

50403 Treatment of Property: Separate and Community Property

(a)

The separate property and share of community property of any person included in the MFBU shall be considered in determining Medi-Cal eligibility.

(b)

A spouse's share of community property is always one-half of the current total community property.

(c)

For purposes of establishing eligibility, an interspousal agreement entered into pursuant to Welfare and Institutions Code Section 14006.2 shall: (1) be written, dated and signed by both spouses or by a person who has the legal authority to enter into such agreements on behalf of either spouse; (2) list each asset being transmuted; (3) clearly designate the owner of each asset; (4) list the value of each asset; and (5) evidence an equal division of the nonexempt community property.

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(5)

evidence an equal division of the nonexempt community property.

(d)

If an interspousal agreement does not comply with (c)(4) of this section, the county shall request additional information from the applicant, or other party mentioned in (c)(1) to supplement the agreement and verify the methodology used to value assets. Such information may be necessary pursuant to verification requirements contained in Article 4 of this Division.

(e)

If an interspousal agreement evidences an unequal division of the nonexempt community property, and the applicant received the smaller share of such property under the agreement, the county shall determine whether the transfer was for adequate consideration in accordance with Sections 50408 and 50409. (1) If the county determines that the transfer was not for adequate consideration and was made in order to establish eligibility or to reduce the share of cost, the county shall give the applicant's spouse the option of reconveying to the applicant in accordance with Section 50411(d)(1) an amount of property sufficient to provide each spouse with equal shares of the total nonexempt community property identified in the interspousal agreement. (2) If the applicant's spouse does not reconvey property pursuant to (e)(1) above, the county shall assess a period of ineligibility for the applicant in accordance with Section 50411.

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(2)

If the applicant's spouse does not reconvey property pursuant to (e)(1) above, the county shall assess a period of ineligibility for the applicant in accordance with Section 50411.