

DEPARTMENT OF HEALTH**Board of Nursing**

RULE TITLES:	RULE NOS.:
Continuing Education of Domestic Violence	64B9-5.010
Continuing Education on Prevention of Medical Errors	64B9-5.011
Continuing Education on End of Life	64B9-5.012

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B9-5.010, F.A.C., so that applicants for initial licensure, upon showing of good cause, can be given six months from the date of licensure to complete the Domestic Violence course. The rule also defines good cause. The Board also proposes to promulgate Rule 64B9-5.011, F.A.C., setting forth continuing education requirements for completing a course on prevention of medical errors in an effort to decrease medical errors in the profession and Rule 64B9-5.012, F.A.C., in regards to the continuing education requirement on end of life.

SUBJECT AREA TO BE ADDRESSED: Continuing education of domestic violence and Continuing education on prevention of medical errors.

SPECIFIC AUTHORITY: 455.587, 456.031, 464.006 FS.

LAW IMPLEMENTED: 455.587, 456.031 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ruth Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF HEALTH**Board of Nursing**

RULE TITLE:	RULE NO.:
Reactivation of Inactive License	64B9-6.003

PURPOSE AND EFFECT: The Board proposes to review this rule and possibly update the language of the rule.

SUBJECT AREA TO BE ADDRESSED: Reactivation of inactive license.

SPECIFIC AUTHORITY: 464.006, 464.014, 456.036 FS.

LAW IMPLEMENTED: 464.014, 456.036 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE**Division of Finance**

RULE TITLES:	RULE NOS.:
Procedures for Filing Claim	3D-20.0021
Proof of Ownership and Entitlement to Unclaimed Property	3D-20.0022
Claimant Affidavit	3D-20.0026
Definitions	3D-20.030
Remitting of Safe Deposit Box Contents and Reimbursement of Expenses	3D-20.036
Written Notice	3D-20.040

PURPOSE AND EFFECT: Implement legislative changes to Chapter 717, Florida Statutes.

SUMMARY: The proposed rule amendments clarify claim filing requirements for claims filed by owner's representatives, claims filed by other than apparent owners, and claims filed by apparent owners. The proposed rule amendments also provide a procedure for notifying claimants when their claims are incomplete. Active Florida corporate claimants need no longer provide personal identification under certain circumstances, but for others, letterhead and business cards alone will not be sufficient to demonstrate the entity representative's right to act on behalf of the business, or to demonstrate ownership or entitlement to the property. A procedure is provided to claim small estates with a value of \$5,000 or less without estate administration. A guardian must provide legal authority to file a claim on behalf of a ward. The property will be delivered to the guardian for the ward. All claim denials will contain notice of appeal rights. The proposed rule amendments specify by whom electronic claim forms can be used, and how holders will be reimbursed for their costs. The proposed rule amendments set forth required contents of agreements between owners and owner's representatives, as well as the department's implementation of fee cap provisions contained in new legislation. A procedure to access the department's listing of cash and coin items considered to have numismatic value is provided. The proposed rule amendments set forth how unclaimed property will be valued, and how payment and delivery of fees and property will be accomplished. The rule defines the terms "Owner's Representative", "Claimant," "Entity Representative," and "Filed." The owner's

representative fee caps provisions of the rule will not apply to claims pending at the department prior to the effective date of the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 717.138, 717.119 FS.

LAW IMPLEMENTED: 92.525, 717.102, 717.1201, 717.117, 717.119, 717.124, 717.125, 717.126, 717.127, 717.135 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., September 10, 2001

PLACE: Room 547, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lesley Mendelson, Chief Counsel, Office of the General Counsel, Room 526, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9896

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-20.0021 Procedures for Filing Claim.

(1) Claims Submission. ~~All~~ Claims for unclaimed property in the custody of the Department pursuant to Chapter 717, F.S., Florida Statutes, shall be submitted to the Department on the form(s) prescribed and supplied by the Department, together with documentation supporting the claim. ~~The Department will only accept and review claims that are complete. A complete claim shall include the appropriate claim form, manually signed by all claimants, and all supporting documentation as described and required by Sections 3D-20.0021(2)-(6), F.A.C., and Rule 3D-20.0022, F.A.C. Incomplete claims delivered to the Department will be returned to the claimant with a letter advising the reason the claim is being returned.~~ All forms referenced in this rule are available from and shall be submitted to: The Department of Banking and Finance, Division of Accounting and Auditing, Finance Bureau of Unclaimed Property, Abandoned Property Section Suite 330, Fletcher Building, Tallahassee, Florida 32399-0350.

(a) The Department will only accept and review claims that are complete.

(b) A complete claim shall include the correct claim form identified in this rule, fully completed with all blanks filled in and manually signed by all claimants, and all supporting documentation as described and required by this rule, and Rule 3D-20.0022, F.A.C.

(c) Claims meeting the requirements of paragraph (b) above shall be deemed complete.

(d) Incomplete claims delivered to the Department will be returned to the claimant with a letter describing the additional documentation that must be submitted to make the claim complete.

(e) The claim may be refiled at any time.

(2) Claim Determination. ~~The Department will only review the merits of a claim that has been deemed complete as filed. A claim for unclaimed property will not be approved unless the Department has received the appropriate form(s), which forms must be fully completed and manually signed. Within 90 days of receipt of the fully completed and duly executed claim for unclaimed property, the Department will determine make a determination of whether the claimant has established ownership and burden of demonstrating entitlement to the unclaimed property has been met by the person(s) claiming the unclaimed property.~~

(a) If the claim is approved, the proceeds will be delivered as set forth in subsection (11).

(b) If the claim is denied, written notice containing rights of appeal will be mailed to the claimant at the address provided in the claim by the Department within ninety (90) days of receipt of the claim for all claims that have been denied by the Department. In the event entitlement has not been demonstrated, the claim will be denied without prejudice and may be refilled at any time. However, if providing that the unclaimed property has not been awarded to another claimant in good faith, prior to refile, the later filed claim may be denied with prejudice person. Written notice containing rights of appeal will be provided.

(3) Withdrawal of Claim. A claimant may make a written request, including email or facsimile transmission, that the claim be withdrawn withdrawal of the claim at any time.

(4)(3)(a) Claims Filed by Apparent Owner, (including corporations).

(a) The Claims by apparent owners for unclaimed property shall be submitted on Form DBF-UPA-106, entitled Claim by Apparent Owner, which is hereby incorporated by reference, revised 10/1/01 effective 1-18-99.

(b) Form DBF-UPA-106 shall be manually signed by the claimant and person(s) filing the claim. Form DBF-AP-106 shall be accompanied by the following:

1. Personal identification of claimant individual(s) making claim.

2. Proof demonstrating that the person(s) filing the claimant is the owner(s) and is entitled to the claimed property as required by Rule 3D-20.0022 F.A.C. When ownership is claimed by an entity, personal identification of the entity representative is also required. Personal identification of the entity representative is not required if the entity is an active Florida corporation, the entity representative is a corporate

officer listed on the Florida Secretary of State's website, and the property is to be mailed to the corporate address listed on the website being claimed.

~~(5)(4)(a)~~ Claims Filed by Other than Apparent Owners.

~~(a)~~ All ~~C~~elaims for unclaimed property filed by someone other than the apparent owner, for example, an heir, personal representative, or beneficiary, shall be submitted on form DBF-UPA-107, entitled Claim by Other than Apparent Owner, which is hereby incorporated by reference, revised 10/1/01 effective 1-18-99.

~~(b)~~ Form DBF-UPA-107 shall be manually signed by the ~~person(s) filing the claimant. Form DBF-AP-107 shall be and~~ accompanied by the following:

1. Original documentation establishing such person's right to act on behalf of the owner.

2. The name, address, taxpayer identification number (if available), and telephone number (if available), of the beneficiary, heir or personal representative for whom payment is sought.

3.2. Personal Appropriate identification of the beneficiary, heir or personal representative for whom payment is sought except as provided by an appropriate probate court order.

4.3. Proof demonstrating the person(s) estate, beneficiary or heir represented is entitled to the unclaimed abandoned property consistent with Rule 3D-20.0022, F.A.C.

~~(6)~~ Claims Filed by Owner's Representative.

~~(5)(a)~~ ~~Claims filed by Legal Representative or Private Investigator.~~ All claims for unclaimed property filed by an Owner's Representative a Legal Representative or Private Investigator, shall be submitted on form DBF-UPA-108, entitled Claim by Owner's Representative Legal Representative or Private Investigator, which is hereby incorporated by reference, revised 10/1/01 effective 3-13-96.

~~(b)~~ Form DBF-UPA-108 shall be manually signed by the person(s) filing the claim and Form DBF-AP-108 shall be accompanied by the following:

1. Original Agreement documentation establishing the owner's representative's ~~such person's~~ right to act on behalf of the owner.

2. The name, address, taxpayer identification number (if available), and telephone number (if available), of the person or entity for whom payment is sought.

3.2. Personal Appropriate identification of the person(s) or entity for whom payment is sought being represented or the beneficiary except as provided by an appropriate probate court order. When ownership is claimed by an entity, personal identification of the entity representative is also required, unless the entity is an active Florida corporation, the corporate representative is listed as an officer of the corporation on the Secretary of State's website, and the property is to be mailed to the corporate address listed on the website.

4.3. Proof demonstrating that the person(s) or entity the person's estate being represented is entitled to the property being claimed consistent with Rule 3D-20.0022, F.A.C.

~~(c)~~ Owner's Representative Fee Caps.

1. The Agreement between the owner and the owner's representative shall reflect the fee charged by the representative for the account listed on the claim.

2. The Agreement between the owner and the owner's representative shall contain either full disclosure or fee caps.

3. Full disclosure will be recognized by the Department when the following language, fully completed with all blanks filled in, is conspicuously incorporated within the Agreement just prior to the signature of the owner, as follows:

FULL DISCLOSURE STATEMENT

Pursuant to Chapter 717, F.S., this unclaimed property is currently held by the Florida Department of Banking and Finance. The property was reported in the name of (exact name of the owner(s) as listed in UCP records), and sent to the Department in (mm/dd/yy). The person/entity that reported it to the state is (XYZ Corporation). The person/entity's last date of contact with the apparent owner was (mm/dd/yy). The property consists of (\$/# of shares/SDB contents – list contents), from (type of property – utility deposit/wages/ etc.) The property has a value of _____.

4. If full disclosure is not made, and the Agreement between the owner and the owner's representative contains fees that exceed statutory caps, the Department will pay only the statutory fee caps. If the value of the property is less than \$25.00, only the value of the property will be paid.

5. Fees will be paid when the value of all approved accounts associated with the Agreement have been determined as follows:

a. Cash accounts – when posted to the account.

b. Securities

i. If the security is reissued to the owner in the form of a certificate, value will be determined as of the close of business on the date of reissuance.

ii. If the security is transferred to the owner/broker account, value will be determined as of the close of business on the date of the transfer.

c. Tangible Personal Property – The value of tangible personal property accounts shall be based on the appraised value at the time the property is prepared for transfer to the owner or owner's representative. A letter indicating the appraised value will be sent to the owner and the owner's representative.

6. If it is necessary to open an estate for the purpose of collecting the unclaimed property, or to reopen an estate to obtain a new order for the purpose of collecting the unclaimed property, then the fee cap exemption set forth in Section 717.135(1)(b) F.S. shall apply. However, fee caps shall apply to closed probate estates and estates that have never been probated.

7. In the case of guardianship proceedings, the fee cap exemption only applies to those proceedings opened for the purpose of collecting the unclaimed property, or where a new order must be obtained to collect the unclaimed property.

(7)(6)(a) Claims Filed by Holders of Unclaimed Property Paid or Delivered to the Department.

(a) The Claims for unclaimed property filed by a the holder shall be submitted on Form DBF-UPA-110, Claim Filed by Holder, which is hereby incorporated by reference, revised 10-1-01 effective 1-18-99.

(b) Form DBF-UPA-110 shall be manually signed by the authorized representative of the holder.

(8) Claim by Other States.

(7)(a) The Claims for unclaimed property filed by another state shall be submitted on form DBF-UPA-131, Claim by Other States, which is hereby incorporated by reference, revised 10-1-01 effective 3-13-96.

(b) Form DBF-UPA-131 shall be manually signed by the unclaimed property administrator of the state filing the claim or the duly authorized representative of the state filing the claim such person.

(9)(8)(a) Claims for Reimbursement for Cost by Holders of Safe Deposit Boxes or Other Safekeeping Repositories.

(a) This subsection applies to claims for reimbursement filed by holders of unclaimed property for their actual costs of the opening of safe deposit boxes and for any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges removed from safe deposit boxes or other safekeeping repositories, which property has been paid or delivered to the Department. The claim for reimbursement for the actual cost of the opening and for any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges shall be submitted on form DBF-UPA-112, Safe Deposit Reimbursement Claim Form, which is hereby incorporated by reference, revised 10-1-01 effective 3-13-96.

(b) Form DBF-UPA-112 shall be manually signed by an authorized representative of the holder.

(c) Form DBF-UPA-112 shall not be filed with the Department prior to the date of the sale of the contents of the safe deposit box or other safekeeping repository.

(10)(9) Form DBF-UP-105, Missing Assets, The following forms, which is are hereby incorporated by reference, effective 10/1/01, can be downloaded from the Department's website at www.dbf.state.fl.us, and used by apparent owners and other than apparent owners (but not owner's representatives) to submit claims for unclaimed property.

(a) Form DBF-AP 106EZ effective 6/99 to be used for claims filed by an apparent owner;

(b) Form DBF-AP 107EZ (effective 6/99) to be used for claims filed by other than an apparent owner; and

(c) Form DBF-AP 108EZ (effective 6/99) to be used for claims filed by a legal representative or private investigator an owner's representative.

(11) Payment and Delivery of Property.

(a) Payment and Delivery when Claim is Filed by Owner.

1. Cash. The Department will issue and mail a warrant payable to the claimant.

2. Securities. Payment will be processed for the property (either cash value of securities, shares or securities, or certificates) in the account at the time the claim is filed, unless liquidation is requested by the claimant or has already been requested by the Department.

a. The Department will deliver the securities to the owner, unless securities cannot be transferred or sold due to current valuation or ongoing corporate activity, for example, mergers, reorganizations or splits.

b. The securities will be delivered in physical form, or directly transferred into an owner's brokerage account if the information is provided to the Department at the time the claim is filed with the Department. The information required by the securities industry for electronic transfer could include the broker or agent's DTC (Depository Trust Corporation) number, ABA (American Bankers Association) number, the owners' account number and account registration.

3. Tangible personal property.

a. If the property has a value of less than ten thousand dollars (\$10,000), and if it will be accepted for delivery by a common carrier, the property will be mailed to the owner at the address listed on the claim.

b. If the property has a value of ten thousand dollars (\$10,000) or greater, or it will not be accepted for delivery by a common carrier, the Department will advise the owner of the award by letter, and make the property available for pickup during normal business hours at the Department's offices in Tallahassee, Florida.

i. The owner must produce the award letter and a personal picture identification to claim the property at the Department's Tallahassee address.

ii. Anyone other than the owner must produce the award letter, written authorization to receive the property signed by the owner and notarized, and personal picture identification to receive the property at the Department's Tallahassee address.

iii. Receipt of the property must be acknowledged by a signed receipt.

iv. If the property is not collected at the Department's Tallahassee office within ninety (90) days of the date on the award letter, it may be offered for sale at the next auction and the proceeds delivered the same as cash in paragraph (11)(a) above.

(b) Payment and Delivery of Claims filed by Owner's Representative.

1. Cash – Payment will be made electronically at least twice a month provided a completed Form DBF-AA-26E, incorporated by reference in Rule 3A-22.002, F.A.C., is provided.

2. Securities – Payment will be processed for the property (either cash value of securities, shares of securities, or certificates) in the account at the time the claim is filed, unless liquidation is requested by the claimant or has already been requested by the Department.

i. If cash value, payment will be made electronically as set forth in paragraph (b)1. above.

ii. If non-certificated shares of securities, the shares will be registered in the name of the owner and notification will be sent to both the Owner and the Owner's Representative.

iii. If a certificate is issued, written notice will be provided to the owner that the physical certificate has been sent to the Owner's Representative.

iv. If both the Owner and the Owner's Representative request direct transfer of shares of securities to the owner in writing when the claim is filed, the securities will be made out in the name of the owner and transferred directly to the Owner's brokerage accounts.

v. All securities will be registered according to industry standards.

(12) Applicability. The provisions of paragraph 3D-20.0021(6)(c), F.A.C., "Owner's Representative Fee Caps," shall apply to all claims filed on or after the effective date of this rule.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.1201, 717.124, 717.125, 717.126, 717.135 FS. History—New 3-20-91, Amended 3-13-96, 3-18-96, 1-18-99, 1-5-00, _____.

3D-20.0022 Proof of Ownership and Entitlement to Unclaimed Property.

(1) Any and all persons filing a claim for unclaimed property have the burden to provide to the Department a preponderance of evidence to prove ownership and entitlement to such property being claimed. Accordingly, in addition to the requirements specified in Rule 3D-20.0021, F.A.C., persons making a claim to unclaimed property shall comply with the provisions of this rule, as specified required below.

(2) Claims by Apparent Owner. Any and all persons claiming an interest in unclaimed property within the possession of the Department shall file with the Department a copy of a current driver's license showing the full name and current address of such person or persons. In the event that a current driver's license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the Department. This subsection shall not apply to any person who is acting as an owner's representative in the capacity of a legal representative or private investigator.

(3) Claims by Beneficiaries or Estates.

(a) If the apparent owner is deceased, the claim must include a certified copy of the decedent's death certificate, as well as the following: any person as an heir or personal representative of the estate, filing a claim for unclaimed property shall file with the Department:

1. ~~(b)~~ Open Estates – If the estate is opened, Court records, duly authenticated within one (1) year of the date of filing the claim with the Department, court records reflecting the heir, or the personal representative's right to act for the estate of the apparent owner.

2. Closed Estates – If the estate is closed, attach A probate court order, duly authenticated within one (1) year of the date of filing of the claim with the Department, identifying the heir or heirs beneficiaries and the proportional entitlement of each to the estate together with any additional information needed to identify the heir or heirs or the relative interests in the unclaimed property of the heir or heirs.

3. ~~(c)~~ Will Never Probated – If an owner died testate with a will, but the will was not probated, and

a. All of the unclaimed property held by the Department on behalf of the owner has an aggregate value of \$5,000 or less – provide a certified copy of the will and an affidavit signed by all the beneficiaries stating that all the beneficiaries have amicably agreed upon a division of the estate assets of the estate of the owner, excluding the unclaimed property, are sufficient to pay all just claims and that no probate proceedings have been instituted upon the estate, and that all funeral expenses, expenses of the last illness and other lawful claims have been paid. The affidavit shall be submitted on Form DBF-UPA-1243, Estate Affidavit revised 10/1/01 effective 1-18-99, which is hereby incorporated by reference and available from the Department of Banking and Finance, Bureau of Unclaimed Property, Division of Finance, Fletcher Building, 101 East Gaines Street, Room 330, Tallahassee, Florida 32399-0330. No partial payments shall be made.

b. If the aggregate value of the unclaimed property held by the Department is more than \$5,000, a probate estate administration must be opened and a current certified copy of a court order identifying either the personal representative, or, in the case of a summary administration, the beneficiaries and the proportional share of each to the estate, must be submitted to the Department.

4. No Will and No Administration –

a. ~~(d)~~ All of the unclaimed property held by the Department on behalf of the owner has an aggregate value of \$5,000 or less – If the owner died intestate, and the estate was never probated, a beneficiary the heir may file an affidavit signed by all the beneficiaries, stating that all the beneficiaries heirs have amicably agreed among themselves upon a division of the estate, that the assets of the estate of the owner, excluding the unclaimed property, are sufficient to pay all just claims, and that no probate proceedings have been instituted upon the estate, and that all funeral expenses, expenses of the

last illness, and any other lawful claims have been paid. The affidavit shall be submitted on Form DBF-UPA-1243. No partial payments shall be made.

b. If the aggregate value of the unclaimed property held by the Department is \$5,000 or more, a probate administration must be opened and a certified copy of a court order identifying either the personal representative or, in the case of a summary administration, the beneficiaries and their proportional interests in the estate, must be submitted to the Department.

~~(e) Affidavits under paragraphs (3)(c) and (3)(d) apply only if all of the unclaimed property held by the Department on behalf of the owner has an aggregate value of \$1,000 or less.~~

~~(b)(4)~~ If the apparent owner is deceased, the Claimant must provide appropriate documentation to connect ~~the Estate that is being represented by~~ the claimant to the deceased apparent owner.

(4) Claims for Guardianship Assets.

(a) The claim must be filed by the court appointed guardian who must provide a court order evidencing the claimant's current existing authority to act as guardian on behalf of the ward, duly authenticated within one (1) year of filing the claim with the Department, along with the guardian's name, address and social security number.

(b) The warrant will be made payable to "Guardian For" the ward.

(5) Claims for Business Accounts. Any person claiming an interest in an unclaimed business account ~~in~~ within the possession of the Department as an official of the business shall file with the Department the following:

(a) If the unclaimed business account ~~relates to~~ is a proprietorship or a partnership then:

1. Documentation is needed to reflect that the apparent owner is the same proprietorship or partnership, and-

2. Documentation reflecting the individual's authorization to file claim for the proprietorship's or partnership's unclaimed property.

3. ~~(6)~~ Personal identification shall be provided as specified in subsection (2) of this rule.

(b) If the unclaimed business account ~~relates to an active~~ is a corporation ~~that is still active then~~:

1. Certification, within one (1) year of the filing of the claim, from an appropriate state official shall be provided to the Department to reflect the officers and directors of the corporation. In the case of a Florida corporation, a copy of the most recent filing with the Florida Secretary of State shall be provided.

2. Unless the corporate representative is listed as an officer of the corporation on the Secretary of State's corporate website, Appropriate evidence shall be filed with the claim to reflect the claimant's right to act ~~on~~ in behalf of the business. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. For example:

a. Signed statement by an officer of the corporation, other than the person signing the claim, authorizing the individual authority to file the claim.

b. Bylaws of the corporation identifying the person signing the claim as occupying a position with authority to contractually bind the corporation.

c. Corporate resolution authorizing the person signing to file the claim on behalf of the corporation.

3. Personal identification as specified in subsection (2) of this rule, unless the claimant is an active Florida corporation, the corporate representative is listed as an officer of the corporation on the Secretary of State's corporate website, and the property is to be mailed to the corporate address listed on the website.

4. Documents evidencing ownership or entitlement to the account. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. Examples of other documentary evidence include: Utility bills, cancelled checks or deposit slips, copies of annual reports, sales or marketing materials that would identify the corporation and match one of the account identifiers; copy of an occupational license issued to the corporation, price lists, bank statements, loan papers, etc., documents in the corporation's name which establish a relationship with a bank, tax filings, including annual tax returns, quarterly employee withholding filings, employee tax filings records such as W-2 or W-4 forms (with personal information redacted) sales tax filings, other tax filings or bills, financial statements (audited), SEC filings (other than those which are public records; company identification cards, insurance documentation – property and casualty, health and workers's compensation insurance policies, claim forms, premium statements, benefit membership cards.

(c) If the unclaimed business account is for a dissolved corporation, ~~that is a dissolved corporation~~ then certification from an appropriate state official of the state of incorporation, certified within one (1) year of the filing of the claim, shall be provided to the Department to reflect the last corporate filing. Appropriate evidence shall be provided to reflect that the corporation is the same corporation as on the Department's records and appropriate evidence shall be provided to reflect the claimant is entitled to all or a proportional share of the dissolved corporation. ~~Duly authenticated copy of the petition filed in bankruptcy proceedings indicating the case number of the dissolved corporation shall be provided to the Department if existent and copies of any orders appointing a trustee or examiner.~~ If no bankruptcy proceedings of the dissolved corporation are known, a completed United States Bankruptcy Court Application for Search of Bankruptcy Records shall be provided to the Department from the state and district of incorporation, and where the main office is located, if different. Personal identification shall be provided as specified in subsection (2) of this rule.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.124, 717.126 FS. History—New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, _____.

3D-20.0026 Claimant Affidavit.

In the event proof ~~ownership of entitlement~~ to unclaimed property cannot be substantiated, the claimant may file an affidavit swearing to the authenticity of the claim and to the lack of documentation and agreeing to the release of the claimant's name and address by the Department to subsequent claimants providing substantiated proof of entitlement to the unclaimed property. The affidavit shall be submitted on Form DBF-UPA-124, Claimant Affidavit revised 10/1/01 (~~effective 1-28-97~~), which is hereby incorporated by reference and available from the Department of Banking and Finance, Bureau of Unclaimed Property ~~Division of Finance~~, Fletcher Building, 101 East Gaines Street, Room 330, Tallahassee, Florida 32399-0350. This section applies only if all of the unclaimed property held by the Department on behalf of the claimant for which entitlement has not been established has an aggregate value of \$250 or less.

Specific Authority 717.138 FS. Law Implemented 717.124(3) FS. History—New 1-28-97, Amended _____.

3D-20.030 Definitions.

As used in these rules:

- (1) The definitions provided in Section 717.101, F.S. Florida Statutes, shall also apply to these rules.
- (2) "Service charge" and "maintenance charge" means all documented charges that are incurred by a banking or financial organization with regard to the handling of an account.
- (3) "Presumed Unclaimed" means the apparent owner has not indicated an interest in the property for the applicable prescribed period. The interest should be evidenced by communication by the owner with a record of same on file.
- (4) "Safekeeping Repository" means safe deposit boxes held in banks and financial institutions.
- (5) "Owner of a Cashiers' Check" is the named payee of the cashiers' check unless the remitter has a release of ownership from the payee.
- (6) "Inactive status" means the holder is not required to file a report of property presumed unclaimed with the Department on an annual basis.
- (7) "Report of property presumed unclaimed" means a completed original set of reporting forms by the holder consisting of Forms DBF-AP-111, 121, 128, and 129 which discloses the amount of unclaimed property, apparent owner(s), last known address, social security number or federal employer identification number, property type, and date of last contact or Form DBF-AP-111 with the specific owner information in an electronic medium.

(8) "Owner's Representative" means an attorney-at-law, Florida-certified public accountant, or private investigative agency which is duly licensed to do business in Florida who is authorized by an owner to claim unclaimed property on the owner's behalf.

(9) "Claimant" means the person or entity for whom payment is sought. As used in this definition, the term "claimant" does not include an owner's representative.

(10) "Entity Representative" means one who is legally authorized to represent a claimant that is not a natural person. As used in this definition, the phrase "entity representative" does not include an owner's representative.

(11) "Filed" means the receipt of a completed claim as set forth in paragraph 3D-20.0021(1), F.A.C.

Specific Authority 717.138 FS. Law Implemented 717.102(1), 717.117(1), 717.1201(7) FS. History—New 6-23-91, Amended 1-28-97, _____.

3D-20.036 Remitting of Safe Deposit Box Contents and Reimbursement of Expenses.

(1) All property presumed unclaimed under Section 717.116, F.S. Florida Statutes, shall be delivered to the Department pursuant to Section 717.119, F.S. Florida Statutes. The delivery of the property, through the U.S. Mail or other carrier, shall be insured at an amount equal to the estimated value of the property. The package should be clearly marked on the outside "Deliver Unopened".

(2) Reimbursement may be made for the actual cost incurred in the opening of a safe deposit box and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage costs pursuant to Section 717.1201(7), F.S. Florida Statutes. The Department shall reimburse the holder out of the proceeds remaining after the deduction of the Department's selling cost.

(3) Holders shall request reimbursement from the Department by submitting a completed form DBF-UPA-112, Safe Deposit Reimbursement Claim Form, effective 6-23-91, hereby incorporated by reference and available from the Department of Banking and Finance, ~~Division of Finance~~, Bureau of Unclaimed ~~Abandoned~~ Property Section, Suite 330, Fletcher Building, Tallahassee, Florida 32399-0350.

(4)(a) All intangible and tangible property held in a safe deposit box or any other safekeeping repository and reported to the Department pursuant to Section 717.117, F.S. Florida Statutes, shall be delivered to the Department in accordance with Section 717.119(4), F.S. Florida Statutes. Delivery of property shall be commenced 120 days after the report due date and completed within 165 days after the report is due. In the event that the reporting date is postponed, the time periods specified in paragraph (4)(a) are extended for a period of time equal to the additional time given to the holder to report the unclaimed property.

(b) As used herein, delivery in accordance with Section 717.119(4), F.S. Florida Statutes, means actual delivery of the unclaimed property at the offices of the Department in Tallahassee, Fla. As proof of actual delivery holders may submit the registered mail return receipt.

(c) Within 120 days of the filing of the report, the Department will review reports submitted and notify the holder if the Department declines to accept certain items as having insufficient value to warrant the expense of notice and sale.

(5) Numismatic List. A listing of cash and coin items considered to have numismatic value above face value, as referenced in Section 717.119(5), F.S., is hereby incorporated by reference, effective 10/01/01. The list is also available on the Department's Internet website address, the annual reporting instructions, and upon request from the Department.

Specific Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.120(7), 717.127 FS. History—New 6-23-91, Amended 8-24-98, _____.

3D-20.040 Written Notice.

All holders in possession of property presumed unclaimed abandoned having a value of \$50.00 or more shall give mail a written notice to the apparent owner in accordance with Section 717.117(4), F.S. not more than 120 days but not less than 60 days prior to the filing of the report required by Section 717.117, Florida Statutes, unless the holder has in its possession information that the address is inaccurate or incomplete.

Specific Authority 717.138 FS. Law Implemented 717.117(4)(5) FS. History—New 6-23-91, Amended 8-29-94, 1-28-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Andy Grosmaire, Assistant Chief, Bureau of Unclaimed Property

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Peter DeVries, Chief, Bureau of Unclaimed Property

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2001

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001 and July 13, 2001

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Procedural 40D-1

RULE TITLE: RULE NO.:
Forms and Instructions 40D-1.659

PURPOSE AND EFFECT: Forms which the District uses in dealings with the public must be formally adopted by rule pursuant to Section 120.55(1)(a)4., Florida Statutes. The purpose of these amendments is to incorporate into the District's rules a new Notification and Request for Transfer of Environmental Resource Permit form. This new form

consolidates three forms the District currently uses in different circumstances to transfer environmental resource permits. The adoption of this new form is necessary to comply with the requirements of the above-referenced statutory provision. The amendments will also delete District form No. 41.00-114 (07/00) because it has been incorporated into the new form. The effect of these amendments will be to streamline the District's environmental resource permitting forms.

SUMMARY: The proposed amendments streamline the District's forms by consolidating three forms the District currently uses to transfer environmental resource permits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-1.659, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.116, 373.216, 373.219, 373.229, 373.239, 373.413, 373.414, 373.416, 373.419, 373.421 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this Chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) through (19) No change.

SURFACE WATER

Application for Permit – Used for Docks or Piers and Bulkheads

(1) through (11) No change.

(12) NOTIFICATION AND REQUEST FOR TRANSFER OF ENVIRONMENTAL RESOURCE PERMIT FORM NO. 04.10R-022 (07/01) TRANSFER OF ENVIRONMENTAL RESOURCE PERMIT FOR

**RESIDENTIAL SUBDIVISIONS OR CONDOMINIUMS
PREVIOUSLY TRANSFERRED TO OPERATION PHASE
FORM 41.00-114 (07/00)**

(13) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, 373.216, 373.219, 373.229, 373.239, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-95, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 10-26-00, 6-26-01.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLES:	RULE NOS.:
Policy and Purpose	40E-20.011
Notice of Intent	40E-20.112
Conditions for Issuance of Authorization	40E-20.302
Limiting Conditions	40E-20.381

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to establish criteria for conditions for permit issuance consistent with Rule 40E-8, F.A.C., regarding minimum flows and levels. The purpose is also to update references to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997". THESE PROPOSED AMENDMENTS WERE PREVIOUSLY PUBLISHED ON MARCH 30, 2001, AND ARE BEING REPUBLISHED HERE WITH NO CHANGES.

SUMMARY: Citations to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997" are updated to reflect the current revision date of the Basis of Review. The "Conditions for Issuance of Authorization" section regarding general permit authorization is changed to be consistent with Chapter 40E-8, F.A.C. addressing water use activities that directly withdraw water from an MFL water body.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Consumptive use permittees (including those owned or operated by local governments) in the Lower East Coast planning area, including the Lake Okeechobee Service area, and the Lower West Coast planning area, will be required to comply with rule criteria for permit renewals, new permits and permit modifications for allocations

either directly or indirectly from MFL water bodies, depending upon the applicable recovery or prevention strategy for the subject MFL water body. Cost estimates for implementation of recovery and prevention strategies are laid out in the Lower East Coast Regional Water Supply Plan (May 2000) for the Everglades, Biscayne Aquifer, and Lake Okeechobee, and Caloosahatchee River and in the Lower West Coast Regional Water Supply Plan (April 2000) for the Caloosahatchee River and Lower West Coast Aquifer system. In general, the water management districts are primarily responsible for implementing "water resource development" as defined in Section 373.019(19), and consumptive users are primarily responsible for implementing "water supply development" options as defined in Section 373.019(21). Cost estimates for alternative sources identified in the regional water supply plans can be found in the description of "Water Supply Development Options". See pages 241-268 of the Lower East Coast Regional Water Supply Plan (May 2000) and pages 49-100 in the Lower West Coast Regional Water Supply Plan (April 2000). Cost estimates for implementation of "water resource development" projects are set forth in the Lower East Coast Regional Water Supply pages 272-328, and in the Lower West Coast Regional Water Supply Plan pages 105 to 140. In general, the MFL rules are designed to implement the "assurances" to existing water users approved by the Governing Board in the applicable regional water supply plans. The estimated Costs to the SFWMD for implementation of the MFL rules through regulatory programs are set forth in the chapters on "Recommendations" in the applicable regional water supply plan.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.103, 373.118, 373.175, 373.246 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE TO BE DETERMINED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov), telephone number 1(800)432-2045. For procedural issues contact: Julie Jennison (internet: jjenniso@sfwmd.gov), 1(800)432-2045, Ext. 6294 or (561)682-6294, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680.

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-20.011 Policy and Purpose.

(1) No change.

(2) Water uses or withdrawals that meet the conditions for issuance of authorization for a general permit specified in Rule 40E-20.302 are presumed to meet the criteria in Section 373.223, Florida Statutes. Staff will recommend denial of general permit authorizations for water uses or withdrawals that do not meet the conditions for issuance of authorization. The District shall require an individual permit, or deny issuance of a general permit authorization, if the applicable conditions for issuance of authorization are insufficient to demonstrate that a particular proposed use or withdrawal meets the criteria in Section 373.223, Florida Statutes. Where applicable, criteria in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in Rule 40E-2.091, will be utilized to determine whether the conditions for issuance of authorization are satisfied.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.219 FS. History–New 9-3-81, Formerly 16K-2.032(4), 16K-3.031(4), Amended 4-20-94, 7-11-96, 4-9-97, 12-10-97, _____.

40E-20.112 Notice of Intent.

Except in those circumstances detailed in subsection (4), prior to commencement of any use or withdrawal of water authorized in this chapter the permittee shall file with the District, a written Notice of Intent to Use Water, form number 0645, Surface Water Management Permit Applications and/or Water Use Permit Applications, in addition to any other applicable Notice of Intent forms specified in this section for a requested general permit authorization. Authorized uses or withdrawals, in existence prior to January 29, 1979, are not required to file a Notice of Intent. However, in order to continue such use or withdrawal beyond January 29, 1999, the appropriate Notice of Intent must be filed in order to receive a general permit prior to that date.

(1) No change.

(a) through (i) No change.

(j) A statement that all applicable conditions in Rule 40E-20.381 and Section 5 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in Rule 40E-2.091, will be met.

(2) No change.

(a) through (k) No change.

(l) A statement that all applicable conditions in Rule 40E-20.381 and Section 5 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in Rule 40E-2.091, will be met.

(m) No change.

(3) No change.

(a) through (i) No change.

(j) A statement that all applicable conditions in Rule 40E-20.381 and Section 5 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in Rule 40E-2.091, will be met.

(4) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.223, 373.229 FS. History–New 9-3-81, Formerly 16K-2.031(3), 16K-2.032(3), Amended 7-26-87, 11-21-89, 4-20-94, 7-11-96, 4-9-97, 12-10-97, 7-2-98, _____.

40E-20.302 Conditions for Issuance of Authorization.

To receive a general permit authorization, a person must provide reasonable assurances that the conditions for issuance of authorization are met. Applicable criteria in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in Rule 40E-2.091(1), shall be utilized by District Staff in determining whether applicable conditions for issuance of authorization will be met.

(1)(a) through (b) No change.

(c) Water use activities that directly withdraw water from a MFL water body that is subject to a recovery strategy shall not qualify for a general permit.

(2)(a) through (c) No change.

(d) Water use activities that directly withdraw water from a MFL water body that is subject to a recovery strategy shall not qualify for a general permit.

(3)(a) and (b) No change.

(c) Water use activities that directly withdraw water from a MFL water body that is subject to a recovery strategy shall not qualify for a general permit.

(4) Persons who use or withdraw water in conjunction with short-term dewatering operations or aquifer performance tests (APT) are authorized to do so provided the permittee provides reasonable assurances that the applicable conditions of subparagraph 40E-20.381 and Section 5 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in subsection 40E-2.091(1), will be satisfied and provided the permittee satisfies all conditions below.

(a) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.219, 373.223 FS. History–New 9-3-81, Amended 12-1-82, Formerly, 16K-2.031(1), 16K-2.032(1)(b), Amended 2-24-85, 3-29-87, 7-26-87, 4-20-94, 7-11-96, 4-9-97, 12-10-97, _____.

40E-20.381 Limiting Conditions.

(1) The Board shall impose on any permit granted under this chapter such reasonable standard and special conditions as are necessary to assure that the permitted use or withdrawal will be consistent with the overall objectives of the District, will not be harmful to the water resources of the District, is reasonable-beneficial, will not interfere with any presently existing legal uses, and is consistent with the public interest. Standard permit conditions in Section 5 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____" incorporated by reference in subsection 40E-2.091(1) shall be in the permit. Special permit conditions, including those specified in Section 5.2 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997" shall be in the permit.

(2) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.118, 373.219, 373.223 FS. History—New 9-3-81, Formerly, 16K-2.031(2), 16K-2.032(2), Amended 2-24-85, 7-26-87, 4-20-94, 7-11-96, 4-9-97, 12-10-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Wm. Scott Burns, Director, Water Use Regulation Department
NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Governing Board of the South Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 28, 2000; October 20, 2000; November 27, 2000; February 2, 2001; and February 16, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE CHAPTER TITLE: Public Food Service Establishments

RULE CHAPTER NO.: 61C-4

RULE TITLE: Food Protection Manager Certification and

RULE NO.:

Public Food Service Employee Training 61C-4.023

PURPOSE AND EFFECT: This rule adoption is to implement the statutory requirements of Section 509.049, Florida Statutes, as amended by CS for HB 2281 (2000-191, LOF) during the 2000 Legislature and HB 1471 (2001-257, LOF) during the 2001 Legislature.

SUMMARY: This rule provides the specifications for the submittal, review, and approval of food service employee training programs; the required components of the training programs; and, the mandatory timelines for submittal of the training programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 509.049, 509.032(6) FS.

LAW IMPLEMENTED: 509.049 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m. EST, Monday, September 10, 2001

PLACE: Secretary's Conference Room, Room 259, The Johns Building, 725 South Bronough Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Lee M. Cornman, Management Review Specialist, (850)488-9263. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lee M. Cornman, Management Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1012, Telephone (850)488-9263

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(1) through (3) No change.

(4) Public Food Service Employee Training.

(a) All public food service employees must receive training on professional hygiene and foodborne disease prevention through a food safety training program administered by the division's contracted training provider or another food safety training program approved by the division. Any food safety training program established and administered to food handler employees utilized at a public food service establishment prior to July 1, 2000 may provide food handler employee training and certification if the programs is reviewed and approved by the division. For purposes of division approval, the program provider shall submit its training program to the division for review by providing a completed application, which is DBPR Form HR 5026-011, incorporated herein by reference and effective 11-08-00, identifying the training components covered by the program, as well as an executed copy of the division's applicant affidavit attesting to the accuracy of the application. The division will approve programs that the division determines to be in substantial compliance with the division's adopted minimum food safety

standards and related rules. A provider's approval is subject to the program provider's continued compliance with the division's minimum food safety standards and related rules. The division may conduct random audits of approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with the division's minimum food safety standards. The division shall revoke its approval of any program which, upon examination, fails to substantially comply with the minimum food safety standards and related rules established by the division, as amended from time to time.

(b) Approved program providers must maintain training information for a period of at least three years from the date training is provided. If the program provider directly administers training to a food service employee, this information must include the name of the trained food service employee, the name of establishments where training has been provided, the date of training, and the specific course that was used for the training. If the program provider furnishes program materials but does not directly administer training to a food service employee, this information must include the name of establishments where program materials have been provided, the date these material were provided, and the specific course which was provided. The division shall revoke its approval of any program which, upon examination, is found to have failed to keep this required information or to have knowingly participated in falsifying any training record. Professional hygiene includes personal cleanliness and hygienic practices in accordance with the Food Code and techniques to prevent cross contamination. Foodborne disease prevention training must include the types and causes of foodborne illness, identification of potentially hazardous food, and how to control or eliminate harmful bacteria in a food service establishment.

(c)(b) Public food service employees must receive training which includes specific program components in personal hygiene, excludable and restrictive illnesses, foodborne illness prevention, safe food preparation, premises sanitation, and vermin control, as addressed by the Food Code relates to their assigned duties. The personal hygiene components shall include instruction in personal cleanliness, hygienic practices, and techniques to prevent cross contamination. The foodborne illness prevention components shall include the types and causes of foodborne illness, identification of potentially hazardous food, and how to control or eliminate harmful bacteria in a food service environment. The safe food preparation components shall include instruction in safe methods of thawing, cooking, cooling, handling, holding, serving, and storing foods. The premise sanitation components shall include instruction in cleaning equipment and facilities, sanitization methods, premise maintenance, and vermin control. Additional training emphasis shall be placed on those components that relate to a public food service employee's assigned duties. A copy of the food safety standards and

training criteria that must be included in an approved food safety certification program may be obtained from the division upon request. Employees who prepare foods must be knowledgeable about safe methods of thawing, cooking, cooling, handling, holding and storing foods. Service personnel must be knowledgeable about safe methods of serving food. Employees who clean equipment and facilities must be knowledgeable about proper cleaning and sanitization methods. Employees responsible for maintaining the premises must be knowledgeable about proper vermin control methods as specified in the Food Code.

(d)(e) It is the duty of the licensee to ensure that the food safety employee training under this rule and section 509.049, Florida Statutes, is provided by January 1, 2001 or within 60 days of employment to all employees under the licensee's control who are responsible for food storage, preparation, display, or food service to the public. The training program must be administered by the program provider, the licensee, or by a certified food protection manager designated by the licensee. Employees who receive the training must be provided documentation from the training administrator of having received training, which must include at least the name of the trained employee, the name of the training program provider, the date the employee was trained, and the name of the specific course which was used for the training. The licensee is responsible for providing documentation of employee training to the division upon request, which must include at least the name of the trained employee, the name of the training program provider, the date the employee was trained, and the name of the specific course which was used for the training. Failure of the licensee to provide this documentation of employee training upon request of the division is a violation of this rule. Licensees who provide in-house employee training shall maintain these training records make available on the premises of the establishment, or in a central location in a theme park or entertainment complex in a central location, upon the division's request, the curriculum and materials used to conduct training. If training is obtained from an outside provider, the licensee must provide, upon the division's request, information about the selected training program and methods used to evaluate training outcomes. A licensee violates this rule if the licensee, or its agent or employee, knowingly participates in falsifying any training record. Training outcomes are subject to verification and inspection by the division, and include employees correctly applying procedures and answering questions relative to assigned duties. Employees must perform their work duties safely in a manner consistent with the requirements of the Food Code.

(e) No new application or affidavit must be filed for programs approved by the division prior to the effective date of this rule, however, such programs shall otherwise continue to be governed by this rule.

Specific Authority 509.032(6), 509.039, 509.049 FS. Law Implemented 509.039, 509.049 FS. History--New 2-21-91, Amended 5-12-92, Formerly 10D-13.037, Formerly 7C-4.023, Amended 3-31-94, 10-9-95, 1-18-98, 2-7-01.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lee M. Cornman, Management Review Specialist, Division of
Hotels and Restaurants, Department of Business and
Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Kim Binkley-Seyer, Secretary,
Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 23, 2001, Vol. 27, No. 12

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Income and Resource Criteria RULE NO.: 65A-1.716

PURPOSE AND EFFECT: This proposed rule amendment
updates federal poverty income guidelines used in determining
Medicaid eligibility.

SUMMARY: This rule amendment will bring federal poverty
standards in the rule to 2001 levels. The federal poverty
guidelines for QI1 and QI2 coverage (135% and 175%
respectively) are included for the first time.

SUMMARY OF STATEMENT OF ESTIMATED
REGULATORY COST: An estimate of the regulatory cost
was not prepared for this rule.

Any person who wishes to provide information regarding the
statement of estimated regulatory costs, or to provide a
proposal for a lower cost regulatory alternative must do so in
writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF
THIS NOTICE, A HEARING WILL BE HELD AT THE
TIME, DATE AND PLACE SHOWN BELOW (IF NOT
REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., September 10, 2001

PLACE: Building 3, Room 455, 1317 Winewood Boulevard,
Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE IS: Audrey Mitchell, Program
Administrator, 1317 Winewood Boulevard, Building 3, Room
421, Tallahassee, FL 32399-0700, Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the
size of the filing unit are as follows:

Filing Unit Size	90% of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline
1	\$ 645 ⁶²⁷	\$ 716 ⁶⁹⁶	\$ 859 ⁸³⁵	\$ 953 ⁹²⁶
2	871 ⁸⁴⁴	968 ⁹³⁸	1161 ¹¹²⁵	1287 ¹²⁴⁷
3		1220 ¹¹⁸⁰		1622 ¹⁵⁶⁹
4		1471 ¹⁴²¹		1957 ¹⁸⁹⁰
5		1723 ¹⁶⁶³		2291 ²²¹²
6		1975 ¹⁹⁰⁵		2626 ²⁵³³
7		2226 ²¹⁴⁶		2961 ²⁸⁵⁴
8		2478 ²³⁸⁸		3296 ³¹⁷⁶
9		2730 ²⁶³⁰		3630 ³⁴⁹⁷
10		2981 ²⁸⁷¹		3965 ³⁸¹⁹
11		3233 ³¹¹³		4300 ⁴¹⁴⁰
12		3485 ³³⁵⁵		4634 ⁴⁴⁶²
Add each add. person		\$ 252 ²⁴²		\$ 335 ³²²

Filing Unit Size	135% of Poverty Guideline	175% of Poverty Guideline	185% of Poverty Guideline	200% of Poverty Guideline
1	\$ 967	\$ 1253	\$ 1325 ¹²⁸⁸	\$ 1432 ¹³⁹²
2	1307	1694	1790 ¹⁷³⁵	1935 ¹⁸⁷⁵
3			2256 ²¹⁸²	2439 ²³⁵⁹
4			2722 ²⁶²⁹	2942 ²⁸⁴²
5			3187 ³⁰⁷⁶	3445 ³³²⁵
6			3653 ³⁵²³	3949 ³⁸⁰⁹
7			4118 ³⁹⁷⁰	4452 ⁴²⁹²
8			4584 ⁴⁴¹⁷	4955 ⁴⁷⁷⁵
9			5049 ⁴⁸⁶⁴	5459 ⁵²⁵⁹
10			5515 ⁵³¹²	5962 ⁵⁷⁴²
11			5981 ⁵⁷⁵⁹	6465 ⁶²²⁵
12			6446 ⁶²⁰⁶	6969 ⁶⁷⁰⁹
Add each add. person			\$ 466 ⁴⁴⁸	\$ 504 ⁴⁸⁴

(2) through (5) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History--New 10-8-97, Amended 12-9-99, 2-15-01.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rodney McInnis, Management Review Specialist
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Audrey Mitchell, Program
Administrator, Public Assistance Policy Bureau – Policy
Support Unit
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 2, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 1, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES:	RULE NOS.:
Rights and Responsibilities	65A-2.022
Application and Determination of Eligibility	65A-2.023
Determination of Continued Eligibility	65A-2.024
Advance Notice: Written Ten Day	
Advance Notice	65A-2.031
Optional State Supplementation	
Eligibility Criteria	65A-2.032
Optional State Supplementation	
Coverage Groups	65A-2.033
Definitions of Special Living Arrangements	65A-2.034
Income Calculation	65A-2.035
Optional State Supplementation Base Provider	
Rates and Program Standards	65A-2.036

PURPOSE AND EFFECT: These rule amendments are the result of a long-term review of each listed rule to identify deficiencies in rule statements regarding citation of other rules, reference to program names, definitions of special living arrangements, and redundant rule material. Additionally, application processing criteria, notice criteria, eligibility criteria, coverage group criteria, provider rates and eligibility standards are being revised and Medicaid Assistive Care Services is being implemented. Assistive Care Services provides enhanced payment for the care of those eligible for the OSS program.

SUMMARY: Rule 65A-2.022 is clarified as to use of OSS payments, applicability of the right to prompt notice of decision and use of a designated representative and rights and responsibilities. Rule 65A-2.023 is clarified as to notice requirements. Rule 65A-2.024 is amended to clarify use of a designated representative, to use the word “terminated” instead of the word “cancelled” and to add an eligibility criterion. Rule 65A-2.031 is amended to use “terminate” and “termination” or “reduction” instead of “cancel” or “cancellation” and to clarify use of ten-day advance notice. Additionally, action on benefits subsequent to denial of an Administrative Hearing or system failure to reduce or terminate benefits is clarified. Rule 65A-2.032 is amended to correct citations within it and to clarify and simplify statements of eligibility requirements.

Rule 65A-2.033 is amended to use current terminology to reflect types of special living arrangements (coverage groups). Rule 65A-2.034 is repealed. Rule 65A-2.035 is amended to: clarify statements about income; correct a rule citation; provide a statutory reference for exclusions; and, remove language that repeats statutory provisions. Rule 65A-2.036 is amended to: revise statements about provider rates, program financial standards, the personal needs allowance and payment criteria; correct a rule citation; and to change the maximum provider rate(s).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost was not prepared for this rule.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 409.212(7) FS.

LAW IMPLEMENTED: 409.212 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 10:00 a.m., September 10, 2001

PLACE: 1317 Winewood Boulevard, Building 3, Room 100, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE, THE PUBLIC HEARING OR AN ECONOMIC STATEMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-2.022 Rights and Responsibilities of Applicants and Recipients.

(1) Any individual has the right to apply for Optional State Supplementation (OSS) and, if found eligible according to these rules and s. 409.212, F.S., to receive an established monthly payment. The OSS payment is made to assist individuals residing in Assisted Living Facilities (ALFs) and in those Mental Health Residential Treatment Facilities (MHRTFs) that are enrolled as qualified Medicaid Assistive Care Services (ACS) providers with the cost of room and board. The OSS payment made to individuals residing in Adult Family Care Homes, Mental Health Residential Treatment Facilities that do not meet the criteria for enrollment as qualified Medicaid ACS providers, and for the individuals covered under Rules 65A-2.033(3) and (4) is inclusive of room, board and personal care. The individual's use of the personal needs allowance this payment is not restricted. The recipient is responsible for providing all facts necessary to

~~establish initial and continuing eligibility. The recipient is also responsible to promptly notify the Department of any changes in circumstances that may affect their eligibility.~~

(2) An authorized representative as defined in Rule 65A-1.203(10), F.A.C., may be designated to act on behalf of the individual in any matter pertaining to the individual's OSS eligibility. Designation may be made by the individual, or a person knowledgeable of the individual's affairs may be self-designated as the individual's representative. The authorized representative will be identified on the department's form CF-ES 2505, Affidavit for Designated Representative, Jan 98 (incorporated by reference).

(3) The individual is responsible for providing all facts necessary to establish initial and continuing eligibility. The individual is also responsible to notify the department of any changes in circumstances that could affect their eligibility within ten days of the date of the change.

(4) The dDepartment is responsible for providing prompt action, equitable treatment and timely notification of any decision regarding to make a change in an individual's payment or eligibility status.

(5) Copies of the forms incorporated by reference in this rule may be obtained from the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 427, Tallahassee, Florida 32399-0700.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Formerly 10C-2.22, 10C-2.022, Amended _____.

65A-2.023 Application and Determination of Eligibility.

(1) Any individual wishing to receive an Optional State Supplementation (OSS) payment must submit a completed, dated, and signed form CF-ES 2066, Request for Assistance, Apr 01 (incorporated by reference). This form is used as the application for OSS assistance. Once the completed, dated and signed application is received, and date stamped as received by the dDepartment, the application process begins. A decision regarding eligibility or ineligibility must be reached, and a check or letter of rejection of the application must be in the mail within 45 days of the date stamped on the application. In determining an applicant's eligibility status, a Department employee obtains facts of the situation of the applicant as related to each factor of eligibility. Information provided by the application must be substantiated, verified, or documented.

(2) Applications are processed and the eligibility decision is made in accordance with the standards in Rule 65A-1.205, FAC, with the exception that the Request for Assistance (incorporated by reference in this rule) is the application form for the OSS program. The notice of decision is provided by form CF-ES 2235, Aug 01 (incorporated by reference).

(3) Copies of the forms incorporated by reference in this rule may be obtained from the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 427, Tallahassee, Florida 32399-0700.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Formerly 10C-2.23, Amended 2-9-88, Formerly 10C-2.023, Amended _____.

65A-2.024 Determination of Continued Eligibility.

(1) The individual receiving Optional State Supplementation (OSS) must notify maintain continuing communication with the dDepartment of changes in circumstances as indicated in Rule 65A-2.022(3). The dDepartment, in cooperation with the individual, must redetermine the individual's eligibility for continued assistance at least annually.

(2) Individuals who do not cooperate with the dDepartment by providing in the provision of required information or documentation shall have their case terminated cancelled, as continuing eligibility cannot be established.

(3) If an individual leaves the special living arrangement for a period of 30 consecutive days, the individual is no longer eligible for continued OSS benefits and must reapply in order for thier eligibility to be determined.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Amended 10-7-80, Formerly 10C-2.24, 10C-2.024, Amended _____.

65A-2.031 Advance Notice: Written Ten Day Advance Notice.

(1) Written notification must be given or mailed to an individual A person receiving Optional State Supplementation must be given or mailed written notification ten days in advance of action to terminate cancel his/her grant or reduce the payment the amount of assistance.

(2) Exception: Conformity to ten day advance notice is waived in the following situations, but written notification must be given or mailed to the individual or thier authorized representative prior to the effective date of the action:-

(a)(1) When termination cancellation is due to death;

(2) When cancellation is due to transfer within program to another type of coverage;

(b)(3) When an individual or thier authorized representative person requests termination or reduction of assistance cancellation in writing;

(c)(4) When the dDepartment is unable to locate an individual as evidenced by the return of a letter of a recent date, with an indicationg that the letter could not be delivered due to no forwarding address, and no further information for locating the individual is available;

(d)(5) When an Administrative or Fair Hearing has been denied, the benefits that were continued without reduction pending the outcome of the hearing may be reduced with no advance notice of adverse action to the individual; or

(e)(6) When systems transactions fail to effect payment reduce or terminate assistance correctly cancellation and notice has previously been given.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Formerly 10C-2.31, 10C-2.031, Amended _____.

65A-2.032 Optional State Supplementation General Eligibility Criteria.

(1) An eligible individual must be age 65 or older, or age 18 or older and blind or disabled as defined by Title XVI of the Social Security Act. Federal disability criteria are found at 20 CFR 416. Eligibility on the factors of age, residence, citizenship, assets, and income is established by Supplemental Security Income Program staff based on Title XVI of the Social Security Act for those recipients receiving Supplemental Security Income.

(2) An eligible individual must be living in the State of Florida with the intent to remain. To be eligible for Optional State Supplementation an individual must be eligible for and receiving a check from the Supplemental Security Income Program, or any Optional State Supplementation recipient who for the month of June 1981 or thereafter was receiving financial assistance under the Title XVI Supplemental Security Income Program, was also entitled to monthly insurance benefits under the Title II Social Security Program, and except for the increase(s) in monthly insurance benefits under Title II would have been eligible for Title XVI (Supplemental Security Income) benefits for the current month, may be determined to be eligible for Optional State Supplementation provided applicable criteria found in (1) above and those listed under Rule 65A-2.033 are met.

(3) An eligible individual must be a United States citizen or a qualified non-citizen as defined in 8 USC s. 1641(b). All individuals receiving Optional State Supplementation (OSS) must meet the program eligibility criteria as specified under Chapters 10A-4, 10A-5, and 10E-4 for the specific living arrangement.

(4) An eligible individual must have income within standards established by the department. Aged, blind or disabled adults who meet Supplemental Security Income Program eligibility criteria, except for the amount of their income meet all other Optional State Supplementation Program eligibility criteria may be eligible to receive Optional State Supplementation payments if their monthly income is equal to or below the income standard set by the Department.

(5) An eligible individual must have assets within SSA Title XVI standards for SSI.

(6) An individual must apply for and seek a determination of eligibility for all other monetary benefits for which they may be entitled or otherwise potentially eligible.

(7) An eligible individual must be living in a licensed Assisted Living Facility (as defined in s. 400.402, F.S.); a licensed Adult Family Care Home (as defined in s. 400.618, F.S.); or, a licensed Mental Health Residential Treatment Facility (as defined in s. 394.875, F.S.). Additionally, the facility must meet the individual's needs based on objective medical and social evaluations and care plans, in accordance with Chapters 58A-5, 58A-14 or 65E-4, F.A.C., respectively.

(8) When appropriated Optional State Supplementation funding is insufficient to meet fiscal demands, a proportional reduction will be applied to Optional State Supplementation payments, but shall not affect maintenance of effort required per s. 1618 of the Social Security Act.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History—New 1-1-77, Amended 9-29-81, 10-31-83, Formerly 10C-2.32, Amended 9-30-86, Formerly 10C-2.032, Amended _____.

65A-2.033 Optional State Supplementation Coverage Groups Eligibility Factors Other Than Need.

To be determined eligible for Optional State Supplementation (OSS), an individual must qualify under one of the following coverage groups.

(1) The individual must be eligible for and receiving a check from the Supplemental Security Income Program administered by the Social Security Administration. The department accepts receipt of SSI as meeting all factors of Optional State Supplementation eligibility criteria in Rule 65A-2.032, except age and placement need as specified in Rule 65A-2.032(8), which must be verified by department staff. A person meeting general eligibility criteria must be certified as eligible for placement in Room and Board with Personal Care or Foster Care for Adults, or other Special Living Arrangements. Eligibility is based on medical and social evaluations in accordance with approved departmental policies relating to the Community Care Program, as found in Chapter 10A-4, Specialized Adult Services, F.A.C.

(2) For the purpose of meeting OSS placement criteria, mental health residential treatment facilities licensed under Chapter 394.875(2), F.S., will be considered as living in a special living arrangement.

(3)(2) The individual must meet all SSI and OSS eligibility criteria, except for income which must be equal to or less than the Optional State Supplementation income standard established by the department. These individuals must meet eligibility criteria in Rule 65A-2.032. The following placement criteria used when funds are insufficient to meet the placement needs. Applicants requesting placement must be evaluated according to the following criterion with the first criteria being the highest priority.

(a) The applicant must be in imminent danger of abuse, neglect or exploitation and all other placement alternatives and resources have been explored;

(b) The applicant must be at risk of institutionalization within 90 days and all other placement alternatives and resources have been explored;

(c) The applicant is institutionalized and is discharge ready and all other placement alternatives and resources have been explored;

~~(d) All other placement alternatives have been explored and Adult Congregate Living Facility, Mental Health Residential Treatment Facility or Adult Foster Home Placement is the only appropriate placement and the receipt of Optional State Supplementation is a prerequisite for placement.~~

(3) The individual must have been eligible for and receiving Aid to the Aged, Blind or Disabled (AABD) from the state as of December 1973. This federally mandated coverage group did not qualify for the same level of benefits under SSI in 1974. For this coverage group, the special living facility criteria at Rule 65A-2.032(7) does not apply.

(4) The individual must: reside in an ALF or MHRTE; have been eligible for and receiving OSS payments for August 2001; have become ineligible for OSS as of September 2001 solely because thier income exceeds the applicable OSS income standard of \$609.40; and, not be categorically eligible for full Medicaid benefits as of September 2001. As long as the individual continues to meet all OSS eligiblity criteria and the income standard test in Rule 65A-2.036(3)(b), they will remain eligible for payment under the provider rates in Rule 65A-2.036(4)(b). Once an OSS recipient no longer meets all OSS eligibility criteria or the income standard in Rule 65A-2.036(3)(b), they will no longer be eligible under this coverage group.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Formerly 10C-2.33, Amended 9-30-86, 2-9-88, Formerly 10C-2.033, Amended.

65A-2.034 Definitions of Special Living Arrangements.

Specific Authority 409.212(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Formerly 10C-2.34, Amended 9-30-86, 2-9-88, Formerly 10C-2.034, Repealed.

65A-2.035 Income Calculation Eligibility Factors of Need.

(1) To be determined A person eligible for Optional State Supplementation, an individual must not have gross monthly income, after with the following exclusions, in excess of dDepartmental sStandards, as found in Rule 65A-2.036(3)(d), F.A.C.:-

(a) Gross income, less an the earned income exclusion of \$65 plus one-half of the remaining earned income, is computed on a monthly basis and considered in determining the amount of an individual's Optional State Supplementation Payment.:-

(b) Other federal exclusions to the individual's income An earned income exclusion of \$65 plus one-half of the remaining earned income is applied in cases where the individual has earned income; and,:-

(b) A person may receive additional supplementation from third parties to contribute to his cost of care. The payments shall be made to the adult congregate living facility, or to the operator of an adult foster home, family placement, or other special living arrangement, on behalf of the person and not directly to the Optional State Supplementation recipient. The additional supplementation shall not exceed two times the

provider rate recognized under the Optional State Supplementation program. Contributions meeting these qualifications will be excluded as income.

~~(c) Additional exclusions provided by Chapter 409.212(5), F.S. Rent vouchers issued pursuant to a federal, state, or local housing program may be issued directly to a recipient of Optional State Supplementation. Rent vouchers will be excluded as income.~~

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History--New 1-1-77, Amended 9-29-82, Formerly 10C-2.35, Amended 1-27-91, Formerly 10C-2.035, Amended.

65A-2.036 ~~Amount of~~ Optional State Supplementation Payments Base Provider Rates and Program Standards.

(1) Within the funds appropriated by the Legislature, the department will establish base provider rates for specialized living arrangements (the amount the individual is to pay the facility). Base provider rates may vary depending upon type of specialized living facility and covered services in such facilities. The Departmental Standards for the cost of care in the Special Living Arrangement, plus a personal need allowance, less the individual's gross income, minus the earned income exclusion, equals the amount of the Optional State Supplementation Payment rounded down to the nearest whole dollar. Payment for the month of admission shall be prorated if the month of admission is the month of application or later. For months other that the month of admission, payment begins the first day of the month. The payment is issued monthly through a computerized delivery system. Reference 65A-2.036(3) below. The cost of care standard established for OSS applicants and recipients residing in Adult Congregate Living Facilities will be utilized for OSS applicants and recipients residing in Mental Health Residential Treatment Facilities.

(2) Within the funds appropriated by the Legislature, OSS eligible individuals receive a standard personal needs allowance (PNA), the amount the individual keeps for personal needs. The PNA is established by Legislative proviso language. The individual's PNA does not vary due to type of specialized living facility and covered services in such facilities. The Optional State Supplementation payment is, in fact, a supplement to all other sources of income, excepting the exclusions found in 65A-2.035, to meet the recognized cost of care in special living arrangements. The department shall not increase an Optional State Supplementation payment to offset the reduction in Supplemental Security Income benefits that will occur because of third party contributions.

(3) Optional State Supplementation (OSS) Program Financial Standards.

(a) The monthly income eligibility standard for residents of Assisted Living Facilities (ALFs) and, except as specified in paragraph (b) of this rule, Mental Health Residential Treatment Facilities (MHRTEs) is \$609.40 Personal Need Standard—\$43.

(b) The monthly income eligibility standard for residents of Adult Family Care Homes, for residents of MHRTFs that do not meet the criteria for enrollment as qualified Medicaid ACS providers, and for individuals with coverage under Rules 65A-2.033(3) and (4) is \$716 Maximum Provider Rate (cost of care) — a standard of \$622 per month.

(c) The personal needs allowance (PNA) is \$54 Monthly Income Standard — \$622.

(4) Optional State Supplementation (OSS) Base Provider Rates.

(a) For Assisted Living Facilities (ALFs) and, except as specified in paragraph (b) of this rule. Mental Health Residential Treatment Facilities (MHRTFs), the base provider rate is \$555.40 and is inclusive of room and board only.

(b) For Adult Family Care Homes, Mental Health Residential Treatment Facilities that do not meet the criteria for enrollment as qualified Medicaid ACS providers, and for the individuals covered under Rules 65A-2.033(3) and (4), the base provider rate is \$716 and is inclusive of room, board and personal care.

(5) To calculate the amount of the Optional State Supplementation payment, the base provider rate is added to the standard personal needs allowance to determine the individual's total needs. From this sum, the individual's gross income, minus the allowable exclusions at Rule 65A-2.035, is subtracted, resulting in the amount of the Optional State Supplementation payment.

(6) Payment for the month of admission to the special living arrangement shall be prorated if the month of admission is the month of application or later. For months other than the month of admission, payment begins the first day of the month.

(7) The monthly income eligibility standards of Rule 65A-2.036(3)(a) and (b) and the base provider rates established at Rule 65A-2.036(4) shall be increased by the annual cost-of-living adjustment to the federal benefit rate, provided the average state optional supplementation contribution does not increase as a result.

(8) The payment is issued monthly through an automated delivery system.

Specific Authority 409.212(7)(5) FS. Law Implemented 409.212 FS. History—New 1-1-77, Amended 9-27-79, 10-7-80, 9-29-81, 9-29-82, 10-31-83, 11-28-83, 9-30-84, 10-1-85, Formerly 10C-2.36, Amended 1-1-87, 2-9-88, 11-6-88, 2-16-89, 3-1-90, 1-27-91, 2-19-95, Formerly 10C-2.036, Amended 1-27-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rodney McInnis, Operations Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy Bureau

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE TITLE:

RULE NO.:

Training

65C-22.003

PURPOSE AND EFFECT: The minimum standards in this document will add the training certificate form number which is required to document completion of the Observation of Developmental Behaviors Module, will amend the number of introductory child care training modules that may be exempted by successfully completing module exemption tests, and will amend the minimum passing score required to successfully complete the exemption tests.

SUMMARY: Current Rule 65C-22.003(2), F.A.C., requires that the Part I (Modules I-IV) training must be documented on CF-FSP Form 5154, Oct. 96. The proposed change will add Form CF-FSP Form 5243, Sept. 2000 for Part I (Module V). Current Rule 65C-22.003(3), F.A.C., allows child care personnel to exempt any of the four (4) introductory child care training modules by successfully completing a module exemption test with an eight (80) percent or better score. The proposed change will allow exemption testing for any of the five (5) introductory child care training modules and change the score for successful completion to 70 percent.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 402.305(2),(3) FS.

LAW IMPLEMENTED: 402.305(2),(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., September 10, 2001

PLACE: 1317 Winewood Blvd., Building 6, Conference Room 355, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Pace-Brown, Licensing Specialist, 1317 Winewood Blvd. Building 6, Room 387, Tallahassee, FL 32399, (850)488-4900

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-22.003 Training.

(1) No change.

(2) Training Requirements.

(a) through (b) No change.

(c) Documentation. Training certificates are issued by training coordinating agencies upon the completion of training.

1. Part I, Modules I through IV, must be documented on CF-FSP Form 5154, Oct. 96, Part I, Module V, must be documented on CF-FSP 5243, Sept. 2000, the Department's Introductory Child Care Training Course Certificate (Part I), and Part II must be documented on CF-FSP Form 5166, Oct. 96, the Department's Specialized Training Module Certificates (Part II), which are incorporated by reference.

2. No change.

(3) Exemptions from Part I of the Introductory Child Care Course.

(a) Child care personnel can be exempt from any of the five (5) four (4) introductory child care training modules by successfully completing module exemption tests with an seventy (70) eighty (80) percent or better score. Exemption tests will be offered by the training coordinating agency, or its designee.

(b) No change.

Specific Authority 402.305 FS. Law Implemented 402.305 FS. History--New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cynthia A Brown, Licensing Specialist, 1317 Winewood Blvd.
Building 6, Room 389-A, Tallahassee, FL 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Deborah Russo, 1317 Winewood
Blvd., Building 6, Room 389-A, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 20, 2001

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.: RULE TITLE:
4A-49.004 Attendant on Duty

AMENDED NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 29, July 20, 2001, of the Florida Administrative Weekly.

4A-49.004 Attendant on Duty.

(1) All self-service gasoline service stations shall have at least one attendant on duty and present on the premises of the station while the station is operating as a retail outlet where motor fuel is offered for sale, at retail, to the motoring public open to the public or at any time fuel is offered for sale to the public. The duties of the attendant are specified by subsection

(3) of Section 526.141, Florida Statutes, and JFPA 30A, Section 9-4, the edition as adopted in Section 4A-3.012, Florida Administrative Code.

Specific Authority 633.01, 633.022(1)(b), 526.141(7) FS. Law Implemented 633.01, 526.141(7) FS. History--New _____.

The remainder of the rule reads as previously published.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER NO.: RULE CHAPTER TITLE:

4A-62

Firefighter Employment Standards

RULE NO.:

RULE TITLE:

4A-62.003

Firefighter Employment Standards;
Adoption of 29 C.F.R.
1910.134(g)(3) and
1910.134(g)(4), Including Notes
One and Two

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 47, November 22, 2000, edition of the Florida Administrative Weekly.

4A-62.003 Firefighter Employment Standards; Adoption of 29 C.F.R. 1910.134(g)(3) and 1910.134(g)(4), Including Notes One and Two.

(1) through (2) No change.

(3) With respect to 29 C.F.R. Section 1910.134(g)(4), the two individuals located outside the immediately dangerous to life and health atmosphere may be assigned to an additional role, such as incident commander, pumper operator, engineer, or driver, so long as such individual is able to immediately perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at an incident. Also with respect to 29 C.F.R. Section 1910.134(g)(4):

(a) Each county, municipality, and special district shall implement such provision by April 1, 2002, except as provided in Paragraphs (b) and (c).

(b) If any county, municipality, or special district is unable to implement such provision by April 1, 2002, without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall have an additional six months within which to implement such provision. Such county, municipality, or special district shall notify the Division that the six month extension to implement such provision is in effect in such county, municipality, or special district within 30 days of its decision to extend the time for the additional six months. The decision to extend the time for implementation shall be made prior to April 1, 2002.

(c) If the extension granted in Paragraph (b) expires, and the county, municipality, or special district, after having worked with and cooperated fully with the Division and the