

## Section I

Notices of Development of Proposed Rules  
and Negotiated Rulemaking

## DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: PUBLIC TRANSPORTATION  
Public Transit

RULE CHAPTER NO.: 14-73

RULE TITLE: PUBLIC TRANSPORTATION  
Public Transit

RULE NO.: 14-73.001

PURPOSE AND EFFECT: Rule 14-73.001, F.A.C., is substantially rewritten. The rule title and the chapter title are changed from "Public Transportation" to "Public Transit." The purpose of these changes is to improve the quality of Transit Development Plans (TDPs) by extending the plans from five years to ten years, requiring updates every five years instead of every three years, making the annual report, public involvement, demand estimation requirements more explicit, requiring plan approval, and establishing a deadline for said approval in order to qualify for grant funding. The effect will be to provide better planned and, thus, improved public transit services, and to provide the State with improved estimates of transit needs over a longer period of time.

SUBJECT AREA TO BE ADDRESSED: Rule 14-73.001, F.A.C., is amended.

SPECIFIC AUTHORITY: 334.044(2), 341.041(12)(b) FS.

LAW IMPLEMENTED: 341.041, 341.051, 341.052, 341.071 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 14-73.001 follows. See Florida Administrative Code for present text.)

14-73.001 Public ~~Transportation~~ Transit.

(1) Purpose. This rule sets forth requirements for the recipients of the Department's public transit grant funds.

(2) Definitions.

(a) "Department" means the Florida Department of Transportation.

(b) "District Office" means any of the seven geographically defined districts as set forth in Section 20.23(4)(a), Florida Statutes.

(c) "Provider" means a transit agency or a community transportation coordinator as set forth in Section 341.052, Florida Statutes.

(3) Transit Development Plans (TDPs). TDPs are required for grant program recipients in Section 341.052, Florida Statutes. A TDP shall be the provider's planning, development, and operational guidance document, based on a ten-year planning horizon and covers the year for which funding is sought and the nine subsequent years. A TDP or an annual update shall be used in developing the Department's five-year Work Program, the Transportation Improvement Program, and the Department's Program and Resource Plan. A TDP shall be adopted by a provider's governing body. Technical assistance in preparing TDPs is available from the Department. TDPs shall be updated every five years and include all elements described below.

(a) Public Involvement Process. The TDP preparation process shall include opportunities for public involvement as outlined in a TDP public involvement plan, approved by the Department, or the local Metropolitan Planning Organization's (MPO) Public Involvement Plan, approved by both the Federal Transit Administration and the Federal Highway Administration. The provider is authorized to establish time limits for receipt of comments. The TDP shall include a description of the process used and the public involvement activities undertaken. As required by Section 341.052, Florida Statutes, comments must be solicited from regional workforce boards established under Chapter 445, Florida Statutes. The Department, the regional workforce board, and the MPO shall be advised of all public meetings where the TDP is to be presented or discussed, and shall be given an opportunity to review and comment on the TDP during the development of the mission, goals, objectives, alternatives, and ten-year implementation program.

(b) Situation Appraisal. The TDP is a strategic planning document and will include an appraisal of factors within and outside the provider that affect the provision of transit service. At a minimum the situation appraisal shall include:

1. The effects of land use, state and local transportation plans, other governmental actions and policies, socioeconomic trends, organizational issues, and technology on the transit system.

2. An estimation of the community's demand for transit service using the planning tools provided by the Department, or a Department approved transit demand estimation technique with supporting demographic, land use, transportation, and transit data. The result of the transit demand estimation process shall be a ten-year annual projection of transit ridership.

3. An assessment of the extent to which the land use and urban design patterns in the provider's service area support or hinder the efficient provision of transit service, including any

efforts being undertaken by the provider or local land use authorities to foster a more transit-friendly operating environment.

(c) Provider's Mission and Goals. The TDP shall contain the provider's vision, mission, goals, and objectives, taking into consideration the findings of the situation appraisal.

(d) Alternative Courses of Action. The TDP shall develop and evaluate alternative strategies and actions for achieving the provider's goals and objectives, including the benefits and costs of each alternative. Financial alternatives, including options for new or dedicated revenue sources, shall be examined.

(e) Ten-Year Implementation Program. The TDP shall identify policies and strategies for achieving the provider's goals and objectives and present a ten-year program for their implementation. The ten-year program shall include: maps indicating areas to be served and the type and level of service to be provided, a monitoring program to track performance measures, a ten-year financial plan listing operating and capital expenses, a capital acquisition or construction schedule, and anticipated revenues by source. The implementation program shall include a detailed list of projects or services needed to meet the goals and objectives in the TDP, including projects for which funding may not have been identified.

(f) Relationship to Other Plans. The TDP shall be consistent with the Florida Transportation Plan, the local government comprehensive plans, the MPO long-range transportation plan, and regional transportation goals and objectives. The TDP shall discuss the relationship between the ten-year implementation program and other local plans.

(4) Annual Update. Annual updates shall be in the form of a progress report on the ten-year implementation program, and shall include:

(a) Past year's accomplishments compared to the original implementation program;

(b) Analysis of any discrepancies between the plan and its implementation for the past year and steps that will be taken to attain original goals and objectives;

(c) Any revisions to the implementation program for the coming year;

(d) Revised implementation program for the tenth year;

(e) Added recommendations for the new tenth year of the updated plan;

(f) A revised financial plan; and

(g) A revised list of projects or services needed to meet the goals and objectives, including projects for which funding may not have been identified.

(5) Plan Submission and Approval.

(a) To be approved by the Department, a TDP must meet all applicable deadlines and address all requirements of this rule, including a public involvement plan that included opportunities for review and comment by interested agencies, and citizens or passengers during the development of the

provider's mission, goals, and objectives during the development of alternatives and during the development of the ten-year implementation program.

(b) The Department will accept TDPs for review at any time. Provider adopted TDPs must be submitted to the Department by September 1. Late filed TDPs will be accepted if extenuating circumstances beyond the provider's control exist and the District Office is able to complete its review and approval process by the last business day of December. Within 60 days of receiving an adopted TDP or annual update the Department will notify the provider as to whether or not the TDP or annual update is in compliance with the requirements of this rule, and, if not in compliance, a list of deficiencies. Within 30 days of any resubmitted TDP or annual update the Department will notify the provider as to whether or not the resubmission is in compliance with the requirements of this rule.

(6) Grant Administration. Public transit funds will be considered on the basis of public transit needs as identified in TDPs. The Department is authorized to fund up to such percentages as are designated for each type of public transportation project by Chapter 341, Florida Statutes, for the respective state and federal projects described therein. The Department shall, within statutory parameters, determine the level of funding participation for each project.

(a) State funding participation in public transit projects and services shall require a duly executed agreement, unless otherwise required by law.

(b) Eligibility to receive state public transit grants from the Department is limited to those providers specifically designated by law to receive such grants, and determined by statutory budgeting and programming requirements.

(c) Written requests for appropriated public transit grant funds by a provider are to be addressed to the District Office in which district the provider operates public transit service. The request shall include at a minimum the name and address of the provider, level of funding being requested, type of funding or program participation requested, and use to be made of the requested funds. Where a deadline for applications has been established, applications received after the deadline shall be returned. Deadlines for each program application may be obtained from the District Office.

(d) Federal funds for which the Department is the primary recipient may involve special application procedures or submittal format, imposed by the federal grantor agency as a condition of receiving federal funds. The provider will be notified by the District Office of special application requirements at the time of submission of a written request for funding if the District Office has not previously distributed such information to the provider.

(e) The Department will award public transit grant funds after July 1 of each state fiscal year, but will not award funds until a provider's TDP has been found to be in compliance with this rule.

(f) Annual updates and approved TDPs shall be on file at the appropriate District Office by the last business day of December of the state fiscal year for which funding is sought. If a provider's annual report has not been submitted by the last day of December in the fiscal year for which funding is sought, the provider will not receive any state public transit grant funds in that state fiscal year, and funds previously allocated for the provider will be allocated among the remaining providers. If a provider's TDP has not been submitted and found in compliance by the last business day of December of the state fiscal year the annual or five year update was due, the provider will not receive any public transit grant funds in that state fiscal year, and funds previously allocated for the provider will be allocated among the remaining providers.

Specific Authority ~~334.044(2), 341.041(12)(b)~~ FS. Law Implemented ~~341.07, 341.09, 332.003-332.007, 339.135, 339.155, 341.041, 341.051, 341.052, 341.071-341.053, 341.302, 341.303~~ FS. History--New 9-24-75, Formerly 14-73.01, Amended 12-8-92,\_\_\_\_\_.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**STATE BOARD OF ADMINISTRATION  
Florida Hurricane Catastrophe Fund**

RULE TITLE: Procedures to Determine Ineligibility for Participation and Exemption from Participation in the Florida Hurricane Catastrophe Fund

RULE NO. 19-8.012

PURPOSE AND EFFECT: To discuss proposed amendments to Rule 19-8.012, F.A.C., which addresses the rule governing ineligibility and exemption from the Florida Hurricane Catastrophe Fund ("Fund" or "FHCF").

SUBJECT AREA TO BE ADDRESSED: Exemption and ineligibility for participation in the FHCF.

SPECIFIC AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon (EST), January 19, 2006

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308, Telephone: The conference call number for those who wish to participate by telephone is (850)487-8540 or Suncom 277-8540

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jack E. Nicholson, Senior FHCF Officer, State Board of Administration, P. O. Box 13300, Tallahassee, Florida 32317-3300; telephone (850)413-1340.

Copies of the proposed amended rules and the agenda for the workshop may be obtained from: Donna Sirmons, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300; (850)413-1349. Any person requiring special accommodations to participate in this proceeding is asked to advise Donna Sirmons at least five (5) calendar days before such proceeding.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Placement of Inmates into Community Release Programs

RULE NO.: 33-601.606

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend eligibility requirements for community release programs by expanding eligibility time periods prior to release date.

SUBJECT AREA TO BE ADDRESSED: Community release programs.

SPECIFIC AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.606 Placement of Inmates into Community Release Programs.

(1) No change.

(2) Eligibility and Ineligibility Criteria.

(a) No change.

(b) In order to be eligible for community release programs an inmate must:

1. through 3. No change.

4. Inmates with non-advanceable dates must be within 19 ~~15~~ months of their tentative release date or presumptive parole release date for CWA, community-based residential substance abuse program, or pre-work release program or within 14 ~~10~~ months of their earliest tentative release date for CWR.

5. Inmates without non-advanceable dates must be within ~~28~~ 21 months of their tentative release date for CWA, community-based residential substance abuse program, or pre-work release program or within ~~19~~ 15 months of their tentative release date for CWR.

6. No change.

(3) through (5) No change.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New 3-14-01, Amended 9-2-01, 3-19-02, 11-18-02, 5-31-04, 11-25-04, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Maximum Management  
 RULE NO.: 33-601.820

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: delete obsolete and unnecessary language; define relevant terms; provide requirements for documentation of actions and decisions related to maximum management; describe the process for maximum management placement, review and release; provide for the imposition of immediate restrictions; and clarify authority and responsibilities associated with maximum management review and decision-making.

SUBJECT AREA TO BE ADDRESSED: Maximum management.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.820 Maximum Management.

~~(1) General. Maximum Management is a temporary status for an inmate who, through a recent incident or a series of recent incidents, has been identified as being an extreme security risk to the Department and requires an immediate level of control beyond that available in close management or death row.~~

~~(1)(2) Definitions.~~

~~(a) Close Management I (CM I) — the most restrictive single cell housing level of all the close management status designations.~~

~~(b) Institutional Classification Team (ICT) for Maximum Management Review — refers to the team consisting of the Warden or Assistant Warden, Classification Supervisor, a correctional officer chief, and other members as necessary~~

~~when appointed by the Warden or designated by rule. The ICT is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).~~

~~(a)(e) Maximum Management (MM) — refers to a temporary status for an inmate who, through a recent incident or series of recent incidents, has been identified as being an extreme security risk to the Department and requires an immediate level of control beyond that available in close management or death row. The Secretary shall designate which institutions are authorized to house maximum management inmates, based upon the needs of the Department.~~

~~(d) Maximum Management Cell — a single cell housing type that has two doors, a grille front with a securable opening for feeding and cuffing, and a solid door in close proximity of the external grille door.~~

(b) Maximum Management Review Team — refers to the committee in Central Office that has approval authority for placement in maximum management and the modification of conditions and restrictions imposed at the time an inmate is initially placed in maximum management. The Maximum Management Review Team shall consist of the following staff or those acting in that capacity:

1. Deputy Assistant Secretary of Institutions – Operations (Chairperson);
2. Chief, Bureau of Classification and Central Records;
3. Chief, Bureau of Security Operations; and
4. Deputy Assistant Secretary of Health Services (clinical).

~~(e) Shift Supervisor — the highest-ranking Correctional Officer on duty.~~

~~(f) Staff Assistant — refers to an employee assigned to the inmate to explain the recommendation for placement or procedures to the inmate when the inmate is illiterate or does not understand English. A staff assistant shall not take the position of an advocate or defense attorney.~~

~~(2)(3) Maximum Management Placement Criteria.~~

~~(a) An inmate shall have, at a minimum, met the criteria for placement in Close Management I or death row and participated in a recent incident or series of recent incidents which demonstrate:~~

- ~~1. through 4. renumbered (a) through (d) No change.~~

(3) Initial Placement in Maximum Management Housing.

(a)(b) Whenever an inmate has met at least one of the conditions above, and the Shift Supervisor believes that the inmate cannot be controlled in a status less than maximum management, the Shift Supervisor shall recommend immediate placement in maximum management on by completing Section 4 of Form DC6-101, Referral for Maximum Management. Form DC6-101 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective

date of this form is \_\_\_\_\_. Form DC6-101 is incorporated by reference in subsection (6) of this rule. Approval from the warden or duty warden shall be received prior to placement of the inmate in maximum management.

~~(b)(e)~~ The Warden or Duty Warden shall review the Referral for Maximum Management, Form DC6-101, and document his or her decision. Approval from the Warden or Duty Warden is required prior to placement of the inmate in maximum management pending completion of the hearing process in subsection (5) approve or disapprove the immediate placement of an inmate in maximum management by signing Form DC6-101, Referral for Maximum Management.

~~(c)~~ The Shift Supervisor who recommended placing an inmate in maximum management shall ensure delivery of the Referral for Maximum Management to the inmate prior to being relieved of duty. The Referral for Maximum Management shall inform the inmate of the reason for the placement and that a hearing will be held no sooner than 24 hours from the delivery of the notice to review the recommendation for placement in maximum management. The inmate may waive the 24 hour waiting period or his or her appearance at the hearing by signing the 24 Hour/Refusal to Appear Waiver, Form DC6-104. Form DC6-104 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

~~(d)~~ Whenever an inmate has met at least one of the conditions in subsection 33-601.820(3), F.A.C., and the Shift Supervisor believes that the inmate should be reviewed for but not immediately placed in maximum management at the present time, then the Shift Supervisor shall recommend placement by completing Section 1 of Form DC6-101, Referral for Maximum Management. The Shift Supervisor shall notify the Classification Supervisor in writing of the recommendation no later than the following administrative workday.

~~(d)(e)~~ No change.

(4) Conditions of Placement in Maximum Management. Inmates shall be subject to the following conditions upon initial placement in maximum management:

(a) ~~During~~ initial placement of an inmate shall into maximum management the following will be provided clothing and bedding. If the inmate's behavior requires, the Shift Supervisor may authorize the removal of clothing or bedding or that the solid door be closed for security reasons either upon initial placement or at any time during maximum management status. The Shift Supervisor shall notify the Warden. If in agreement with the action, the Warden shall notify the Regional Director. If the Regional Director agrees with the action, the Deputy Assistant Secretary of Institutions - Operations will be contacted for final approval no later than the first work day following the Shift Supervisor's action. If an

~~inmate's clothing is removed, a modesty garment shall be immediately given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229A, CM Daily Record of Segregation. Form DC6-229A is incorporated by reference in Rule 33-601.800, F.A.C. Under no circumstances shall an inmate be left without a means to cover him or herself.:~~

~~1. Clothing—(one set of blue pants and shirt, boxer shorts, tee shirt, coat during the winter, and one pair of shower slides);~~

~~2. Bedding—(one mattress, one pillow, one pillow case and one blanket);~~

~~3. Solid Door—Should an inmate's behavior require that the solid door be closed for security reasons, the Shift Supervisor may authorize this immediate restriction. The Shift Supervisor shall notify the ICT the following day and the ICT shall approve, disapprove or modify this restriction. The ICT shall notify the warden for final approval, disapproval or modification of the ICT decision as described in subsection (5) of this rule.~~

~~(b)4. Reading materials – possession limited to (a bible, religious testament or other reading material specifically related to the inmate's faith only);~~

~~(c)5. Out-of-doors recreation –(limited to once every 30 days);~~

~~(d)6. Meals shall be served on paper or styrofoam products only;~~

~~(e)7. Possession of legal materials shall be permitted;~~

~~8. Inmate Grievance forms;~~

~~(f)9. Legal Visits shall be permitted;~~

~~10. Mail correspondence as provided for Close Management inmates.~~

~~(g)(b) Inmates in maximum management status shall not be allowed to make routine bank transactions or canteen purchases shall not be allowed, with the exception of stamp, paper and envelope purchases for mail.~~

~~(e) The conditions set forth in paragraphs (a) and (b) above shall be reviewed at least weekly by the ICT, and when the ICT determines the inmate has sufficiently demonstrated positive adjustment, consideration shall be given to adjusting the inmate's conditions to the extent authorized for Close Management I inmates. The Institutional Classification Team shall document their justification for adjustment on Form DC6-101, Referral for Maximum Management.~~

~~(5) Maximum Management Conditions After Initial Placement Hearing and Decision Process. Should the inmate's behavior require alteration of initial placement conditions or previously relaxed conditions as described in paragraphs (4)(a) and (b), the Institutional Classification Team shall make the recommendation to the warden on Form DC6-101, Referral for Maximum Management. The warden shall approve, disapprove or modify the recommendations.~~

~~(6) Inmate Notice of Maximum Management Hearing. The Shift Supervisor who recommends placing an inmate in maximum management shall ensure delivery of the Notice of Referral for Maximum Management, Form DC6-101, to the inmate prior to being relieved of duty. Form DC6-101 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is December 7, 2000. The written notice will provide the inmate with an explanation of the reason for the recommendation or placement and inform the inmate that a hearing will be held no sooner than 24 hours of the recommended placement in maximum management. The inmate may waive the 24-hour period or appearance at the hearing by signing the Waiver of Right to Appear/Waiver of 24 Hour Period, Form DC6-104. Form DC6-104 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is December 7, 2000.~~

~~(7) Conducting the Hearing.~~

~~(a) No change.~~

~~(b) The inmate shall be present for the hearing, unless:~~

~~1. The inmate waives his right to appear by signing the 24 Hour/Refusal to Appear Waiver, of Right to Appear/Waiver of 24 Hour Period Form DC6-104; or~~

~~2. No change.~~

~~3. If the inmate did not attend the hearing, the reasons the inmate did not appear at the hearing shall be included in the ICT recommendation entered ~~documented~~ on Form DC6-171, Report of DC6-101, Referral for Maximum Management. Form DC6-171 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.~~

~~(c) through (d) No change.~~

~~(e) The Institutional Classification Team chairperson shall have authority to postpone the hearing to gather further information or order an investigation regarding any pertinent issues. If the hearing is postponed, the reasons for postponement shall be included in the ICT recommendation entered on the Report of Maximum Management, Form DC6-171.~~

~~(f) The Institutional Classification Team shall recommend approval approve or disapproval of disapprove the recommendation for placement in maximum management and modification of the initial conditions of placement as listed in subsection (4), if changes were made. The initial conditions of placement are intended to be short-term and should be modified when the inmate's adjustment to maximum management and the inmate's level of threat to the security of~~

the institution indicate that modification is appropriate. These conditions can only be modified to the level permitted for Close Management I inmates. The Institutional Classification Team's recommendations and the basis for the recommendations shall be documented on the Report of Maximum Management, Form DC6-171.

~~(g) The inmate shall be informed verbally and in writing of the ICT decision.~~

(g)(h) If the Institutional Classification Team's recommendations shall be forwarded to the Warden for review disapproves placement, the inmate shall immediately be reclassified to his original status and removed from the maximum management cell. The Warden's recommendation for approval or disapproval of maximum management placement and any modifications of the initial conditions and the basis for the recommendations shall be documented on the Report of Maximum Management, DC6-171.

(h) The Warden's recommendations shall be forwarded to the Regional Director for review. The Regional Director's recommendation for approval or disapproval of maximum management placement and any modifications of the initial conditions and the basis for recommendations shall be documented on the Report of Maximum Management, Form DC6-171.

(i) The Regional Director's recommendations shall be forwarded to the Maximum Management Review Team for review and final approval or disapproval of the maximum management placement and any modifications of the initial conditions. The Maximum Management Review Team's decisions shall be documented on the Report of Maximum Management, Form DC6-171. If the Institutional Classification Team approves placement, the decision will be forwarded to the warden who will review the recommendation.

(j) If the Maximum Management Review Team disapproves the maximum management placement, the inmate shall immediately be reclassified to his original status and removed from the maximum management cell.

(k) The Classification Supervisor at the maximum management facility shall ensure that Form DC6-229A, CM Daily Record of Segregation, is documented with any status or condition changes approved by the Maximum Management Review Team. The Classification Supervisor shall also ensure that the inmate is informed verbally and in writing of the Maximum Management Review Team's decision. Form DC6-229A is incorporated by reference in Rule 33-601.800, F.A.C.

(l) The Institutional Classification Team at the maximum management facility is responsible for ensuring that staff adhere to any time frames approved in reference to inmate conditions.

(m) An inmate shall not be released from maximum management status or be subjected to modifications of initial placement conditions until the actions are approved by the Maximum Management Review Team except as allowed in paragraph (4)(a) above.

(8) Final Review of Placement.

~~(a) The warden shall approve or disapprove the ICT recommendation based on the criteria in paragraph (3)(a). If the ICT recommendation is incomplete or additional data is needed, the warden shall return the recommendation to the ICT for additional information.~~

~~(b) If the warden disapproves placement, the inmate shall immediately be reclassified to his original status.~~

(6)(9) Review of Maximum Management Status and Conditions.

(a) The Institutional Classification Team shall review the inmate's maximum management status, the conditions set forth in subsection (4) above, and previously modified conditions, weekly for the first sixty days two months from the date of placement, and at least monthly thereafter.

1. Weekly reviews by the Institutional Classification Team during the first sixty days of maximum management status and monthly thereafter shall be documented on Form DC6-229A, CM Daily Record of Segregation. A recommendation for release from maximum management shall be set forth in memorandum and forwarded to the State Classification Office for review.

2. If the Institutional Classification Team recommends the inmate's release from maximum management or a modification of the inmate's conditions during the first sixty days, the Institutional Classification Team shall also document its recommendation on the Report of Maximum Management, Form DC6-171. An inmate shall not be released from maximum management status until authorized by a member of the State Classification Office.

3. All reviews conducted at least monthly by the Institutional Classification Team after the first sixty days of maximum management status shall be documented on the Report of Maximum Management, Form DC6-171. This documentation shall include any recommendations for modifications of the inmate's conditions.

(b) All Institutional Classification Team reviews documented on the Report of Maximum Management, Form DC6-171, shall be reviewed by the Warden. The Warden shall document his or her reason for approval, disapproval or modification of the Institutional Classification Team recommendations on the Report of Maximum Management, Form DC6-171.

(c) The Warden's recommendations for approval, disapproval or modification of the inmate's status or conditions shall be reviewed by the Regional Director. The Regional

Director shall document approval, disapproval or modification of the Warden's recommendation on the Report of Maximum Management, Form DC6-171.

(d) If the Regional Director approves the inmate for continuation of maximum management status, no further review of the placement or modification of conditions is required. An inmate shall not be subjected to modification of conditions until the modifications are approved by the Regional Director, except as allowed in paragraph (4)(a) above.

(e) If the Regional Director recommends release from maximum management status, the recommendation shall be forwarded for review and final decision to the Deputy Assistant Secretary of Institutions – Operations. The Deputy Assistant Secretary of Institutions – Operations shall document approval, disapproval, or modification of the Regional Director's recommendations on the Report of Maximum Management, Form DC6-171.

(f) The Classification Supervisor at the maximum management facility shall ensure that Form DC6-229A, CM Daily Record of Segregation, is documented with any status or condition changes approved by the Regional Director or Deputy Assistant Secretary of Institutions – Operations.

(g) The ICT at the maximum management facility shall ensure that staff adhere to any time frames approved in reference to inmate conditions.

(h) An inmate shall not be released from maximum management status until that action is approved by the Deputy Assistant Secretary of Institutions – Operations.

(7) On-Site Review of Maximum Management.

(a)(b) If an inmate remains in maximum management status for 90 days or more, the Regional Director or designee a member of the State Classification Office shall conduct an on-site review of the inmate's maximum management status and conditions in conjunction with the monthly review of the Warden's recommendations. This on-site review shall take place after every 90 days period of continued maximum management status from the date of placement. The Regional Director's designee shall be a Regional Assistant Warden, Regional Classification Administrator, or State Classification Officer.

(b)(4) The Institutional Classification Team shall participate in the review of the inmate's adjustment with the Regional Director or his designee State Classification Office member.

2. The State Classification Office member is authorized to reclassify an inmate from maximum management status at any point during the reviews.

3. The Institutional Classification team shall be authorized to appeal the decision to reclassify the inmate to the State Classification Office chairperson.

~~4. The inmate shall not be released from maximum management status until the State Classification Office chairperson rules upon the appeal. The ruling of the State Classification Office chairperson is final.~~

(c) The Regional Director's recommendations following this on-site review will be documented on the Report of Maximum Management, Form DC6-171.

~~(8)(10) Security Requirements.~~

(a) No change.

(b) Additionally, the following security precautions shall be followed for maximum management inmates:

1. No change.

2. A maximum management MM inmate shall exit the cell only in handcuffs behind the back with handcuff cover and in the presence of a minimum of two officers.

3. through 7. No change.

~~(9)(11) Other Conditions of Confinement.~~

~~(a) Inmates in maximum management shall not be allowed to check out books from the library.~~

(b) through (d) renumbered (a) through (c) No change.

~~(d)(e) Inmates who are housed in maximum management will have mental health and medical care services to the same extent as all close management inmates. Monitoring of inmates will be as described in Rule 33-601.800, F.A.C.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 12-7-00, Amended 11-23-03, 4-1-04,\_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Physician Services  
 RULE NO.: 59G-4.230

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference update January 2006 to the Florida Medicaid Physician Services Coverage and Limitations Handbook. The handbook update contains the policies and forms for the Recipient Assignment Program (R.A.P.). The 2004 Florida Legislature mandated that the Florida Medicaid Program implement a program to prevent excessive and inappropriate utilization of Medicaid goods and services by recipients in the MediPass and fee-for-service programs. The new program, referred to as the Recipient Assignment Program (R.A.P.), is similar to managed care in regard to the assignment of health care services to a primary care physician (PCP). The accepting PCP will act as a case manager or "gatekeeper" for coordination of the recipient's non-emergency medical services. Certain services are exempt from management by the PCP.

SUBJECT AREA TO BE ADDRESSED: Physician Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.907, 409.908, 409.9081 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 1:00 p.m., Tuesday, January 17, 2006

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Mail Stop 20, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kathy Canfield, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)414-0193

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2004, updated January 2005-1, ~~and~~ January 2005-2, and January 2006, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) No change.

(4) The following forms that are included in Chapter 4 of the Florida Medicaid Physician Services Coverage and Limitations Handbook are incorporated by reference: Enrollment Notification Letter, January 2006, two pages; Enrollment Notification Letter, Spanish version, January 2006, two pages; Recipient Assignment Program, Election of Rights form, January 2006, two pages; Recipient Assignment Program, Election of Rights form, Spanish version, January 2006, two pages; Request for Change of Address for Recipient Assignment Program (R.A.P.), January 2006, one page; Request for Change of Address for Recipient Assignment Program (R.A.P.), Spanish version, January 2006, one page; and the Recipient Assignment Program, Enrollee Physician Notification form, January 2006, two pages. The Enrollee Physician Notification form is available from the Bureau of Medicaid Services. The other forms are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History--New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 6-27-04, 8-3-04, 8-31-05,\_\_\_\_\_.



**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE TITLE: Requirements for Reactivation of an Inactive or Retired License

RULE NO.: 64B17-5.001

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address retired status licensees and criteria for reinstatement of licensure.

SUBJECT AREA TO BE ADDRESSED: Retired status and criteria for reinstatement of licensure.

SPECIFIC AUTHORITY: 486.025, 486.085(2), (4)(a), 486.108(2), 456.036 FS.

LAW IMPLEMENTED: 486.085, 486.108, 456.036 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-5.001 Requirements for Reactivation of an Inactive or Retired License.

(1) Depending upon the time of reactivation, an inactive or retired license shall be reactivated upon demonstration that the licensee has paid the reactivation fee, the biennial renewal fee for an active license or the difference between the inactive or retired status renewal fee and the active status renewal fee, and if applicable, a change of status and/or delinquency fee, provided that the licensee has:

(1) through (4) renumbered (a) through (d) No change.

(e) Documented successful passage of the Laws & Rules examination.

(2) The Board of Physical Therapy may reinstate the license of the licensee with any restrictions that the Board deems appropriate, including, but not limited to the requirement to practice under direct supervision, to ensure the safe practice of the licensee and to safeguard the health, safety and welfare of the citizens of Florida. A licensee seeking to reactivate an inactive or retired license, who has not practiced as a physical therapist or a physical therapist assistant or who

has been practicing as a physical therapist or physical therapist assistant in a setting that does not involve direct patient care, for a period greater than two (2) years shall be required to practice under direct supervision:

(a) Up to 3 months, if the time out of practice or practicing without direct patient care is greater than 3 years but less than 5 years;

(b) Up to 6 months if the time out of practice or practicing without direct patient care is 5 years or greater but less than 10 years;

(c) Up to 1 year if the time out of practice or practicing without direct patient care is 10 years or greater.

(d) If the licensee has been out of the practice of physical therapy or practicing physical therapy in a setting that does not involve direct patient care for a period of five (5) years or more, the Board may require the licensee to take and pass the licensing examination required for initial licensure.

Specific Authority 486.025, 486.085(2), (4)(a), 486.108(2), 456.036 FS. Law Implemented 486.085, 486.108, 456.036 FS. History—New 8-6-84, Formerly 21M-8.11, Amended 9-22-87, 12-30-87, 6-20-89, Formerly 21M-8.011, Amended 3-24-93, Formerly 21MM-5.001, 61F11-5.001, Amended 12-22-94, 4-4-95, 8-16-95, 7-1-97, Formerly 59Y-5.001, Amended 8-9-04, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Office of Public Health Research**

RULE TITLE: Institutional Review Board Applications

RULE NO.: 64H-2.002

PURPOSE AND EFFECT: The purpose of this rule is to provide an application mechanism and fee schedule for requesting Institutional Review Board review, pursuant to the provisions of Section 381.86(5), F.S.

SUBJECT AREA TO BE ADDRESSED: Institutional Review Board.

SPECIFIC AUTHORITY: 381.86 FS.

LAW IMPLEMENTED: 381.86(5) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 10:00 a.m., EST., Wednesday, January 18, 2006

PLACE: Department of Health, 4030 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sylvia McDaniel, Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Mail Bin A24, Tallahassee, FL 32399, (850)245-4585

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64H-2.002 Institutional Review Board Applications.

Applications for Institutional Review Board review shall be submitted electronically using the IRB Wise™ system available at the department's website <http://www.doh.state.fl.us/execstaff/irb/index.html>. The website address is also available by contacting the Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Mail Bin A-24, Tallahassee, Florida 32399, (850)245-4585. An application fee shall be charged according to the following schedule: Initial Applications \$1,500, Amendments \$500, and Continuing Reviews \$500. Application fees are due at the time of submission and applications will not be processed until payment is received by the department. Application fees are waived for any student who is a candidate for a degree at a university located in this state.

Specific Authority 381.86 FS. Law Implemented 381.86(5) FS. History—New 4-1-06.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Agency for Persons with Disabilities**

RULE TITLE: Determination of Mental Retardation: RULE NO.:

Intelligence Tests to be Administered 65B-4.033

PURPOSE AND EFFECT: This rule specifies the intelligence tests to be used in the determination of Mental Retardation for the purpose of determining program eligibility.

SUBJECT AREA TO BE ADDRESSED: Intelligence tests.

SPECIFIC AUTHORITY: 393.063(38), 916.106, 393.501(1) FS.

LAW IMPLEMENTED: 393.063(38) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, January 26, 2006

PLACE: 4030 Esplanade Way, Room 370 A, Tallahassee, FL 32399, (850)488-1553

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Charles L. Ball, Florida Agency for Persons with Disabilities (APD), 4030 Esplanade Way, Room 370D, Tallahassee, FL 32399, (850)488-1553

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS

65B-4.033 Determination of Mental Retardation: Intelligence Tests to be Administered.

(1) For the purposes of Chapters 393 and 916, F.S., the Stanford-Binet Intelligence Scale or the Wechsler Adult & Infant Intelligence Scale, administered by or under the direct

supervision of a psychologist or school psychologist licensed under Chapter 490, F.S., shall be used to determine mental retardation and the level of intellectual functioning.

(2) Notwithstanding subsection (1), if, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler Adult & Infant Intelligence Scale are not valid and reliable as determined by the person authorized to administer such tests, an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, may be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure.

Specific Authority 393.63(38), 916.106, 393.501(1) FS. Law Implemented 393.63(38), 916.106 FS. History—New \_\_\_\_\_

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Mental Health Program Office**

RULE TITLE: Right to Quality Treatment RULE NO.: 65E-5.180

PURPOSE AND EFFECT: Rule 65E-5.180, F.A.C., is being revised to comply with Section 394.459(4)(b)3., F.S., of the Baker Act, requiring facilities develop a system for investigating and responding to certain complaints.

SUBJECT AREA TO BE ADDRESSED: Development of a rule to comply with the statutory requirements of Section 394.459(4)(b)3., F.S., of the Baker Act.

SPECIFIC AUTHORITY: 394.459(4)(b) FS.

LAW IMPLEMENTED: 394.459(4)(b)3. FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., January 19, 2006

PLACE: Building 6, Conference Room "A", Winewood Office Complex, 1317 Winewood Blvd., Tallahassee, Florida

Persons with disabilities requiring accommodations in order to participate in this workshop should contact Linda Henshaw, Department of Children and Families, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Room 271, Tallahassee, Florida 32399-0700, (850)921-5724, (Voice) or (850)921-5724 (TDD), as soon as possible, but no later than five full working days prior to the workshop.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, AVAILABLE AT NO CHARGE IS: Ron Kizirian, Medical/Healthcare Program Analyst, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Room 211, Tallahassee, Florida 32399-0700, telephone: (850)921-8880

ANY PERSON MAY SUBMIT INFORMATION REGARDING THE PROPOSED RULE DEVELOPMENT TO THE ABOVE NAME AND ADDRESS.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-5.180 Right to Quality Treatment.

The following standards shall be required in the provision of quality mental health treatment:

(1) through (5) No change.

(6) Each ~~designated receiving and treatment facility and service provider~~ shall develop a written procedure for the receipt, review, tracking, and prompt investigation of oral or written complaints by a person or other individual on the person's behalf concerning the person's about his or her care while receiving services in a facility or by a service provider hospitalized, which shall be documented in the person's clinical record.

(a) The grievance process shall be verbally explained during the orientation process in written orientation materials and shall be posted in plain view in common areas and at the point of contact for the provision of services.

(b) Any grievance may be verbal or written. When the grievance is verbal, the facility will designate an individual not named in the dispute to assist the complainant in writing the grievance. The grievance shall detail the issue and the remedy sought.

(c) All grievances shall be addressed, and immediately forwarded, to the staff person in the facility who is assigned to track grievances.

(d) The grievance shall be date-stamped upon receipt and entered into a tracking system which documents:

1. The nature of the complaint;
2. The name of the person receiving services;
3. The name of the person making the complaint;
4. The individual assigned to investigate the complaint;
5. The due date for the written response; and
6. A copy of the written response to the grievance.

(a) The person receiving services and the complainant shall receive a verbal response to the grievance within 24 hours from the date and time of initial receipt. Every effort must be made to immediately address those grievances that do not require extensive investigation.

(b) A written response must be given to or mailed to the complainant within two working days from the date and time of initial receipt. A copy of the written response shall be given to the individual staff member assigned to track grievances. If the complainant has an assigned staff advocate, that advocate must attempt to mediate the resolution to the grievance.

(c) The complainant may appeal the disposition of a grievance to the administrator of the facility or service provider.

(d) If appealed, the facility or service provider administrator or his or her designee shall review the written complaint and the initial response. Within five working days, the facility administrator or his or her designee will make a

final decision concerning the outcome of the grievance and will provide a written response to the complainant. A copy of the written response shall also be given to the staff member assigned to track grievances.

(e) The complainant shall also be advised that he or she can contact the Local Advocacy Council, the Advocacy Center for Persons with Disabilities, or any other individual or agency at anytime during the complaint process to request assistance.

(7) through (13) No change.

Specific Authority 394.457(5), ~~394.459(4)(b)~~ FS. Law Implemented 394, Part I, 394.459(2)(d), (4), (4)(b)3., 401.455 FS. History--New 11-29-98, Amended 4-4-05, \_\_\_\_\_.

## DEPARTMENT OF FINANCIAL SERVICES

### Division of Workers' Compensation

RULE TITLE:

RULE NO.:

Florida Workers' Compensation Medical

Services Billing, Filing and Reporting Rule 69L-7.602  
PURPOSE AND EFFECT: The purpose of this rule amendment is to address both ministerial changes made to the recently adopted Florida Workers' Compensation Medical Services Billing Rule and to update the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006, to reflect its most current edition. The effect of this rule amendment is to promote compliance by insurers and submitters with requirements associated with the electronic submission, filing and reporting, relating to the Florida Workers' Compensation Medical Services Billing Rule, streamline the application of administrative fines and penalties on insurers for non-compliance, and to update relevant reference material to reflect the most current edition.

SUBJECT AREA TO BE ADDRESSED: Rule amendment reflecting changes and updates to reference materials associated with the recently adopted Florida Workers' Compensation Medical Services Billing Rule.

SPECIFIC AUTHORITY: 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS.

LAW IMPLEMENTED: 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), 440.185(5), (9), 440.20(6), 440.593 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., January 17, 2006

PLACE: Room 317, Hartman Building, 2012 Capital Circle, S.E., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Don Davis, Division of Workers' Compensation, Office of Data Quality and Collection, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4226, phone (850)413-1711

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69L-7.602 Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule.

(1) No change.

(a) through (n) No change.

(o) "Electronic Filing" means the computer exchange of medical data from a submitter to the division in the standardized format defined in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~.

(p) "Electronic Form Equivalent" means the format, provided in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~, to be used when a submitter electronically transmits required data to the division. Electronic form equivalents do not include transmission by facsimile, data file(s) attached to electronic mail, or computer-generated paper-forms.

(q) through (s) No change.

(t) "Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~" is the Florida Division of Workers' Compensation's reference document containing the specific electronic formats and data elements required for insurer reporting of medical data to the Division.

(u) through (jj) No change.

(kk) "UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee, September April 2005" (UB-92 manual) is the reference document providing billing and reporting completion instructions for the Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Uniform Bill, Rev. 1992).

(2) No change.

(a) Form DFS-F5-DWC-9 (CMS-1500 Health Insurance Claim Form, Rev. 12/90); Form DFS-F5-DWC-9-A (Completion Instructions for Form DFS-F5-DWC-9)-A (comprised of three sets of completion instructions for use by health care providers, ambulatory surgical centers, and work hardening and pain management programs), Rev. 5/-26/-05; Form DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form), Rev. 5/26/2005; ~~Completion Instructions for Form DFS-F5-DWC-10—A, Rev. 5-26-05;~~ Form DFS-F5-DWC-11 (American Dental Association Dental Claim Form, Rev. 2002); Form DFS-F5-DWC-11-A (Completion Instructions for Form DFS-F5-DWC-11)-A, Rev. 5/ ~~May~~ 26/- 2005; Form DFS-F5-DWC-25 (Florida Workers' Compensation Uniform Medical Treatment/Status Reporting Form), Rev. 11/07/2005 ~~5/26/2005~~;

~~Completion/Submission Instructions for Form DFS-F5-DWC-25, Rev. May 26, 2005; and Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Uniform Bill, Rev. 1992) are hereby incorporated by reference into this rule.~~

1. through 4. No change.

5. A copy of the Form DFS-F5-DWC-90 can be obtained from the CMS web site: <http://cms.hhs.gov/forms/>. Completion instructions can be obtained from the UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. September April 2005) and subparagraph (4)(e)5. of this rule.

(b) No change.

1. No change.

2. The form provides all information required to be submitted to the division, pursuant to the MEIG, 2006, on the Form DFS-F5-DWC-10. Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 shall not be submitted as an alternate form.

(3) No change.

(a) UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. September June 2005). A copy of this manual can be obtained from the Florida Hospital Association by calling (407)841-6230.

(b) The Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~. The Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~ can be obtained from the DFS/DWC web site: [http://www.fldfs.com/WC/pdfMedDataElecFilingManual2005\\_5-26-05.pdf](http://www.fldfs.com/WC/pdfMedDataElecFilingManual2005_5-26-05.pdf).

(c) through (k) No change.

(4) (a) through (c) No change.

1. The Form DFS-F5-DWC-25 does not replace physician notes, medical records or Division-required medical ~~billing~~ reports.

2. All information submitted on physician notes, medical records or Division-required medical ~~billing~~ reports must be consistent with information documented on the Form DFS-F5-DWC-25.

(d) 1. through 4. No change.

5. Certified, licensed physician assistants, anesthesia assistants and registered nurse first assistants who provide surgical assistance ~~on procedures with codes permitting an assistant—surgeon-physician~~ shall bill on a Form DFS-F5-DWC-9 entering the CPT code(s) plus modifier(s), which represent the service(s) rendered, in Field 24D, and must enter his/her Florida Department of Health license number in Field 33.

6. through 8. No change.

9. a. through e. No change.

f. Dispensing physicians, physician assistants or ARNPs shall bill by entering code 99070 in Field 24D, on a Form DFS-F5-DWC-9, when supplying over-the-counter drugs and shall submit documentation ~~an invoice~~ indicating the name, dosage, package size and cost of the drug(s).

g. No change.

10. through 11. No change.

12. Health care providers and other insurer authorized providers rendering health care services reimbursable under workers' compensation, whose billing requirements are not otherwise specified in this rule (e.g. home health agencies, independent ambulance services, transportation services, translation services, etc.), shall bill on their invoice or business letterhead. These providers shall not submit the Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 as an invoice.

(e) through (f) No change.

(5) (a) through (d) No change.

(e) Required data elements on Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, and DFS-F5-DWC-90, for both medical only and lost-time cases, shall be filed with the division within 45 calendar days of insurer, service company/TPA or any entity acting on behalf of the insurer, payment, adjustment and payment, disallowance or denial. This 45- calendar day requirement includes initial submission and correction and re-submission of all errors identified in the "Medical Claim Processing Report", as defined in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~.

(f) An insurer shall be responsible for accurately completing required data filed with the division, as of the effective date of this rule, pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2006~~5~~ and subparagraphs (4)(e)2.-5. of this rule.

(g) through (j) No change.

1. through 2. No change.

3. Required information is illegible, inaccurate, or omitted; ~~or~~

4. The bill is an exact duplicate of a previously paid, adjusted and paid, disallowed or denied bill.

(k) through (n) No change.

1. and 2. No change.

a. through n. No change.

o. 15 Invalid ~~procedure~~ code. (Use when other valid ~~procedure~~ codes are present.)

p. through t. No change.

(o) through (q) No change.

(6) No change.

(a) No change.

1. Additionally, an insurer shall be responsible for accurately completing the electronic record layout programming requirements for the reporting of the Form

DFS-F5-DWC-9 Claim Detail Record Layout – Revision "C" and the Form DFS-F5-DWC-10 Claim Detail Record Layout – Revision "C", Form DFS-F5-DWC-11 Claim Detail Record Layout – Revision "C" and Form DFS-F5-DWC-90 Claim Detail Record Layout – Revision "C" in accordance with the Florida Workers' Compensation Medical Implementation Guide (MEIG), 2005, to the division in accordance with the phase-in schedule as denoted below in sub-subparagraphs a., b., and c. of this section. The electronic record layout for Form DFS-F5-DWC-9 in the MEIG, 2005, adds the new field 30A for submission of the pre-payment/employee payment indicator and the new field 31A for submission of the duplicate override indicator and adds the new field 18B for submission of the National Drug Code (NDC) number. The electronic record layout for Form DFS-F5-DWC-10 in the MEIG, 2005, adds the new field 25A ~~24A~~ for submission of the pre-payment/employee payment indicator and the new field 26A ~~25A~~ for the submission of the duplicate override indicator and adds a claim detail record layout, which includes form fields 7, 8, 9, 10, 11, 12, 13, 14 and 15 for Section 2 – Prescription Drugs. The electronic record layout for Form DFS-F5-DWC-11 in the MEIG, 2005, adds the new field 27A for submission of the pre-payment/employee payment indicator and the new field 28A for submission of the duplicate override indicator. The electronic record layout for Form DFS-F5-DWC-90 in the MEIG, 2005, adds the new field 40A for submission of the pre-payment/employee payment indicator and the new field 41A for submission of the duplicate override indicator. The conversion implementation schedule is as follows:

a. through c. No change.

2. The Division will, resources permitting, allow submitters that volunteer to complete ~~the~~ test transmission to production transmission processes earlier than any ~~the~~ schedule denoted within this rule ~~above~~. Each voluntary submitter shall have six weeks to complete test transmission to production transmission processes, for all electronic form equivalents, that comply with requirements set forth in this rule ~~the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005~~.

3. With the effective date of this rule, an insurer shall be responsible for accurately completing the electronic record layout programming requirements for the reporting of Form DFS-F5-DWC-10 Claim Detail Record Layout – Revision "D" in accordance with the Florida Workers' Compensation Medical Implementation Guide (MEIG), 2006. The electronic record layout for Form DFS-F5-DWC-10 in the MEIG, 2006, adds the new field 16B for submission of the Amount Paid by Insurer. The electronic record layouts for Forms DFS-F5-DWC-9, DFS-F5-DWC-11 and DFS-F5-DWC-90, after the effective date of this rule, will also be known as Record Layout – Revision "D".

a. All submitters shall begin testing on April 10, 2006 and shall be in production with Form DFS-F5-DWC-10 Record – Layout Revision “D” no later than May 22, 2006.

(b) Required data elements shall be submitted in compliance with the instructions and formats as set forth in the Florida Workers’ Compensation Medical EDI Implementation Guide (MEIG), 2006.

(c) No change.

(d) Submitters who experience a catastrophic event resulting in the insurer’s failure to meet the reporting requirements in paragraph (5)(e) of this rule, shall submit a written request within 15 business days of the catastrophic failure to the division for approval to submit in an alternative reporting method and an alternative filing timeline. Approval must be obtained from the Division’s Office of Data Quality and Collection, 200 East Gaines Street, Tallahassee, Florida 32399-4226. Approval to submit in an alternative reporting method and an alternative filing timeline shall be granted if a catastrophic event beyond the control of the submitter prevents electronic submission.

(7) Insurer Administrative Penalties and Administrative Fines for Untimely Provider-Payment or Disposition of Medical Bills.

(a) ~~Insurer administrative penalties for untimely provider payment or disposition of medical bills.~~ The department shall impose insurer administrative penalties for failure to comply with the payment, adjustment and payment, disallowance or denial requirements pursuant to Section 440.20(6)(b), F.S. Timely performance standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11 and DFS-F5-DWC-90, shall be calculated and applied on a monthly basis for each separate form category that was received within a specific calendar month.

(b) ~~Insurer administrative fines for failure to submit, untimely submission, filing and reporting of medical data requirements.~~ Pursuant to Section 440.185(9), F.S., the department shall impose insurer administrative fines for failure to comply with the submission, filing or reporting requirements of this rule. Insurer administrative fines shall be applied as follows:

1. Calculated on a monthly basis for each separate form category (Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, DFS-F5-DWC-90) received and accepted by the division within a specific calendar month; and

2. Insurers are required to report all medical billing reports timely pursuant to subparagraph (5)e. of this rule. Insurers that fail to submit a minimum of 95% of all medical billing reports timely are subject to an administrative fine. Each untimely filed medical billing report which falls below the 95% requirement is subject to the following penalty schedule:

Imposed for each failure to file, untimely filed, rejected and not re-submitted, or rejected and re-submitted untimely medical data report according to the following schedule:

- a. 1 – ~~30~~ calendar days late \$~~5~~ 40.00;
- b. ~~31~~ – ~~60~~ calendar days late \$~~120~~ 0.00;
- c. ~~61~~ – ~~90~~ calendar days late \$~~25~~ 30.00;
- d. 91 or greater ~~46~~ – ~~60~~ calendar days late \$~~100~~ 40.00.;
- e. ~~61~~ – ~~75~~ calendar days late \$50.00;
- f. ~~76~~ – ~~90~~ calendar days late \$100.00; and
- g. ~~91~~ calendar days or greater \$500.00.

3. Each medical billing report that does not pass the electronic reporting edits shall be rejected by the Division and considered not filed pursuant to subparagraph (5)e. of this rule. If the medical billing report remains rejected and not corrected, resubmitted and accepted by the division for greater than 90 days, an administrative fine shall be assessed in the amount of \$100.00 for each such medical billing report. Rejected and not resubmitted medical billing reports will not be included in the 95% timely reporting requirement.

4. Untimely filed medical reports for a given month will be excluded from the administrative fine set forth in section 3 above as falling within the performance standard between 100% and 95% in the following order:

- a. Medical Reports filed 1 – 30 calendar days late; then
- b. Medical Reports filed 31 – 60 calendar days late; then
- c. Medical Reports filed 61 – 90 calendar days late; then
- d. Medical Reports filed 91+ calendar days late.

Specific Authority 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS. Law Implemented 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), 440.185(5), (9), 440.20(6), 440.593 FS. History–New 1-23-95, Formerly 38F-7.602, 4L-7.602, Amended 7-4-04, 10-20-05.

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Based on History of Accidents

RULE NO.: 690-175.008

PURPOSE AND EFFECT: To identify specific methods of competition or acts or practices prohibited by Section 626.9541, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Unfair discrimination in private passenger motor vehicle insurance rates based on the history of accidents.

SPECIFIC AUTHORITY: 624.308(1), 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(o)3.a. FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., February 21, 2006

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Michael Milnes, Property and Casualty Product Review, Office of Insurance Regulation, E-mail: michael.milnes@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

to participate in this program, please advise the Department at least 5 days prior to the workshop by contacting Donna Hunt at (850)410-8615 or TDD Number (850)656-9597.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-14.002 General Program Provisions.

(1) No change.

(2) Career Development Training Program Courses, as defined in subsection 11B-14.001(1), F.A.C., and Advanced Training Program Courses, as defined in subsection 11B-14.001(3), F.A.C., that have been successfully completed, as defined in subsection 11B-14.001(9), F.A.C., by eligible officers, shall be verified by the training center director or designee, as defined in paragraph 11B-21.005(8)(a), F.A.C. To verify successful completion of a Commission-approved Advanced or Career Development Training Program Course and to authorize salary incentive payments, a Training Report, form CJSTC-67, revised May 5, 2005 ~~May 6, 2004~~, hereby incorporated by reference, shall be electronically transmitted to Commission staff through the Commission's ATMS.

(3) through (15) No change.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History--New 10-16-78, Amended 9-11-79, 1-13-81, 5-16-83, 1-7-85, Formerly 11B-14.02, Amended 7-13-87, 9-3-87, 5-23-88, 5-14-92, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF LAW ENFORCEMENT

#### Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Salary Incentive Program                      11B-14

RULE TITLE:                                      RULE NO.:

General Program Provisions                      11B-14.002

PURPOSE AND EFFECT: Revises Commission form CJSTC-67.

SUMMARY: Revises Training Report form CJSTC-67.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person, who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 working days of this notice.

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.22(2)(h) FS.

LAW IMPLEMENTED: 943.22 FS.

IF REQUESTED, IN WRITING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., January 24, 2006

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308, telephone number: (850)410-8615

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations

NAME OF PERSON ORIGINATING PROPOSED RULE: Ms. Donna Hunt, Government Operations Consultant, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, telephone number: (850)410-8615

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bureau Chief Vickie Marsey, Florida Department of Law Enforcement, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 19, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2005

### DEPARTMENT OF LAW ENFORCEMENT

#### Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Criminal Justice Standards and                      11B-18

Training Trust Fund                      11B-18

RULE TITLE:                                      RULE NO.:

Regional Training Areas                      11B-18.004

PURPOSE AND EFFECT: Adds a new Commission-certified criminal justice training school to Region IX and X.

SUMMARY: Updates the Commission-certified criminal justice training school list.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.