

(10) "Travel" shall not include "residency" or relocation for employment. An individual who is absent from the United States for more than one hundred eighty [180] consecutive days and has established a residence in a foreign country during that period is considered to be residing in that country. Residency in a foreign country is not considered "foreign travel" for purposes of this Rule.

Specific Authority 626.9611 FS. Law Implemented 626.951, 626.9521, 626.9541(1)(g) FS. History--New 7-6-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Claude Mueller
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Claude Mueller
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 15, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006

Section III Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.302 RULE TITLE: Copying Services for Inmates
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. 33, No. 17, April 27, 2007 issue of the Florida Administrative Weekly.

33-501.302 Copying Services for Inmates.

- (1) through (5) No change.
- (6) Copying services in civil proceedings.
 - (a) through (b) No change.
 - (c) Inmates who are without funds shall not be denied copying services for documents and accompanying evidentiary materials needed to initiate a civil proceeding or which must be filed or served in a pending civil proceeding, or are required to be filed or served per order of a judicial or administrative forum. However, the cost of providing copies for documents to be filed or served is a debt owed by the inmate that shall be collected as follows: Upon receipt of a completed DC5-154,

the Inmate Trust Fund Section shall place a hold on the inmate's account for the cost of providing the copies. The cost of providing the copies shall be collected from any existing balance in the inmate's ~~bank~~ trust fund account. If the account balance is insufficient to cover the cost, the account shall be reduced to zero. If costs remain unpaid, a hold will be placed on the inmate's account and all subsequent deposits to the inmate's account will be applied against the unpaid costs until the debt has been paid.

(7) through (8) No change.

Specific Authority 944.09, 945.6038 FS. Law Implemented 944.09, 945.6038 FS. History--New 10-6-83, Formerly 33-3.051, Amended 6-13-88, 8-20-89, 2-12-91, 4-10-94, 4-21-96, 6-29-98, Formerly 33-3.0051, 33-602.405, Amended 4-29-04, _____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-7.669	Definitions
40E-7.670	Competitive Solicitation Preferences
40E-7.674	Certification Review Procedures

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 21, May 25, 2007 issue of the Florida Administrative Weekly.

The following hearing information was inadvertently omitted from this issue.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 11, 2007 or July 12, 2007, 8:30 a.m.
PLACE: South Florida Water Management District, Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Clerk of the South Florida Water Management District, (800)432-2045, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frank Hayden, South Florida Water Management District, Post Office Box 24680, Mail Stop Code 6611, West Palm Beach, FL 33416-4680, telephone (800)432-2045, extension 6043 or (561)682-6043 (internet: fhayden@sfwmd.gov). 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 the testimony and evidence upon which any appeal is to be based.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
 59G-4.197 Medical Foster Care
 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. 33, No. 14, April 6, 2007 issue of the Florida Administrative Weekly.

These changes are in response to comments received from the Joint Administrative Procedures Committee.

We will continue to cite Sections 409.902 and 409.903, F.S., as laws implemented.

The rule incorporates by reference the Florida Medicaid Medical Foster Care Services Coverage and Limitations Handbook, February 2007. The following changes were made to the handbook:

Page 2-2, Definition of Medically Complex: We removed the “a” before the word “chronic” and pluralized the words “disease” and “condition.”

Page 2-2, Definition of Medically Necessary: We rewrote the first two sentences to read, “Medicaid reimburses for services that do not duplicate another provider’s service and are determined to be medically necessary. Per Rule 59G-1.010, F.A.C., to be medically necessary, services must meet the following conditions:”

Page 2-14, Medicaid Transportation: We deleted the note referencing the Florida Medicaid Non-Emergency Medical Transportation (NEMT) Services Coverage and Limitations Handbook, because the handbook does not yet exist.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
 59G-6.010 Payment Methodology for Nursing
 Home Services
 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. 33, No. 13, March 30, 2007 issue of the Florida Administrative Weekly.

The Title XIX Long-Term Care Reimbursement Plan, Version XXXI, has been amended as follows:

1. In compliance with the Division of Administrative Hearings Case No. 06-3489RX, the low occupancy adjustment as defined in Section V.B. 7 of the Florida Title XIX Long-Term Care Reimbursement Plan has been removed.

2. Section III. D. – the phrase “the most current version” has been added to the reference of the Nursing Facilities Limitations Handbook.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NOS.: RULE TITLES:
 60L-35.001 Scope and Purpose
 60L-35.002 Definitions
 60L-35.003 Minimum Requirements
 60L-35.004 Career Service
 60L-35.005 Selected Exempt Service
 60L-35.006 Senior Management Service

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 23, June 8, 2007 issue of the Florida Administrative Weekly.

The following information was inadvertently omitted from the Notice of Proposed Rule Development:

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 22, 2007, 10:30 a.m. – 12:00 Noon
PLACE: Department of Management Services, 4050 Esplanade Way, Room 101, Tallahassee, Florida 32399-0950

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: RULE TITLE:
 64B15-19.009 Submission of Malpractice Record
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 42, October 20, 2006 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: RULE TITLE:
 64B15-19.009 Submission of Malpractice Record
 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. 33, No. 14, April 6, 2007 issue of the Florida Administrative Weekly.

The changes were approved by the Board on May 18, 2007 following a public hearing on the rule. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) All physicians licensed pursuant to Chapter 459, F.S., shall provide the Board of Osteopathic Medicine a copy of the record of any finding of medical malpractice resulting from a civil or administrative proceeding involving an incident that occurred on or after November 2, 2004 within 180 days of entry of the final judgment or order, or within 180 days of the effective date of this rule, whichever is later. The record shall be sent to the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399.

2. Subsection (2) shall now read as follows:

(2) The record shall include the official transcript of the civil or administrative proceeding resulting in a finding of medical malpractice, excluding any jury selection transcript, all evidence admitted or copies of evidence if original is not available, those matters officially recognized by the civil or administrative tribunal, and the final order or judgment reported or issued by the tribunal.

2. Reference to Section 459.005, F.S. as Specific Authority cited is deleted.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.712
 RULE TITLE: SSI-Related Medicaid Resource Eligibility Criteria

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. 33, No. 18, May 4, 2007 issue of the Florida Administrative Weekly.

IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: July 2, 2007, 2:00 p.m.
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Whitford, Economic Self-Sufficiency Services, Phone (850)410-3479

The Purpose and Effect has been revised to reflect the changes to the proposed rule.

PURPOSE AND EFFECT: Amendments to the proposed rule revise Medicaid policies in accordance with federal law, the Deficit Reduction Act (DRA) of 2005. The DRA provides for reform in the treatment of assets in the institutional Medicaid

eligibility determination. It also adds policies for hearing officers on when and how they can adjust a community spouse resource allowance or a community spouse income allowance under spousal impoverishment provisions in subsection (4) of the rule. In addition to DRA changes, the amendment rescinds the more liberalized policy that excluded all life estate interests in property to realign the state’s policy with federal policy that allows the exclusion of a life estate interest in an individual’s home, while counting all life estate interests in non-home property as countable resources.

TEXT OF THE PROPOSED RULE CHANGES:

(3) Transfer of Resources and Income. According to 42 U.S.C. § 1396p(c), if an individual, the spouse, or their legal representative, disposes of resources or income for less than fair market value on or after the look back date, the department must presume that the disposal of resources or income was to become Medicaid eligible and impose a period of ineligibility for nursing facility care services, institutional hospice or HCBS waiver services. The department will mail a notice to individuals who report a transfer for less than fair market value (Form CF-ES 2264, Feb 2007, Notice of Determination of Assets (Or Income) Transfer, incorporated herein by reference), advising of the opportunity to rebut the presumption and of the opportunity to request and support a claim of undue hardship per subparagraph (c)5. below. If the department determines the individual is eligible for Medicaid on all other factors of eligibility except the transfer, the individual will be approved for general Medicaid services (not long-term care services) and advised of their penalty period (Form 2358, Feb 2007, Medicaid Transfer Disposition Notice, incorporated herein by reference.) The look back period is 36 months prior to the date of application, except in the case of a trust treated as a transfer in which case the look back period is 60 months prior to the date of application.

- (a) No change.
- (b) No change.
- 1. through 2. No change.

3. Individual Retirement Accounts (IRAs) or annuities (as described in Section 408 of the Internal Revenue Code) established by an employee or employer are not considered under the transfer of assets provision and are not required to ~~but must still~~ name the state as the primary remainder beneficiary in accordance with subparagraph (b)1. above.

- (c) through (f) No change.

(g) For transfers prior to (effective date), periods of ineligibility are calculated beginning with the month in which the transfer occurred and shall be equal to the actual computed period of ineligibility, rounded down to the nearest whole number. For transfers made on or after (effective date), periods of ineligibility begin with the later of the following dates: (1) the day the individual is eligible for medical assistance under

the state plan and would otherwise be receiving institutional level care based on an approved application for such care but for the application of the penalty period meets all other factors of eligibility (including appropriate placement in a Medicaid nursing facility, enrollment in a Medicaid waiver or election of Hospice care) except for the transfer of assets without fair compensation after applying for institutional care services; or (2) the first day of the month in which the individual transfers the asset; or (3) the first day following the end of an existing penalty period. The department shall not round down, or otherwise disregard, any fractional period of ineligibility of the penalty period but will calculate the period down to the day. There is no limit on the period of ineligibility. Once the penalty period is imposed, it will continue although the individual may no longer meet all factors of eligibility and may no longer qualify for Medicaid long-term care benefits.

- (4) No change.
- (5) Other Resource Policies.
 - (a) No change.

(b) An individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource, ~~as set forth in 1917(g) of the Social Security Act, which is incorporated herein by reference available to the individual to the extent that after (effective date), regardless of whether a refund is actually received, if the individual has the ability to use the entrance fee or the contract indicates the entrance fee may be used for care when the individual's income and assets are insufficient to pay for their care; the individual is eligible for a refund of any remaining entrance fee upon death or termination of the contract; and the entrance fee does not confer an ownership interest in the retirement community.~~

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History--New 10-8-97, Amended 1-27-99, 4-1-03, 9-28-04, 8-10-06(1), 8-10-06(2), 8-10-06(3),_____.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-157.301	Rate Increase Standards
69O-157.302	Facility Only Rates
69O-157.303	Home Health Care Only Rates
69O-157.304	Comprehensive Only Rates

NOTICE OF CORRECTION

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. 33, No. 23, June 8, 2007 issue of the Florida Administrative Weekly. The notice published incorrectly identifies the date scheduled for the hearing, if requested, as June 27, 2007. The correct date is July 11, 2007.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-167.015	Uniform Home Grading Scale to Grade the Ability of a Home to Withstand Wind Loads from Tropical Storms or Hurricanes

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 21, May 25, 2007 issue of the Florida Administrative Weekly. The notice published incorrectly identifies the date scheduled for the hearing, if requested, as June 14, 2007. The correct date is June 27, 2007.

**Section IV
Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on June 4, 2007, South Florida Water Management District (District) received a petition for waiver from Fred and Pat Morris, Application No. 07-0327-1M for utilization of Works or Lands of the District known as the L-47 Levee Canal, Okeechobee County for a proposed water treatment facility within the east right of way of L-47, located adjacent to 8103 Southeast 99th Trail (Lot 5 &