

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WVDHHR - Catastrophic Illness Commission TITLE NUMBER: 72

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

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

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4205

SECTION 1, PASSED ON March 13, 2004

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 7, 2004

Paul Z. Amico
Authorized Signature

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

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 applies to the Catastrophic Illness Commission for economic assistance related to catastrophic 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.

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 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

presenting an applicant with an imminent risk of death.

3.5. Commission - The Catastrophic Illness Commission.

3.6. Eligible Applicant - An applicant who is suffering from a catastrophic illness and who meets the financial eligibility standards established by subsection 6.3 of this rule.

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 United States 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 contacting the Commission and providing information by telephone.

4.2 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. Eligibility Standards

An applicant is eligible for assistance if the Commission determines that the applicant:

5.1. Has a catastrophic illness.

5.2. Needs approved care and services during the acute phase of the catastrophic illness.

5.3. Meets the required spend down for Medicaid eligibility to the extent that household income is reduced to less than one hundred percent of the federal poverty level.

§72-1-6. Approved Care and Services

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

6.1. Care and services provided by licensed health care providers, except for services listed in Section 7 of this rule.

6.2. Transportation to and from approved medical facilities for the recipient and one other person.

6.3. Proven and accepted medical therapy.

6.4. Prescribed medications taken to assist with illness rejection or recurrence, including those related to transplants.

6.5. Oral chemotherapy or similar agents prescribed for the approved catastrophic illness.

§72-1-7. Disapproved Care and Services

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

7.1. Request for pharmaceutical purchases other than those approved under section 6 of this rule.

7.2. Durable medical equipment.

7.3. Debts or medical bills incurred thirty days or more prior to the date of application, as specified in Subsection 4.1 of this rule.

7.4. Experimental treatments, procedures or therapies.

7.5. In-home care services.

7.6. Hospice services.

7.8. Home repair or home modification.

§72-1-8. Determination of Eligibility and Award

8.1. If funding is available, the Commission may order an award of economic assistance to an eligible applicant.

8.2. The Commission shall take into consideration the availability of funds when making decisions on the amount of an award. The decision to make an award is within the discretion of the commission, or where permitted by this rule, its executive director.

8.3. Within each budget year, similarly situated applicants shall be treated similarly.

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

8.4.a. The executive director when the application is for twenty-five thousand dollars or less;

8.4.b. The executive director and one Commission member when the application is for between twenty-five thousand one dollars and fifty thousand dollars.

8.4.c. The executive director, one Commission member and the Commission Chair when the application is for between fifty thousand one dollars and seventy-five thousand dollars.

8.4.d. A majority of the Commission when the application is for more than seventy-five thousand one dollars.

8.5. The Executive Director shall communicate eligibility and award decisions to the applicant.

§72-1-9. Confidentiality and Records

Records of the commission are confidential and may not be disclosed except as required by W.Va. Code § 29B.1.1 et seq. Any employee of the commission who has access to confidential information regarding an applicant must sign a written statement acknowledging that he or she fully understand and will maintain the confidential nature of the information.

§72-1-10. Administrative Due Process

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.