Revision Date:
March 11, 2020

Background:
This section provides rules and procedures for determining Medi-Cal eligibility regarding Deeds of Trust, Mortgages, and Life Estates.

Purpose:
This section has been written in the current format; no rules or procedures were changed.

Policy:
Deeds of Trust and Mortgages
The following table shows how various deeds of trust and mortgages are treated:

Term	Treatment
Real Property	Deeds of trust and mortgages which can be sold are considered real property when they are acquired from the sale of real property that was owned by the customer and are secured by real property.
Personal Property	Deeds of trust and mortgages acquired in any other manner, other than from the sale of real property, are considered personal property.
Property Reserve	Deeds of trust and mortgages that are considered real property are subject to all the requirements of other real property as described in MPG 9.5. Those considered personal property are included in the property reserve.

Verification
Verify the value of deeds of trust and mortgages prior to granting, as follows:
1. Viewing documents which state a description of the item; and
2. One of the following:
    a. Viewing the documents from the lender which identify the principal amount remaining on the deed of trust or mortgage
    b. Viewing an appraisal from a party that is qualified to appraise deeds of trust and mortgages
    c. Making a phone contact with a recognized broker who buys, sells, or appraises deeds of trust and mortgages.

Market Value Determination
The market value of all deeds of trust and mortgages will be the principal amount remaining on the deed of trust or mortgage unless the customer provides a lower appraised value from a party qualified to appraise deeds of trust or mortgages, Qualified parties include:
- Banks
- Savings and loan associations
- Credit unions
- Licensed loan or mortgage brokers

Appraisals of Deeds of Trust and Mortgages
If the customer states the value is lower than the principal remaining on the deed of trust or mortgage, he/she must provide an appraisal. An appraisal is a written and unbiased estimate or opinion of the

value of the deed of trust or mortgage based on factual data. Such data may include the terms of the deed of trust or mortgage, the location of the property used to secure the deed of trust or mortgage, the current unpaid balance on the deed of trust or mortgage, and other relevant factors.

A single statement by the appraiser that "a reasonable person would not buy this deed of trust or mortgage" or "this deed of trust or mortgage is not readily salable in the open market" is not an acceptable appraisal value. However, if after a minimum of three attempts, documented by written statements from appraisers as described above, a customer cannot obtain an appraised value, the individual will have demonstrated a good faith effort to obtain the appraisal. In this case, the deed of trust or mortgage is considered to have a current market value of $0.

At each annual redetermination, consider the principal amount remaining on the deed of trust or mortgage as the market value unless the customer provides an appraisal of the current market value or three letters from appraisers stating that there is no value as outlined above.

Proceeds

Proceeds from mortgages and deeds of trust will be considered as follows:

- The principal portion of the payment will be treated as property.
- The interest portion of the payment will be unearned income and will be included in determining eligibility and the share of cost.

Life Estates

A life estate is an interest in real or personal property whose duration is limited to the life of the person holding it, or the lives of one or more other designated people. A life estate interest in personal property is considered personal property. Generally, a life estate entitles the owner of the life estate to possess, use, and obtain profits from the property as long as he/she lives. Actual ownership of the property is passed to another individual. A purchaser of the property would have to buy the property subject to the life estate, unless the life estate was also sold.

Definitions

The table below shows the definitions of some terms used in this section.

Term	Definition
Life Estate	An interest in real or personal property whose duration is limited to the lifetime of a person holding it, or the lifetime of one or more other designated people. It is not essential that the words "life estate" be used when a life estate is created. Other phrases commonly used are: • "To person A for the term of his/her life" • "Person A reserves possession or use of the property for the term of person A's lifetime" • "To person A for the life of person X" • "To person A, but on person A's death to go to person B and his/her heirs."
Life Tenant/ Beneficiary	The person that holds a life estate interest. The life estate tenant/beneficiary does not have to be the same person as the grantor.
Grantor/ Trustor	The person who owns the property and gives a life estate to a life tenant with a future interest to one or more remainderman. The grantor may reserve a life

	estate interest for someone other than him/herself.
Remainderman	The person(s) who own(s) the property subject to the life estate and who is entitled to the use of the property once the life estate ends (usually upon the death of the life tenant). Remainderman has a remainder interest or future interest (right to use or right to income) in the property.
Revocable	A life estate which can be revoked to terminated by its own terms.
Irrevocable	A life estate which cannot, in any way, be revoked by its own terms.

A life estate is a legal arrangement which may be created by any method of voluntary transfer of ownership permitted by law, for example deed or testamentary will.

Life estates, held by Medi-Cal customers, are often exempt as the principal residence. In many cases the applicant/owner of the property will grant a remainder (future) interest in his/her property to other individual(s) and reserve a life estate interest for him/herself. Frequently a life estate is created upon the death of one spouse from his/her separate property. The deceased spouse passes on the ownership of the property to a son or daughter but grants the surviving spouse a life estate interest on the property so that the surviving spouse may continue to live in the property for the remainder of his/her life.

Generally, a life estate guarantees the life tenant/beneficiary the right to make full use of the property for as long as he/she lives and the right to income (if any) earned from the property. Some life estates may be restricted, however. Some may require the life estate owner to reside on the property and may not allow the property to be rented. Some entitle the remainderman to any and all income from the property. Some also require the remainderman to pay part or all the maintenance, taxes or other expenses related to the property rather than the life tenant. The document granting the life estate should reflect any restrictions, if they exist, and must be viewed by the worker.

Although life estates, in the strict legal definition, refer only to estates in real property, common usage of the term also refers to interest in personal property based on the life of the life tenant or some other person(s). For example, a brother could put certificates of deposit into life estate for a sister so that she may receive the interest income for the rest of her life, with the actual certificates of deposit reverting to the brother’s children upon the death of the sister.

<u>Verification</u>
Request and obtain a copy of the legal document which created the life estate. This is usually a grant deed.

<u>When to Calculate Value</u>
The value of the life estate must be calculated as part of an eligibility determination when any of the following apply:

1. The life estate is a nonexempt resource.
2. The nonexempt life estate was transferred, and the transfer is determined to be a disqualifying transfer. A determination must be made as to whether adequate consideration was received for the transfer. See MPG 9.7 on how to calculate a period of ineligibility.
3. Nonexempt property was transferred with the retention of life estate. The value of the life estate is needed in order to determine the amount of consideration received for the property transfer.

Value of a Revocable Life Estate

The net market value of a revocable life estate is determined by using the net market value of the property on which the life estate is held if all the following conditions exist:

- The life estate is revocable by someone in the Medi-Cal Family Budget Unit (MFBU) or the community spouse
- The MFBU member or the community spouse was the owner of the property when the life estate was established
- The MFBU member or the community spouse is retaining a life estate interest in the property.

To determine the net market value of a revocable life estate:

1. Determine the current market value of the property (assessed value or appraised value).
2. Deduct encumbrances of record from the market value.

Value of all Other Life Estates

The net market value of the life estate is determined by using the Life Estate Value table. The following are some examples when to use this method:

- The life estate is irrevocable.
- The MFBU member or community spouse was not the owner of the property when the life estate was established.
- The life estate is revocable, but not by anyone in the MFBU or the community spouse.

Using Life Estate Value Factor Tables

Desk Aid 103 lists the life estate value factors. To use these tables, take the following steps:

1. Determine the current market value according to the method for the type of property (real property, motor vehicle, etc.).
2. Subtract any encumbrances to determine the net market value.
3. Using the appropriate table, determine the life estate value factor by using the customer's current age.
4. Multiply the life estate value factor by the net market value.

NOTE: A lesser value will be used if the customer provides an appraisal of the life estate with a lesser value, determined by a party qualified to appraise life estates (for example, a real estate appraiser, bank, savings and loan association, credit union, licensed loan or mortgage broker).

EXAMPLE: Mrs. Jones is 85 years old and has entered a long-term care (LTC) facility. She does not intend to return to her home. No family member is living in the home. Her deceased sister has granted Mrs. Jones a life estate interest in the home and Mrs. Jones lived in it prior to entering LTC. The life estate is not otherwise exempt as a principal residence. The value of her life estate interest, which is now considered other real property and not her principal residence, must be determined for utilization purposes. The net market value of the real property is $20,000. The property is unencumbered.

Since Mrs. Jones is 85 years old, her life estate value factor is .35359. The value of her life estate is ($20,000 x .35359) $7,071.80. The value of her life estate interest must be utilized for her to have a $6,000 exemption. Include the net market value in excess of $6,000 (in this example, $1,071,80) in the property reserve.

Property Transferred Without Adequate Consideration

If an applicant transferred property without adequate consideration, a period of ineligibility must be determined (MPG 9.7). If the customer retained a life estate interest in the property, the value of a life estate at the time the transfer occurred is determined as follows:

1. Determine the market value (assessed value or appraised value) at the time of transfer.
2. Deduct all encumbrances of record at the time of the transfer from the market value to determine the net market value of the property.
3. Use the Life Estate Value Table to determine the life estate value factor based on the life tenant's age at the time of transfer.
4. Multiply the life state value factor by the net value found in 2.
5. Subtract the life estate value found in 4 from the net market value of the property in 2. This is the value of property transferred without adequate consideration.

EXAMPLE: Mr. Johnson, age 83, transferred his nonexempt, second home [other real property (ORP)] to his son one year ago prior to applying for Medi-Cal. Mr. Johnson retained an irrevocable life estate interest in the ORP. To compute the value of the property transferred, the value of the life estate interest at the time the property was transferred must be determined. The period of ineligibility can be determined. The assessed value of Mr. Johnson's ORP at the time of transfer was $19,000. Encumbrances of record totaled $4,000 at the time of the transfer; therefore, the net market value of the property was $15,000.

Mr. Johnson was 82 years old when he transferred ownership to his son. The life estate value factor for an 82-year old is .40295. The value of Mr. Johnson's life estate at the time of the transfer was ($15,000 x .40295) $6,044.25. The value of the life estate is subtracted for the net market value of the ORP at the time of the transfer, to determine the value of the ORP transferred without receipt of adequate consideration ($15,000 - $6,044.25 = $8,995.75). The remaining amount, $8,995.75, is used to determine the period of ineligibility.

Procedure:
See above.

Program Impact/s:
None.

References:
CCR Title 22, Sections 50167 and 50441
Medi-Cal Eligibility Procedures Manual 9A and 9G

Sunset Date:
This policy will be reviewed for continuance by February 28, 2023

Approval for Release:

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Rick Wanne, Director
Eligibility Operations