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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 00-084

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

Section HFS 103.087 (1) (e) provides that an applicant’s or recipient’s monthly adjusted earned income shall be 3% of the applicant’s or recipient’s gross monthly earned income after disregards are subtracted. However, s. 49.472 (4) (a) 1. a. provides that the calculation is 3.5% of the individual’s earned income minus the disregards. The rule should be reconciled with this statutory provision.

2. Form, Style and Placement in Administrative Code

a. SECTION 3 of the rule should precede SECTIONS 1 and 2 since the rule provisions affected by SECTION 3 numerically precede those affected by SECTIONS 1 and 2.

b. In s. HFS 101.03 (52g) (f), the second sentence should begin: “The person making the statement shall provide evidence, including employment records” Parenthetical material and abbreviations such as “etc.” should not be used in a rule.

c. The final sentence of s. HFS 101.03 (52g) (intro.) and pars. (a) to (g) should be moved to a different part of the rule. Substantive material should not be included in a definition.

d. The following numberings used in the rule are already in use in the existing rule: s. HFS 101.03 (170m) and (172m). These should be renumbered. Also, s. HFS 101.03 (180m)

defines income disregard. This term is already defined in current s. 101.03 (79), but in a different way. If a new, different definition of income disregard is desired to be included in the rule, it should be inserted in alphabetical order in the appropriate place in the definition section.

- e. In s. HFS 101.03 (94p), “means” should replace “is.”
- f. Section HFS 101.03 (115m) should be renumbered s. HFS 101.03 (114t).
- g. In s. HFS 101.03 (152m), the two sentences should be merged by replacing “. The cost” with “and that.”
- h. In s. HFS 101.03 (1) (g) 3., “person” should replace “applicant” for consistency with the remainder of the paragraph.
- i. In s. HFS 103.03 (1) (h) 1., after the title “Initial eligibility,” the sentence immediately following should be subd. a. The remaining subdivision paragraphs should be renumbered b. through d.
- j. In s. HFS 103.03 (1) (h) 2. c., there is a cross-reference to s. HFS 103.03 (1) (g) 1. b. in which the parentheses around the second numeral “1.” should be deleted.
- k. In s. HFS 103.04 (8) (b), the reference to income disregards should be placed in a new par. (c), which would be an introductory paragraph to subds. 1. to 3. The remaining paragraphs should be renumbered pars. (d) and (e), accordingly.
- l. In s. HFS 103.087 (1) (d), the material should be made into an introductory paragraph to subds. 1. to 3. In the (intro.), “the following monthly income disregards” should replace “the monthly income disregards in subds. 1. to 3.” Also, the (intro.) should end with a colon. Current subd. 4. should be made into a new par. (e), and the remaining paragraphs should be renumbered accordingly.

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In s. HFS 103.03 (1) (h) 2. a., “subd. 3.” should replace “subpar. (3).”
- b. In s. HFS 108.02 (14) (b), the U.S. Code citation should replace the Social Security Act citation. [See s. 1.07 (3) (a), Manual.]
- c. The reference to ch. HFS 101 in s. HFS 108.02 (14) (b) 5. seems incorrect. If a rule relates to wrap-around coverage, it should be cited specifically.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the plain language analysis, in the final paragraph, a period should be inserted after the reference to s. 227.24 (1), Stats. The next sentence should begin with a capital letter.

- b. In s. HFS 101.03 (52g) (g), “that” should replace “who.”
- c. In s. HFS 101.03 (69g), the reference should be to “networking of existing resources” to agree with s. 101.03 (101m).
- d. In s. HFS 101.03 (78u) (intro.), the phrase “to work” should be replaced with “to enable them to work.”
- e. Section HFS 103.03 (1) (g) 1. c. should be reworded as follows: “The person has been participating in the medicaid purchase plan for at least six months and the person’s health has deteriorated to the point that” Also, there is reference to the department providing a temporary waiver of a work requirement on a case-specific basis. For up to how long could such a waiver be granted?
- f. In s. HFS 103.03 (1) (h) 3. d., “program” should be inserted after the word “counseling.”
- g. In s. HFS 103.04 (8) (b) (intro.), should the reference be to “monthly income disregards”?
- h. To improve readability and for internal consistency, s. HFS 103.04 (8) (b) 1. and 2. should begin with “\$65” and “\$20” respectively and “%” should replace “percent” in s. HFS 103.087 (1) (e).
- i. In s. HFS 103.04 (9) (c) 1., “eligibility” should be inserted after the phrase “Medical assistance.”
- j. Section HFS 103.06 (15) (b) requires a person to re-register if information regarding the independence account changes. Why not require the person to simply notify the agency of these changes?
- k. In s. HFS 103.087 (1) (g) 2., “, but not prior to January 1, 2000” is not needed. By the time of final promulgation of the rule, a three-month retroactive eligibility period will not go back prior to January 1, 2000.
- l. In s. HFS 103.06 (15) (b) 3., this general statement regarding reporting of changes should be placed in a different paragraph. It does not relate to independence account registration.
- m. In s. HFS 103.087 (title), the phrase “for the medicaid purchase plan” should be inserted at the end of the title.