

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF COSMETOLOGY [49 PA. CODE CH. 7] Examination Fees

The State Board of Cosmetology (Board) amends § 7.2 (relating to fees) pertaining to examination fees for licensure for cosmetologists, cosmeticians, manicurists, teachers and cosmetology shop managers to read as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and sections 13(b) and 16(a) of the Cosmetology Law (act) (63 P. S. §§ 519(b) and 522(a)), examinations for licensure must be prepared and administered by a professional testing organization under contract to the appropriate board. This amendment will change fees for examinations to candidates for licensure to reflect actual contract costs for examination services as the result of a new contract with a professional testing organization.

Public notice of intention to amend the regulation under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. All persons affected by the amendments, however, have been or will be given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL (45 P. S. § 1204(2)).

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

This amendment is adopted under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 16 of the act (63 P. S. § 522).

Fiscal Impact and Paperwork Requirements

The amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will be required to pay the actual costs of the examination.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on July 12, 1999, the Board submitted a copy of the regulation with proposed rulemaking omitted to the Independent Regulatory Review Commission

(IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. On the same date, the amendment was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(e) of the Regulatory Review Act, the amendment was deemed approved by the House and Senate Committees on August 1, 1999. IRRC met on August 19, 1999, and approved the amendment.

Additional Information

Individuals who desire information are invited to submit inquiries to Sara Sulpizio, Board Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7130.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202), has been omitted under the authority contained in section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL is in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination.

(2) Persons affected by the amendment as adopted by this order have been or will be given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL (45 P. S. § 1204(2)).

(3) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 7, are amended by amending § 7.2, to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*, and shall apply to examinations administered on and after September 1, 1999.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 4750 (September 4, 1999).

CAROL T. MICCICHE,
Chairperson

Fiscal Note: 16A-457. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**CHAPTER 7. STATE BOARD OF COSMETOLOGY
GENERAL PROVISIONS**

§ 7.2. Fees.

(a) The fee for the cosmetologist, cosmetician, manicurist or teacher examination is \$59. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination.....	\$31
Performance examination (not applicable to managers).....	\$28

(b) Effective September 1, 1999, the fee for the complete cosmetologist, cosmetician, manicurist or teacher examination is \$71. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination.....	\$41
Performance examination (not applicable to managers).....	\$30

(c) Other fees charged by the Board:

Licensure of cosmetologist, manicurist or cosmetician	\$5
Licensure of cosmetology shop manager or cosmetology teacher.....	\$10
Licensure of cosmetology shop, manicurist shop or cosmetician shop.....	\$35
Licensure of cosmetology school.....	\$95
Licensure by reciprocity.....	\$25
Registration of cosmetology apprentice.....	\$35
Biennial renewal of manicurist's license.....	\$21
Biennial renewal of cosmetician's license.....	\$21
Biennial renewal of cosmetologist's license.....	\$23
Biennial renewal of cosmetology shop manager's or cosmetology teacher's license.....	\$36
Biennial renewal of cosmetology shop's license.....	\$41
Biennial renewal of cosmetician or manicurist shop's license.....	\$25
Biennial renewal of cosmetology school's license.....	\$66
Approval of cosmetology school supervisor.....	\$10
Change in cosmetology shop (inspection required) ...	\$35
Change in cosmetology shop (no inspection required)	\$15
Reinspection of cosmetology shop.....	\$15
Certification of licensure.....	\$10

[Pa.B. Doc. No. 99-1532. Filed for public inspection September 10, 1999, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 140 AND 181]

Eligibility Provisions for the Healthy Horizons Program for the Elderly/Disabled; Medical Assistance Income

The Department of Public Welfare (Department), by this order, adopts the amendments to read as set forth in

Annex A under the authority of section 201(2) of the Public Welfare Code (62 P. S. § 201(2)).

The proposed amendments were published at 28 Pa.B. 1531 (March 28, 1998). No comments were received and there are no changes to the published proposed rulemaking.

Purpose

The purpose of these amendments is to change how the receipt of a lump sum is treated when determining eligibility for Medical Assistance (MA) in Chapters 140, Subchapter B and 181 (relating to eligibility provisions for the healthy horizons program for the elderly/disabled; and income provisions for categorically needy NMP-MA and MNO-MA). Current regulations state that a lump sum is treated as a resource unless it is beneficial to the client to treat it as income. This change will require that when a lump sum has been treated as income in the month of receipt, any balance remaining in subsequent months will be treated as a resource. This change applies to all categories of MA, including Healthy Horizons. This change provides that a client who chooses to treat a lump sum as income is no worse off under this regulation change than another client who chooses to treat a lump sum as a resource from the time it was received.

Background

Effective November 1, 1988, the Department adopted final-form regulations patterned after the rules for the corresponding Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) Cash Assistance Programs except for the treatment of lump sum. The current Temporary Assistance for Needy Family (TANF) Program replaced the AFDC Program. Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193) (PRWORA), enacted on August 22, 1996, eliminated the AFDC program and replaced it with the Federal TANF program. The TANF Cash Assistance Program treats lump sum under a special lump sum rule which provides for a period of ineligibility. The SSI Cash Assistance Program treats a lump sum as a resource. The disparity of treatment of a lump sum in the cash assistance programs led to the flexibility in the treatment of a lump sum for the MA Program. The individual currently has the choice of treating a lump sum as a resource, unless it is more financially helpful to the individual to have it treated as income. If the lump sum is counted as income, any balance of the lump sum remaining in subsequent months is not considered a resource under existing regulations.

As a result of this flexibility, the regulations provide a special resource exclusion for the remaining lump sum. The exclusion enables an individual to continue to receive MA benefits even though resources, including funds remaining from the lump sum, may be substantially in excess of the resource limit. Due to the fact that individuals with substantial lump sum benefits are being determined eligible for MA, even if there is a balance of the lump sum remaining which exceeds the MA resource limits, the Department is revising the regulations to specify that lump sum payments retained beyond the month of receipt are treated as a resource. An individual still has the choice of deciding whether to have the lump sum treated as a resource or as income in the month of receipt. However, any portion remaining in subsequent months will be treated as a resource along with all other countable resources subject to the maximum MA resource limit.

Need for the Amendments

These amendments are needed to establish equitable treatment between clients who have excess resources because of a lump sum and clients who have excess resources for any other reason, by changing the requirements for the treatment of lump sum income in Chapters 140, Subchapter B and 181.

Summary

Treatment of lump sum payment (§§ 140.291(c), (d) and (d)(3))

The revision to this section counts as a resource the balance of the lump sum remaining subsequent to the calendar month in which the lump sum is received and is counted as income for the applicant/recipient of the Healthy Horizons Program. The content of subsection (d) is no longer applicable. The contents of the old subsection (d)(1) and (2) are moved to subsection (c)(1) and (2). The old subsection (d)(3) is the revised subsection (d).

Treatment of the lump sum payment (§ 181.31(d))

The revision to this section counts as a resource the balance of the lump sum remaining subsequent to the calendar month in which the lump sum is received and is counted as income. This applies to an applicant/recipient of SSI-related and General Assistance (GA)-related categories of the Categorically Needy Nonmoney Payment (NMP) and Medically Needy Only (MNO) MA Programs.

Affected Persons and Organizations

These amendments affect all applicants and recipients of MA, living in the community or residing in an institution, who receive a lump sum.

Accomplishments/Benefits

These amendments will change how the balance of a lump sum remaining subsequent to the month of receipt is treated. The change would treat as a resource the balance of a lump sum remaining subsequent to the month it was received and treated as income for MA eligibility purposes. This change denies MA eligibility for those individuals with a sizeable balance of a lump sum after only 1 month of MA ineligibility. These individuals could qualify for MA once their resources and income are within allowable limits.

Public Comment

Written comments, suggestions and objections were solicited within a 30-day period after the publication date. No comments were received.

*Fiscal Impact**Commonwealth*

It is anticipated that implementation of these amendments will result in savings to the Commonwealth during Fiscal Year 1997-1998 of approximately \$0.182 million (\$0.086 million in State funds). Annual savings for Fiscal Year 1998-1999 are estimated in the amount of \$0.276 million (\$0.130 million in State funds).

Private Sector

There are no anticipated costs for the private sector.

Paperwork Requirements

These amendments do not require additional forms or reports.

Effective Date

These amendments are effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

Sunset Date

No sunset date is applicable. The Department continuously reviews the MA Program and regulations through the Federally-monitored Quality Control process. Also, the Federal Health Care Financing Administration staff conducts audits periodically on specific aspects of the MA Program.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking published at 28 Pa.B. 1531 (March 28, 1998) to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

The Department prepared the final-form regulations with no comments received from IRRC, the Committees or the public.

These final-form regulations were approved by the Committees on August 3, 1999, and approved by IRRC on August 4, 1999, in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department finds that:

(1) Public notice of intention to adopt the administrative regulations amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these regulations in the manner provided in this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

Order

The Department, acting under the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 140 and 181, are amended by amending §§ 140.291 and 181.31 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and General Counsel for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa. B. 4497 (August 21, 1999).)

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-421. No fiscal impact; (8) recommends adoption. These changes are expected to result in savings of \$248,000 in Long Term Care for Fiscal Year 1999-00 and a savings of \$270,000 in Long Term Care for fiscal year 2000-01.

Annex A**TITLE 55. PUBLIC WELFARE****PART II. PUBLIC ASSISTANCE MANUAL****Subpart C. ELIGIBILITY REQUIREMENTS****CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS****Subchapter B. ELIGIBILITY PROVISIONS FOR THE HEALTHY HORIZONS PROGRAM FOR THE ELDERLY/DISABLED****TREATMENT OF LUMP SUM PAYMENT****§ 140.291. Treatment of lump sum payment.**

(a) A lump sum payment is a nonrecurring payment. Types of lump sum payments include delayed wages, bonuses, earned income tax credit (EITC), cash prizes, cash lottery winnings, life insurance benefits, cash inheritances, personal injury and other damage awards and settlements and retroactive benefits, such as retirement, survivors and disability insurance, delayed unemployment compensation and workers compensation.

(b) A lump sum payment is counted as a resource under Chapter 178, Subchapter A (relating to general provisions for MA resources common to all categories of MA) unless it would be more helpful to the applicant/recipient group to have the lump sum treated as income.

(c) If the lump sum is treated as income, it is counted as income in the calendar month received.

(1) An earned lump sum such as delayed wages, bonuses and EITC is treated as earned income and is added to other earned income received in the calendar month. The deductions listed under § 140.282 (relating to deductions from earned income) are applied to determine countable net earned income.

(2) An unearned lump sum such as cash prizes, cash lottery winnings, life insurance benefits, cash inheritances and personal injury is treated as unearned income and is added to other unearned income received in the calendar month. The deductions listed under § 140.281 (relating to deductions from unearned income) are applied to determine countable net unearned income.

(d) The balance of the lump sum remaining subsequent to the calendar month the lump sum was received and counted as income as described in subsection (c) is considered a resource to the applicant/recipient or the spouse of the applicant/recipient.

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE**CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA AND MNO-MA****Subchapter A. GENERAL PROVISIONS FOR MA INCOME COMMON TO ALL CATEGORIES OF MA****TREATMENT OF LUMP SUM PAYMENT COMMON TO ALL CATEGORIES OF MA****§ 181.31. Treatment of lump sum payment.**

(a) A lump sum payment is a nonrecurring payment. Types of lump sum payments include delayed wages, bonuses, Earned Income Tax Credit (EITC), cash prizes, cash lottery winnings, life insurance benefits, cash inher-

itances, personal injury and other damage awards and settlements and retroactive benefits, such as retirement, survivors and disability insurance, delayed unemployment compensation and workers compensation.

(b) A lump sum payment is counted as a resource under § 178.4 (relating to treatment of resources for all categories of MA) unless it would be more helpful to the applicant/recipient group to have the lump sum treated as income.

(c) If the lump sum is treated as income, it is counted as income in the calendar month received.

(1) Earned lump sum payments, such as delayed wages and bonuses, are treated as earned income and are added to other earned income received in the calendar month.

(i) A person in an SSI-related category of MA is entitled to the deductions listed under § 181.132 (relating to deductions from earned income) from the earned lump sum income.

(ii) A person in an AFDC-related category of MA, including a person in a GA-related category of MA with a child who is simultaneously a recipient of MA in an AFDC-related category, is entitled to the deductions listed under § 181.311 or § 181.312 (relating to deductions from earned income for the AFDC categories of NMP-MA; and deductions from earned income for the GA categories of MNO-MA) from the earned lump sum income.

(iii) A person in a GA-related category of MA is entitled to the deductions listed under § 181.313 or § 181.314 (relating to deductions from earned income for the GA categories of NMP-MA; and deductions from earned income for the GA categories of MNO-MA) from the earned lump sum income.

(2) Unearned lump sum payments, such as cash prizes, cash lottery winnings, life insurance benefits, cash inheritances and personal injury, are treated as unearned income and are added to other unearned income received in the calendar month.

(i) A person in an SSI-related category of MA is entitled to the deductions listed under § 181.131 (relating to deductions from unearned income) from the unearned lump sum income.

(ii) A person in an AFDC-related category of MA and a person in a GA-related category of MA are entitled to the following deductions from the unearned lump sum income:

(A) Those listed under § 181.315 (relating to unearned income expense deductions).

(B) Expenses the applicant/recipient incurs which are directly related to the particular type of lump sum payment, such as the charge for burial from an insurance benefit or verified medical expenses from a personal injury award.

(d) The balance of the lump sum remaining subsequent to the calendar month the lump sum was received and counted as income as described in subsection (c) is considered a resource to the applicant/recipient.

[Pa.B. Doc. No. 99-1533. Filed for public inspection September 10, 1999, 9:00 a.m.]