

LCB File No. T018-98

**TEMPORARY REGULATION OF THE OFFICE OF COMMUNITY-BASED
SERVICES OF THE REHABILITATION DIVISION
OF THE DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION**

NOTICE OF ADOPTION OF A TEMPORARY REGULATION

The Office of Community-Based Services of the State Rehabilitation Division has adopted a temporary regulation pertaining to chapter 615 of the Nevada Administrative Code, effective November 1, 1998. A copy of the regulation as adopted is attached hereto

Informational Statement:

Public comment was solicited through workshops held in June 1998 and through a formal public hearing held on October 28, 1998. Information on the hearing was posted at the State Library, at 17 public libraries around the state, at four Center for Independent Living locations, the Office of Community Based Services, and at the Reno and Las Vegas offices of ASI, the private agency that manages the program. Additionally, notices were sent to all current program clients who would be affected by the regulation. There were no concerned parties in attendance at the public hearing to provide comment. Furthermore, no concerned parties submitted written comments regarding the proposed regulation.

There was no public comment provided in writing or at the Public Hearing. Several clients appeared at the three workshops held in June 1998. At those workshops the informal public response to the proposed regulation was almost unanimously favorable.

Because no formal public comment was received, no summary is available.

With no public comment in objection to the proposed regulation, with the general support expressed informally by consumers to be affected by the regulation, and with the several years of program experience in working under the old regulation, the Office of Community Based Services feels this amended regulation will work to the benefit of both the consumer and the program.

This regulation will have some economic impact on both the program and the clients of the program. For the program, it is anticipated this amendment will reduce the amount of funds collected as co-payments from current clients only slightly. The program is not heavily reliant upon this income, and so the impact should be nominal. As for clients of the program, the anticipated economic impact will be mixed. Approximately 70% of those clients who are currently making a co-payment are expected to receive a reduction in their co-payment or have it remain approximately the same. The remaining 30% will have an increase in their co-payment. Those whose co-payments will increase are at higher income levels and to-date have

been paying proportionately lower co-payments. Should the regulation cause a documented hardship, each client has the right to seek relief from the Office of Community Based Services.

There is no additional cost for enforcing this amended regulation.

There is no overlap of this amended regulation to the regulation of any other state or federal agency.

This amendment is not required pursuant to any federal law.

This amendment does not include any provisions which are more stringent than a federal regulation relating to the Personal Assistance Services program.

This amendment will not establish a new fee, but it does change an existing fee. The existing fee will be reduced in most cases but will be increased in some. Overall revenues from the fee will not change significantly.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or 30 days thereafter will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

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CHANGES TO NAC 615.070 AND 615.150

[] = information to be removed

 = information to be added

NAC 615.070 is hereby amended to read as follows:

615.070 Eligibility for assistance; provision of care by division.

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. 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 care to a recipient if his disability is exacerbated or he has a short-term illness that is not related to his disability.
 - (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.
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.

NAC 615.150 is hereby amended as follows:

615.150 Determination of financial eligibility; percentage of costs paid by recipient; payment of costs by contractor.

1. 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 the family, the family's gross income must be counted. From the total must be deducted:

- (a) Any amount paid directly by the applicant which is not reimbursed by any other source:
 - (1) For 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 equipment 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 pay for essential personal care **[as follows:**

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

per the co-payment formula established by the division based upon the annual poverty rate as published in the Federal Register.

3. If there are compelling and urgent circumstances or hardship, the contractor, with the approval of the administrator, may pay 100 percent of the cost of the essential personal care of a recipient.