

05-24-05

Rulemaking Hearing Rules

Tennessee Commission on Aging and Disability

Chapter 0030-1-7

Cost Sharing for Services for the Elderly Provided Through  
Title III of the Older Americans Act

New Rules

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0030-1-7-.01 Purpose

The purpose of this rule is to establish cost sharing requirements for services funded by the Older Americans Act as authorized by 42 U.S.C. § 3030c-2.

0030-1-7-.02 Services Exempt from Cost Sharing

- (1) The following services are exempt from cost sharing:
  - (a) Information and referral, outreach, benefits counseling, or case management services.
  - (b) Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services.
  - (c) Congregate and home delivered meals.

0030-1-7-.03 Cost Sharing and Participant Contribution Requirements

- (1) Each Area Agency on Aging and Disability, and each service provider involved, shall adhere to these cost sharing requirements for recipients of services funded in whole or in part through the Older Americans Act funded through the Commission on Aging and Disability who can pay all or a portion of the cost of the services rendered.

- (2) Each Area Agency on Aging and Disability shall utilize a sliding fee scale developed by the Commission to determine the amount a consumer of service will be asked to pay toward the cost of services he receives.
- (3) Except as otherwise provided, each Area Agency on Aging and Disability shall utilize the following sliding fee scale:
  - (a) Consumers with income less than 200% of the Federal Benefit Rate shall not be subject to cost sharing for services they receive.
  - (b) Consumers with income at or above 200% of the Federal Benefit Rate shall be asked to pay a percentage of the cost of the services they receive, but the cost share shall not exceed 45% of their income.
  - (c) Recipients with incomes greater than 600% of the Federal Benefit Rate may receive information and assistance and other services exempted from cost share listed in 0030-1-7-.02, but shall be asked to contribute 100% of the cost of any additional services they receive.
- (4) These cost sharing rules shall ensure that each Area Agency on Aging and Disability and each service provider involved will:
  - (a) Provide applicants for services with a written description of the cost sharing guidelines prior to the commencement of any services;
  - (b) Determine the cost share amount based solely on the self-declaration of income with no consideration of assets;
  - (c) Collect consumers' cost share obligations utilizing an invoice format at least quarterly;
  - (d) Issue a receipt of payment to any consumer of service making a payment pursuant to these policies;
  - (e) Safeguard all funds collected through the cost sharing process including a record of accounts receivable for each consumer;
  - (f) Use methods for receiving cost share payments and contributions that protect the privacy and confidentiality of each older individual with respect to the declaration or non-declaration of income and to any share of costs paid or unpaid by an individual;

- (g) Make a good faith effort to collect cost sharing obligations from consumers of service where feasible and cost effective. If the Area Agency on Aging and Disability finds that collecting a given amount is not cost effective, the Area Agency may waive this amount;
  - (h) Not deny any service for which funds are received under the Act for an older individual due to income or failure to make a cost share payment;
  - (i) Ensure that consumers of services who are not subject to cost sharing be given an opportunity to make a voluntary contribution toward the cost of the service being provided.
- (5) All income collected in accordance with these rules shall be utilized by Area Agencies on Aging and Disability and each service provider involved to expand the service for which such payment was given.

0030-1-7-.04 Waiver

- (1) An Area Agency may request a waiver to the Commission's cost sharing policies, and the Commission will approve such a waiver, if the area agency can adequately demonstrate that—
  - (a) A significant proportion of persons receiving services under the Act subject to cost sharing in the planning and service area have incomes below the poverty level; or
  - (b) Cost sharing would be an unreasonable administrative or financial burden upon the Area Agency on Aging and Disability.

Authority: 42 U.S.C.A. § 3030 c-2 and T.C.A. § 71-2-105 (b)(1).

Legal Contact and/or party who will approve final copy : Nancy C. Peace, 500 Deaderick Street, Suite 825, Nashville, Tennessee 37243-0860. Telephone 615-741-2056.

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Signature of the agency office directly responsible for proposing and/or drafting these rules:



Nancy C. Peace, Executive Director  
Tennessee Commission on Aging and Disability

The roll call vote by the Tennessee Commission on Aging and Disability was as follows:

| <u>Commission Member</u>       | <u>Aye</u>    | <u>No</u>     | <u>Abstain</u> |
|--------------------------------|---------------|---------------|----------------|
| <u>Ginny Acree</u>             | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>John Arriola</u>            | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>**Robert Brandon</u>        | <u>      </u> | <u>      </u> | <u>      </u>  |
| <u>Diane Cornell</u>           | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Sun-Hwan Chu</u>            | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>*Deborah Cunningham</u>     | <u>      </u> | <u>      </u> | <u>      </u>  |
| <u>Bettie Davis</u>            | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Shelburne Ferguson, Jr.</u> | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>*John Fisher</u>            | <u>      </u> | <u>      </u> | <u>      </u>  |
| <u>*Connie Griffitts</u>       | <u>      </u> | <u>      </u> | <u>      </u>  |
| <u>Bonnie Howard</u>           | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Judson Palmer</u>           | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Leonard Price</u>           | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Ruby Stewman</u>            | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Elizabeth Stovall</u>       | <u>X</u>      | <u>      </u> | <u>      </u>  |
| <u>Donald Woodlee</u>          | <u>X</u>      | <u>      </u> | <u>      </u>  |

|                       |          |       |       |
|-----------------------|----------|-------|-------|
| <u>*Tam Gordon</u>    | _____    | _____ | _____ |
| <u>Judy Eads</u>      | <u>X</u> | _____ | _____ |
| <u>Deborah Neill</u>  | <u>X</u> | _____ | _____ |
| <u>Jerry Hill</u>     | <u>X</u> | _____ | _____ |
| <u>*Jackie Talley</u> | _____    | _____ | _____ |
| <u>Errol Elshtain</u> | <u>X</u> | _____ | _____ |

Senator Curtis Person            Ex officio  
 Rep. Lois DeBerry                Ex officio

\*Members Absent  
**\*\*Members Absent in Afternoon**

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commission on Aging and Disability on the 9<sup>th</sup> day of November, 2004.

Further, I certify that these rules are properly presented for filing, a notice of rulemaking hearing has been filed in the Department of State on 31st day of August, 2004 and such notice of rulemaking hearing having been published in the September, 2004 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 22nd day of October, 2004.

Nancy C. Peace  
 Nancy C. Peace, Executive Director  
 Tennessee Commission on Aging and Disability

Subscribed and sworn to before me this the 10<sup>th</sup> day of March, 2005

Darryl W. Pruitt  
 Notary Public

My commission expires on the 24<sup>th</sup> day of May, 2008



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers  
Paul G. Summers, Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 24 day of May, 2005 and will become effective on the 7 day of May, 2005.

Riley C. Darnell  
Riley C. Darnell  
Secretary of State

By: mmull

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