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DIVISION: Office of Medicaid Management

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TO: Local District Commissioners, MA Supervisors

FROM: Ann Clemency Kohler, Director, Office of Medicaid Management

SUBJECT: Community Spouses' Otherwise Available Income

EFFECTIVE DATE: Immediately

CONTACT PERSON: Barbara Barnes, (518) 474-9138

We have recently received clarification from the Health Care Financing Administration that in determining the otherwise available income of the community spouse, Austrian reparation payments are to be disregarded. These are payments made by the Austrian Government under paragraphs 500 to 506 of the Austrian General Social Insurance Act.

Consequently, for purposes of establishing the community spouse monthly income allowance, a family member allowance, and a contribution to the cost of care, Austrian Reparation payments are disregarded.

The following payments are also to be disregarded in determining otherwise available income:

- o Reparation payments received from the Federal Republic of Germany;
- o Benefits paid to Japanese-Americans and Aluets under the federal Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act; and
- o Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, and payments received from court proceedings brought for personal injuries sustained by veterans resulting from exposure to dioxin or phenoxy herbicides in connection with the war in Indochina in the period January 1, 1962 to May 7, 1975.

The disregard of the above-listed payments/benefits to determine otherwise available income is effective immediately.