

RHODE ISLAND GOVERNMENT REGISTER

PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Executive Office of Health and Human Services

DIVISION: Medicaid Policy Unit

RULE IDENTIFIER: Medicaid Code of Administrative Rules, Section #0386, ERLID #

REGULATION TITLE: "Income Generally"

RULEMAKING ACTION: Regular promulgation process

Direct Final: N/A

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE: Public comment will end on **Monday, October 29, 2018.**

SUMMARY OF PROPOSED RULE: The purpose of this rule is to set forth provisions related to the treatment of income as it relates to the determination of eligibility for Medicaid long-term services and supports.

COMMENTS INVITED: All interested parties are invited to submit written or oral comments concerning the proposed regulations by **Monday, October 29, 2018** to the address listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

All written comments or objections should be sent to the Secretary of EOHHS, Eric J. Beane, c/o Elizabeth Shelov, Medicaid Policy Office, Rhode Island Executive Office of Health & Human Services

Mailing Address: Virks Building, Room 315, 3 West Road, Cranston, RI 02920

Email Address: Elizabeth.Shelov@ohhs.ri.gov

WHERE COMMENTS MAY BE INSPECTED: Mailing Address: Executive Office of Health & Human Services, Virks Building, Room 315, 3 West Road, Cranston, RI 02920

PUBLIC HEARING INFORMATION:

If a public hearing is requested, the place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 462-6266 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

ALTERNATIVE PUBLIC HEARING TEXT:

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

FOR FURTHER INFORMATION CONTACT: Elizabeth Shelov, Interdepartmental Project Manager, Medicaid Policy Office, Rhode Island Executive Office of Health & Human Services, Virks Building, Room 315, 3 West Road, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

Societal costs and benefits have not been calculated in this instance. To be in conformity with federal law, regulations, guidance and state law, the state has little discretion in promulgating this rule. For full regulatory analysis or supporting documentation see agency contact person above.

Authority for This Rulemaking: R.I. Gen. Laws Chapters 40-6 and 40-8; Title XIX of the Social Security Act

Regulatory Findings:

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Repeal:

These rules are proposed to be repealed as they are obsolete.

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES
PUBLIC NOTICE OF PROPOSED RULE-MAKING

Medicaid Code of Administrative Rules, Section #0386, "Income Generally"

The Secretary of the Executive Office of Health and Human Services (EOHHS) has under consideration the repeal of a Medicaid regulation entitled, "**Income Generally**" – Section #0386 of the Medicaid Code of Administrative Rules. These rules are obsolete and will be replaced by newly adopted regulations entitled, "Medicaid Long-Term Services and Supports: Financial Eligibility" (210-RICR-50-00-6).

These regulations are being promulgated pursuant to the authority contained in R.I. Gen. Laws Chapter 40-8 (Medical Assistance); R.I. Gen. Laws Chapter 40-6 ("Public Assistance"); R.I. Gen. Laws Chapter 42-7.2; R.I. Gen. Laws Chapter 42-35; and Title XIX of the Social Security Act.

In accordance with R.I. Gen. Laws 42-35-2.8(c), an opportunity for a hearing will be granted if a request is received by twenty-five (25) persons, or by a governmental agency, or by an association having not less than twenty-five (25) members, within ten (10) days of this notice that is posted in accordance with R.I. Gen. Laws 42-35-2.8(a). A hearing must be open to the public, recorded, and held at least five (5) days before the end of the public comment period.

In the development of these proposed regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses in Rhode Island. No alternative approach, duplication or overlap, or impact upon small businesses was identified based upon available information.

These proposed rules are accessible on the R.I. Secretary of State's website: <http://www.sos.ri.gov/ProposedRules/>, the EOHHS website: www.eohhs.ri.gov, or available in hard copy upon request (401 462-1575 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by **Monday, October 29, 2018** to: Elizabeth Shelov, Medicaid Policy Office, RI Executive Office of Health & Human Services, Virks Building, 3 West Road, Room 315, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

The EOHHS in the Virks Building is accessible to persons with disabilities. If communication assistance (readers /interpreters /captioners) is needed, or any other accommodation to ensure equal participation, please notify the EOHHS at (401) 462-1575 (hearing/speech impaired, dial 711) at least three (3) business days prior to the event so arrangements can be made to provide such assistance at no cost to the person requesting.

Original signed by:

Eric J. Beane, Secretary

Signed this 21st day of September 2018

**SEPTEMBER 2018: THIS RULE IS PROPOSED TO BE REPEALED
IN ITS ENTIRETY:**

~~0386 INCOME GENERALLY~~

~~0386.05 INCOME STANDARDS – INDIVIDUAL/COUPLE~~

~~REV:07/2011~~

~~Refer to Section 0362.05, Income Generally, for the standards used in the determination of an individual's or couple's income eligibility.~~

~~0386.10 TREATMENT OF INCOME~~

~~REV:06/1994~~

~~Section 0366 sets forth the treatment of income rules for spouse to spouse deeming of income when both members of a couple live together in the community, and when an ineligible parent lives in the same household with an eligible child under 18. DEEMING STATUS IS CHANGED WHEN AN ELIGIBLE INDIVIDUAL BECOMES INSTITUTIONALIZED.~~

~~If an eligible individual moves into a medical facility, deeming stops for the purpose of determining MA eligibility effective with the month following the month of separation.~~

~~Eligibility determinations for persons applying for or receiving services under a Waiver are conducted AS IF THE PERSON WERE ACTUALLY INSTITUTIONALIZED. This means that deeming of spousal/parental income does NOT apply after the month of separation due to institutionalization.~~

~~0386.15 RECIPIENT INCOME APPLIED TO COST OF CARE~~

~~REV:01/1996~~

~~If the institutionalized individual is eligible for MA, either as Categorically Needy or Medically Needy, and Medical Assistance payment is requested for the individual's institutional care expenses, a determination is made regarding the amount of income the institutionalized individual must allocate to his/her cost of share.~~