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DIVISION: Office of Medicaid Management

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PAGE 1

GIS 97 MA/022

**TO:** Local Commissioners, MA Directors

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

**SUBJECT:** Treatment of Certain Settlement Payments

**EFFECTIVE DATE:** August 5, 1997

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

Under a recent federal class action settlement, four manufacturers of blood plasma products will pay \$100,000 to each of approximately 6,200 hemophilia patients who are infected with human immunodeficiency virus (HIV). Some of the HIV-infected patients are receiving or may apply for Medicaid benefits.

Section 4735 of the Balanced Budget Act provided that the following payments shall not be considered income or resources in determining Medicaid eligibility, or the amount of benefits under Medicaid:

1. payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al.; and
2. payments made pursuant to a release of all claims in a case
  - a. that is entered into in lieu of class settlement referenced in 1.; and
  - b. signed by all affected parties on or before the later of (i) December 31, 1997 or (ii) 270 days after the date the release is sent to the person (or the legal representative of such person) who is to receive such payment.

Effective August 5, 1997, these payments are to be disregarded when determining Medicaid eligibility or the amount of income available for cost of care in the post-eligibility treatment of income.