

- 68. 6236 Oil or Gas Well: Installation or Recovery of Casing and Drivers
- 69. 6237 Oil or Gas Well: Instrument Logging or Survey Work and Drivers
- 70. 6251 Tunneling – Not Pneumatic – All Operations
- 71. 6252 Shaft Sinking – All Operations
- 72. 6260 Tunneling – Pneumatic – All Operations
- 73. 6306 Sewer Construction – All Operations and Drivers
- 74. 6319 Gas Main or Connection Construction and Drivers
- 75. 6325 Conduit Construction – For Cable or Wires – and Drivers
- 76. 6400 Fence Erection – Metal
- 77. 7538 Electric Light or Power Line Construction and Drivers
- 78. 7601 Telephone, Telegraph or Fire Alarm Construction and Drivers
- 79. 7605 Burglar Alarm Installation or Repair and Drivers
- 80. 7611 Telephone or Cable TV Line Installation – Contractors, Underground and Drivers
- 81. 7612 Telephone or Cable TV Line Installation – Contractors, Overhead, and Drivers
- 82. 7613 Telephone or Cable TV Line Installation – Contractors, Service Lines and Connections and Drivers
- 83. 7855 Railroad Construction: Laying or Relaying of Tracks or Maintenance of Way By Contractor – No Work On Elevated Railroads – and Drivers
- 84. 8227 Construction or Erection – Permanent Yard
- 85. 9534 Mobile Crane and Hoisting Service Contractors – NOC – All Operations – Including Yard Employees and Drivers.
- 86. 9554 Sign Installation, Maintenance, Repair, Removal, or Replacement NOC & Drivers

NAME OF PERSON ORIGINATING PROPOSED RULE: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Daniel Sumner, Assistant Division Director, Division of Workers' Compensation, Department of Financial Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE NO.: 3E-600.0132 RULE TITLE: Sales of Certificates of Deposit
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 40, October 4, 2002, has been withdrawn.

DEPARTMENT OF INSURANCE

RULE NO.: 4-154.202 RULE TITLE: Definitions
 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. 29, No. 37, September 12, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing.

Amended Subsection (19) is added to Rule 4-154.202, F.A.C., to read:

(19) Unearned Premium Reserve.

(a) This reserve values that portion of the premium paid or due to the insurer which is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of \$120 was paid on November 1, \$20 would be earned as of December 31 and the remaining \$100 would be unearned. The unearned premium reserve shall be on a gross basis as in this example, or on a valuation net premium basis. The reserve for a policy which provides for the return of unearned premium in the event of termination shall be on a gross basis.

(b) Single premium credit disability insurance, both individual and group, is excluded from this definition of unearned premium reserve.

The remainder of the rule reads as previously published.

(2) The Division adopts the definitions published by NCCI, SCOPES of Basic Manual Classifications (Jan. 2003) that correspond to the classification codes and descriptions adopted in subsection (1), above. The definitions identify the workplace operations that satisfy the criteria of the term "construction industry" as used in the workers' compensation law. The Florida exception pages of the National Council on Compensation Insurance, Inc.'s Basic Manual are herein incorporated by reference.

(3) This Rule shall take effect January 1, 2004. However, the provisions of subsection (1) limiting the use of workers' compensation exemptions at commercial building projects valued at \$250,000 or greater were repealed by virtue of the enactment of Section 1 of Ch. 2003-412, Laws of Florida, effective July 15, 2003.

Specific Authority 440.591, 440.02(8) FS. Law Implemented Ch. 2003-412, § 1, Laws of Florida (repealing parts of § 440.02(15), FS) 440.02(8) 440.02(14)(b)2., 440.02(14)(c)2., 440.02(14)(d)1., 440.05 FS. History--New 10-21-02, Formerly 4L-6.021, Amended _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Health Quality Assurance

RULE NO.: 59A-12.0073 RULE TITLE: HMO and PHC Penalty Categories
 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. 29, No. 28, July 11, 2003, issue of the Florida Administrative Weekly. The changes are in response to comments received from staff at the Joint Administrative Procedures Committee.

The changes are as follows:

1) Rule 59A-12.0073(4)(a), is deleted:

~~(a) Rule Not All-Inclusive. This rule contains illustrative violations. This rule does not, and is not intended to, encompass all possible violations of statute or Agency rule that might be committed by a HMO or PHC. The absence of any violation from this rule shall in no way be construed to indicate that the HMO or PHC is not subject to penalty. In any instance wherein the violation is not listed in this rule, the penalty shall be determined by consideration of:~~

~~1. The aggravating and mitigating factors specified in this rule; and~~

~~2. Any similar or analogous violation that is listed in this rule, if applicable.~~

2) In paragraph 59A-12.0073(6)(a), F.A.C., the second sentence is amended to read:

"Such corrective activities must be implemented to assure that the violation does not recur and shall include ~~but not be limited to~~ the following:"

3) In subsection 59A-12.0073(7), F.A.C., the fourth sentence is amended to read:

"The Agency will use the factors in subsections (5) and (6) above, and any similar or analogous violation listed in this rule; ~~if applicable~~, to determine, within the penalty ranges specified below, the fine for each violation within a category."

4) In subparagraph 59A-12.0073(7)(b)5., F.A.C., has been amended to read:

"Failure by the HMO or PHC to pay a claim pursuant to Section 641.513, F.S. Assignment by the HMO or PHC of claim processing ~~and/or payment~~ to a third party administrator or other entity does not relieve the managed care plan of its responsibilities to pay claims. Assignment by the HMO or

PHC of payment to a third party administrator or other entity does not relieve the managed care plan of its responsibilities to pay claims.

5) In subparagraph 59A-12.0073(7)(c)5., F.A.C., the last sentence has been amended to read:

Willful violations will be penalized at the rate of \$500 a day unless the HMO or PHC can show mitigating factors as defined under paragraph 59A-12.0073(3)(f) and listed in subsection 59A-12.0073(6), F.A.C. Starting with day 31, the failure to pay will be classified as a willful violation.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Hazel Greenberg, Medical Health Care Program Analyst, Agency for Health Care Administration, Bureau of Managed Health Care, Data Analysis Unit, 2727 Mahan Drive, Mail Stop Code 26, Tallahassee, FL 32308, (850)414-9444

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-12.0073 HMO and PHC Penalty Categories.

(1) through (3) No changes.

(4) General Provisions:

~~(a) Rule Not All-Inclusive. This rule contains illustrative violations. This rule does not, and is not intended to, encompass all possible violations of statute or Agency rule that might be committed by a HMO or PHC. The absence of any violation from this rule shall in no way be construed to indicate that the HMO or PHC is not subject to penalty. In any instance wherein the violation is not listed in this rule, the penalty shall be determined by consideration of:~~

~~1. The aggravating and mitigating factors specified in this rule; and~~

~~2. Any similar or analogous violation that is listed in this rule, if applicable.~~

~~(a)(b) Rule and Statutory Violations Included. This rule applies whether the violation is of an applicable statute or Agency rule, or an order implementing such a statute or rule.~~

~~(b)(c) Relationship to Other Rules. The provisions of this rule shall be subordinated in the event that any other rule more specifically addresses a particular violation or violations.~~

~~(c)(d) Other Licensees. The imposition of a penalty upon any HMO or PHC in accordance with this rule shall in no way be interpreted as barring the imposition of a penalty upon any agent, or other licensee in connection with the same conduct.~~

(5) No change.

(6) Mitigating Factors. Examples of mitigating factors are as follows:

(a) Whether corrective activities were actually and substantially initiated (not just planned) and implemented by the HMO or PHC before the violation was noted by or brought to the attention of the Agency and before the HMO or PHC was made aware that the Agency was investigating the alleged violation. Such corrective activities must be implemented to

assure that the violation does not recur and shall include but not be limited to the following: personnel changes, reorganization or discipline, and making any injured party whole as to harm suffered in relation to the violation.

(b) through (d) No change.

(7) Penalty Categories and Fines Assessed. Violations are divided into three categories.

Category I violations are the most serious and Category III violations are the least serious. Category I violations are violations that will cause harm; Category II violations are violations that have the potential to cause harm; and, Category III violations are violations that would cause no harm. The Agency will use the factors in subsections (5) and (6) above, and any similar or analogous violation listed in this rule, ~~if applicable~~, to determine, within the penalty ranges specified below, the fine for each violation within a category. The penalty amount does not include any examination or investigative costs that may be assessed in addition to the fine.

(a) No change.

(b) CATEGORY II. If the violation is knowing and willful, the fine assessed shall not exceed \$10,000 per violation. If the violation is nonwillful, the fine assessed shall not exceed \$1,000 per violation.

1. through 4. No change.

5. Failure by the HMO or PHC to pay a claim pursuant to Section 641.513, F.S. Assignment by the HMO or PHC of claim processing ~~and/or payment~~ to a third party administrator or other entity does not relieve the managed care plan of its responsibilities to pay claims. Assignment by the HMO or PHC of payment to a third party administrator or other entity does not relieve the managed care plan of its responsibilities to pay claims.

(c) CATEGORY III. If the violation is knowing and willful, the fine assessed shall not exceed \$2,500 per violation. If the violation is nonwillful, the fine assessed shall not exceed \$500 per violation.

1. through 4. No change.

5. Failure by the HMO or PHC to timely pay the regulatory assessment as required by Section 641.58, F.S., by April 1. The penalty period will begin on the first day following the due date and continue until such time as the assessment is received by the Agency. During such penalty period the HMO or PHC shall be penalized at a rate of \$200 per day for each calendar day during the penalty period. The failure to timely pay will be classified as non-willful for the first 30 days that payment has not been received. Willful violations will be penalized at the rate of \$500 a day unless the HMO or PHC can show mitigating factors as defined under paragraph 59A-12.0073(3)(f) and listed in subsection 59A-12.0073(6), F.A.C. Starting with day 31, the failure to pay will be classified as a willful violation.

Specific Authority 641.56 FS. Law Implemented 641.52(5) FS. History—New

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-8.200

RULE TITLE:
Home and Community-Based
Waiver Services

NOTICE OF CHANGE

Notice is hereby given that substantial changes have been made to the proposed Rule 59G-8.200, F.A.C. In accordance with subparagraph 120.54(3)(d)1., F.S., publication of this change in the proposed rule is requested for the next volume of the Florida Administrative Weekly.

These changes are pursuant to comments and recommendations presented at the public hearing held August 19, 2003.

Following is the summary of changes made:

Handbook, page 1-4

Added label and definition for “Meaningful Day Activity”.

Handbook, page 1-9

Service Authorization Form – 6th sentence restated as follows:

Authorizing a service at a rate or frequency that is higher than that approved by the Department may result in the waiver support coordinator being subject to recoupment of funds for support coordination services and recoupment of service dollars billed without proper authorization.

DS Waiver Provider Background Screening Requirements – The cost of background screenings is \$39.00.

Handbook, page 1-27

Provider Qualifications – The paragraph beginning, “There is a direct service staff monitoring...”, is now followed by: Monitoring for competence must occur at least monthly for 50% of the direct service staff that have completed the training. Staff must be re-certified in the training requirements yearly.

The 6th bulleted item now includes the following sentence: “The Program or Clinical Services Director must be in place at the time of designation of the organization as an intensive behavioral residential habilitation program.”

Handbook, page 1-35

Continuing Training Requirements – 3rd paragraph now includes the following: Re-certification shall occur every two years. Certification includes the capability to access and finalize the assessment on the department’s intranet site.

Handbook, page 1-39

Provider Qualifications – 2nd paragraph now states the following: If a group home, residential facility, or adult day training agency wishes to transport its own recipients, the agency must discuss its transportation plans with the Community Transportation Coordinator before initiating transport services.

6th paragraph and throughout the handbook, the following statement has been removed:

“.....and is responsible for notifying the District Office of all traffic violations with the exception of parking tickets, immediately.”

7th paragraph now includes the following: Limited transportation providers are reimbursed at the state mileage rate.

Handbook, Chapter 3

All text references to Appendix F have been re-included in the handbook.

Handbook, page 3-2

Billing Procedures – Following the 4 bullets, 2 sentences were added: “When billing for services by the quarter hour the provider should total at the end of each billing period actual time spent with the recipient and round the total to the nearest quarter hour as described above. Rounding should occur only once at the time of billing.”

Handbook, pages 3-3 & 4

Consolidated Billing – 2nd and 4th paragraphs: The previously promulgated information concerning billing transportation by the trip and month has been added back to the text.

Handbook, page 3-5

Limitations – Added this section: “Providers may not bill for service when a recipient is not in attendance. A provider shall not render a claim or bill for more than one service to the same recipient at the same time and date unless authorized to do so. Services authorized to bill concurrently with another service include behavior analysis, private duty nursing, skilled nursing and residential nursing.”

Handbook Appendix A, page A-1

Adult Day Training maximum limits reduced from 260 days per year to 240 days per year, with billing in quarter hour increments. Homemaker and Companion Services maximum limits increased from 16 units per day to 40 units per day. Personal Care Assistance maximum limits increased from 64 units per day to 96 units per day.

Handbook Appendix A, page A-2

Supported Employment (Phase 2) deleted, with Supported Employment (Phase 1) re-titled as Supported Employment. Supported Living Coaching maximum limits increased from 24 units per day to 40 units per day.

Handbook Appendix C, page C-1

Agency or Group Provider definition: deleted the word entity on the first line.

Handbook Appendix C, page C-2

Redefined the current Department Approved Assessment.

Handbook Appendix C, page C-6

A. Compliance with State Law & Regulations – This information is deleted: “3. The provider will comply with all federal, state and local laws and ordinances pertaining to the operation and requirements of the provider’s business.”

Handbook Appendix C, page C-8

2.1 Required Training – #3 is expanded to include domestic violence and sexual assault.

7 has been added to address the Department’s Direct Care Core Competencies Training.

Handbook Appendix F – Appendix F is reinstated in its promulgated version.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE CHAPTER NO.: 59G-8 RULE CHAPTER TITLE: Managed Care

NOTICE OF ADDITIONAL RULE HEARING

Notice is hereby given that based on comments received during the initial rule hearing, the agency has scheduled an additional hearing on Proposed Rules 59G-8.201-.211, published in Vol. 29, No. 30, July 25, 2003 Florida Administrative Weekly:

TIME AND DATE: 10:00 a.m. until 12:00 noon, Tuesday, December 23, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Tallahassee, Florida

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-3.002 RULE TITLE: Application, Certification, Registration, and Licensure Fees

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 30, of the July 25, 2003, issue of the Florida Administrative Weekly. The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee (JAPC). The Rules Committee, at its meeting on October 2, 2003, voted to change the rule to address the concerns outlined by JAPC. The Board, at its meeting on October 4, 2003, accepted the change recommended by the Rules Committee. The introductory sentence of subsection (1) shall be changed to read as follows:

“An application fee in the amount of \$300.00 for a person desiring to obtain the following:”

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 506, STACKS OF CASH

RULE NO.: 53ER03-50

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 506, "STACKS OF CASH," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER03-50 Instant Game Number 506, STACKS OF CASH.

(1) Name of Game. Instant Game Number 506, "STACKS OF CASH."

(2) Price. STACKS OF CASH lottery tickets sell for \$5.00 per ticket.

(3) STACKS OF CASH lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning STACKS OF CASH lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set

forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any STACKS OF CASH lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5
ONE	TWO	THREE	FOUR	FIVE

6	7	8	9	10
SIX	SEVEN	EIGHT	NINE	TEN

11	12	13	14	15
ELEVN	TWELV	THRTN	FORTN	FIFTN

16	17	18	19	20
SIXTN	SVNTN	EGHTN	NINTN	TWENTY

21	22	23	24	25
TWYONE	TWYTWO	TWYTHR	TWYFOR	TWYFIV

26	27	28	29
THYSIX	THYSVN	THYEGT	THYNN



COIN

(5) The "WINNING NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5
ONE	TWO	THREE	FOUR	FIVE

6	7	8	9	10
SIX	SEVEN	EIGHT	NINE	TEN

11	12	13	14	15
ELEVN	TWELV	THRTN	FORTN	FIFTN

16	17	18	19	20
SIXTN	SVNTN	EGHTN	NINTN	TWENTY

21	22	23	24	25
TWYONE	TWYTWO	TWYTHR	TWYFOR	TWYFIV

26	27	28	29
THYSIX	THYSVN	THYEGT	THYNN