

standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS-F5-DWC-9 (Health Insurance Claim Form/CMS-1500), DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form and Instructions), DFS-F5-DWC-11 (American Dental Association Dental Claim Form), and DFS-F5-DWC-90 (Hospital Billing Form (UB-04)), or their electronic equivalents, as incorporated in paragraphs 69L-7.602(2)(a), (b), (c), and (e), F.A.C., the Department shall calculate penalties on a monthly basis for each separate form/category type that was received and accepted by the Department within a specific calendar month.

2. No change.

(b) through (c) No change.

(d) The provisions of subsection 69L-7.602(7), F.A.C., become null and void and are supplanted by penalty provisions in this amended Rule 69L-24.006, F.A.C., effective upon adoption of this amended Rule Chapter 69L-24, F.A.C.

Rulemaking Authority 440.13(11), 440.185(10), 440.20(6), 440.525(4), 440.591, 440.593(4) FS. Law Implemented 440.13(11), 440.185, 440.20(6), (8), 440.525, 440.593 FS. History--New

69L-24.007 Pattern or Practice.

(1) through (2) No change.

(3)(a) The Department shall issue a non-willful violation for a pattern or practice of unreasonable claims handling for any monitoring, examining, or investigating review activity listed in subsection 69L-24.004(2), F.A.C. For each such non-willful violation, a penalty of \$2,500 shall be assessed against the insurer by the Department, with such fines not exceeding an aggregate of \$10,000 for all pattern or practice violations arising out of the same action. Any penalty imposed under this paragraph for a non-willful violation shall not duplicate a penalty imposed under another provision of Chapter 440, F.S., or Department Rules governing Florida Workers' Compensation law.

(b) The Department will calculate a regulated entity's performance in order to determine if a non-willful violation will be assessed for a pattern or practice of unreasonable claims handling. If the performance falls below 90% compliance during an audit, examination or investigation, except as otherwise stated in Chapter 440, F.S., Florida Statutes and Department Rules, the Department shall assess a penalty pursuant to subsection (3) herein.

The remainder of the reads as previously published.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF THE LOTTERY

RULE NO.:

RULE TITLE:

53ER09-61

Retailer MAGA MONEY™ Bonus Commission Program

SUMMARY: The Florida Lottery will award a bonus commission to the retailer(s) that sells a winning jackpot MEGA MONEY ticket for a Tuesday or Friday MEGA MONEY drawing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER09-61 Retailer MEGA MONEY™ Bonus Commission Program.

(1) The Florida Lottery will conduct, as a retailer sales incentive, a Retailer MEGA MONEY Bonus Commission Program ("Program") in which the Florida Lottery will award a bonus commission to the retailer(s) that sells a winning jackpot MEGA MONEY ticket for a Tuesday or Friday MEGA MONEY drawing.

(2) The bonus commission for selling a winning MEGA MONEY ticket is \$1,000. If multiple winning jackpot MEGA MONEY tickets are sold for the same drawing, the retailer(s) selling such tickets will share the bonus commission. Each retailer selling one or more of the winning jackpot tickets will receive a share of the available bonus equal to the number of winning jackpot tickets sold by that particular retailer divided by the total number of winning jackpot tickets sold for that drawing.

(3) Award of a jackpot MEGA MONEY bonus commission is not dependent upon the winning jackpot ticket being claimed by the winner.

(4) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the bonus commission award shall be paid the bonus commission earned provided said termination or inactivation was not due to noncompliance with Chapter 24, Florida Statutes, Chapter 53, Florida Administrative Code, or contract terms.

(5) A bonus commission will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply a bonus commission earned against a retailer's outstanding debt to the Florida Lottery, and to award the remaining balance of the bonus commission, if any.

(6) MEGA MONEY bonus commissions are subject to availability of funds appropriated for retailer incentives. This Program is subject to cancellation by future emergency rule if retailer incentive funding is not appropriated or if the Florida Lottery determines that it is no longer in the state's best interest to use such funds for this purpose.

(7) This rule replaces Rules 53ER06-5 and 53ER06-7 and shall become effective November 1, 2009.

Rulemaking Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History—New 11-1-09, Replaces 53ER06-5 and 53ER06-7.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: November 1, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V

Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT on November 2, 2009, the Florida Communities Trust has issued an order.

The Final Order is in response to the Petition for Waiver filed by HILLSBOROUGH COUNTY on September 1, 2009. Notice of this petition appeared in the September 18, 2009, edition of the Florida Administrative Weekly. Hillsborough County requested a waiver of subsection 9K-7.003(8), F.A.C., based upon economic hardship and violation of the principle of fairness. This petition was assigned the number DCA09-WAI-303. The Department found that the County satisfied these thresholds for waiver of the rule and, on November 2, 2009, granted the request for waiver of the rule.

A copy of the Order may be obtained by contacting: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN THAT on October 29, 2009, the Criminal Justice Standards and Training Commission has issued an order.

A Petition for Waiver of subsections 11B-27.002(4), and 11B-35.002(2), (7), F.A.C., was received from Joseph Gagliardi on September 8, 2009. Notice of the Petition was published in the Florida Administrative Weekly, Vol. 35, No. 38, September 25, 2009. Mr. Gagliardi wished to waive those portions of the rules requiring candidates attending cross-over training to be Commission certified prior to beginning cross-over training or to have passed basic recruit training and have passed the State Officer Certification Examination prior to entry into the cross-over training program. Mr. Gagliardi graduated from the Commission-approved Basic Law Enforcement Recruit Program on July 23, 2009. He entered cross-over Basic Recruit Training for Corrections on July 20, 2009, prior to passing the State Officer Certification Examination (SOCE) for Law Enforcement or graduating from basic recruit training. Mr. Gagliardi passed the SOCE on August 4, 2009, after he had begun cross-over training. The Commission found that Mr. Gagliardi's situation is not unique, nor did Mr. Gagliardi demonstrate that the strict application of the Commission's rules in his case would violate the principles of fairness. The Commission did not find that the purposes of the underlying statute, to permit certified or certification-eligible officers in one discipline to become certified in another discipline, would be served by permitting a non-certified person who had not completed one course of criminal justice study to commence cross-over training to become certified in another discipline prior to completing even one course of study. Accordingly, the Commission denied Mr. Gagliardi's request for a waiver of subsections 11B-27.002(4) and 11B-35.002(2), F.A.C., on October 28, 2009, at its regularly scheduled Business Agenda meeting in Panama City Beach, Florida. Mr. Gagliardi may not complete cross-over training concurrently with completing his basic recruit training.

A copy of the Order may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32327, or by telephoning (850)410-7676.

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