

**REVISED PROPOSED REGULATION OF THE DEPARTMENT
OF EMPLOYMENT, TRAINING AND REHABILITATION**

LCB File No. R128-99

October 12, 1999

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 233B.065 and 615.173; §§2-6, NRS 615.173.

Section 1. NAC 615.050 is hereby amended to read as follows:

615.050 “Physical disability” means a condition which:

1. Materially limits;
2. Contributes to materially limiting; or
3. If not corrected, probably will result in materially limiting ,

FLUSH a person’s activities or ability to function.

Sec. 2. NAC 615.070 is hereby amended to read as follows:

615.070 1. To be eligible for financial assistance pursuant to this chapter, a person must:

- (a) Be a resident of the state;
- (b) Be physically disabled as diagnosed by a licensed physician;
- (c) Require assistance in one or more of the areas described in NAC 615.090;
- (d) Use all other resources in the community that provide essential personal care or financial assistance for essential personal care before requesting financial assistance pursuant to this chapter;
- (e) Except as otherwise provided in subsection 2, require no more than ~~[28]~~ 35 hours of

essential personal care each week from this program to live independently;

(f) Be capable of supervising the attendant who provides the care, except that in extraordinary circumstances the review team may designate a responsible person to supervise the attendant on behalf of the otherwise eligible person;

(g) Be capable of participating in a plan for independent living; and

(h) Be financially eligible pursuant to the provisions of NAC 615.150.

2. *Except as otherwise provided in this section, the division may provide up to 35 hours of essential personal care to a recipient.* In addition, ~~[to the hours of essential personal care provided pursuant to paragraph (e) of subsection 1,]~~ the division may, based upon its budget and its determination of need:

(a) ~~[Provide emergency]~~ *If a portion of the 35 hours or less that was allocated to a recipient is not used by that recipient, provide temporary:*

(1) *Emergency* care to ~~[a]~~ *another* recipient if his disability is exacerbated or he has a short-term illness that is not related to his disability.

(2) *Respite care to relieve a family member who provides care for a person on the waiting list, maintained by the division of persons eligible for receipt of financial assistance pursuant to subsection 1.*

(b) Provide 120 hours or less per year of respite care to relieve a family member who provides care for a ~~[person with a severe disability.]~~ *recipient.*

3. The provisions of this section do not prohibit the division from providing ~~[28]~~ 35 hours or less of essential personal care each week for a person who is also receiving services from another program.

Sec. 3. NAC 615.100 is hereby amended to read as follows:

615.100 The division will contract with a contractor who shall:

1. Establish a review team of persons who have personal or professional knowledge of disabilities and an understanding of the concept of independent living. The review team shall:
 - (a) Determine an applicant's eligibility.
 - (b) Authorize the number of hours of essential personal care to be provided to an eligible person based upon a written assessment provided by the contractor pursuant to subsection 8.
 - (c) Reevaluate a recipient's eligibility every ~~6~~ 12 months and when his need for essential personal care changes.
 - (d) Obtain medical consultation as needed.
2. Disburse financial assistance for eligible persons.
3. Provide training for personal care attendants and maintain a registry of attendants.
4. Establish a system for the provision of back-up attendants and emergency care.
5. Ensure that a personal care attendant who is listed in the registry of attendants ~~is covered~~ *has coverage for* industrial insurance . ~~system.~~
6. Establish cooperative agreements with programs providing essential personal care to coordinate interdisciplinary services provided to mutual recipients.
7. Obtain and review the criminal record, if any, of each personal care attendant.
8. Provide assessments of recipients. An assessment must:
 - (a) Be conducted by a ~~certified~~ *licensed* occupational therapist at the location where the services are offered; and
 - (b) Include the requirements for completing specific tasks, the time required for completion of the tasks and a statement by the recipient concerning his perspective of his needs for care.
9. Provide referrals to independent living and other services as appropriate for the needs of recipients.

Sec. 4. NAC 615.120 is hereby amended to read as follows:

615.120 A recipient shall notify the contractor of any change in ~~his:~~ *the recipient's:*

1. Income, ~~or~~ the income of ~~his spouse which~~ *the recipient's spouse, or, in the case of a dependent child or adult who has no income and is financially supported by his family, the income of the family that* would affect ~~his~~ *the recipient's* eligibility; and
2. Need for essential personal care.

Sec. 5. NAC 615.130 is hereby amended to read as follows:

615.130 1. An applicant for financial assistance must submit to the contractor a completed application and a written statement from a licensed physician, physician's assistant or registered nurse certifying the applicant's need for essential personal care.

2. The contractor shall, within 30 days after receiving a completed application, notify the applicant in writing whether he is eligible for financial assistance.

3. If money is available, a person may be eligible to receive financial assistance on the date the review team determines he is eligible.

4. If money is not available, the contractor shall notify the person of his position on the *waiting* list *maintained by the division* of persons eligible for financial assistance in the order of their priority.

Sec. 6. NAC 615.150 is hereby amended to read as follows:

615.150 1. *An applicant is not eligible for receipt of financial assistance pursuant to subsection 1 of NAC 615.070 if his gross income, less the expenses set forth in paragraphs (a) to (d), inclusive, of subsection 2, is more than 800 percent of the federally designated level signifying poverty for the size of family applicable to the applicant, as determined by the*

United States Department of Health and Human Services and published annually in the Federal Register .

2. In determining the financial eligibility of an applicant, the gross monthly income of the applicant and the applicant's spouse , *or, in the case of a dependent child or adult who has no income and is financially supported by his family, the gross monthly income of the family,* must be counted. From the total must be deducted ~~£~~:

~~—(a) Any~~ *any* amount paid directly by the applicant ~~[which]~~ *that* is not reimbursed by any other source ~~£~~:

~~—(1) For medicine] for:~~

(a) Medicine prescribed for him by a physician;

~~[(2) To a doctor, or hospital for medical care for the care for the applicant; and~~

~~—(3) For special]~~

(b) Medical care provided by a doctor, hospital or other medical facility;

(c) Special equipment , *services or supplies* to help him do what a person who is not disabled can do; and

~~[(b) For each dependent, \$100.~~

~~—2. Except as otherwise provided in subsection 3, a recipient must]~~

(d) Health insurance and the benefits thereof, including the payment of premiums and copayments.

FLUSH *As used in this subsection, “medical facility” has the meaning ascribed to it in NRS 449.0151 and also includes facilities for the rehabilitation of physically disabled persons.*

3. A recipient whose gross income, less the expenses set forth in paragraphs (a) to (d), inclusive, of subsection 2, is less than 200 percent of the federally designated level signifying poverty is not required to pay any of the cost for essential personal care . ~~as follows:~~

	Adjusted Gross	Percentage of Costs
	Monthly Income	Paid by Recipient
FLUSH	Level 1 0-\$1,200	0
FLUSH	Level 2 1,201-1,400	10
FLUSH	Level 3 1,401-1,600	20
FLUSH	Level 4 1,601-2,000	30
FLUSH	Level 5 2,001-2,500	40
	Level 6 2,501-4,000	50
FLUSH	Level 7 More than \$4,000	100]

~~[3.]~~ Except as otherwise provided in this section, a recipient whose gross income, less the expenses set forth in paragraphs (a) to (d), inclusive, of subsection 2, is 200 percent or more of the federally designated level signifying poverty but not greater than 800 percent of the federally designated level signifying poverty shall pay a portion of the total cost to provide essential personal care to him according to the following formula:

FLUSH
$$\text{Amount of recipient's payment for essential personal care} = \frac{(A-(B+C)) \times (D)}{(A-B)}$$

FLUSH Where “A” is the recipient’s gross monthly income; “B” is the sum, on a monthly basis, of the recipient’s expenses, if any, set forth in paragraphs (a) to (d), inclusive, of subsection 2; “C” is

the amount that equals 200 percent of the federally designated level signifying poverty, divided by 12, for the size of family applicable to the recipient; and “D” is the cost of providing services for essential personal care, on a monthly basis, for that recipient.

4. Notwithstanding the formula set forth in subsection 3, in no case may the recipient’s payment for essential personal care exceed 25 percent of the amount that equals the difference between A and the sum of B and C.

5. If there are compelling and urgent circumstances, including, without limitation, the circumstance that causing the recipient to pay for any portion of the cost to provide essential personal care will cause a severe hardship on the recipient, the contractor, with the approval of the administrator, may pay 100 percent of the cost of the essential personal care of a recipient.