

Form #3

~~OFFICE WEST VIRGINIA
SECRETARY OF STATE~~

Authorized Signature

\$4.60

STATEMENT OF CIRCUMSTANCES

This rule is legislatively mandated by WV Code §16-5Q-3(d) that requires the Department of Health and Human Resources to propose a rule to establish eligibility standards for the distribution of moneys from the James “Tiger” Morton Catastrophic Illness Fund.

BRIEF SUMMARY - 72csr1

This rule establishes eligibility standards for West Virginians who have a catastrophic illness to obtain economic assistance from the James "Tiger" Morton Catastrophic Illness Fund. The rule states which medical treatments and related services are approved care and services and which are disapproved, and how decisions of eligibility and awards of moneys shall be made.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: **Eligibility Standards for Economic Assistance from the James "Tiger" Morton Catastrophic Illness Fund - 72csr1**

Type of Rule: X **Legislative** **Interpretive** **Procedural**

Agency: Division of Human Services
 Department of Health and Human Resources

Address: Building 3, Capitol Complex
 Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$0	\$0	\$0	\$0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

There will be no fiscal impact. The proposed rule is to establish eligibility standards for economic assistance from the James "Tiger" Morton Catastrophic Illness Commission. Eligibility standards have not been put in code and based on House Bill 3181 the secretary shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to accomplish the purpose of the James "Tiger" Morton Catastrophic Illness Commission.

3. Objectives of this rule:

To establish eligibility standards for economic assistance from the James "Tiger" Morton Catastrophic Illness Commission.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: July 8, 2003

Signature of Agency Head or Authorized Representative:

Paul L. Nusbaum
Paul L. Nusbaum, Secretary
Department of Health and Human Resources

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 8, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Martha Barnitt

Policy Development & Regulatory Affairs - DHHR

State Capitol Complex, Building 3, Room 206; Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Eligibility Standards for Economic Assistance from
the James "Tiger" Morton Catastrophic Illness Fund

1. Authorizing statute(s) citation: WV Code §§ 16-1-4 and 16-5Q-2

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 3, 2003

b. What other notice, including advertising, did you give of the hearing?

Notice of the proposed rule was sent to the medical associations and
other interested industry associations.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 7, 2003

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

July 8, 2003

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Martha Barnitt

Office of the Secretary - - DHHR

Building 3 - Room 206

Charleston, West Virginia 25305

Tel: 558-5598 Fax: 558-7075

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Regina Hupp, MSW. Executive Director

Catastrophic Illness Commission

State Capitol Complex - Building 3, Room 231

Charleston, West Virginia 25305

Tel: 558-6073 Fax: 558-6640

2. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

**Title 72
Legislative Rules
Catastrophic Illness Commission**

FILED

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**Series 1
Eligibility Standards for Economic Assistance from the
James "Tiger" Morton Catastrophic Illness Fund**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§72-1-1. General.

1.1. Scope. – This rule establishes eligibility standards for economic assistance from the James "Tiger" Morton Catastrophic Illness Fund under provisions of W. Va. Code §16-5Q-1 et. seq. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. – W. Va. Code §§ 16-5Q-2 and 16-1-4.

1.3. Filing Date. –

1.4. Effective Date. –

§72-1-2. Application.

2.1. Application. – This rule applies to any citizen of West Virginia who has a catastrophic illness and has applied to the Catastrophic Illness Commission for economic assistance related to that illness.

§72-1-3. Definitions.

3.1. Applicant. - A West Virginia citizen who has applied for economic assistance from the Commission.

3.2. Available Financial Resources. –

3.2.a. Assets that are available to the applicant including, but not limited to, public or private assistance, Medicaid, private charity care, and medical insurance that covers illness related expenses; and

3.2.b. Assets of the applicant's that exclude the applicant's interest in his or her residence, and a family owned or managed business, and up to two (2) vehicles used primarily for employment or medical treatment.

3.3. Award. - The dollar amount of economic assistance paid, or to be paid, to an eligible applicant.

3.4. Catastrophic Illness. -- A life-threatening illness sustained by an applicant for whom there is imminent risk of death, and who has depleted available financial resources.

3.5. Commission. -- The Catastrophic Illness Commission.

3.6. Eligible. -- When an applicant meets the eligibility standards established by this rule to receive economic assistance from the Commission, subject to available funding.

3.7. Eligibility Standards. -- The minimum criteria that need to be met for a West Virginia citizen to receive economic assistance from the Commission, subject to available funding.

3.8. Executive Director. -- The Executive Director of the Commission.

3.9. Federal Poverty Level. - A threshold of income published in the federal register issued by the Department of Health and Human Services and updated annually.

3.10. Spend Down. -The amount of medical expenses an applicant must spend of his or her income to meet the medically needy income level as defined in the West Virginia Income Maintenance Manual.

§72-1-4. Applications.

4.1. West Virginia citizens may request economic assistance from the Commission by completing an application form by telephone upon calling the Commission. Any person who obtains or attempts to obtain funds from the Commission by willful, false statement or misrepresentation or by impersonation or any other fraudulent device may be investigated by the Department of Health and Human Resources, Office of Inspector General, and may be prosecuted to the full extent of the law.

§72-1-5. Purpose for Setting Eligibility Standards.

5.1. The purpose for setting eligibility standards as required by §16-5Q-2 is to assist West Virginia citizens who have a catastrophic illness with needed medical treatment or related services, while not exceeding budgetary constraints.

§72-1-6. Eligibility Standards.

If funding is available, the Commission may consider an applicant eligible for

assistance if the Commission determines that the applicant:

- 6.1. Has a catastrophic illness;
- 6.2. Needs approved care and services during the acute phase of the catastrophic illness; and
- 6.3. Meets required spend down for Medicaid eligibility to the extent that reduces household income to less than one hundred percent (100%) of the federal poverty level.

§72-1-7. Approved Care and Services.

The care and services approved for economic assistance by the Commission include, but are not limited to:

- 7.1. Care and services provided by licensed health care providers, except for services listed in Section 8 of this rule;
- 7.2. Transportation to and from approved medical facilities for the applicant and one other person;
- 7.3. Proven and accepted medical therapy;
- 7.4. Prescribed medications taken to assist with illness rejection or recurrence, including those related to transplants; and
- 7.5. Oral chemotherapy or similar agents prescribed for the approved catastrophic illness.

§72-1-8. Disapproved Care and Services.

The care and services disapproved for economic assistance by the Commission include, but are not limited to:

- 8.1. Solely pharmaceutical purchases;
- 8.2. Durable medical equipment;
- 8.3. Debts or medical bills incurred prior to thirty (30) days from the date of application, as specified in Subsection 4.1 of this rule;
- 8.4. Experimental treatments, procedures or therapies;
- 8.5. In-home care services;

8.6. Hospice services; and

8.8. Home repair or home modification.

§72-1-9. Determination of Eligibility and Award.

9.1. The eligibility standards in Section 6 of this rule shall be used to determine if an applicant is eligible for economic assistance.

9.2. The Commission shall take into consideration the availability of funds when making decisions of the amount of an award. Awards shall be made at the discretion of the Commission.

9.3. Similarly situated applicants within each budget year shall be treated similarly for due process and equal protection of the law.

9.4. Decisions of eligibility, approved care and services, and awards shall be made by:

9.4.a. The Executive Director when the application is for twenty-five thousand dollars (\$25,000) or less;

9.4.b. The Executive Director and one Commission member when the application is for between twenty-five thousand one dollars (\$25,001) and fifty thousand dollars (\$50,000);

9.4.c. The Executive Director, one Commission member and the Commission Chair when the application is for between fifty thousand one dollars (\$50,001) and seventy-five thousand dollars (\$75,000); and

9.4.d. A majority of the Commission when the application is for more than seventy-five thousand dollars (\$75,000).

9.5. The Executive Director shall communicate eligibility and award decisions to the applicants.

§72-1-10. Confidentiality and Records.

10.1. Any individual who obtains confidential information while processing a request shall sign a written statement of confidentiality stating that he or she fully understands the privacy of the information obtained and will maintain its confidentiality.

10.2. Records of the Catastrophic Illness Commission are public records according to W. Va. Code §29B-1-3, except applications and patient identifying information are exempt from disclosure under W. Va. Code §29B-1-4(2).

§72-1-11. Administrative Due Process.

11.1. Any applicant who disagrees with the decision made on his or her application may make a request in writing for a fair hearing with the West Virginia Health and Human Resources Board of Review. Fair Hearing request forms are available from the Catastrophic Illness Commission.