

**Title 72
Legislative Rules
Catastrophic Illness Commission**

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

OFFICE OF 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 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. A West Virginia citizen may request economic assistance from the Commission by calling the Commission and completing an application form by telephone. 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 the required spend down for Medicaid eligibility to the extent that household income is reduced 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 recipient 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 thirty (30) days prior to 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 Commission shall use eligibility standards in Section 6 of this rule 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 on 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 applicant.

§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. The Board of Review shall hold the hearings in accordance with the bureau for Public Health's "Rules of Procedure for Contested Case hearings and Declaratory Rulings, " 64CSR1, except the board shall deliver to the Commission its recommended hearing decision with findings of fact and conclusions of law. The commission shall adopt, modify or reject the recommended decision, findings, and conclusions." Fair Hearing request forms are available from the Catastrophic Illness Commission.