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Title 22@ Social Security

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Division 3@ Health Care Services

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Subdivision 1@ California Medical Assistance Program

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Chapter 2@ Determination of Medi-Cal Eligibility and Share of Cost

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Article 9@ PROPERTY

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Section 50408@ Transfer of Property Which Does Not Result in Ineligibility

50408 Transfer of Property Which Does Not Result in Ineligibility

(a)

Transfer of property shall not result in ineligibility for Medi-Cal under any of the following conditions: (1) The property would have been considered exempt pursuant to Section 50418 of Article 9 of Division 3 of this title at the time of transfer. (2) The net market value of the property transferred, when included in the property reserve, would not result in ineligibility. The determination of value shall be made as of the time of transfer. If eligibility exists, the value of the property shall no longer be considered. (3) Adequate consideration is received. Adequate consideration is the fair market value of the property as defined in Section 50412 and includes: (A) A transfer which was to satisfy a legal debt. (B) A transfer which was to reimburse someone other than a responsible relative, as specified in Section 50351, for care or benefits provided on the basis of an agreement or understanding that reimbursement would be made. The applicant or beneficiary shall provide evidence that clearly establishes that the value of the care or benefits provided was reasonably equivalent to the value of the property transferred. (C) A written transmutation of a married couple's nonexempt community property into equal shares of separate property through an interspousal agreement. (4) Foreclosure or repossession of the property was imminent at the time of transfer, and there is no evidence of collusion. (5) The

transfer was made in return for an enforceable contract for life care which does not include complete medical care. In this case, each full item of need provided under the life care contract shall be considered income in kind in accordance with Section 50509. (6) The transfer was made without adequate consideration but the applicant or beneficiary provides convincing evidence to the county as specified in Section 50409(b), to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

(1)

The property would have been considered exempt pursuant to Section 50418 of Article 9 of Division 3 of this title at the time of transfer.

(2)

The net market value of the property transferred, when included in the property reserve, would not result in ineligibility. The determination of value shall be made as of the time of transfer. If eligibility exists, the value of the property shall no longer be considered.

(3)

Adequate consideration is received. Adequate consideration is the fair market value of the property as defined in Section 50412 and includes: (A) A transfer which was to satisfy a legal debt. (B) A transfer which was to reimburse someone other than a responsible relative, as specified in Section 50351, for care or benefits provided on the basis of an agreement or understanding that reimbursement would be made. The applicant or beneficiary shall provide evidence that clearly establishes that the value of the care or benefits provided was reasonably equivalent to the value of the property transferred. (C) A written transmutation of a married couple's nonexempt community property into equal shares of separate property through an interspousal agreement.

(A)

A transfer which was to satisfy a legal debt.

(B)

A transfer which was to reimburse someone other than a responsible relative, as specified in Section 50351, for care or benefits provided on the basis of an agreement or understanding that reimbursement would be made. The applicant or beneficiary shall provide evidence that clearly establishes that the value of the care or benefits provided was reasonably equivalent to the value of the property transferred.

(C)

A written transmutation of a married couple's nonexempt community property into equal shares of separate property through an interspousal agreement.

(4)

Foreclosure or repossession of the property was imminent at the time of transfer, and there is no evidence of collusion.

(5)

The transfer was made in return for an enforceable contract for life care which does not include complete medical care. In this case, each full item of need provided under the life care contract shall be considered income in kind in accordance with Section 50509.

(6)

The transfer was made without adequate consideration but the applicant or beneficiary provides convincing evidence to the county as specified in Section 50409(b), to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

(b)

There is a presumption that property transferred by the applicant or beneficiary more than two years preceding the date of initial application was not transferred to establish eligibility or reduce the share of cost. Such property shall not be

considered in determining eligibility.

(c)

While the transfer of property by an applicant or beneficiary from one form to another, as described in (a) above, has no effect on eligibility, any property obtained by an applicant or beneficiary through such a transfer may have an effect on eligibility and therefore shall be evaluated to determine its effect.