

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 12, July 30, 1999

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

Section III
Notices of Changes, Corrections and Withdrawals

PUBLIC SERVICE COMMISSION

DOCKET NO: 980569-PU

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 25-4.002, 25-4.141, and 25-4.202 with their respective titles.

NOTICE OF AGENDA CONFERENCE

The Public Service Commission notifies all interested persons that the above rules will be considered at the agenda conference scheduled to be held at the following time and place:

TIME AND DATE: 9:30 a.m., October 19, 1999
PLACE: Florida Public Service Commission, Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL
PURPOSE AND EFFECT: To consider the record of the rulemaking proceedings and the proposed rule and to adopt, reject, or modify the proposed rules.

The person to be contacted regarding the rule is Christiana T. Moore, (850)413-6098.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

PUBLIC SERVICE COMMISSION

DOCKET NO: 980569-PU

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 25-6.002, 25-6.043, and 25-6.0438 with their respective titles.

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Table with 2 columns: RULE NO. and RULE TITLE. Row includes 25-17.087 with title Interconnection and Standard

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RULE NO.: 25-24.455 RULE TITLE: Scope

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RULE NOS.: 25-30.010, 25-30.011, 25-30.436, 25-30.450, 25-30.455
RULE TITLES: Rules for General Application Application and Scope General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase Burden of Proof and Audit Provisions Staff Assistance in Rate Cases

25-30.456 Staff Assistance in Alternative Rate Setting
25-30.570 Imputation of Contributions-in-Aid-of Construction
25-30.580 Guidelines for Designing Service Availability Policy

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program Office

RULE NO.: 65A-1.900 RULE TITLE: Overpayment and Benefit Recovery

NOTICE OF CHANGE

Notice is hereby given that changes are being made to the rule identified above as published in Vol. 25, No. 19, Florida Administrative Weekly, on May 14, 1999. These changes are the result of decisions made at a noticed public hearing held on August 10, 1999.

The complete text of the proposed rule amendment is as follows:

65A-1.900 Overpayment and Benefit Recovery.

The purpose of this section is to define the administrative policies applicable to the establishment and recovery of overpayment in the public assistance programs.

(1) Administrative Definitions Applicable to Overpayment and Benefit Recovery.

~~(a) Benefit: Benefit for purposes of this section refers to the following public assistance provided for under F.A.C., 65A-1 and F.A.C., 65A-4:~~

~~1. AFDC and Temporary Cash Assistance. For purposes of this section unless otherwise stated, references to AFDC and temporary cash assistance overpayments are applicable to the Refugee Assistance Program (RAP).~~

~~2. Food Stamps.~~

~~3. Medicaid. For purposes of this section unless otherwise stated, references to Medicaid overpayments are applicable to AFDC-related Medicaid and SSI-related Medicaid.~~

~~(a)(b) Overpayment: Overpayment is defined as receipt of benefits in an amount greater than that for which a person is eligible. The term overpayment is synonymous with the term overissuance as used in 7 CFR 273.18.~~

~~(e) Agency Error: Agency error occurs when incorrect benefits are received by a person due to a misapplication of policy, an arithmetical error, computer error, failure to take prompt action on available information or other type error over which the department has responsibility.~~

~~(d) Client Error: Client error occurs when individuals receive benefits in an amount for which they are not eligible due to failure to provide, report or give accurate or timely information about their circumstances. Client error shall further be classified as inadvertent household error, suspected fraud, or intentional program violation.~~

~~1. Inadvertent Household Error: Inadvertent household error (IHE) is a non fraud error which occurs when persons unintentionally or unknowingly fail to give timely, accurate, truthful or complete information about their circumstances or to report changes in circumstances which would adversely affect the amount of benefits received. It also includes a situation in which a person requests a fair hearing, benefits were continued pending the hearing decision, the appeal was subsequently denied and the benefits received during the appeal process resulted in overpayment.~~

~~2. Suspected Fraud: Suspected fraud exists when an intentional program violation appears to have occurred but a determination of fraud has not yet been established.~~

~~(b)3. Intentional Program Violation: Intentional Program Violation (IPV) or fraud error is defined pursuant to Section 414.39 409.325, F.S., 7 CFR 273.16, and 45 CFR 235.1102.~~

~~(c)(e) Direct Reimbursement: Direct reimbursement is repayment by a person to the department or contractor by cash, check or money order. In the case of food stamp overpayment, direct reimbursement may include repayment by food stamp coupons.~~

~~(d)(f) No other change.~~

~~(e)(g) Refusal to Repay: Refusal to repay occurs when the person responsible for repayment has:~~

~~1. Received notification of the overpayment or request for repayment agreement as specified in subsection (7)(8) of this section and subsequently:~~

~~a. Fails to comply with the time frames as set forth in paragraph (7)(8)(d);~~

~~b. No change.~~

~~c. Fails to sign and return a repayment agreement when and repayment must be made in whole or in part by direct reimbursement.~~

~~2. No change.~~

~~(f)(h) No other change.~~

~~(g) Extreme hardship: Extreme hardship occurs when basic maintenance needs exceed income. Basic maintenance needs are those items required for survival, including food, shelter, clothing, medical expenses, transportation, and personal and household incidentals.~~

~~1. Food expenses will be considered according to the current USDA thrifty food plan with no income for the number of people in the household.~~

~~2. Shelter expense will include rent or mortgage payments; taxes and insurance on the home; cost of fuel electricity or both with which to heat, cool and cook; and, the basic service fee for one telephone. These expenses will not be considered if paid by someone outside those residing together.~~

~~3. Medical expenses will be considered if not paid by insurance or by someone outside those residing together.~~

~~4. Transportation expenses will include those necessary for private automobile or public transportation.~~

~~5. Clothing and personal and household incidental expenses will be considered in the amount of actual expenses. Verification will be required if the department considers reported expenses excessive.~~

~~(2) No change.~~

~~(3) Amounts to Be Recovered. The amount to be recovered is the total amount of overpayment as determined by the department.~~

~~(3)(4) Monthly Repayment Amounts.~~

~~(a) Monthly repayment amounts of all AFDC and temporary cash assistance overpayments shall be as follows:~~

~~1. The department shall recoup overpayments from the grants of current AFDC or temporary cash assistance recipients in accordance with federal rules and regulations applicable to the food stamp program at a rate of five percent of the AFDC or temporary cash assistance maximum payment standard for the size of the assistance group.~~

~~2. Assistance groups who are current recipients not actually receiving a money payment because they are eligible for less than \$10 will be required to make repayment at the rate of five percent of the AFDC or temporary cash assistance payment standard for the size of the assistance group.~~

~~2.3. Any person no longer receiving AFDC or temporary cash assistance shall negotiate a repayment agreement with the department or contractor.~~

~~3.4. Any person affected by the preceding subparagraphs 65A-1.900(3)(4)(a)1. and 2.3. is entitled to a departmental review or hearing pursuant to FAC 65-2.~~

(b) Monthly repayment amounts of all food stamp overpayments shall be determined negotiated in accordance with 7 CFR 273.18, as amended, except for agency error repayments. Agency error repayments will be required in accordance with section 844, Public Law 104-193.

(c) Monthly repayment amounts of all Medicaid overpayments shall be determined negotiated with those persons responsible for repayment based on factors relating to the amount of the claim, the persons' financial situation and the period over which the claim will be liquidated.

(4)(5) Method of Repayment.

~~(a) When underpayment requiring restoration of benefits is discovered after an overpayment claim is established, the department shall reduce, or offset, the amount to be recovered by the amount of the underpayment. When offsetting is used, corrective payment will not be made to the assistance group unless the amount of the underpayment exceeds the amount owed to the department, in which case the assistance group will receive the balance after the overpayment is repaid in full. Initial month's benefits shall not be used to offset an overpayment even if those benefits are paid retroactively.~~

~~(a)(b) The methods of repayment of an AFDC or temporary cash assistance overpayment shall be as follows:~~

1. As specified in 45 CFR 233.20(a)(13), ~~as amended~~; or
2. No change.

~~(b)(e) The method of repayment of all food stamp overpayment shall be as specified in 7 CFR 273.18, as amended except when the repayment is for agency error. Agency error repayments will be required in accordance with section 844, Public Law 104-193.~~

~~(c)(d) No other change.~~

~~(5)(6) No other change.~~

~~(6)(7) Computation of Overpayment.~~

~~(a) No change.~~

~~(b) When the department determines that additional documentation of expense is needed to compute overpayment, the department will notify the persons responsible for repayment of the information needed. Any requested items must be provided within the time requested by the department, usually five working days from the date requested, or the expense will not be considered in computing the overpayment amount.~~

~~(7)(8) No change.~~

~~(a) The individual has a right to an administrative hearing in accordance with pursuant to 65-2.042, F.A.C., et seq., as amended.~~

~~(b) through (c)1. No change.~~

~~2. The last notification prior to the initiation of civil action shall be sent certified mail, return receipt requested, or hand delivered with certification that such delivery was made accomplished to the persons responsible for repayment.~~

(d) The assistance group or persons that receive such notification will have 30 calendar days, or ~~five days~~ for food stamp recipients ~~as specified in 7CFR 373.18(d) found to have committed IPVs~~, in which to contact the department before being considered to have refused to repay:

1. and 2. No change.

~~(8)(9) Determination of Intentional Program Violation.~~

~~(a) Pursuant to ss. 414.39 and 414.41, F.S., when the department has information that a participant has committed fraud, the department will refer the cases of suspected fraud as defined in subparagraph (1)(d)2. to the Office of the Auditor General, Division of Public Assistance Fraud (DPAF), for investigation. In cases where the department determines that a participant has committed of suspected fraud in the AFDC and temporary cash assistance (excluding RAP) or food stamp programs, the department will, upon the recommendation of DPAF, pursue a determination of IPV through either court action, administrative disqualification hearing (ADH), or both, where permitted by 7 CFR 273.16, or and 45 CFR 235.1102. The department will, upon the recommendation of DPAF, pursue a determinations of IPV through court action in when instances where the department determines that a participant has committed of suspected fraud occur in the Medicaid or refugee assistance programs.~~

~~(b) Individuals found by an administrative hearing officer or court to have committed an act of intentional program violation while receiving, or attempting to receive, food stamp, AFDC or temporary cash assistance, or food stamp and AFDC or temporary cash assistance benefits shall be disqualified from participation in the program(s) under which that act was committed or attempted in accordance with 7 CFR 273.16 or and 45 CFR 235.1102.~~

~~(10) Pursuant to s. 24.115(4), F.S., the names of all persons indebted to the department as a result of an overpayment shall be referred to the Department of the Lottery for interception of any or all winnings in the amount of \$600 or more for the purpose of applying such winnings as payment towards the balance of the total outstanding overpayment debt.~~

~~(9)(11) and (9)(11)(a) No other change.~~

~~(b) A past-due, legally enforceable debt exists when an individual in receipt of overpayment as defined in statute and subparagraph (1)(b) of this rule is at least three months delinquent in repayment of such overpayment, and which overpayment has not been discharged through administrative or legal action. Subject to the provisions contained in 31 CFR Part 5 Subpart C, and FNS Notice 17B: 56 FR 41325-31, August 20, 1991 such debts can be referred to the IRS for offset of the debtors' federal income tax refund against the balance of the debt.~~

~~(c) No change.~~

(d) The department will consider evidence presented timely by an individual in receipt of such notification described in (9)(4)(c) above that indicates all or part of their debt is not past-due or legally enforceable, and will make a determination as to the status of that debt prior to referral for offset.

(d)1. and (e) No change.

~~(10)(12)~~ The following notices, ~~hereby incorporated by reference,~~ can be used by the department in the process of establishing and recovering overpayment: CF HRS-ES Form 3400, Aug. 83, Request for Additional Information; CF-ES 3402, Oct 98, Overpayment, Overissuance, Fraud and Recoupment AFDC Repayment Agreement; CF HRS Form 3410, Mar Nov. 982, Waiver of Administrative Disqualification Hearing; CF-ES Form 3410A, Mar 98, Waiver of Administrative Disqualification Hearing; and CF-ES Form 3414, Aug. 983, Disqualification Consent Agreement Notice of Intent to Refer Debt, Notice of Case Action (Food Stamp overpayment notice with repayment agreement); Notice of Case Action (AFDC overpayment notice with repayment agreement); Notice of Overpayment (Medicaid overpayment notice with repayment agreement). Single copies of ~~Each of these forms listed as is~~ incorporated by reference in rule 65A-1.400 may be obtained without cost from any benefit recovery office or by written request to the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399.

Specific Authority ~~120.53,~~ 414.41, 414.45 FS. Law Implemented 24.115(4), 414.31, 414.41 FS. History—New 7-21-92, Amended 1-5-93, 9-5-93, Formerly 10C-1.900, Amended 7-9-98.

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game 79 Specifics
 RULE NO.: 53ER99-34
 SUMMARY OF THE RULE: This emergency rule describes Instant Game 79, "HALLOWEEN CASH," for which the Department of the Lottery will start selling tickets on a date determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prizewinners and the number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER99-34 Instant Game 79 Specifics.

(1) Name of Game. Instant Game Number 79 "HALLOWEEN CASH."

(2) Price. HALLOWEEN CASH tickets sell for \$1.00 per ticket.

(3) HALLOWEEN CASH Lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a VIRN under the latex area on the ticket. To be a valid winning HALLOWEEN CASH Lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), F.A.C. In the event a dispute arises as to the validity of any HALLOWEEN CASH Lottery ticket, the VIRN number under the latex shall prevail over the bar code.

(4) The play symbols and play captions in HALLOWEEN CASH are as follows:

ADD CHART

(5) Determination of Prize Winners.

(a) The holder of a ticket having three like amounts exposed in the play area shall be entitled to a prize of that amount, or if three "TICKET" captions are shown in the play area, shall be entitled to a prize of a free \$1.00 ticket.

(b) The holder of a ticket having two like amounts and a DOUBLER symbol exposed in the play area shall be entitled to a prize of double that amount.

(6) Prize amounts in Instant Game Number 79, HALLOWEEN CASH are: \$2.00, \$4.00, \$8.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$1,000, and \$2,000.

(7) Number and Size of Prizes. The following prizes will be available in the Instant Game Number 79, HALLOWEEN CASH:

(a) Approximately 1,213,808 prizes falling in the cash categories per 42 pools of 240,000 tickets per pool.

(b) The expected value, number of prizes, and odds of winning in Instant Game Number 79 are as follows:

GET:	WIN	NUMBER IN	ODDS
<u>3-TICKETS</u>	<u>TICKET</u>	<u>1,209,600</u>	<u>in 8.33</u>
<u>3-\$2s</u>	<u>\$2</u>	<u>873,600</u>	<u>1 in 11.54</u>
<u>3-\$4s</u>	<u>\$4</u>	<u>67,200</u>	<u>1 in 150.00</u>
<u>2-\$2 + DOUBLER</u>	<u>\$4</u>	<u>100,800</u>	<u>1 in 100.00</u>
<u>3-\$8s</u>	<u>\$8</u>	<u>33,600</u>	<u>1 in 300.00</u>
<u>2-\$4 + DOUBLER</u>	<u>\$8</u>	<u>33,600</u>	<u>1 in 300.00</u>
<u>3-\$10s</u>	<u>\$10</u>	<u>67,200</u>	<u>1 in 150.00</u>
<u>3-\$20s</u>	<u>\$20</u>	<u>16,800</u>	<u>1 in 600.00</u>
<u>2-\$10 + DOUBLER</u>	<u>\$20</u>	<u>16,800</u>	<u>1 in 600.00</u>
<u>3-\$50s</u>	<u>\$50</u>	<u>2,100</u>	<u>1 in 4,800.00</u>
<u>3-\$100s</u>	<u>\$100</u>	<u>840</u>	<u>1 in 12,000.00</u>
<u>2-\$50s + DOUBLER</u>	<u>\$100</u>	<u>840</u>	<u>1 in 12,000.00</u>
<u>3-\$500s</u>	<u>\$500</u>	<u>420</u>	<u>1 in 24,000.00</u>
<u>3-\$2,000s</u>	<u>\$2,000</u>	<u>4</u>	<u>1 in 2,520,000.00</u>
<u>2-\$1,000s + DOUBLER</u>	<u>\$2,000</u>	<u>4</u>	<u>1 in 2,520,000.00</u>

(8) The over-all odds of winning any prize in Instant Game Number 79 are 1 in 4.16.