STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814

June 7, 1983

To: All County Welfare Directors Letter No. 83-43

BELTRAN v. MYERS

Reference: All County Welfare Directors Letters 81-24, 81-27, 81-37, 81-44, 82-24 and 82-30

On March 31, 1983, the United States District Court in Los Angeles lifted the stay in the Beltran v. Myers lawsuit. As a result, the State must implement all provisions of the court decision as entered February 8, 1982 which found California's transfer of property regulations in effect prior to July 1, 1981 to be in violation of federal law and, therefore, unenforceable. (Copies of both court orders are attached.) The State is appealing this decision to the United States Supreme Court. In the interim, however, we must develop procedures to comply with the District Court's order.

The court has ordered that a search be made of all available case records and that all ABD-MN persons who applied for Medi-Cal on or before June 30, 1981 and were denied based on the transfer of resources regulations (Sections 50408 and 50409) be notified of the court's decision in this matter. These persons (or their estates) may request a reevaluation of their eligibility and, if found eligible retroactively without regard to any transfer of resources, may request and receive reimbursement for those medical costs incurred which Medi-Cal would have covered.

In order to develop the necessary procedures and to accurately assess the impact of the court order, we request that you complete the attached questionnaire by June 10, 1983 and return to:

Marie Harder
Medi-Cal Eligibility Branch
714 P Street, Room 1692
Sacramento, CA 95814

If you have any questions regarding this matter, please contact Marie Harder at (916) 445-1797.

Sincerely,

ORIGINAL SIGNED BY

Jo Ann Wray
Acting Deputy Director
Health Care Policy and
Standards Division

Attachments

COUNTY _____

CONTACT PERSON _____

PHONE _____

DATE COMPLETED _____

BELTRAN v. MYERS QUESTIONNAIRE

1. Number of flagged ABD-MN cases per ACWD Letters No. 82-24 and 82-30, (applications filed on or before June 30, 1981 and denied/terminated due to a transfer of resources).

2. Number of flagged ABD-MN cases per ACWD Letters 81-27 and 81-37 (applications filed on or after July 1, 1981 and denied/terminated due to a transfer of resources):

3. a. Approximate number of closed ABD-MN cases on hand.

   b. How far back in time are your files of closed ABD-MN cases.

   c. Estimate of the total time and type of staff to be used to review these closed cases to identify persons denied or terminated due to a transfer of resources.

4. a. Number of current ABD-MN cases which have not yet been reviewed to determine whether or not there was a previous denial/termination due to a transfer of resources.

b. Estimate of total time and type of staff to be used to review these cases.

5. Any comments/concerns/suggestions regarding the implementation of the court's decision:

GILL DEFORD
NEAL S. DUDOVITZ
National Senior Citizens Law Center
1636 West 8th Street, Suite 201
Los Angeles, California 90017
(213) 388-1381

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ANTONIA BELTRAN, on behalf of herself and all others similarly situated,

Plaintiffs,

v.

BEVERLEE A. MYERS, et al.,

Defendants.

No. CV 78-2350CBM(Mx)

~~PROPOSED~~ CBM ORDER VACATING THE PARTIAL SUSPENSION OF THE INJUNCTION PENDING APPEAL

The Court of Appeals having affirmed this Court's order of February 8, 1982 (No. 82-5207, 9th Cir., March 8, 1983), and since this Court's order of May 20, 1982 suspending in part the order of February 8, 1982 was in effect only "pending appeal" of the February 8, 1982 order,

IT IS HEREBY ORDERED that the "Order Amending the Order Suspending in Part the Injunction Pending Appeal", filed May 20, 1982, is vacated; and

IT IS FURTHER ORDERED that, within 120 days of the date of the entry of this order, defendants shall provide the individual notifi

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cation to class members, or their estates, described in ¶5 of the order of February 8, 1982; and

IT IS FURTHER ORDERED that, within 30 days of the mailir of the notices, defendants shall file a certificate with the Court setting forth the names and addresses of all persons and estates so notified; and

IT IS FURTHER ORDERED that for those class members who have already sought reimbursement, defendants shall immediately, and without delay, take appropriate steps to calculate the amounts to which they are entitled and to pay them those amounts.

DATED: MAR 31 1983 1983

CONSUELO B. MARSHALL

U.S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ANTONIA BELTRAN, et al.,

Plaintiff,

vs.

BEVERLEE A. MYERS, et al.,

Defendants.

NO. 78-2350 CBM(Mx)

ORDER

A motion having been made by plaintiff herein to vacate the judgment of this court dated May 10, 1979, and to enter a judgment that the California transfer rule violates federal law and to provide relief,

NOW, on considering the complaints, affidavits, exhibits, discovery and supporting briefs filed herein, and after hearing counsel for the parties, and due deliberation having been made,

IT IS HEREBY ORDERED:

1. That plaintiff's motion is granted and the order of this Court dated May 10, 1979 granting summary judgment to defendants is vacated;

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2. That defendants' policies that were in effect on or before June 30, 1981 which applied a transfer of assets rule to individuals seeking Medi-Cal benefits, pursuant to Welf. & Inst. C. §14015 and Title 22 of the California Administrative Code, is hereby declared to have been invalid as violative of federal law and therefore of the Supremacy Clause;

3. That defendants, their successors in office, agents, employees, and all persons acting in concert with them, are permanently enjoined from denying Medi-Cal benefits to plaintiff Beltran and all members of the class who were denied Medi-Cal at any stage of the state administrative process due to the transfer of assets rule embodied in Welf. § Inst. C §14015 and Title 22 of the California Administrative Code, as the result of an application filed on or before June 30, 1981;

4. That defendants, their sucessors in office, agents, employees, and all persons acting in concert with them, are ordered to provide plaintiff Beltran, or authorized representative, the opportunity to present evidence to the appropriate state or county office responsible for the determination of Medi-Cal eligibility, on her incurred expenses (whether paid or not), which, except for application of the transfer of assets rule, would have been paid for under the Medi-Cal program, to provide her access to the state administrative process if there are disputes as to whether and how much she should be paid, and to provide reimbursement for those of plaintiff's bills which have been paid and to pay the providers for those bills which remain unpaid, in accordance with the decisions reached by defendants, their agents, or employees, as to the amounts owed;

5. That defendants, their successors in office, agents, employees, and all persons acting in concert with them, are ordered to notify individually all members of the class, or their estates, who were denied at any stage of the state administrative process as the result of an application filed on or before June 30, 1981, by sending via first class mail the notification attached hereto as Exhibit "A", and its Spanish translation, that their previously determined eligibility for Medi-Cal due to transfer of property without adequate consideration should be re-evaluated in light of this court's determination that the state rule violated federal law, and that if they are otherwise eligible:

(a) they may be found elibible retroactively without regard to any previous transfer of assets; and,

(b) that they may request and receive reimbursement for those costs which have been incurred in the same manner and to the same degree as is permitted of the named plaintiff in accordance with paragraph 4 above.

6. That defendants shall send the notification described in paragraph 5 within 120 days of the date of this Order, and shall file with the court, within 30 days of the mailing of the notices, a certificate setting forth the names and addresses of all persons and estates so notified;

7. That, in addition to sending of individual notices, defendants shall, within 60 days of this Order, notify every hospital in the State of California, and every nursing home or other medical or treatment facility in the State of California

which has a provider agreement with the State, of the court's decision and of the right of individuals previously denied Medi-Cal pursuant to the transfer rule to re-apply for Medi-Cal in the same manner as is set out in the individual notices;

8. That defendants shall, within 60 days of the date of this Order, cause a Notice to be published in newspapers of general circulation throughout California at least once a week for a four-week period beginning two weeks after the date of this Order. The English version of the Notice shall be as set out in Exhibit "B" to this Order. Defendants shall translate it in Spanish, and where appropriate, shall print either or both versions. Defendants shall file with this court a certification of the newspapers in which the Notice was published and the dates of publication within two weeks after the final Notice appears.

9. That, when feasible, defendants shall cause to be broadcast public service announcements in both English and Spanish, on television and radio stations during the four-week period that begins two weeks after the date of this Order. These announcements shall provide appropriate information, including, but not limited to, the court's determination that the transfer rule was improper, that individuals denied may be entitled to retroactive coverage, and the nature of the steps which they should take to re-apply for benefits. Defendants shall file a certification with the court within two weeks after the final announcement is broadcast describing the nature of the broadcast, and when and over what stations the broadcasts were made.

10. Defendants shall cause to be printed and distributed posters which explain, in English and Spanish, the nature of the

court's decision and the right of individuals to seek retroactive coverage. These notices are to be displayed prominently in Medi-Cal field offices, County welfare offices, and in any other offices in which potentially eligible claimants might seek them. Defendants should endeavor to have the Social Security Administration agree to display these notices as well. The exact wording of these notices should be determined by agreement of the parties, with the court's approval required if the parties are unable to agree. Within two weeks of the date of the order in this case, defendants shall provide plaintiff's attorneys with a proposed draft of these notices.

11. Costs incurred to date shall be taxed by the clerk in favor of plaintiffs and against defendants. Attorneys' fees shall be awarded as an element of costs pursuant to 42 U.S.C. §1988. Plaintiff shall file declarations of attorneys regarding their time spent and a memorandum discussing the amount of attorneys' fees to be awarded within 14 days of this Order. Defendants shall have seven days after service of the declaration and memorandum to file objections to the amount proposed.

DATED: 2/2/82

CONSUELO B. MARSHALL, JUDGE
UNITED STATES DISTRICT COURT

IMPORTANT NOTICE

YOU MAY BE ELIGIBLE TO BE REIMBURSED FOR MEDICAL COSTS THAT WERE PAID OR ARE OWED FOR NECESSARY HEALTH CARE WHICH SHOULD HAVE BEEN PAID FOR BY MEDI-CAL.

California has a rule -- known as a "transfer of assets" rule -- by which state officials have denied Medi-Cal eligibility to people who transferred or gave away property before applying for Medi-Cal. Our records indicate that you may be one of those people.

A federal court in Los Angeles has recently declared that state rule invalid. THE COURT ORDERED THE STATE TO NOTIFY PEOPLE WHO WERE DENIED ELIGIBILITY IN THE PAST BECAUSE OF THIS RULE THAT THEY MAY BE ABLE TO RECOVER AMOUNTS WHICH WERE SPENT OR OWED IN THE PAST which the Medi-Cal program should have been paying for. If you have ever been denied Medi-Cal because you transferred, sold, or gave away property to someone else, there are steps you can take which could lead to your recovering for the bills you incurred during the period when the state said you were ineligible for Medi-Cal. You could be eligible to recover these past amounts even if you are now eligible for and receiving Medi-Cal.

In accordance with the court's order, the Department of Health Services is obligated to redetermine whether you would have been eligible for Medi-Cal if the state had not been using the "transfer of assets" rule. In order to determine what amount,

if any, you (or your doctor, pharmacist, nursing home, etc.) is entitled to, you should contact your local Medi-Cal district office and arrange for a new determination of your past eligibility. You or your representative should be prepared to bring any records which would indicate the nature and amount of medical expenses which you, your relatives, or friends may have incurred as a result of the state previously denying your application.

If you are dissatisfied with the new determination, either because the state says that you were still ineligible for that period or because the state decides to repay you less than the amount you think is right, you will have an opportunity to seek a fair hearing and to otherwise contest the state's decision, just as you would in any other situation where the state decides against you.

Although you are under no obligation to take any action in response to this letter, it is your benefit to do so. You may be eligible to be reimbursed for bills you have already paid, or to have outstanding bills paid for under Medi-Cal.

If you have any questions about this letter and the procedure it discusses, you should contact your attorney, or your nearest legal aid or legal assistance for the elderly office, or your local County Welfare office. You can also contact your local Medi-Cal office if you want to ask about the situation.

BEVERLEE A. MYERS, DIRECTOR
CALIFORNIA DEPARTMENT OF
HEALTH SERVICES.

[NEWSPAPER NOTICE]

NOTICE TO MEDI-CAL APPLICANTS AND RECIPIENTS

The federal court in Los Angeles ruled recently that California's "transfer of assets" rule is invalid because it conflicts with federal law. The rule allowed state officials to deny Medi-Cal coverage to aged, blind, and disabled applicants who transferred, gave away, or sold property prior to applying for Medi-Cal benefits.

The court's order requires the state to notify people who were previously denied eligibility of their right to seek reimbursement for bills incurred -- whether since paid or not -- which would otherwise have been covered by Medi-Cal. Anyone who thinks they fit into this category should contact their local Medi-Cal office and file a new application for the period in which they were found ineligible. If dissatisfied with the state's determination, the applicants will have a right to appeal the decision through the state's administrative process. But no reimbursement for incurred bills can be made unless an application is filed.

Questions about the court's ruling and the procedure outlined above should be directed to an attorney, to a legal aid or legal assistance for the elderly office, or to an office of the California Department of Aging.

EXHIBIT "B"