40. Court Orders

40.1 *Beltran v Rank* - Transfer of Property

40.1.1 Issue

Beltran v. Rank identifies whether transfer of property without adequate consideration should be allowed for transfers which took place within a two-year period before the date of initial application.

40.1.2 Decision

An individual's Medi-Cal (MC) eligibility will not be affected by a transfer of exempt property. This court order is effective July 2, 1981.

40.2 Craig v Bontá - Loss of SSI/SSP

40.2.1 Issue

The Superior Court in the Craig v Bontá lawsuit prohibited the Department of Health Care Services (DHCS) from terminating the MC benefits of clients discontinued from Supplemental Security Income/State Supplementary Payment (SSI/SSP) on or after June 30, 2002, except for those clients discontinued due to death or loss of residence.

40.2.2 Decision

The Superior Court ruled that the Ex Parte Redetermination Process must be implemented for clients losing SSI/SSP eligibility effective July 1, 2003.

40.2.3 Ex Parte Redetermination Process

The Ex Parte Redetermination Process consists of three parts:

- Ex Parte Review (without client contact)
- Direct contact (phone call)

- Request for information

Ex Parte Review

The Ex Parte review involves evaluation of all sources of information available to the EW to make a MC redetermination. Information sources include the following:

- Information from the Social Security Administration through the State Data Exchange (SDX) on MEDS. However, Social Security Administration does not calculate income the same way that the MC program determines income. Therefore, verification of this information is necessary.
- Craig v Bontá cases and/or cases of any of their immediate family members, which are open or were closed within the last 45 days (MC, CalWORKs (CW), CalFresh (CF), General Assistance (GA), etc.).
- Other sources of relevant information, including Income Eligibility Verification System (IEVS), Systematic Alien Verification for Entitlements (SAVE), Medi-Cal Eligibility Data System (MEDS) and the Federal Data Services Hub (Federal Hub).
- Incarceration information can be found on [INQU] MEDS screen. [Refer to MEDS Handbook Chapter 1 for more information on [INQU] and to Clerical Handbook Chapter 5.5 for instructions of the EW32 online transaction to remove suspension or to correct the existing incarceration information.]

If the EW cannot establish continued MC eligibility after the Ex Parte review, then the EW must contact the client either by direct contact or written request for information.

Direct Contact

The EW must attempt to contact the Craig v Bontá client if MC eligibility cannot be established by the Ex Parte review. The client's telephone number is displayed on the Address Inquiry [INQA] Screen on MEDS. If the telephone number is not available on the [INQA] screen, or the number is incorrect, then a written request for information is required.

The EW must inform the client that his/her MC eligibility is being redetermined and more information is needed to confirm continued eligibility.

Reminder:

All telephone contacts must be clearly documented in the **Search Case Comments** window.

If the EW's efforts to obtain the necessary information to redetermine eligibility after Ex Parte review and telephone contact have failed, then the EW should send a written request for information.

Request for Information

When the Ex Parte review and telephone contact have NOT been successful, the EW must send the "Request for Information" (MC 355) or "Request for Tax Household Information" (SCD 2350) depending on potential eligibility for MAGI MC or Non-MAGI MC.

EWs may not request information that:

- Has previously been provided,
- Is not subject to change, or
- Is not necessary to complete a MC eligibility redetermination.

When Written Requests are Not Required

Written requests for information are not required in the following situations:

- If the telephone contact establishes continued MC eligibility, or
- If the telephone contact with the client establishes ineligibility for MC.

40.2.4 MC 355 or SCD 2350 Timelines

Craig v Bontá clients MUST be given a minimum of 30 days to respond to the written request for information.

If the client...	Then the EW must...
Does **not** return the completed form or provide the required information to the EW within 30 days of the date the EW mailed the form,	• Send the client an SCD 50 requesting the missing information and explain that their MC will discontinue if they do not provide the information. • If after 10 days the client still has not provided the information, send a discontinuance Notice of Action (NOA) stating that his/her eligibility will be terminated 10 days from the date of the NOA and the reasons for termination.
Submits an incomplete form or partial information within 30 days,	• Attempt to contact the client either by telephone or in writing to request the necessary information. • If the client does **not** provide the necessary information to the EW within 10 days from the date the EW contacts the client about the incomplete form/partial information, a 10-day discontinuance NOA of MC eligibility must be sent. **Reminder:** All telephone contacts must be clearly documented in the case record.
Submits the needed information or returns the form within 90 days of the discontinuance,	• Determine eligibility as though the form had been submitted in a timely manner. • If the client is found eligible, the discontinuance must be rescinded.

Note:

The steps outlined above are general guidance for the Craig v Bontá redetermination process. Actual business processes may vary depending on individual office needs. EWs should ask their supervisors for more information on business process.

40.2.5 When an Ex Parte Redetermination is Not Necessary

An Ex Parte Redetermination is not necessary in the following situations:

If...	Then...
The facts clearly demonstrate that a Craig v Bontá client is not eligible for MC due to an event such as: • Death, or • Loss of California residency.	Benefits must be discontinued WITHOUT an Ex Parte Redetermination. **NOTE:** The [INQP], [INQM], and [INQX] MEDS screens indicate if a person is deceased or moved out of state.
The EW receives a written request from a Craig v Bontá client to discontinue MC benefits,	• The EW does **not** have to complete an Ex Parte Redetermination. • Send the client's written request to IDM. • Clearly document in the **Search Case Comments** window. • Send the appropriate NOA.

40.2.6 Craig v Bontá Redetermination Process

Follow the guidelines below to re-evaluate MC eligibility for Craig v Bontá clients:

STEP	WHO	ACTION
1.	DHCS	Forwards listing of Craig v Bontá clients to counties.

STEP	WHO	ACTION
2.	Designated Clerical Staff	• Receives listing of Craig v Bontá clients. • Identifies if a Craig v Bontá case is assigned to another office. If so, the appropriate information must be forwarded to the office where the case is assigned. • Completes the "Identification & Intake Record" (SCD 41) for each Craig v Bontá client included in the Craig v Bontá Listing (client's information is obtained from MEDS). • Performs file clearance procedures for each Craig v Bontá client (prints appropriate CalWIN and MEDS screens). • Completes case processing per district office procedures. • Sends "MC Informational Craig v Bontá Packet," page 40-11 to all Craig v Bontá clients. **REMINDER:** Craig v Bontá clients are NOT required to submit a MC application or redetermination form. • Assigns case to an EW for MC eligibility redetermination (the EW may be in a Continuing or Intake office).
3.	EW	• Receives assigned case from clerical staff. • Completes Ex Parte Redetermination Process. • Sends appropriate NOA(s). For negative actions (i.e., discontinuance or SOC), send the appropriate 10-day NOA(s). • Check MEDS after 2 business days. **REMINDER:** EW may need to complete a "Request for Online Action" (SCD 1296) to send a MEDS transaction to add/activate/change/terminate eligibility in MEDS.

40.2.7 Case Assignment for Craig v Bontá

Follow the chart below for case assignment:

Open CalWIN Case	Caseload	Assignment
No	N/A	Medi-Cal Benefits Assistance (MBA)
Yes	A7QB	MBA
	MC-Only Caseloads (excluding A7QB)	Benefits Service Center (BSC)
	Other Caseloads	Assigned District Office (i.e. North County, South County, etc.)

40.2.8 DDSD Disability Referral Packets

A "LIMITED" DDSD referral packet must be sent on all Craig v Bontá disability redetermination referrals including SSI/SSP discontinuance reasons other than "Cessation of Disability." If the client was discontinued for "Cessation of Disability" and claims a different disabling condition, then a "FULL" DDSD referral packet must be submitted.

[Refer to "Options to Process Disability Evaluation Referral Packets," page 22-60]

40.2.9 Aid Codes Under State Control

Due to the Craig v Bontá lawsuit, DHCS created three MEDS aid codes for the aged, blind, and disabled population losing their SSI-based MC. They are as follows:

State-Controlled Aid Codes	Description
1E	Craig v Bontá Continued MC eligibility for the Aged
2E	Craig v Bontá Continued MC eligibility for the Blind
6E	Craig v Bontá Continued MC eligibility for the Disabled
6N	Former SSI NLD in SSI Appeals Status

Exception:

The State will maintain control or discontinue the MC benefits for those clients who are appealing Social Security Administration findings of "no longer disabled," clients who have moved out of state, or persons discontinued due to death or incarceration.

40.2.10 Exception Eligibles Report

"Exception Eligibles" reports were originally designed to track cases that were the result of exceptional circumstances such as the *Edwards* and *Burman* lawsuit cases, Accelerated Enrollment (AE), Breast and Cervical Cancer Treatment Program (BCCTP), CHDP Gateway, and the Single Point of Entry (SPE) child cases. This report now includes the Craig v Bontá cases.

DHCS sends the "Exception Eligibles" tracking reports on a monthly basis as the primary tool for processing the Craig v Bontá cases. All the clients in **aid codes 1E, 2E,** and **6E** are identified on this report and on the renewal MEDS alert listing with MEDS alert number 9546, 9548, 9582 and 9583.

[Refer to MEDS Handbook Chapter 11 for how to process the renewal Craig v. Bontá MEDS alerts.]

40.2.11 Identification of Craig v Bontá Clients Groups by Codes

The discontinued SSI/SSP groups are being tracked and identified by assigning special codes in the [Pickle] fields on MEDS, refer to MEDS Quick Reference Guide. The impacted groups whose aid codes were transferred to the Craig v Bontá aid codes are the following:

- No Longer Disabled
- Disabled Adult Child
- Disabled Widow(er)s
- Pickle
- All Others Discontinued from SSI/SSP Benefits (i.e., excess income, excess property, etc.)
- Clients in Long Term Care.

Exception:

Since MEDS does not currently have the information necessary to identify clients who were receiving In-Home Supportive Services (IHSS) at the time they were discontinued from SSI/SSP, those IHSS clients will not have a unique [Pickle Status], but will have one of the [Pickle Types] codes identified below.

The codes placed in the [Pickle Type] and [Pickle Status] fields on MEDS allows DHCS to track eligibility and to group clients on the county reports. The groups identified below must not be discontinued from MC without first receiving an Ex Parte Redetermination as required by Welfare and Institutions Code, Section 14005.37.

Loss of SSI/SSP Due to Disability Group

Clients losing SSI/SSP eligibility on the basis that they are no longer disabled will continue to be placed in the MC **aid code 6N** for three months to allow time for an appeal to Social Security Administration.

- If the appeal is filed within the three-month period, the MEDS programming edits from the SDX file will register that an Social Security Administration appeal is in progress and will keep the client in the full-scope **aid code 6N** until the appeal process ends.
- If the client loses his/her appeal or the appeal is not filed within the three months, MEDS programming logic will change the **6N aid code** to a **6E aid code** to ensure the client is reported on the “Exception Eligibles” tracking report. Once these clients appear on this report, the Ex Parte Redetermination Process must be completed.

- Code **"D"** will be placed in the [Pickle Type] field on MEDS to identify this unique population. There are no special eligibility determination procedures for this group other than the "Ex Parte Redetermination Process," page 40-1.

Disabled Adult Child (DAC) Group

The Disabled Adult Child (DAC) clients will automatically be moved into **aid code 2E** or **6E**. Code **"T"** will be placed in the [Pickle Type] field on MEDS to identify this unique population. Upon seeing the **"T"** on the MEDS record, EWs must complete an eligibility determination for the DAC program when evaluating the case under the "Ex Parte Redetermination Process," page 40-1 following the Pickle regulations.

Disabled Adult Widow(er)s Group

The Disabled Widow(er)s and surviving divorced spouses will automatically be moved into **aid code 6E**. Code **"W"** will be placed in the [Pickle Type] field on MEDS to identify this unique population. Upon seeing the **"W"** on the MEDS record, EWs must complete an eligibility determination for the Disabled Widow(er)s program when evaluating the case under the "Ex Parte Redetermination Process," page 40-1 following the Pickle regulations.

Pickle Group

The aged, blind and disabled Pickle clients will automatically be moved into **aid code 1E, 2E** or **6E**. Code **"C"** will be placed in the [Pickle Type] field on MEDS to identify this unique population. Upon seeing the **"C"** on the MEDS record, EWs must complete an eligibility determination for the Pickle program when evaluating the case under the "Ex Parte Redetermination Process," page 40-1 following the normal Pickle regulations.

All Other Discontinued from SSI/SSP Benefits

Clients losing SSI/SSP eligibility, who do not fall into one of the specific groups above, will automatically be transferred into **aid code 1E, 2E** or **6E** and code **"X"** will be placed in the [Pickle Type] field on MEDS. There are no special eligibility determination procedures for this group other than the "Ex Parte Redetermination Process," page 40-1.

40.2.12 Alleged Disability

The client can be granted MC on the basis of alleged disability if there is a new condition (different from what Social Security Administration based the cessation of disability).

40.2.13 ICTs and Craig v Bontá Clients

When the original (Sending) County receives the "Exception Eligibles" report and finds the Craig v Bontá client moved to another county, the Sending County must do an Inter County Transfer (ICT) to the new (Receiving) County. The Receiving County is responsible for the Ex Parte Redetermination Process.

The Sending County must report the residence address change to MEDS so that the individual will appear in the Receiving County's "Exception Eligibles" report. The Sending County must include in the ICT packet the "Medi-Cal Intercounty Transfer" (MC 360) form, clearly documented as an ICT for a Craig v Bontá client, all appropriate MEDS screens, and any other pertinent information.

40.2.14 CEC and Craig v Bontá Children

Continuous Eligibility for Children (CEC) for Craig v Bontá children applies as follows:

If the SSI/SSP Redetermination has been...	Then...

LESS than 12 months,	• An Ex Parte review (no client contact) is required. Use the information from existing case records, MEDS, SAVE and IEVS.
	  • The EW must place the Craig v Bontá child in the appropriate CEC aid code and set the redetermination date for 12 months from the last SSI/SSP determination date. Unless there is conflicting information, the EW must not contact the child or the child's parents/caretaker relatives for additional information. The child is eligible for CEC for the remaining 12 months from the last SSI/SSP determination date until the next RD.
	  • The EW must make sure that the 12-month CEC Time Clock in the **Collect Individual Time Clock Detail** window is correct. The begin date must be the date of the last SSI/SSP determination and end date to be the next RD.
	  • If the child did not live with the parent (when on SSI), use the income as shown on MEDS INQX screen as the child's income. Evaluate the child for MAGI MC. If the child is ineligible for MAGI MC, then set up the child on CEC and do not contact the child.
	
	NOTE: To determine whether the discontinued SSI child lived with a parent (when on SSI), check the SSI-LVG-ARR-CD in the INQX screen. A code of "C" means the child lived with the parent. [Refer to Chapter 12, Section 12.2.228 "SSI-LVG-ARR-CD," page-98] of the UGSS Handbook for additional codes.
	• If the REDET-DT field on the MEDS [INQM] screen does not show a redetermination date, check Title XVI section of the IEVS report for the "Date of Last Redetermination."
	• If neither the INQM nor IEVS has the last redetermination date, the EW must contact the Social Security Administration to obtain this date via "Referral To/From Social Security" (SCD 169) and clearly indicate that the request is about a Craig v Bontá client.

If the SSI/SSP Redetermination has been...	Then...
OVER 12 months before the Craig v Bontá child's discontinuance,	There is no time left in the CEC "guaranteed" period, and the EW will need to follow the Ex Parte process to establish eligibility which may include contacting the child's parents. Upon redetermination, a new 12-month CEC period, if appropriate, begins at that time.

40.2.15 Annual Redetermination

The annual MC Redetermination (RD) dates are as follows:

Type of Craig v Bontá cases	The annual RD will be 12 months from the date the...
Persons discontinued from SSI/SSP BEFORE 07/01/03,	EW determined the client's MC eligibility.
Persons discontinued from SSI/SSP 07/01/03 and AFTER,	Client was discontinued from SSI/SSP.
NOTE: If a Craig v Bontá individual is being added to an active case, the same annual RD due date for other family members in the case applies. If CEC applies, evaluate if the child's eligibility goes beyond the family's annual RD due date. Do NOT change the existing RD due date. When the existing RD becomes due, the following applies to the former SSI child only: • If no SOC MC is determined during the annual RD, a new 12-month CEC period begins. • If the former SSI child is found ineligible or eligible with share of cost (SOC), the child must remain in a CEC aid code until the end of the original CEC period. **Example:** Last SSI redetermination date was 12/2016. Child discontinued from SSI 2/2017. Child's 12-month CEC is from 1/2017 - 12/2017. RD for existing family member's case is due 6/2017. At RD, child is found eligible with SOC, the former SSI child continues on CEC for 7/2017 - 12/2017.	

Note:

If MEDS or IEVS does not have the last SSI redetermination date, the EW must contact Social Security Administration to find out when the last redetermination was completed.

40.2.16 IHSS and Craig v Bontá Clients

The "Exception Eligibles" report includes individuals who were discontinued from SSI/SSP. Some of these individuals received In-Home Supportive Services (IHSS) when they were discontinued from SSI/SSP. However, the "Exception Eligibles" report does not identify which clients received IHSS. These Craig v Bontá clients are mixed throughout the report with other SSI/SSP discontinued clients. However, the Ex Parte Redetermination Process is the same for all Craig v Bontá clients listed on the report.

Individuals who ONLY received IHSS and were **not** discontinued from SSI/SSP, do not fall under the Craig v Bontá lawsuit and will not be included on the "Exception Eligibles" report.

40.2.17 Forms

All Craig v Bontá clients must receive information regarding MC property limits and spend down.

MC Informational Craig v Bontá Packet

The packet consists of the following forms and must be provided to all Craig v Bontá clients:

- "Redetermination of Medi-Cal Benefits Coverletter" (SCD 104)
- "Medi-Cal General Property Limitations" (MC 007)
- "Rights and Responsibilities" (MC 219)
- "Keep Your Medi-Cal on Target" (SCD 391)
- "Notice Regarding Standards for Medi-Cal Eligibility" (DHCS 7007)
- "Notice Regarding Transfer of Home for Both a Married and an Unmarried Applicant/Beneficiary" (DHCS 7077A).

Reminder:

The "Medi-Cal Annual Redetermination" (MC 210 RV) and "Application for Cash Aid, Food Stamps, and/or Medical Assistance" (SAWS1) are **NOT** required for the Craig v Bontá clients MC redetermination. The "Statement of Citizenship, Alienage and Immigration Status" (MC 13) must be completed by the client ONLY when there has been a change in citizenship/immigration status.

40.2.18 Questions and Answers

Questions and answers are added in the handbook to provide further clarification.

Question 1: If there is no time left in the 12-month CEC period, can we mail an application form and discontinue the child if it is not received?

Answer 1: No. All Craig v Bontá individuals are NOT required to complete an application or redetermination form. The ongoing MC eligibility must be determined using the Ex Parte process (ex parte review, phone contact, and MC 355). If it is determined that the child qualifies for zero SOC MC, then a new 12-month CEC period applies.

Question 2: If the client fails to provide information/verification during the Ex Parte process and the client is eligible for Medicare Part A, do we set up QMB only?

Answer 2: If the Ex Parte process is completed and the client failed to provide necessary information/verification, the EW must check MEDS to verify the client is back on SSI. If so, an SSI QMB only case must be set up and MC benefits discontinued.

Question 3: If the client was discontinued from SSI due to cessation of disability, do we keep the case in pending status in CalWIN and leave the aid code 6E active on MEDS until a disability decision is received from DDSD?

Answer 3: When the reason for SSI discontinuance is due to cessation of disability, a DDSD referral is required when the individual claims a new disabling condition not already considered by Social Security Administration. The EW may need to contact SSA. The client will be placed in the MC aid code 6N for 3 months to allow time for an appeal to Social Security. If the client loses the appeal or does not file an appeal within 3 months, then the MEDS programming logic will change the 6N aid code to a 6E aid code. [Refer to Chapter 40, "Loss of SSI/SSP Due to Disability Group," page-7] After the 3 months, since a Craig v Bontá individual is a MC recipient, the client can be granted Pending Disability aid code (6J/5J) until a disability decision is received from DDSD. For clients 19 - 64 years old, a MAGI MC eligibility determination should be completed.

Question 4: What is the purpose of sending a limited DDSD referral for former SSI individuals discontinued for reasons other than cessation of disability?

Answer 4: A limited DDSD referral must be sent to request the disability reexamination date if the client was receiving SSI based on disability and was discontinued for reasons other than cessation of disability (i.e. income, property, etc.).

40.3 *Crawford v Rank* - Multiple Dwelling Home

40.3.1 Issue

Crawford v Rank identifies whether multiple dwelling units can be exempted as homes (principal residences).

40.3.2 Decision

State law allows an entire multiple dwelling unit to be exempt as a home. This court order was effective January 1, 1983.

40.4 Edwards v Kizer (also known as Edwards v Myers)

40.4.1 Issue

Effective April 30, 1982 a preliminary injunction required the continuation of zero SOC MC benefits to persons discontinued from Aid to Families with Dependent Children (AFDC - CW) until eligibility or ineligibility for MC only is completed and an adequate and timely notice is issued.

40.4.2 Decision

The new provisions of the Judgment which were not previously part of the preliminary injunction are:

1. The modification of MEDS to allow the automatic issuance of aid code 38 based on the CW discontinuance code, and

2. The use of a mandated, shorter "Statement of Facts", when there is insufficient information on file to determine ongoing eligibility.

Aid code 38 continues to be a "transitional" aid code for certain persons discontinued from cash assistance. County error will be cited if *Edwards* extends beyond two months; however, aid code 38 must be continued if MC eligibility has not been determined timely.

40.4.3 Persons Affected

Persons being discontinued from cash assistance under the following aid codes must be reviewed for ongoing MC eligibility as required by *Edwards*:

- CW (aid codes 30, 33, 35, 3E, 3G, 3H, 3L, 3M, 3P, 3R, 3U)
- CW-Foster Care (FC) (aid codes 40, 42, 4C, 4G)
- Refugee Cash Assistance (RCA) or Entrant Cash Assistance (ECA) (aid codes 01,08)
- Transitional Medi-Cal (TMC) (aid codes 39, 59) and Four Month Continuing (aid code 54), if ongoing MC eligibility has not been approved/denied by the end of the TMC eligibility period.

RCA/ECA and *Edwards*

Effective April 2, 1998, individuals terminated from RCA or ECA (aid codes 01 and 08) are eligible for *Edwards* benefits until the MC redetermination for ongoing MC eligibility is completed.

40.4.4 Auto CalWIN/MEDS Conversion

The State automatically issues aid code 38 benefits for the future month to individuals at MEDS Renewal when they have been active on MEDS in the current calendar month in one of the following aid codes:

01, 08, 30, 33, 35, 38, 39, 3E, 3G, 3H, 3L, 3M, 3P, 3R, 3U, 40, 42, 4C, 4G, 54, or 59

AND

A negative action was taken for a reason other than the following:

- Death
- CW and MC discontinued at the client's request
- Failure to cooperate with MC requirements
- Children on CW who are transferred into another county administered program (i.e., FC)
- Determined ineligible for MC
- Resident of a non-medical public institution
- Loss of California residency.

When an entire case is being discontinued for a reason other than those listed above:

- MEDS will automatically convert the case to aid code 38 at MEDS Renewal, and
- CalWIN will automatically convert the case to aid code 38 on the 5th working day of the month following the cash discontinuance. A NOA is automatically generated in this process.

Note:

EWs must manually convert any case (and send a NOA) when *Edwards* is required and/or already established on MEDS if the case was not automatically converted in CalWIN. [Refer to Chapter 40, Section 40.4.6 "Discontinuing Individuals from CalWORKs/RCA/ECA," page-15]

Reminder:

Edwards cases may not be transferred out of the district office until MC eligibility has been determined.

40.4.5 General Requirements

Aid code 38 MC benefits are to be issued only until:

- A redetermination of ongoing eligibility can be made following the ex parte process, and
- A timely and adequate NOA is sent.

Note:

An SCD 2350 is required only when the SAWS 2 PLUS on file is over 12 months old.

40.4.6 Discontinuing Individuals from CalWORKs/RCA/ECA

Individuals will automatically be converted to aid code 38 on CalWIN and MEDS the month following cash-linked program discontinuance UNLESS:

- The discontinuance is for one of the “non-*Edwards*” reasons, AND
- The action is taken before MEDS cutoff.

40.4.7 Discontinuing CalWORKs/RCA/ECA Case and *Information on File*

If...	Then...
CW/RCA/ECA was discontinued due to increased hours/earnings,	Evaluate eligibility for TMC, or Refugee Medical Assistance (RMA).
CW only (not RCA/ECA) was discontinued due to increased child/spousal support,	Evaluate eligibility for Four Month Continuing, aid code 54. [Refer to "Four-Month Continuing," page 31-20]
CW/RCA/ECA was discontinued for another reason and there IS enough information on file to establish ongoing MC,	Establish eligibility for MAGI MC and set the RD due date 12 months from the date the SAWS 2 PLUS on file was signed. • A 10-day NOA is needed if there will be a negative action. **Note:** Include an MC 219 in the next annual MC RD.
Additional time/information is needed to determine ongoing MC eligibility,	• Establish aid code 38. **Exception:** Clients claiming disability must be set up using the appropriate aid codes. • Follow the ex parte process. • If information is not provided within the 30-day time frame or eligibility no longer exists, discontinue aid code 38.

40.4.8 MFBU Considerations

Edwards (aid code 38) clients must be included in the case of other family members who are applying for MC; for example, the absent parent who has returned home. Aid code 38 clients are included as *ineligible persons* when determining the SOC for other family members. *Edwards* persons can use their medical expenses which are not covered by MC to reduce the SOC for other family members.

40.5 *Gibbins v Rank*

40.5.1 Issue

Gibbins v Rank identifies whether spousal and child support payments should be allowed as deductions from the income of ABD-MN cases.

40.5.2 Decision

The court ordered that Medically Needy aged, blind and disabled persons be allowed court ordered spousal and child support payments as deductions from their income, retroactive to August 1, 1984.

40.6 *Ibarra v Dawson*

40.6.1 Issue

Ibarra v Dawson identifies whether mandatory payroll deductions were allowed in calculating SOC.

40.6.2 Effective Date

Effective May 1, 1985, mandatory payroll deductions are no longer allowed when calculating the SOC for MC applicants and clients.

40.7 *Johnson v Rank*

40.7.1 Issue

Johnson v Rank identified that LTC clients must be able to use medical expenses, including items and/or services, which are not covered by MC to help meet their SOC.

1. LTC clients will receive their MC cards on the first of the month.
2. The LTC facility will bill the client on the first of each month for the total SOC indicated on the card.
3. The LTC facility must pay for necessary non-covered medical services from the total SOC collected.

40.7.2 Decision

Effective October 1, 1989, all MC clients in LTC facilities must obtain a physician's prescription or order for any non-covered medical or remedial drug or service, when the cost is to be applied toward the SOC amounts.

40.8 *King v McMahon*

40.8.1 Issue

King v McMahon identifies whether King Payments are issued to clients by the State. The State is required to pay $100 for each month or portion of a month that the receipt of a fair hearing decision exceeds the 90-day limit.

40.8.2 Treatment of Payments

King Payments are exempt as income and property in the month received. A *King Payment* will be **counted** as property in the month following the month of receipt.

40.9 *Ball v Swoap*

40.9.1 Issue

Ball v Swoap identifies whether penalties should be assessed when MC final hearing decisions are not issued within 90 days from the date of request for a hearing, and whether clients whose state appeals were granted, wholly or in part, and whose decisions were not timely, should be entitled to a penalty payment of $100 for each month of delay.

40.9.2 Decision

A stipulation and order was issued on June 23, 1986, with an effective date of October 1, 1986.

40.9.3 Treatment of Payments

Ball Payments are exempt as both income and property with **no time limit**.

40.10 Lomeli v. Shewry

40.10.1 Issue

Lomeli v Shewry identifies whether an applicant must apply within one year of the month of services to consider a request for retroactive coverage valid. SSI applicants would miss the deadline to apply for retroactive MC unless they are informed of the time limit.

40.10.2 Settlement

DHCS agreed to inform the SSI/SSP applicants in a timely manner of their opportunity to apply for retroactive MC coverage for the three-month period before their SSI/SSP application month.

40.10.3 Informing Notices

The “Important Information for SSI/SSP Applicants” (MC 19A) informs SSI/SSP applicants about the availability of retroactive MC coverage for the months before their SSI/SSP eligibility determination. Additionally, DHCS revised the “Important Medi-Cal Program Information for New Supplemental Security Income/State Supplementary Payment (SSI/SSP) Recipients” (MC 19).

40.10.4 MC 19A

Effective August 1, 2011, DHCS began mailing the MC 19A notice on a monthly basis to all California residents newly eligible for SSI/SSP benefits who are not receiving MC benefits in any one of the three months immediately before the month of the SSI application. The MC 19A also includes a listing of all county offices, telephone numbers, and, the “Multilingual Language Service” (MC 4034) notice which informs the individuals of their right to have interpreter services at no cost.

40.10.5 MC 19

The MC 19 was revised to reflect the changes mentioned above, as well as the following:

- A new paragraph entitled PAYMENT OF MEDICAL BILLS IN THE THREE MONTHS BEFORE THE MONTH OF YOUR SSI/SSP APPLICATION was added. This paragraph informs SSI/SSP recipients of the potential for retroactive MC coverage and how to request it.
- Paragraph PAYMENT OF PRIOR MONTH MEDICAL BILLS has been replaced with HOW TO PAY FOR PAST MEDICAL BILLS SINCE APPLYING FOR SSI/SSP. This paragraph provides information on the reimbursement process for medical/dental expenses incurred while waiting for an eligibility determination from Social Security Administration.

- The Wide Area Telephone system e-mail address and fax number were added for individuals to request the removal of their other health coverage.

40.11 *Ramos v Myers*

40.11.1 Issue

Ramos v Myers identifies the effect of an SSI/SSP cash grant discontinuance on a person's MC coverage.

The Craig v Bontá lawsuit superseded the Ramos v Myers court order.

40.12 *Saldivar v McMahon*

40.12.1 Issue

Saldivar v McMahon identifies whether the Department of Social Services may provide “adequate,” although not necessarily “timely,” notices to applicants/clients of their appeal rights.

40.12.2 Decision

As a result of this court order, clients will now submit written requests for state hearing directly to the counties. The effect of this court order is a more timely issuance of aid paid pending, and more efficient scheduling of hearings.

40.13 *Hunt v Kizer*

40.13.1 Issue

Hunt v Kizer identifies whether old, unpaid medical bills could be used to meet a current month's SOC.

40.13.2 Decision

As a result of a preliminary injunction issued by the U.S. District Court, a current or future month's SOC may be reduced by any unpaid medical bill provided the client remains legally liable for the bill. Proper documentation of the bill must be provided.

40.13.3 EW Instructions

[Refer to "Applying Unpaid Medical Bills to the SOC (Hunt v. Kizer)," page 27-13]

40.14 Radcliffe v. Coye et al.

40.14.1 Issue

Radcliffe v Coye et al. identifies whether all MC applications based on disability be determined timely, which is within a 90-day period. If delays do occur, all MC applicants, including those who simultaneously have a pending disability case at the Social Security Administration, must be informed of any delays that may occur in the processing of their disability based MC application via a status letter.

40.14.2 Decision

The following actions are required as a result of the settlement agreement:

- The state will continue to monitor the number of days DDSD applications are pending for a period of time and report that information to the plaintiffs.
- DDSD referral packets must be sent to DDSD no later than 10 calendar days after the receipt of the Statement of Facts or other statement of disability is received, except in the event of a delay due to circumstances beyond the control of the EW.
- DDSD must send a 90-day status letter to the customer when the case is in their possession and a disability decision will not be reached within 90 days.
- The EW must send a "90-Day DDSD Status Letter" (MC 179) when the DDSD packet has not been submitted to DDSD by the 80th day.

[Refer to "DDSD — EW Procedures," page 22-46]

40.15 Sawyer v Shalala, Anderson, Belshé, and Gould

40.15.1 Issue

Sawyer v Shalala, Anderson, Belshé, and Gould identifies whether AFDC-MN/MI clients must be allowed the earned income disregards against Temporary Worker's Compensation (TWC) and Temporary Disability Indemnity (TDI).

40.15.2 Decision

Effective 1/1/1996, AFDC-MN/MI clients are allowed earned income disregards against TWC and TDI on all AFDC-MN/MI (not ABD-MN) cases with TWC and TDI.

40.15.3 Retroactive

The retroactive portion of this claim is effective from January 1, 1991 through December 31, 1995.

40.16 *Tinoco v Belshé*

40.16.1 Issue

Tinoco v Belshé identifies whether AFDC-MN/MI clients must be allowed the earned income disregards against State Disability Insurance Benefits (SDI/DIB).

40.16.2 Decision

Effective 4/1/1996, AFDC-MN/MI clients are allowed earned income disregards against SDI/DIB on all AFDC-MN/MI (not ABD-MN) cases with SDI/DIB.

40.16.3 Retroactive

The retroactive portion of this claim is effective from January 1, 1991 through March 31, 1996.

40.17 *Gamma v Belshé*

40.17.1 Issue

Gamma v Belshé identifies whether a financially responsible relative can deem income to a child in a separate MBU without allowing the relative to keep a sufficient amount of income to meet his or her own needs.

Certain individuals who had their SOC determined under *Sneede* rules ended up with the total of all the mini budget units' SOC being higher under *Sneede* budgeting procedures than under pre-*Sneede* rules.

40.17.2 Decision

Effective November 1995, in order to allow each parent a deduction for his/her needs before the allocating of income to the remaining family members for whom they are responsible, rules were changed to:

- Allow each parent a $600 deduction (Maintenance Need income level for 1) income deduction for his/her needs before equally allocating any remaining income to the family members for whom he/she is responsible (excluding him/herself).

Note:

The parent may not allocate any portion of any remaining income to him/herself.

40.17.3 Retroactive

The retroactive portion of *Gamma* is effective from November 1995 through July 1996.

40.18 Ramirez v. Belshé

40.18.1 Issue

Ramirez v Belshé identifies that the Los Angeles Superior Court ruling on June 6, 1996 that previously issued regulations about Authorized Representatives were invalid.

40.18.2 Decision

The following actions are required as a result of the settlement agreement:

- EWs must accept any form of written authorization that an applicant or client signs and dates that permits another individual to assist them in the application for and attainment of MC benefits. The forms are valid for one year from the date signed. The "Appointment of Representative" (MC 306) may continue to be used, but is no longer required and may be substituted with any authorization form of the Authorized Representative's (AR) choice.

- Any individual who has been designated as an AR is permitted to review the applicant's or client's case record with or without the applicant or client being present. Copies of documents which the client has submitted may be provided to the AR if requested.

40.19 Latino Coalition for a Healthy California v. Belshé

40.19.1 Issue

Latino Coalition for a Healthy California v Belshé identifies whether or not an applicant or client for MC who is in possession of a Border Crossing Card or short-term Visa is to be automatically considered a non-resident of California.

On February 4, 1999, the San Francisco Superior Court ruled that previously issued regulations about California Residency and possession of a current and valid Border Crossing Card or short-term Visa were invalid.

40.19.2 Decision

Possession of a current and valid non-immigrant visa that allows entry into the United States for a period of less than one year is NOT, by itself, evidence that the person possessing such a document is not a resident of California.

The following actions are required as a result of the *Latino Coalition v. Belshé* settlement agreement:

1. A person's declaration on the "Single Streamlined Application (SSApp)" (CCFRM 604) or on the "Statement of Facts for Cash Aid, CalFresh, and Medi-Cal" (SAWS 2 PLUS), together with evidence of residency must be accepted for purposes of establishing residence, UNLESS THERE IS EVIDENCE TO THE CONTRARY.

2. The EW must determine California residency based on the preponderance of evidence (proof of residency/intent to reside) provided by the applicant.

- The EW may determine that a person with a valid Border Crossing Card or short-term Visa is a resident of California if the client provides proof of residency or declares intent to reside in California.
- If the client does not provide proof of residency or declare intent to reside in California, the individual must be denied or discontinued from MC.

40.19.3 Retroactive

The retroactive portion of this claim for Santa Clara County is effective from April 1, 1997 through July 31, 1999.

40.20 Pettit v. Bontá

40.20.1 Decision

Pettit v Bontá identifies whether the MC program must allow persons in Board and Care residential facilities the ability to apply incurred expenses for personal care services to their SOC. All individuals in licensed Board and Care residential facilities are to be allowed a Standard Personal Care Services Income Deduction of $315. This amount is used instead of the Unavailable Income Deduction for residential care and support as indicated in Title 22, California Code of Regulations. If the Unavailable Income Deductions allows for a lower SOC than the Standard Deduction of $315, then the Unavailable Income Deduction is to be used.

40.20.2 Retroactive

Effective April 1, 2000, clients determined to be entitled to a lower SOC have the option of:

- Having future SOC adjusted; or
- Request reimbursement from the provider(s) for amounts paid or adjustment for amounts obligated.

Note:

Clients whose future SOC is zero before an adjustment is applied, must be advised that the only alternative is to seek reimbursement from the provider using the “Share of Cost Medi-Cal Provider Letter” (MC 1054).