State Department of Social Services. This hearing will be conducted in an informal manner to assure that everyone present is able to speak freely. Your county worker can help you request a hearing. If you decide to request a hearing, you must do so WITHIN 90 DAYS OF THE DATE OF THIS NOTICE.

A state hearing and aid paid pending described below will not be available if the only action you object to is an automatic change in your eligibility which is required by state or federal law. This denial of a state hearing is required by Title 22, C.A.C. Section 50951.

provide may be shared with the county welfare department, with the U.S. Department of Health and Human Services, Authority: W&IC-10950.

How to Request a State Hearing

The best way to request a hearing is to fill in and send this entire notice to:

Office of Chief Referee
State Department of Social Services
744 P Street, Mail Station 19-36
Sacramento, CA 95814

Los Angeles County residents send to:

Fair Hearing Section
P.O. Box 10280
Glendale, California 91209

You may also request a hearing by calling the toll-free number of Public Inquiry and Response Unit.

Public Inquiry and Response (Public Information)

Toll-Free Number: (800) 952-5253*

Teletypewriter (TTY) only: (800) 952-5434*

*You will have to dial "1" first.

The State Public Inquiry and Response Unit can provide you with further information about your hearing rights or files. Assistance is also available in some languages other than English, including Spanish. You may phone, write, or come in.

Public Inquiry and Response
State Department of Social Services
744 P Street, Mail Station 16-23
Sacramento, CA 95814

State Regulations Available

State regulations, including those covering state hearings, are available at the local office of the county welfare department.

Authorized Representative

You can represent yourself at the state hearing. You can also be represented by a friend, attorney or any other person, but you are expected to arrange for the representative yourself. You can get help in locating free legal assistance by calling the toll-free number of Public Inquiry and Response Unit (800) 952-5253.

Information Practices Act Notice

The information you are asked to write in below is needed to process your request, and processing may be delayed if your request is incomplete. A case file will be set up by the Chief Referee. You have a right to examine the materials that make up the record for decision and may locate this record by contacting Public Inquiry and Response Unit (phone number shown above). Any information you

REQUEST FOR A STATE HEARING

Name Phone Number

Address City State Zip Code

I am requesting a state hearing because of an action by the welfare department of _____ county related to Medi-Cal.

Reasons for my request:

I speak a language other than English and need an interpreter for my hearing. (The State will provide the interpreter at no cost to you.)

Language Dialect

PROCEDURES: OTHER REAL PROPERTY -- BENEFICIARIES IN LONG-TERM CARE

If the conditions of Title 22, California Administrative Code, Section 50428, are met, the Department of Health Services (DHS) will be recording liens against the former homes of Medi-Cal beneficiaries who are in long-term care (LTC) and not expected to return home. To record these liens, the State needs specific information from counties. In addition, DHS needs additional information when it becomes necessary to dissolve these liens, i.e., when the beneficiary is discharged from LTC and returns home. These procedures are designed to provide such information to DHS.

I. OTHER REAL PROPERTY QUESTIONNAIRE

- A. Upon the determination by the county that all the criteria set forth in Section 50428 are met for a person in LTC, the county shall complete the Other Real Property Questionnaire and forward it within ten days to DHS's Recovery Branch.
- B. The following describes the information which is to be provided on the Other Real Property Questionnaire. Items 1-16 are for counties to complete. Only Items 4, 7, 11, 13, and 14 are optional; the other items are required. Items 17-20 are for DHS use only.

County Use Only

1. Name of the county. This must be the county of responsibility regardless of where property is located.
2. Name of the beneficiary. This must be the name that appears on the CA 1. If the beneficiary's name is different on the property title, please indicate "AKA" on line 2(a).
3. Current address of beneficiary. This is the medical institution.
4. Responsible party if other than the beneficiary. Include his/her name, address, and telephone number.
5. Medi-Cal identification number. This must be the current case number. If any changes are made to this number, a new form must be completed and forwarded to the Recovery Branch within ten days of the change.
6. Social Security number. This must be verified. If any changes are made to this number, a new form must be completed and forwarded to the Recovery Branch within ten days of the change.

7. Medicare number if applicable. This can mean the Railroad Retirement number, Title II number, or any other federal insurance number which would result in state reimbursement.
8. Property address. Included in this section would be the county and the state, if other than California, where the property is located. If the property is in California, only the county is necessary. If the location is outside the State, both the county and state are required.
9. Legal owner. (Required if other than applicant.)
10. Appraised amount. The appraisal must be attached to the Other Real Property Questionnaire.
11. County Assessor's parcel number if available.
12. The date the Notice of Action specifying that a lien will be recorded was sent. A lien will not be recorded until 90 days after that date.
13. The date the state hearing decision was issued. This item will be completed only if a state hearing is requested before the county completes this form, since the county then must not submit this form until a decision is issued.
14. The county should indicate whether a lien can be recorded, i.e., whether the hearing decision upheld the county's determination. Complete only if Item 12 is completed.
15. Eligibility worker's name and telephone number in case additional information is needed.
16. The Deputy Director's signature showing that the form is complete and has been checked.

State Use Only

17. Recovery Branch signature. The form is to be signed by the Recovery Branch and a copy returned to the county, showing that it was complete and all documents were received.
18. The Recovery Branch shall mail a copy of this form back to the county within ten days of receipt.
19. If information is missing that would prevent the State from filing a lien, the Recovery Branch will indicate by checking the appropriate box and returning all forms to the county.
20. Signature of contact in the Recovery Branch.

II. CHANGE OF STATUS -- LIENS

A. The Change of Status -- Liens form is to be used by the county welfare department to update information already submitted to DHS on the Other Real Property Questionnaire when:

1. A person in LTC is discharged from LTC and returns home (DHS is to dissolve the lien); or
2. The beneficiary requests a fair hearing which may have an effect on the recording of the lien. (In this situation, the lien will not be recorded until the fair hearing decision is issued.)

Items on this form must be filled in so the beneficiary can be identified and appropriate action taken. Failure to complete the form will result in the county receiving the form back to do so. The form is to be mailed to the Recovery Branch at the address shown on the form.

OTHER REAL PROPERTY QUESTIONNAIRE

COUNTY USE ONLY

- 1. Name of county: _____
- 2. Name of beneficiary: _____
- 3. Current address: _____

- 4. Responsible party if other than beneficiary: _____
Address: _____
Telephone Number: _____
- 5. Medi-Cal identification number (14 digits): _____
- 6. Social Security number: _____
- 7. Medicare number, if applicable: _____
- 8. Property address (include county where property is located): _____

- 9. Legal owner if other than beneficiary: _____
- 10. Appraised amount—attach appraisal: _____
- 11. County Assessor's parcel number, if available: _____
- 12. Date Notice of Action on liens sent: _____
- 13. State Hearing Decision issued on: _____
- 14. Lien can be recorded: Yes No
- 15. Eligibility Worker's name: _____ Telephone number: _____
- 16. Deputy Director's signature: _____

STATE USE ONLY

- 17. Recovery Branch signature: _____
- 18. All documents completed and lien filed? Yes No
- 19. The following information missing:

<input type="checkbox"/> Name of beneficiary	<input type="checkbox"/> Medi-Cal identification number
<input type="checkbox"/> Property address	<input type="checkbox"/> Current address
<input type="checkbox"/> Appraised amount (if not on appraisal)	<input type="checkbox"/> Copy of appraisal
- 20. Recovery Branch Contact _____ Telephone Number: _____

Mail to: Department of Health Services
 Recovery Branch
 1250 Sutterville Road, Room 206
 Sacramento, CA 95822

Telephone Number (916) 322-0647

CHANGE OF STATUS—LIENS

Name of Beneficiary	Medi-Cal Identification Number	Social Security Number
---------------------	--------------------------------	------------------------

Discharged from long-term care and returned home on _____

Requested a state hearing on _____

State hearing decision issued on _____

Lien may be recorded: Yes No

Beneficiary's Address _____

Eligibility Supervisor	Telephone Number	Date
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MAIL TO: Department of Health Services
 Recovery Branch
 1250 Sutterville Road, Room 206
 Sacramento, CA 95822
 Telephone Number: (916) 322-0647

50008. Liens.

Health care services provided under the Medi-Cal program shall not constitute a lien against the property of any beneficiary, except when the Department has the right to file a lien to obtain recovery in accordance with Section 50771.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code; and Section 87, Chapter 1594, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

REPEAL
DRAFT

50412. Market Value of Property.

(a) The market value of real property shall be (1) or (2), unless the applicant or beneficiary chooses to meet the conditions of (3), and (3) is lower.

(1) ~~Four times the assessed value of the property.~~ The assessed value determined under the most recent property tax assessment, if the property is located in California.

(2) The value established by applying the assessment method used in the area where the property is located if the property is located outside of California.

(3) The value established as the result of an appraisal by a member of a recognized professional appraisal society, if the appraisal is obtained by the applicant or beneficiary and provided to the county department.

(b) The market value of each item of personal property shall be determined by the specific methods contained in this article.

(c) The market value of notes secured by deeds of trust and mortgages which are considered as other real property in accordance with Section 50441 (b) shall be established in accordance with Section 50441 (c).

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code; and Section 57, Chapter 328, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

50427. Other Real Property.

(a) Real property not exempt as a home, including deeds of trust as specified in Section 50441 (a), is other real property.

(b) Other real property not exempt under any other section of these regulations shall be exempt if both of the following conditions are met:

- (1) The property has a net market value of ~~\$25,000~~ \$6,000 or less.
- (2) The owner meets the utilization requirements set forth in Section 50416.

(c) Other real property with a net market value of more than ~~\$25,000~~ \$6,000 shall be considered as follows:

(1) The first ~~\$25,000~~ \$6,000 of net market value shall be exempt if the owner meets the utilization requirements set forth in Section 50416.

(2) The net market value in excess of ~~\$25,000~~ \$6,000 shall be included in the property reserve unless the property was the beneficiary's home and the property satisfies the requirements of Section 50428.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code; Section 57 (c), Chapter 328, Statutes of 1982; and Section 87, Chapter 1594, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

50428. Other Real Property. Beneficiaries in Long-Term Care.

(a) The net market value of other real property shall not be included
in the property reserve if all of the following conditions are met:

(1) The beneficiary is in LTC and is not expected to return home.

(2) The property was the beneficiary's home and would have been
exempt under Section 50425 if the beneficiary had not entered LTC.

(3) The property is listed for sale with a licensed real estate
broker for its fair market value established by a qualified real estate
appraiser, and a bona fide and continuous effort is being made to sell the
property.

(4) The beneficiary has supplied to the county:

(A) The appraisal of the property as determined by a qualified real
estate appraiser, including a licensed real estate broker.

(B) Evidence that the property has been listed for sale.

(C) Reports of all offers of purchase and/or acceptance of offers within
10 days of offer and/or acceptance.

(b) The Department shall record a lien on such beneficiary's property
unless either of the following conditions is met:

(1) Any of the following persons is lawfully living in the home:

(A) The individual's son or daughter who is blind or disabled.

(B) A sibling of the individual who has an equity interest in such
home and was living in the home at least one year prior to the individual
entering LTC.

(2) The individual did not receive a Notice of Action according to
the provisions of Section 50179 or has not had the opportunity for a state
hearing according to the provisions of Article 18 (commencing with Section
50951) of this chapter. Such notice shall include statements that:

(A) The beneficiary is not expected to return home from long-term
care; therefore, the property is no longer exempt as a home.

(B) A lien will be recorded against the property.

(C) The recording of the lien does not mean ownership of the property
is lost or transferred.

(c) Any recorded lien for an amount equal to the cost of medical care
provided may be foreclosed only after one of the following:

PRELINED DRAFT PAPER INDICATES
AND IS TO BE USED ONLY FOR ALL
NEW REGULATORY LANGUAGE.

DRAFT - FOR DISCUSSION ONLY

Date _____
50428 - 3

(1) The beneficiary sells the property.

(2) The beneficiary dies and the following conditions are met:

(A) The beneficiary's surviving spouse has died.

(B) The beneficiary has no surviving child who is under the age of 21
or who is blind or disabled.

(C) There is no sibling of the beneficiary living in the home who has
lived there for at least one year immediately before the date of the benefi-
ciary's admission to LTC and has lived there on a continuous basis since
that time.

(D) There is no son or daughter of the beneficiary living in the home
who both:

1. Has lived in the home for at least two years immediately before
the date of the beneficiary's admission to LTC and who has lived there on a
continuous basis ever since that time.

2. Can provide evidence that he or she cared for the beneficiary
and, as a result, allowed the beneficiary to remain at home rather than in
LTC.

(d) Any lien shall dissolve when that beneficiary is discharged from
LTC and returns home.

PRELINED DRAFT PAPER INDICATES
AND IS TO BE USED ONLY FOR ALL
NEW REGULATORY LANGUAGE.

DRAFT - FOR DISCUSSION ONLY

Date _____

50428 - 4

(e) The county department shall provide to the Department upon a
determination that:

(1) All the criteria set forth in Section 50428 (a) are met, a
completed Other Real Property Questionnaire.

(2) A person in long-term care has been discharged and has returned
home, a completed Change of Status-Liens form.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions
Code; Section 57 (c), Chapter 328, Statutes of 1982; and Section 87, Chapter
1594, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

50771. Recovery of Third Party Payments.

(a) A beneficiary shall reimburse the Department for any payment received for health care services which were paid by Medi-Cal, if the payment received by the beneficiary is made by either of the following:

- (1) A federal or state program.
- (2) A legal or contractual entitlement.

(b) A beneficiary who receives health care services as a result of an accident or injury caused by some other person's action or failure to act shall furnish the Department with an assignment of rights to receive payment for those services, if those services will be billed to Medi-Cal. If the beneficiary is unable to make the assignment, the beneficiary's guardian, attorney or the person acting on the beneficiary's behalf shall do so.

(c) The Department may file a lien against the property of a beneficiary if the beneficiary fails to comply with the requirement in (b); notwithstanding the provisions of Section 50008.

(d) The county department shall provide the following written information to the Department of Benefit Payments concerning a beneficiary who may meet the conditions of (b).

(1) The name and address of the beneficiary.

(2) The name and address of the:

(A) Attorney handling the case.

(B) Insurance carriers responsible for payment.

NOTE: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code and Section 87, Chapter 1594, Statutes of 1982.

Reference: Section 14006, Welfare and Institutions Code.

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