

IMPLEMENTATION OF PROPERTY PROVISIONS FOR THE SECTION 1931(b) GROUP

NOTE: See Attachment 2.1 for the proposed property regulations of the Section 1931(b) program. These regulations are the result of federal law which requires that the property methodologies be no more restrictive than the rules of the former Aid to Families with Dependent Children (AFDC) program in effect on July 16, 1996 and State law which requires that the regulations for Section 1931(b) Medi-Cal be expanded to ensure that all CalWORKs recipients are eligible for Medi-Cal under Section 1931(b). The CalWORKs program has elected to follow the Food Stamp (FS) program rules for personal property, motor vehicles and property limits. Therefore, many of the personal property rules for the Section 1931(b) program actually originate with the FS program. Citations of the originating regulations have been included for historical reference only.

Generally, *personal property* shall be determined, defined, counted, and valued in accordance with the FS rules. All countable personal property, with the exception of motor vehicles, shall be valued at net market value (fair market value minus encumbrances). In order to ensure that the Section 1931(b) program remains no more restrictive than the CalWORKs program, some of the determinations of what to exempt, the methodologies for determining fair market value and the determination of how much to include in the property reserve have been simplified or eliminated.

Generally, *real property* shall be determined, defined, counted and valued in accordance with the July 16, 1996 AFDC rules.

Property limits for the Section 1931(b) program

Families shall be allowed to retain amounts of countable property up to the limits allowed for recipients of the Medi-Cal program except that for a family size of one the property limit shall be \$3,000 rather than \$2,000. That is, for MFBU's of two the property limit will be \$3,000 and increase from there depending upon family size in amounts equal to that of the Medi-Cal Medically Needy program. In determining and redetermining eligibility under the Section 1931(b) program, counties shall complete and retain the form "Property Reserve Work Sheet - Section 1931(b) Program" [MC 176 P (/98)] in the case record.

The following list includes the overall rules that shall apply to the Section 1931(b) program as well as some highlights of the more major exemptions:

Sneede v. Kizer Federal law limiting financial responsibility to parent for child and spouse for spouse, in accordance with the provisions of Sneede v. Kizer, shall continue to apply when determining property eligibility of families under

Section 1931(b).

- Ownership** In accordance with Title 22, California Code of Regulations (CCR), Article 9, only separate and community property shares owned by members of the MFBU shall be included in the property reserve of the MFBU .
- Stepparent Property** The separate and community property share of real and personal property owned by a stepparent who is not an applicant or beneficiary shall be exempt in accordance with the EAS Manual, Sections 42-213.11e and 42-213.2p.
- Property and an SSI Recipient** Counties shall exempt the total value of all real or personal property *held separately by an MFBU member, or jointly with an SSI recipient* (regardless of community property rules) which is considered in determining the eligibility of the SSI recipient in accordance with the EAS Manual Sections 42-213.11i and 42-213.2t.
- Availability** Only property that the owner has the legal right, power, and authority to liquidate shall be included in the property reserve. Only real property may be considered unavailable once the individual begins a bona fide and good faith effort to sell in accordance with EAS Manual Sections 42-213.121, 42-213.123 and 42-213.125. EAS Manual Section 42-213.122 shall not apply as there is no "conditional" eligibility under the federal Medicaid law. Please note that the property listed for sale is considered unavailable only for a one period per parcel of no more than nine months after which the MFBU will be ineligible if the combined value of real and personal property continues to exceed the property limits for the Section 1931(b) program.
- Eligibility** If the property reserve is at or below the property limit for the Section 1931(b) program at some time during the month, then there is eligibility for Medi-Cal for the entire month.
- Principe v. Belshe** The provisions of Principe v. Belshe contained in ACWDL 97-41 regarding retroactive spenddown of excess property on unpaid medical bills shall apply.
- Exempt Home** Generally, the home shall be exempt in accordance with the EAS Manual, Section 42-213.3. However, when the applicant/beneficiary has entered into a marital separation, counties shall also evaluate the home under the EAS Manual, Section 42-213.4. (NOTE: The home may be legally unavailable because the courts entered an order that neither spouse may liquidate any of the couple's property. Under those circumstances the property may not be countable during or after the 3-month period until the courts have determined ownership.)
- Value of** The value of real property to be included in the property reserve shall be in

Real Property accordance with the July 16, 1996 AFDC rules. The home shall be exempt in accordance with the EAS Manual, Section 42-213.3. Real property in the process of being liquidated shall be considered unavailable in accordance with EAS Manual, Sections 42-213.121, 42-213.123 and 42-213.125.

Value of Personal Property The value of personal property to be included in the property reserve shall be in accordance with the Food Stamps program. That is the net market value (fair market value minus encumbrances).

Please note: where a method of determining the fair market value is not specified, or where there is a choice of methodologies, the counties shall select the method which results in the lowest amount to be included in the property reserve.

Property of Insignificant Value Property, other than financial instruments or vehicles, shall be exempt if it is of insignificant value. Property is of insignificant value when if sold or otherwise disposed of it would be unlikely to produce “any significant amount of funds” or “significant return” for the support of the household.

- “Any significant amount of funds” shall be funds amounting to one-half or more of the applicable property limit.
- “Significant return” shall be any return, after estimated costs of sale or disposition, and taking into account the ownership interest of the household, that is estimated to be one-half or more of the applicable property limit.

Trusts Trusts shall be treated in accordance with the EAS Manual, Sections 42-201.1, 42-211.12e., 42-211.256 (except that there shall be no requirement to petition the courts regarding the trust) and 42-213.11a.

Restricted Accounts Counties shall consider restricted accounts in accordance with the rules of the CalWORKs program and Welfare and Institutions (W&I) Code, Section 11152.2 (see Attachment 2.4).

Motor Vehicles In determining and redetermining eligibility under the Section 1931(b) program and treating vehicles in accordance with this subsection, counties shall complete the form “Vehicle Determination Work Sheet For 1931(b) Group” [MC 197 P-V (1/98) 1931(b) Group] and retain it in the case record. FS rules allow **total exemptions for all motor vehicles** which are used:

1. As a home (only one per **household** may be excluded for this purpose),

2. On the job, self-support, or self-employment, or for producing income, even if only on a seasonal basis,
3. To transport a physically disabled individual living in the home,
4. To get the household's primary fuel or water, etc.

In determining the value of all other motor vehicles counties shall determine the equity and/or excess **fair market** values. For Medi-Cal under the Section 1931(b) rules, counties must determine:

1. The equity **and** fair market value in excess of \$4650 for **all** nonexempt motor vehicles and
2. Determine which amount is **less** for each nonexempt motor vehicle.
3. Include the **lesser** amount in the property reserve, **except**
4. Deduct \$1,500 from the equity value of the nonexempt motor vehicle with the **highest equity value** included in the property reserve.

Loans

Counties shall exempt loans in accordance with the EAS Manual, Section 42-213 when there is a written agreement signed and dated by the lender and applicant/recipient as parties to the agreement that clearly specifies that repayment is required and a repayment plan which requires payments on a regular basis of specified amounts until the loan is repaid.

Life Insurance

In accordance with the FS Manual, Section 63-501.3(b) the cash value of life insurance policies shall be exempt.

Burial funds and burial space items shall continue to be exempt in accordance with the EAS Manual, Section 43-213. The same as in the Medi-Cal Medically Needy program.

Business Property

If an individual was self-employed or working but currently is not, then the EAS Manual, Section 42-213.2u may apply. FS Manual, Section 63.501(e)(3) shall apply in the case of a formerly self-employed farmer. Property essential to employment or self-employment shall be exempt in accordance with the FS Manual, Section 63.501(e). So that the Section 1931(b) program remains no more restrictive than CalWORKs, counties shall accept the statement of the applicant/beneficiary as to whether the property, including financial reserves, are essential to the employment or self-employment of the individual and are necessary to produce either current or future income.

Income Producing Property

Personal property (not real property) which produces **any** income shall be exempt under FS Manual, Section 63-501.3(d). To ensure that the Section 1931(b) program remains no more restrictive than CalWORKs, counties shall not base this exemption upon the amount of income produced by the property.

Pension Funds or Plans and Some KEOGHs In accordance with the FS Manual, Section 63-501(b) the cash value of pension funds or plans and inaccessible KEOGHs which involve a contractual relationship with individuals who are not MFBU members shall be exempt.

Independent Living Program Cash savings and interest accumulated pursuant to the Independent Living Program shall continue to be exempt in accordance with the EAS Manual, Section 42-213.2aa.

Lump Sum SSI/SSP Lump sum retroactive SSI/SSP payments shall be exempt for an unlimited period of time in accordance with the EAS Manual, Section 42-213.2t(3).

Retroactive Corrective Aid shall be exempt in accordance with the EAS Manual, Section 42-213h.

Nonrecurring Lump Sum Social Insurance Payments shall continue to be considered property in the month of receipt and/or exempt as described under Title 22, California Code of Regulations, Section 50455.

Other exempt payments or property under other federal laws shall be exempt if exempt under any of the three programs: Medi-Cal, AFDC on July 16, 1996 or the Food Stamp program.

Transfers Medi-Cal transfer of property rules supersede any transfer of property rules of the CalWORKs program regardless of how CalWORKs handles such transfers. Transfers of property by institutionalized individuals shall be considered in accordance with Department of Health Services' All County Welfare Directors Letters (ACWDLs) 90-01, 97-05 and 97-08. Where a transfer of property by a CalWORKs applicant or recipient has occurred anytime during or after the 30 months immediately preceding the date of application as an institutionalized individual or the date he or she became an institutionalized individual, a separate Medi-Cal determination must be made. Counties shall complete and retain the form "Period of Ineligibility For Nursing Facility Level of Care" [MC 176 PI (9/97)] in the case record should the transfer be determined to be a disqualifying transfer. The institutionalized individual may be eligible only for restricted Medi-Cal benefits when there has been a disqualifying transfer and a period of ineligibility is imposed.

The following is a list of the regulations contained in Title 22, California Code of Regulations, that do NOT apply to eligibility determinations under the Section 1931(b) program. All County Welfare Directors Letters which relate to the following Sections also do not apply to the Section 1931(b) program.

50412	50420.5	50427	50456	50469	50485
50413	50421	50428	50457	50471	50489
50416	50421.5	50441	50461	50473	50489.1
50417	50423	50453	50463	50475	50489.5
50418	50425	50453.3	50465	50483	50489.9
50420(a)	50426	50454.5	50467		

The following is a list of regulations contained in Title 22, California Code of Regulations, that DO apply to eligibility determinations under the Section 1931(b) program as amended by All County Welfare Directors Letters.

50401	50407	50415	50448	50455
50402	50408	50419	50448.5	50476
50403	50409	50420 (b-d)	50449	50477
50404	50410	50442	50451	50479
50405	50411	50443	50453.7	50481
50406	50414	50445	50454	50487
		50446		