INITIAL STATEMENT OF REASONS

Introduction

Medicaid is health insurance that helps many people who cannot afford medical care pay for some or all of their medical bills. Medi-Cal is the state’s version of the federal Medicaid program. Medi-Cal is financed with State, federal and some county funds. In order to be eligible for Medi-Cal, a person must have limited income and property, and meet certain other requirements. There are special rules for those who live in nursing homes and for aged, blind, or disabled individuals living at home who would, except for application of these special rules, require nursing facility services.

To be eligible for Medi-Cal, a person’s countable property may not exceed the established property reserve limits for the respective Medi-Cal program. Property is defined as “real property” and “personal property.”

Under current rules, an individual’s principal residence is exempt from Medicaid/Medi-Cal property limitations; there is no limit on the amount of home equity an individual can have in their principal residence. The federal Deficit Reduction Act of 2005 (DRA), provides that individuals who have home equity in excess of $500,000 are ineligible for payment by Medicaid for long-term care services and home or community based waiver services defined as home and facility (HAF) care in these regulations. The DRA, however, allows states to adopt statutes to raise the home equity cap up to $750,000. California raised the home equity cap to $750,000. This home equity cap applies only to an individual’s eligibility for payment of HAF care services. Individuals with excess home equity remain eligible for all other medically necessary Medi-Cal covered services. No later than December 31, 2011, and each year thereafter, DRA allows for an annual increase to the home equity limitation in an amount based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest one thousand dollars ($1,000).

There is an exception to the home equity limitation for individuals with a spouse, or a minor child (under 21), or a blind or disabled child residing in the home. Also, States cannot apply this provision in cases of documented hardship. The federal law prohibits states from denying payment of HAF care services if certain minimum criteria exist. States may expand their own definitions of undue hardship. SB483 (Chapter 379 of 2008) established the undue hardship criteria for this purpose. It is codified, in part, in Welfare and Institutions Code, section 14006.15.

The DRA and Welfare and Institutions Code (W&IC), section 14006.15, establishes California’s equity interest limit in the principal residence at $750,000 to be eligible for payment of HAF care. The limitation does not apply to the principal residence if the individual’s spouse, the individual’s child if under the age of 21, or a blind or disabled child lawfully resides in the home. Additionally, the limitation does not apply if the individual was determined eligible for Medi-Cal payment for HAF care if the application was filed prior to January 1, 2006. The limitation will also not apply if the department determines that
ineligibility for Medi-Cal assistance would result in demonstrated hardship under specified circumstances.

**Participation by interested parties**

[Hold for comments after distribution to broader stakeholder group and comments]

**Materials Relied Upon**

California Government Code, sections 11346-11348


Senate Bill 483, Chapter 379, Kuehl, September 2008.

Title 42 United States Code, section 1396

Welfare and Institutions Code, sections 10725, 14006, 14015.1, and 22000-22010

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Medi-Cal is California's Medicaid program. Medi-Cal is a public health insurance program which provides needed health care services for qualified low-income individuals. Medi-Cal is financed with State, federal and some county funds.

To be eligible for Medi-Cal countable property may not exceed the established property reserve limits for the respective Medi-Cal program. Property is defined as “real property” and “personal property.” “Real property” is land, buildings, mobile homes which are taxed as real property, or life estates in real property. “Personal property” is any kind of liquid or non-liquid asset, i.e., cash, cars, jewelry, stocks, bonds, financial institution accounts, boats, trucks, trailers, promissory notes, mortgages, and deeds of trust, etc. Property that is not counted in determining eligibility is called “exempt” or “unavailable” property. Countable property (property which is not exempt or unavailable) is included in the “property reserve.” Any amount over the property reserve limit will make an individual and/or their family ineligible for Medi-Cal.

California exempts the principal residence as countable property, enabling the individual to qualify for Medi-Cal benefits if he/she owns a home. The DRA specifies that an individual in receipt of or requesting long term care or home or community based waiver services defined as home and facility (HAF) care in these regulations with home equity in excess of $500,000 is not eligible for Medicaid payment of those specific services. The individual's principal residence would continue to be exempt and the individual would be eligible for all other Medi-Cal covered services, if he/she was otherwise eligible. The DRA permits states to adopt statutes that raise the home equity cap up to $750,000. DRA allows for an annual increase to the home equity limit in an amount based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest one thousand dollars ($1,000). The individual remains eligible for all other Medi-Cal covered services regardless of home equity in the exempt principal residence.

There is an exception to the home equity limitation for individuals with a spouse, or a minor child (under 21), or blind or disabled child residing in the home. Also, States cannot apply this provision in cases of documented hardship. States are permitted to expand the criteria for hardship, but must provide the minimum protections required by federal law. Welfare and Institutions Code 14006.15 includes such expanded criteria.

The DRA 2005 and W&IC, Section 14006.15 establishes the home equity limit in the principal residence at $750,000, as increased annually in an amount based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest one thousand dollars ($1,000). The limitation does not apply if the individual's spouse, the individual's child if under the age of 21, or a blind or disabled child lawfully resides in the home. Additionally, the limitation does not apply if the individual was determined eligible for Medi-Cal payment
for HAF care if an application was filed prior to January 1, 2006. The limitation will also not apply if hardship exists under specified circumstances.
Adopt Section 50044.1 to read as follows:

Section 50044.1. Home and Facility (HAF) Care

“Home and facility care” (HAF care) means any of the following services:

(a) Nursing facility care services.

(b) A level of care provided in any institution equivalent to that of nursing facility care services.

(c) Home or community-based care services furnished under a waiver granted under subsection (c) or (d) of Section 1396n of Title 42 of the United States Code.

Section 50425.5 is added to read as follows:

**Section 50425.5. Home Equity Limitations for Payment of Home and Facility Care**

(a) For the purposes of this section “equity interest” means the lesser of the following:

1. The assessed value of the principal residence as determined under the most recent tax assessment, less any encumbrances of record.

2. The appraised value of the principal residence determined by a qualified real estate appraiser who has been retained by the applicant or beneficiary, less any encumbrances of record.

(b) Notwithstanding Section 50425(c), an individual is not eligible for payment by Medi-Cal for HAF care if his or her equity interest in the principal residence exceeds seven hundred fifty thousand dollars ($750,000). No later than December 31, 2011, and each year thereafter, this amount shall be increased based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest one thousand dollars ($1,000).

(c) This section does not apply to an individual if any of the following circumstances exist:

1. One or more of the following individuals is lawfully residing in the home:
   
   A. the spouse of the individual,
   
   B. the individual’s son or daughter, who is under 21 years of age, or
   
   C. the individual’s son or daughter who is blind or who is disabled.

2. The individual was determined eligible for Medi-Cal payment for HAF care based on an application filed before January 1, 2006.
(3) The department determines that ineligibility for Medi-Cal assistance for HAF care would result in demonstrated hardship on the individual. For purposes of this section, demonstrated hardship shall include, but is not limited to, any of the following circumstances:

(A) The individual was receiving HAF care prior to January 1, 2006.

(B) The individual has been determined to be eligible for Medi-Cal payment for HAF care based on an application filed on or after January 1, 2006, and before the date that this section was certified with the Secretary of State.

(C) The individual purchased and received benefits under a long-term care insurance policy certified by the department's California Partnership for Long-Term Care Program, pursuant to Chapter 8.

(D) The individual's equity interest in the principal residence exceeds the equity interest limit as provided in subdivision (b), but would not exceed the equity interest limit under that subdivision if it had been increased by using the quarterly House Price Index (HPI) for California, published by the Office of Federal Housing Enterprise Oversight (OFHEO).

(E) The applicant or beneficiary has been denied a home equity loan by at least three lending institutions, or is ineligible for any one Federal Housing Administration (FHA) approved loan or reverse mortgage.
(F) The individual, his or her spouse, or representative, with good cause, is unable to provide verification of the equity value of his or her interest in the principal residence.

(i) For purposes of this section, good cause is found when either of the following exist:

(I) Delays in providing the verification or mail due to circumstances beyond the individual’s, spouse’s or representative’s control that prevent him or her from obtaining the required verification.

(II) Verification has been requested and documentation of the request is provided, but the entity of which the verification has been requested is nonresponsive and verification of the balance owed on the principal residence or the market value of the principal residence is not available, and the provisions of Section 50167(c) have been followed.

(ii) As used in this section, circumstances beyond the individual’s, spouse’s and representative’s control that prevent him or her from obtaining the required verification include, but are not limited to:

(I) Physical or mental illness or incapacity of the individual, spouse and representative which precludes their ability to obtain the required verification in a timely manner.

(II) A level of literacy of the individual, spouse and the representative which, in conjunction with other social or
language barriers, precludes their ability to obtain the required verification in a timely manner.

(iii) If good cause is being considered pursuant to this subsection and there is no one with authority to act on the individual's behalf who can obtain the verification then the county shall conduct a diligent search pursuant to the process described in 50167(c) for the verification required.

(G) The deprivation of Medi-Cal payment for HAF care would cause an endangerment to the life or health of the individual.

(H) The denial of Medi-Cal payment for HAF care would result in the eviction of the individual from a nursing home.

(I) The individual is otherwise eligible for the Medi-Cal program and unable to obtain home and facility care without Medi-Cal.

(J) The denial of Medi-Cal payment for HAF care would cause the individual to be unable to remain at home or in the community and would hasten or cause the individual's entry into a medical or long-term care institution.

(K) The individual would be deprived of food, clothing, shelter, or other necessities of life.

NOTE: Authority cited: Section 20, Health and Safety Code; and Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14002.5, 14005, 14005.7, 14006, 14006.15, 14006.41, 14009.6, 14015 and 14018, Welfare and Institutions Code; and Section 1396p(c), (d), (e), (f) and (h), Title 42, United States Code.