

Medi-Cal Program Guide (MPG) Letter #698

January 19, 2010

Subject **2009 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
PROTECTIONS FOR INDIANS UNDER MEDI-CAL**

Effective Date Upon Receipt

Reference ACWDL 09-26

Purpose To inform staff of new property exemptions for Native Americans pursuant to the ARRA.

Background A new provision of the ARRA provides new property exemptions for determining Medi-Cal eligibility for Native Americans.

Required Actions Effective upon receipt workers must exempt the new property categories when determining Medi-Cal eligibility for Native Americans.

Automation Impact The new property exemptions for Native Americans are not scheduled to be programmed into CalWIN at this time. Until further notice, when workers verify that the property fits into one of the exempt categories, they must not enter the property into CalWIN and narrate the reason for this action.

Imaging Impact Since the property cannot be captured normally in CalWIN and verifications of the property be retained in case file, workers must Image verifications of the property using template HHSA 16-130 resource verification form.

Forms Impact None.

QA/QC Impact Effective with the February 2010 review month, Quality Assurance will cite with the appropriate error any case that does not follow the

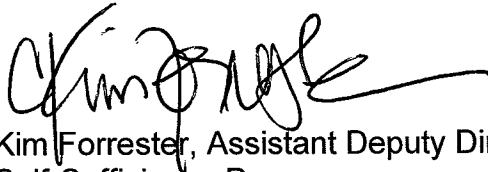
requirements of this letter.

**Summary of
Changes**

The table below shows the changes to the MPG.

Section	Change
Article 9, Section 5	Added new exempt real property categories

**Manager
Approval**



for Kim Forrester, Assistant Deputy Director
Self-Sufficiency Programs
Strategic Planning and Operational Support Division

MK

Article 9, Section 5 – Real Property

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09.05.01 – General

A. Section Summary

This section describes the treatment of real property, other than a principal residence. MPG Article 9, Section 2, details how to determine the ownership and availability of property.

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B. Definition of Real Property

Real property means land and improvements. Improvements include any immovable property attached to the land such as buildings, fences, and timber. It includes mines and any oil, mineral, and timber rights related to the land. Mortgages or notes secured by a deed of trust that meet the criteria in MPG Article 9, Section 9, are also considered real property. Time shares, campground memberships, etc., which have a real property deed and assessment, are treated as real property. If there is no real property deed and assessment, the property is considered personal property.

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09.05.02 - Determining Value

**A.
Market Value**

The market value is entered on Form MC 176P. MPG Article 9, Section 1, gives instructions for Form MC 176P.

The market value of real property is determined by applying one of the following methods:

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If ...	Then use the...
the property is located in California	assessed value as determined by the most recent property tax assessment as the market value.
the property is located outside of California	assessment method used in the areas where the property is located.
The applicant chooses <u>and</u> a value can be determined at a lower market value than the other two methods	assessed value established through an appraisal by a qualified real estate appraiser. The appraisal must be obtained and provided to the worker by the applicant/beneficiary.

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**B.
Encumbrances**

An applicant/beneficiary may encumber an item of real property. Encumbrances are obligations for which the property is security. Encumbrances include, but are not limited to:

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- 1) Loans; and
- 2) Attachments for debts and taxes; and
- 3) Chattel mortgages and liens.

Encumbrances are entered on Form MC 176P.

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**C.
Joint Property**

If the property is owned jointly, the worker must determine the applicant's/beneficiary's share of the market value and encumbrances. This determination is done before entering the amounts on Form MC 176P.

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**D.
Determining
Share of
Market Value**

The percentage of the applicant's/beneficiary's ownership in the property may be stated by the applicant/beneficiary, e.g., "I own 20%," or, if shares are equal, may be computed by the worker. The worker must divide the number 1 by the number of owners to determine the percentage of ownership. The total market value is multiplied by the percentage to determine the applicant's/beneficiary's share of the market value.

EXAMPLE: Four individuals own equal shares of a piece of property with a market value of \$10,000. The worker divides 1 by 4 to arrive at the applicant's/beneficiary's share of 25%. Twenty-five percent of \$10,000 is \$2,500.

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**E.
Determining
Share of
Encumber-
ances**

The worker will determine the applicant's/beneficiary's share of encumbrances by multiplying the total amount of encumbrances by the percentage of the applicant's/beneficiary's ownership share of property.

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EXAMPLE: A piece of property worth \$10,000 is owned equally by four individuals. The applicant's/beneficiary's share of ownership is 25%. The share of encumbrances is also 25%. The total encumbrances are \$5,000. Twenty-five percent of \$5,000 is \$1,250. This is the applicant's/beneficiary's share of encumbrances.

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**F.
Net Value**

The net market value is the owner's equity in the property. Equity is determined by subtracting encumbrances from the market value. The value of property owned jointly is determined by subtracting the applicant's/beneficiary's share of encumbrances from his/her share of the market value of the property.

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09.05.03– Verifications

**A.
When
Verifications**

Other real property must be verified at the following times:

are required

1	At application and reapplication; and
2	Any time a change is reported; and
3	At redetermination when: <ul style="list-style-type: none">• An item was not previously verified; and• Items which could have appreciated in value since the last verification.

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**B.
Market Value**

The market value of other real property must be verified prior to approval by viewing any of the following:

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1	A current tax statement from the Tax Assessor's Office; or
2	Records maintained by the Tax Assessor; or
3	A written statement from a qualified real estate appraiser which gives the appraisal value of the property if the applicant/beneficiary has chosen the option discussed in item 09.05.02.A above.

Appendix [9-5-B](#) is provided as a sample letter which may be used to verify the value of property located out of San Diego County.

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**C.
Encumbrances**

Encumbrances of record on other real property must be verified prior to granting by viewing:

1	A payment book issued by the institution or person holding the encumbrance which indicates the current amount owed; or
2	Written correspondence from the institution or person holding the encumbrance which states the current amount owed.

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**D.
Oil Leases,
Mineral
Rights,
Timber Rights**

The value of these items is verified by one of the following:

1	Written or telephone contact with a member of a recognized professional appraisal society which establishes the current
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	market value of the lease or right; or
2	Records maintained by the Tax Assessor where the lease or right is located; or
3	Written or telephone contact with the company/organization developing the natural resource which establishes the current market value.

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09.05.04 – Other Real Property That Can Be Exempt

A. Net Market Value of \$6,000 or less

Other real property that has not been exempted under any other criteria in Article 9 will be exempt if **both** of the following conditions are met:

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1	The combined net market value of all "other real property" is \$6,000 or less; and
2	The owner is utilizing the property per the criteria in item 09.05.05 below.

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B. Net Market Value of over \$6,000

Other real property with a net market value of more than \$6,000 is treated as follows:

1	The first \$6,000 of the net market value is exempt if the owner is utilizing the property per the criteria in item 09.05.05 below; and
2	The net market value in excess of \$6,000 is included in the property reserve (see MPG Article 9, Section 1).

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C. Protections for Indians Under Medi- Cal

The following property is exempt for the purpose of determining the eligibility of individuals who are native American.

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1	<p>Property, including real property and improvements, that is any of the following:</p> <ul style="list-style-type: none"> • Held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, • Located on a reservation including any federally recognized Indian tribe's Native regions established by the Alaska Native Claims Settlement Act • An Indian allotment on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior (DOI)
2	<p>For any Federally Recognized Indian Tribe not described in 1 above, property located within the most recent boundaries of a prior Federal Reservation</p>
3	<p>Ownership Interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish and shellfish) resulting from the exercise of federally protected rights</p>
4	<p>Ownership interests in or usage rights to items not covered above that have unique religious, spiritual, traditional or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom</p>

The applicant/beneficiary is required to provide verification sufficient to establish the exempt status of the above described items. Verification may include a statement on Tribal Council/Government letterhead. Workers may also seek assistance from the Bureau of Indian Affairs by calling 202-208-3710.

A list of federally recognized tribes can be obtained at the DOI website at the following address:

<http://www.bia.gov/>

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09.05.05 – Utilization Requirements

A. General

Other real property that falls within the property reserve limits when added to the net market value of all other property does not need to be

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utilized.

Other real property that exceeds the limit but whose market value is \$6,000 or less must be utilized in order to be exempt. The computation for utilization is done on form MC 176P.

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**B.
Utilization
Methods**

Utilization requirements can be met by either of the following methods:

1	The applicant/beneficiary is receiving annual income of at least six percent of the net market value of the property.	
	If the...	Then...
	Property is not limited to seasonal use	this requirement is met if the net monthly income from the property is one-twelfth of six percent of the net market value of the property.
	property is limited to seasonal use	this requirement is met if the yearly net income is six percent of the net market value of the property. Examples of property limited to seasonal use includes farmland and summer cabins.
2	The property has been sold, or the sale is in escrow and there is a genuine attempt to close the sale.	

Treatment of income from property is detailed in MPG [Article 10, Section 5](#).

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**C.
Utilization
Period**

The applicant/beneficiary will be allowed six months to meet utilization requirements. This six-month period is called the utilization period, and begins on the first of the month following issuance of a notice of action informing the applicant/beneficiary that the property is not yielding sufficient income, as required in item 09.05.05.A above. The utilization period will be stayed during periods of ineligibility (see item H below).

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**D.
Extension of
Utilization
Period**

The utilization period may be extended for the following reasons:

1	<p>The utilization period will be extended for as long as the property is listed for sale, provided all of the following conditions are met:</p> <ul style="list-style-type: none"> • The worker determines that utilization requirements can only be met by sale of the property. This determination is made by using evidence provided by the applicant/beneficiary. Evidence is, but is not limited to, either of the following: <table border="1" data-bbox="602 636 1404 787"> <tr> <td data-bbox="602 636 651 747">1</td> <td data-bbox="651 636 1404 747">A written statement from a qualified real estate appraiser which gives the appraisal value of the property and its income potential; or</td> </tr> <tr> <td data-bbox="602 747 651 787">2</td> <td data-bbox="651 747 1404 787">A certificate of condemnation</td> </tr> </table> • The property is listed for sale with a licensed real estate broker at the market value; and • The applicant/beneficiary provides the following evidence every six months, and at any other time it is requested by the worker. <table border="1" data-bbox="602 1083 1404 1310"> <tr> <td data-bbox="602 1083 651 1161">1</td> <td data-bbox="651 1083 1404 1161">A statement from the real estate agency that no bona fide offer has been rejected; and</td> </tr> <tr> <td data-bbox="602 1161 651 1234">2</td> <td data-bbox="651 1161 1404 1234">Copies of any offers that have been submitted and the reasons for rejection; and</td> </tr> <tr> <td data-bbox="602 1234 651 1310">3</td> <td data-bbox="651 1234 1404 1310">Evidence of the efforts being made to advertise the property for sale.</td> </tr> </table> 	1	A written statement from a qualified real estate appraiser which gives the appraisal value of the property and its income potential; or	2	A certificate of condemnation	1	A statement from the real estate agency that no bona fide offer has been rejected; and	2	Copies of any offers that have been submitted and the reasons for rejection; and	3	Evidence of the efforts being made to advertise the property for sale.
1	A written statement from a qualified real estate appraiser which gives the appraisal value of the property and its income potential; or										
2	A certificate of condemnation										
1	A statement from the real estate agency that no bona fide offer has been rejected; and										
2	Copies of any offers that have been submitted and the reasons for rejection; and										
3	Evidence of the efforts being made to advertise the property for sale.										
2	<p>The utilization period may be extended for a maximum of one year if good cause is found. (See item 1 for good cause determination.)</p>										

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**E.
Property
Utilized by
Sale**

If the applicant/beneficiary utilizes the property by sale, the property must be sold for at least market value.

EXCEPTION:

The property was sold under either of the following situations:

1	The property was listed with a licensed real estate broker for at
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	least three months and the final sale price was similar to comparable sales in the area; or
2	There was an inability to sell the property for the market value and the worker determines that the final sale price was reasonable.

The applicant/beneficiary must submit evidence that there was a bona fide attempt to sell at market value.

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**F.
Miscellaneous
Requirements**

An existing environmental impact report involving a property must be considered by the worker in determining the utilization potential of the property.

A life estate interest in real property must be utilized in accordance with this section. (See [MPG Article 9, Section 9](#) for treatment of life estate interests.)

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**G.
Reassess-
ment of
Property**

The applicant/beneficiary may arrange for a reassessment of the property during the utilization period. The assessment affects utilizations as follows:

1	The reassessment value will be used in determining utilization requirements
2	The reassessment will not affect the beginning date or the length of the utilization period.

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**H.
When To
apply
Utilization
Period**

A six-month utilization period will begin at the following times:

1	At application; and
2	When other real property that was utilized is no longer being utilized; and
3	When the net market value of other real property, together with other non-exempt property, is no longer within the property reserve limit.

EXCEPTION:

When a utilization period has already begun and the beneficiary becomes ineligible for Medi-Cal prior to its expiration, the remainder of the utilization period must be applied if eligibility is subsequently reestablished and the property is not utilized at that time. However, if the beneficiary can verify that the property was utilized at any time during the period of ineligibility, a new utilization period will begin.

EXAMPLE:

An applicant is determined eligible and has other real property with a net market value of \$5,000 that is not being utilized. The six-month period is 1-8X through 6-8X. The beneficiary moves out of state on 3-5-8X and Medi-Cal is discontinued 3-31-8X. The applicant reapplies on 9-3-8X. The property is still not being utilized. The applicant is granted Medi-Cal effective 9-1-8X. The remaining three months of the utilization period is applied for 9-8X through 11-8X.

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**I.
Good Cause**

Good cause, for purposes of this section, is found only if the applicant/beneficiary has made a bona fide effort to meet the utilization requirements and is unable to do so because of circumstances beyond the applicant's/beneficiary's control. Circumstances beyond the applicant's/beneficiary's control include the following:

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1	The death of a part-owner of the property and the administrator or executor of the estate is unable or refuses to dispose of the property, as long as the administrator/executor is not the applicant/beneficiary.
2	Prolonged illness causing the seller to be homebound or hospitalized during the utilization period and unable to take the necessary action to meet utilization requirements or to arrange for an agent to do so.
3	Similar reasons which the worker determines meet the general

	intent of good cause.
4	<p>Misplaced reliance by the applicant/beneficiary upon what appeared to be a bona fide offer. The worker will require a copy of the written offer for the property as evidence that the offer was bona fide. Misplaced reliance may have resulted if the offer was either of the following:</p> <ul style="list-style-type: none"> • Bona fide but the purchaser was unable to complete the purchase. <p>Appeared to be bona fide but eventually was found not to be bona fide.</p>

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**J.
Co-Owned
Property**

The applicant/beneficiary must meet the utilization criteria outlined below when he/she owns an interest in other real property with a person for whom there is not responsibility.

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If ...	Then ...
the property is being used by the co-owner as a home	<p>The co-owner may elect to pay the applicant/beneficiary an amount that is sufficient to meet the six-percent utilization requirement.</p> <p>When utilizing the property in this manner, the co-owner would also have to pay the applicant's/beneficiary's share of the expenses of the property in order for the applicant/beneficiary to receive the amount of net income required for utilization.</p>
the co-owner does not use the property as a home	<p>Utilization criteria will be met if either of the following conditions are met:</p> <ul style="list-style-type: none"> • The property is rented for an amount sufficient to provide the applicant/beneficiary a net income of six percent of his/her interest in the property; or • The co-owner pays the applicant/beneficiary an amount that is sufficient to meet the utilization requirements above.

The net income received by the applicant/beneficiary is considered income from property. (See MPG Article 10, Section 5.)

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APPENDIX A - OTHER REAL PROPERTY (ORP) DESK AID

ORP includes any property which has a real property deed and tax assessment such as house(s) on lots, apartments, condos, time shares, campground memberships, etc., which are not exempt as a principal residence.

PROCEDURE FOR:

1. New applicants or beneficiaries who own real property not exempt as a principal residence.

NOTE: Net Market Value is abbreviated as NMV. Property Reserve is abbreviated as PROP. RES.

CASE SITUATION FOR AN MFBU OF ONE (1)	ELIGIBILITY CONDITIONS	UTILIZATION REQUIREMENTS	PROCEDURE
<p>A. ORP under \$6000 NMV; PROP. RES. including ORP is under limit.</p> <p>Example: ORP \$1200 NMV, \$200 CSV insurance, \$1400 property reserve total is under limit for one. (\$1900)</p>	Eligible.		Complete MC 176P. Use any net income from property in SOC determination.
<p>B. ORP under \$6000 NMV; PROP. RES. including ORP is over limit.</p> <p>Example: ORP \$1000 NMV, \$500 savings, \$500 CSV. Total PROP. RES. \$2000. Over limit for one. (\$1900)</p>	Eligible, if utilization requirements are met for ORP.	<p><u>Util</u>=6% of NMV in net rent <u>or</u> property is sold or in escrow.</p> <p><u>Time Limit</u> = 6 months from 1st of month after MC 239U issued.</p>	<p>Complete MC 176P.</p> <p>1. Property meets util. req.:</p> <ol style="list-style-type: none"> Send MC 239U with approval NOA. Set tickler to review util. in 6 months. <p>2. Property does not meet util. req.</p>
<p>C. ORP over \$6000 NMV; PROP. RES. including ORP in excess of \$6000 is under limit.</p>		Can extend 12 months for good cause.	<p>a. Send MC 239U with approval NOA.</p>

APPENDIX A. OTHER REAL PROPERTY (ORP) DESK AID

Example: ORP \$7200
 NMV. \$100 savings,
 \$1200 excess ORP. Total
 PROP. RES. \$1300.
 Under limit for one.
 (\$1900)

Can extend
 indefinitely if Util
 can only be met
 by sale.

- b. Set tickler for the 5th month following month in which MC239U is sent.
- c. In 5th month review for Util met or can extension be granted and new control set for 5 more months.
- d. Send new MC239U if Util is met or if time is extended.
- e. Discontinue at end of 6th month if Util is still not met. Must have timely and adequate NOA of disc.

D. ORP over \$6000
 NMV; PROP. RES.
 including ORP in excess
 of \$6000 is over limit.

Ineligible

Not applicable.

Complete MC 176P. Send MC 239Y.

Example: ORP \$10000
 NMV. \$1000 savings,
 \$4000 excess ORP. Total
 PROP. RES. \$5000.
 Over prop. limit for one.
 (\$1900)

NOTE: Time shares, campground memberships, etc., which do not include real property deed and assessment are treated as personal property.

APPENDIX B. OUT-OF-COUNTY REAL PROPERTY INQUIRY

TO: Assessor and/or Recorder of
Appropriate County

RE: [Applicant/Beneficiary, Spouse, and Case Name(s)]

CASE NUMBER:

(Client's Name) is an applicant beneficiary of Medi-Cal in San Diego County. To help establish his/her eligibility for this program, please complete the spaces below with the indicated property information. The applicant/beneficiary has provided the following information:

(List any known properties in the receiving county)

Thank you,

(Worker signature and number)

(District Address)

ASSESSOR:

Description of Property(ies) -

Assessed or Market value - Land \$ _____ Improvements \$ _____

Completed by _____

Date _____

RECORDER:

Acquired or conveyed property(ies) in last two years -

from _____ to _____ date _____

Completed by _____

Date _____