

## Section I

Notices of Development of Proposed Rules  
and Negotiated Rulemaking**DEPARTMENT OF LEGAL AFFAIRS****Division of Victim Services and Criminal Justice Programs**

RULE NO.:                      RULE TITLE:  
2A-8.005                      Adjustments to Reflect Consumer  
Price Index

PURPOSE AND EFFECT: The proposed rule amendments are intended to reflect changes to benefits with regard to the change in the Consumer Price Index.

SUBJECT AREA TO BE ADDRESSED: Benefits to be paid beginning July 1, 2011.

RULEMAKING AUTHORITY: 112.19 FS.

LAW IMPLEMENTED: 112.19 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Rick Nuss, Chief, Bureau of Criminal Justice Programs, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**REGIONAL PLANNING COUNCILS****North Central Florida Regional Planning Council**

RULE NO.:                      RULE TITLE:  
29C-9.001                      Strategic Regional Policy Plan

PURPOSE AND EFFECT: The Council proposes to amend the North Central Florida Strategic Regional Policy Plan.

SUBJECT AREA TO BE ADDRESSED: The Council proposes to amend the North Central Florida Strategic Regional Policy Plan to incorporate the recommendations of its evaluation and appraisal report completed in accordance with 186.511, Florida Statutes.

RULEMAKING AUTHORITY: 186.505, 186.507, 186.511, 120.54 FS.

LAW IMPLEMENTED: 186.511 FS.

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

DATE AND TIME: March 28, 2011, 7:00 p.m.

PLACE: City Council Chambers, City Hall 205 North Marion Avenue, Lake City, Florida

DATE AND TIME: March 29, 2011, 7:00 p.m.

PLACE: City Council Chambers, 224 South Jefferson Street, Perry, Florida

DATE AND TIME: March 31, 2011, 7:00 p.m.

PLACE: Charles F. Justice Conference Room, North Central Florida Regional Planning Council, 2009 Northwest 67th Place, Gainesville, Florida

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 business days before the workshop/meeting by contacting: (352)955-2200. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Scott R. Koons, Executive Director, North Central Florida Regional Planning Council, 2009 N. W. 67th Place, Gainesville, Florida 32653-1603

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES****Economic Self-Sufficiency Program**

RULE NO.:                      RULE TITLE:  
65A-1.713                      SSI-Related Medicaid Income  
Eligibility Criteria

PURPOSE AND EFFECT: The proposed rule adds language clarifying the treatment of payments from the Veteran's Administration for a housebound allowance and an allowance for unreimbursed medical expenses.

SUBJECT AREA TO BE ADDRESSED: The proposed rule explains what the housebound and unreimbursed medical expense allowances are and clarifies how to treat the income.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 FS.

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: March 29, 2011, 1:30 p.m.

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

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 7 days before the workshop/meeting by contacting: Susan Thomas. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Thomas, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3477, Susan\_Thomas@dcf.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65A-1.713 SSI-Related Medicaid Income Eligibility Criteria.

(1) through (2) No change.

(3) The Veterans Administration (VA) provides a housebound allowance to eligible individuals who do not qualify for regular aid and attendance payments. This allowance can be paid to a veteran or widow or a widower who receives dependency or indemnity compensation. It is excluded income.

(4) VA provides an allowance for unreimbursed medical expenses (UME) incurred by the veteran that exceeds five percent of an individual's annual income. UME is excluded income. The Department may use form CF-ES 2262, Request for Veterans Information, October 2005 (incorporated by reference) to verify through the Department of Veterans Affairs the type and amount of VA payments.

~~(5)(3)~~ When Income Is Considered Available for Budgeting. The Department counts income when it is received, when it is credited to the individual's account, or when it is set aside for their use, whichever is earlier.

(a) If a regular periodic payment is occasionally received in a month other than the normal month of receipt and there is no intent to interrupt the regular payment schedule the Department considers the funds to be available income in the normal month of receipt. Examples include checks advance dated because the regular payment date falls on a weekend or holiday, or electronic fund transfers or direct deposits which are posted to a bank account before or after the month they are payable.

(b) Florida State Retirement benefits are received the last workday of the month. The payment shall be considered income in the following month for SSI-related Medicaid purposes.

~~(6)(4)~~ Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C. § 1396 (2000 Ed., Sup. IV) (incorporated by reference), or another less restrictive option is elected by the state under 42 U.S.C. § 1396a(r)(2) (2000 Ed., Sup. IV) (incorporated by reference). When averaging income, all income from the most recent consecutive four weeks shall be used if it is representative of future

earnings. A longer period of past time may be used if necessary to provide a more accurate indication of anticipated fluctuations in future income.

(a) For MEDS-AD Demonstration Waiver, Protected Medicaid, Medically Needy, Qualified Working Disabled Individual, QMB, SLMB, QI1, and to compute the community spouse income allocation for spouses of ICP individuals, the following less restrictive methodology for determining gross monthly income is followed:

1. When income is received monthly or more often than once per month the monthly income from that source shall be computed by first determining the weekly income amount and then multiplying that amount by 4. A five-week month shall not be treated any differently than a four-week month.

2. When unearned income is received less often than monthly the total amount will be prorated over the period it is intended to cover. If prorating income adversely affects the client it will be counted in the month received and not prorated.

3. When earned income is received less often than monthly, the department counts the total amount in the month received and does not prorate.

(b) For institutional care, hospice, and HCBS waiver programs the department applies the following methodology in determining eligibility:

1. To determine if the individual meets the income eligibility standard the client's total gross income, excluding income placed in qualified income trusts, is counted in the month received. The total gross income must be less than the institutional care income standard for the individual to be eligible for that month.

2. If the individual's monthly income does not exceed the institutional care income standard in any month the department will prorate the income over the period it is intended to cover to compute patient responsibility, provided that it does not result in undue hardship to the client. If it causes undue hardship it will be counted for the anticipated month of receipt.

(c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost", shall be considered available for payment of medical care and services. The department computes available income for each month eligibility is requested to determine the amount of excess countable income available to meet medical costs. If countable income exceeds the Medically Needy income level the department shall deduct allowable medical expenses in chronological order, by day of service. Countable income is determined in accordance with subsection 65A-1.713(2), F.A.C. To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months. The paid expense may not have been previously

deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:

1. Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and,

2. Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

(7) Copies of the forms and materials incorporated by reference in this rule may be obtained from the ACCESS Florida Headquarter's Office at 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Forms are also available on the Department's web site at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormsSearch.aspx>.

Rulemaking 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, 6-13-04, 8-10-06 (1), (4), 8-10-06 (1), 2-20-07, 10-16-07, 5-6-08,\_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-1.006	Definitions
5H-1.007	Content of Dealers Records
5H-1.008	Guidelines for Imposing Administrative Penalties
5H-1.009	Documents Incorporated by Reference

**PURPOSE AND EFFECT:** To provide a definition of tropical foliage, define contents of records to be kept by licensed dealers in agriculture products, to provide guidelines for imposing administrative penalties for violations, and to incorporate documents by reference.

**SUMMARY:** Defines tropical foliage, contents of records to be kept by licensed dealers in agriculture products, provides guidelines for imposing administrative penalties for violations, and incorporates documents by reference.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The Agency has determined that this will not have an impact on small business. An SERC has not been prepared by the agency.

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

**RULEMAKING AUTHORITY:** 534.48, 535.02, 604.27 FS.

**LAW IMPLEMENTED:** 534.48, 535.01, 604.15, 604.16, 604.18, 604.20, 604.21, 604.22, 604.23, 604.27, 604.30, 604.33 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 RULES IS:** Christopher Green, Bureau Chief, 407 South Calhoun Street, M-38, Tallahassee, Florida 32399, (850)488-4101

**THE FULL TEXT OF THE PROPOSED RULES IS:**

#### 5H-1.006 Definitions.

For the purpose of this chapter, the definitions in Section 604.15, F.S., and the following shall apply. Tropical Foliage means any kind of herbaceous plants, originally from tropical climates, that are grown and sold as potted plants, cut foliage or interiorscape primarily for the decorative value of their leaves. Excluded from this definition are woody temperate zone plants, such as trees, shrubs or woody vines.

Rulemaking Authority 604.27 FS. Law Implemented 604.15, 604.27 FS. History—New\_\_\_\_\_.

#### 5H-1.007 Content of Dealers Records.

In accordance with Section 604.22, F.S., each licensed dealer shall preserve for at least eighteen (18) months a record of each transaction involving agricultural products. The preserved record may take the form of an invoice, bill of sale, manifest, or other written document showing the date of sale, the name and address of the seller, and the kind or common name and quantity of each agricultural product included in the transaction.

Rulemaking Authority 604.27 FS. Law Implemented 604.22, 604.27 FS. History—New\_\_\_\_\_.

#### 5H-1.008 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 604, F.S. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.