

**ADOPTED REGULATION OF THE
AGING SERVICES DIVISION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R163-06

Effective September 18, 2007

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 11-18, NRS 427A.165; §§2-9 and 19-58, NRS 427A.250; §§10, 59 and 60, NRS 427A.590; §61, NRS 427A.250 and 427A.590.

A REGULATION relating to aging persons; amending provisions governing the process for complaints related to facilities for long-term care; amending provisions relating to the program to provide community-based services to frail elderly persons; amending provisions governing property tax assistance for senior citizens; and providing other matters properly relating thereto.

Section 1. Chapter 427A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“COPE” means the Community Service Options Program for the Elderly established by the Division pursuant to NRS 427A.250 to provide community-based services to frail elderly persons.*

Sec. 3. *“Designated representative” means a person designated to act on behalf of a recipient pursuant to NAC 427A.384.*

Sec. 4. *“Personal emergency response system” means an electronic device that enables a person to secure help in an emergency.*

Sec. 5. *“Recipient” means a person who is enrolled in COPE.*

Sec. 6. *“Social Services Manager” means the Social Services Manager of community-based care of the Division.*

Sec. 7. *“Standardized assessment tool” means the form used to measure the needs of a recipient of COPE.*

Sec. 8. *“Waiver” means the option provided by the Social Security Act pursuant to 42 U.S.C. § 1396n(c) which permits the State to offer home and community-based services to eligible persons, including, without limitation, the community home-based initiatives program.*

Sec. 9. *To be eligible to act as a case manager, a person must:*

1. Hold a current license as a social worker or associate in social work issued pursuant to chapter 641B of NRS;

2. Hold a current license as a registered nurse issued pursuant to chapter 632 of NRS; or

3. If he does not hold a current license as a social worker:

(a) Meet the criteria for licensure as a social worker;

(b) Hold a current license in a related capacity, including, without limitation, a marriage and family therapist licensed pursuant to chapter 641A of NRS or a counselor who is certified pursuant to chapter 641C of NRS; and

(c) Be exempt from the provisions of chapter 641B of NRS pursuant to NRS 641B.040.

Sec. 10. *To be eligible for a homeowner’s refund pursuant to NRS 427A.515:*

1. The name of the claimant applying for the refund must appear as the owner of the home on the secured or unsecured tax roll, except that the claimant does not become ineligible for a refund if the claimant has:

(a) Placed the title in a trust of which the claimant is a trustee.

(b) Purchased the property under a legal bill of sale.

2. *The claimant must not be delinquent in paying the property taxes.*

Sec. 11. NAC 427A.010 is hereby amended to read as follows:

427A.010 As used in NAC 427A.010 to 427A.310, inclusive, unless the context otherwise requires:

1. *“Complainant” means a resident who files a complaint pursuant to NRS 427A.125 to 427A.165, inclusive, or a person who files a complaint on behalf of a resident. The term includes a person claiming retaliation for having filed a complaint, a person who provides information regarding a complaint, and an advocate or the representative of an advocate.*

2. “Hearing officer” means the ~~[Administrator of the Aging Services Division of the Department of Human Resources]~~ *Specialist for the Rights of Elderly Persons* or a person designated by him.

~~[2.]~~ 3. “Person” means a natural person, partnership, association, corporation or other public or private entity.

~~[3.]~~ 4. *“Resident” means a resident of a facility for long-term care who is 60 years of age or older.*

5. “Respondent” means a person against whom a complaint has been filed.

6. *“Specialist for the Rights of Elderly Persons” means the person appointed pursuant to NRS 427A.1232.*

Sec. 12. NAC 427A.080 is hereby amended to read as follows:

427A.080 The time within which any act required by NAC 427A.010 to 427A.310, inclusive, must be *accomplished is* computed by excluding the first day and including the last day unless the last day is a Saturday, Sunday or legal holiday, in which case the next business day is the last day of the time limit.

Sec. 13. NAC 427A.120 is hereby amended to read as follows:

427A.120 1. The ~~[specialist for the rights of elderly persons]~~ *Administrator of the Aging Services Division of the Department of Health and Human Services* shall *appoint an investigator to* investigate each complaint concerning an alleged violation of NRS 427A.135 or 427A.138.

2. The complaint must be in writing and signed and verified by the ~~[person making it,]~~ *complainant*, and two copies must be filed with the ~~[specialist]~~ *Specialist* for the ~~[rights of elderly persons]~~ *Rights of Elderly Persons* within 1 year after the act complained of was committed.

3. A complaint must be stated with sufficient particularity to enable the respondent to prepare a defense.

4. If, from the complaint, it appears that the charges may be well founded, the ~~[specialist]~~ *Specialist* for the ~~[rights of elderly persons]~~ *Rights of Elderly Persons* shall send written notice to the person charged by certified mail at least 20 days before the date set for the hearing. The notice must set forth the charges and the date of the hearing.

Sec. 14. NAC 427A.140 is hereby amended to read as follows:

427A.140 1. A hearing held pursuant to NRS 427A.135 or 427A.138 must be held before the hearing officer . ~~[or a person designated by him.]~~

2. Notice of the place, date and hour of a hearing must be served at least 20 days before the date set for the hearing.

3. A hearing which has previously been continued may be ~~[reset on]~~ *rescheduled with* at least 10 days' notice.

4. Each hearing must be held at a place in the State designated by the hearing officer in the notice of hearing.

Sec. 15. NAC 427A.170 is hereby amended to read as follows:

427A.170 1. If the ~~[specialist for the rights of elderly persons]~~ *complainant* or the respondent fails to appear at a scheduled hearing and no continuance has been requested or granted, the hearing officer may hear the evidence of witnesses who have appeared and may proceed to consider the matter and dispose of it on the basis of the evidence before him.

2. Any person who fails to appear for a scheduled hearing or to request a continuance because of accident, sickness or other reasonable cause may, within 15 days after the failure, apply to the hearing officer to reopen the proceedings.

3. The hearing officer, upon finding the cause sufficient and reasonable, will immediately fix a time and place for the rescheduled hearing and give notice thereof.

4. At the time and place fixed, a hearing must be held at which the person may testify in his own behalf or present other evidence beneficial to his cause.

5. Witnesses who have previously testified are not required to appear at a second hearing on the same matter unless so directed by the hearing officer.

Sec. 16. NAC 427A.200 is hereby amended to read as follows:

427A.200 Matters must be heard at a hearing in the following order:

1. The opening statements of the ~~[specialist for the rights of elderly persons]~~ *complainant* and the respondent.

2. The presentation of the case of the ~~[specialist for the rights of elderly persons,]~~ *complainant*, followed by cross-examination.

3. The presentation of the respondent's case, if any, followed by cross-examination.

4. The rebuttal testimony by the ~~[specialist for the rights of elderly persons,]~~ *complainant*, if any.

5. The rebuttal testimony by *the* respondent, if any.

6. The closing arguments, in the following order:

(a) The argument of the ~~[specialist for the rights of elderly persons,]~~ *complainant*, if any.

(b) The argument of the respondent.

(c) The rebuttal argument of the ~~[specialist for the rights of elderly persons,]~~ *complainant*.

Sec. 17. NAC 427A.280 is hereby amended to read as follows:

427A.280 The hearing officer will cause a record to be made of all formal hearings. Any party who wishes to secure a copy of ~~[a transcript]~~ *the record* may obtain it from the hearing officer upon payment of the proper fee.

Sec. 18. NAC 427A.300 is hereby amended to read as follows:

427A.300 1. The hearing officer will issue a decision not later than 60 days after the hearing.

2. The hearing officer will mail or personally deliver a copy of the decision to the ~~[Director]~~ *Administrator of the Aging Services Division* of the Department of *Health and Human Resources Services* and each party of record or his representative.

3. Additional copies of the decision may be obtained by making a written request to the hearing officer.

Sec. 19. NAC 427A.350 is hereby amended to read as follows:

427A.350 As used in NAC 427A.350 to 427A.488, inclusive, *and sections 2 to 9, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC

~~[427A.352 to 427A.382,]~~ *427A.354 to 427A.380*, inclusive, *and sections 2 to 8, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 20. NAC 427A.354 is hereby amended to read as follows:

427A.354 “Asset” means ~~[property]~~ *income and resources* that:

1. Belongs to an applicant or ~~[client;]~~ *recipient*; and
2. Has a monetary value.

Sec. 21. NAC 427A.356 is hereby amended to read as follows:

427A.356 “Case management” means a process where a ~~[client’s]~~ *recipient’s* needs are identified and the social, habilitative and medical services to meet those needs are located, coordinated and monitored.

Sec. 22. NAC 427A.358 is hereby amended to read as follows:

427A.358 “Case manager” means ~~[an employee of the Division who carries out the duties of case management for a client or clients of CHIP.]~~ *a person who meets the qualifications set forth in section 9 of this regulation and who carries out the duties of case management for a recipient of COPE.*

Sec. 23. NAC 427A.378 is hereby amended to read as follows:

427A.378 “Legal representative” means:

1. A person who has been designated to act for an applicant or ~~[client of CHIP]~~ *a recipient of COPE* by a power of attorney;
2. A legal guardian of an applicant or ~~[client;]~~ *a recipient*; or
3. Any other person who is legally authorized to act for an applicant or ~~[client.]~~ *a recipient.*

Sec. 24. NAC 427A.384 is hereby amended to read as follows:

427A.384 If a ~~{client}~~ *recipient* has difficulty acting on his own behalf, he may designate a representative to act on his behalf. If the ~~{client}~~ *recipient* designates such a representative, he shall notify ~~{CHHP}~~ *the Division* and all subsequent correspondence from the Division must be sent to the ~~{client}~~ *recipient* and his designated representative.

Sec. 25. NAC 427A.386 is hereby amended to read as follows:

427A.386 If a ~~{client}~~ *recipient* moves from one region in this State to another, his case must be transferred to the office of the Division responsible for the region to which he has moved.

Sec. 26. NAC 427A.388 is hereby amended to read as follows:

427A.388 1. The records of a ~~{client}~~ *recipient* are confidential and may only be released to:

(a) A person who is authorized by the ~~{client}~~ *recipient* or his legal representative pursuant to a signed, written authorization to release information.

(b) A person who is authorized to view the records of a ~~{client}~~ *recipient* pursuant to an order of a court of competent jurisdiction.

(c) An employee of the Division, if the ~~{Administrator of the Division}~~ *Social Services Manager* deems it necessary.

(d) A member of the staff of an agency of this State established pursuant to the ~~{Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. §§ 6041 et seq.) or the}~~ Protection and Advocacy of Mentally Ill Individuals Act of 1986, ~~{42 U.S.C. §§ 10801 et seq.}~~ ~~{, {}} if:~~

(1) The ~~{Administrator of the Division}~~ *Social Services Manager* deems it necessary;

(2) The ~~{client}~~ *recipient* is a client of that agency and the ~~{client}~~ *recipient* or his legal representative authorizes the release of the record; or

(3) A complaint regarding a ~~{client}~~ *recipient* is received by the agency or there is probable cause to believe that the ~~{client}~~ *recipient* has been abused or neglected and is unable to authorize the release of the record because of his mental or physical condition, does not have a guardian or other legal representative or is a ward of this State.

(e) An employee of another division of the Department of *Health and Human Resources,* *Services,* pursuant to the provisions of NRS 232.357, if that employee submits a written request to the ~~{Administrator of the Aging Services Division}~~ *Social Services Manager.*

2. The records of a ~~{client}~~ *recipient* may be released for statistical or evaluative purposes if they are used in such a way that the identity of the ~~{client}~~ *recipient* is not disclosed.

3. To the extent necessary for a ~~{client}~~ *recipient* to make a claim, or for a claim to be made on behalf of a ~~{client}~~ *recipient,* for aid, insurance or medical assistance to which he may be entitled, information from the records may be released if the ~~{client}~~ *recipient* or his legal representative has signed a written authorization to release information for such a purpose.

4. A written authorization to release information is effective for 1 year after the date it is signed.

5. Any review and release of records must comply with the Health Insurance Portability and Accountability Act, 42 U.S.C. §§ 300gg, et seq.

Sec. 27. NAC 427A.390 is hereby amended to read as follows:

427A.390 1. ~~{CHHP shall}~~ *The Division will* make a ~~{client's}~~ *recipient's* case file available for review upon the request of the ~~{client}~~ *recipient.*

2. A ~~client~~ *recipient* may authorize another person to review his case file by signing a form for the release of information. The form will be provided by the Division. The signing of the form must be witnessed by a person other than the person who is being authorized to review the file.

3. A copy of the plan of care, statement of understanding or release of information must be provided at no charge to the ~~client~~ *recipient* or the person authorized to review the file. A copy of any other document in the case file must be furnished to the ~~client~~ *recipient* or the person authorized to review the file at a charge not to exceed the actual cost to the Division of producing the copy.

Sec. 28. NAC 427A.400 is hereby amended to read as follows:

427A.400 1. A person may apply for enrollment in ~~CHIP~~ *COPE* by completing an application and submitting it to an office of the Division. If an applicant ~~is approved for CHIP and space is~~ *meets the criteria for eligibility listed in NAC 427A.402 and funds are* available, the Division will authorize services from ~~CHIP~~ *COPE* for the applicant and the applicant must be enrolled in ~~CHIP. An authorization for services will not exceed 12 months.~~ *COPE. The eligibility of a recipient must be reestablished annually.*

2. The Division may, at the discretion of ~~its~~ *the* Administrator, establish a waiting list for enrollment in ~~CHIP.~~ *COPE to ensure service will be provided within a reasonable time as established by the Department of Health and Human Services.*

3. If an applicant is denied enrollment, the staff of ~~CHIP~~ *the Division* shall inform the applicant of the reason or reasons why his application was denied ~~it~~ *and provide to the applicant information regarding the right to an appeal.*

4. If possible, referrals must be made to other agencies for the provision of services to an applicant who has been denied enrollment in ~~[CHIP,]~~ *COPE*.

Sec. 29. NAC 427A.402 is hereby amended to read as follows:

427A.402 1. To be eligible for ~~[CHIP,]~~ *COPE*, a person must:

(a) Be 65 years of age or older.

(b) Function at a level required for a person under the care of a nursing facility ~~[]~~ *and require placement in a nursing facility within 30 days if not for the services provided by COPE.*

(c) Be:

(1) A citizen of the United States;

(2) An alien who was legally admitted into the United States for permanent residency; or

(3) An alien who has been granted temporary residency under the Immigration Reform and Control Act of 1986, ~~[]~~ 8 U.S.C. ~~[§ 1153(a)(7),]~~ §§ *1101, et seq.*,

↪ and sign the application or an addendum to the application certifying that he is a citizen of the United States or an alien with such lawful immigration status. The Division may require an applicant to provide additional verification of the requirements of this paragraph.

(d) Reside in this State with the intention of making this State his place of residence for an indefinite period.

(e) Provide the Division with his social security number. An applicant who has not been issued a social security number shall obtain a number and provide it to the Division within a reasonable time after submitting his application.

(f) Meet the requirements for monthly income and assets as set by:

(1) Medicaid, as noted in the “ ~~“Medicaid~~ Eligibility and Payment Manual” of the ~~[Welfare]~~ Division *of Welfare and Supportive Services* of the Department of *Health and Human Resources; or Services; and*

(2) The Commission.

(g) Reside in a private residence.

(h) Not be receiving care at an acute care hospital or nursing facility.

(i) ~~[Be at imminent risk of institutionalization.~~

~~—(j)]~~ Not be receiving services that duplicate the services of ~~[CHIP.~~

~~(k)]~~ *COPE.*

(j) Agree to accept the services of ~~[CHIP.]~~ *COPE.*

2. If an applicant has been approved for service, but no providers of service are available in his area, the Division will make reasonable efforts to obtain services for the applicant. The Division will notify the applicant if there are no providers of service available in his area.

Sec. 30. NAC 427A.404 is hereby amended to read as follows:

427A.404 The Division will evaluate the income and assets of an applicant or ~~[client]~~ *a recipient* in determining the eligibility or continued eligibility of the applicant or ~~[client]~~ *recipient* for enrollment in ~~[CHIP.]~~ *COPE. Such evaluation must be conducted on an annual basis.*

Sec. 31. NAC 427A.406 is hereby amended to read as follows:

427A.406 1. The ~~[net]~~ *allowable gross* monthly income of a ~~[client may not exceed the limit for monthly income established]~~ *recipient must be determined during any month that services are provided by COPE in accordance with the institutional guidelines established by the Division of Welfare and Supportive Services of the Department of Health and Human*

Services subject to the amendments set forth by the Commission ~~[during any month that the client is enrolled in CHIP.]~~, *if any.*

2. To determine the ~~[net]~~ *gross* monthly income of an applicant or ~~[client,]~~ *a recipient*, any income excluded pursuant to NAC 427A.408 during the month on which the determination is based must be subtracted from the total amount of income received by the applicant or ~~[client]~~ *recipient* for that month.

3. All income, except income excluded pursuant to NAC 427A.408, must be verified, documented and counted in determining the eligibility of an applicant or the continued eligibility of a ~~[client]~~.

~~4.— Except as otherwise provided in subsection 5, if the applicant or client is married, the income of his spouse may not be counted toward the income of the applicant or client, unless the spouse makes a portion of his income available to the applicant or client.~~

~~—5.— If the applicant or client is married and his income exceeds the limit established by the commission for a single person, the income of his spouse must be counted toward the income of the applicant or client. If the combined income of both spouses does not exceed twice the limit established by the commission for a single person, the applicant or client is eligible for enrollment in CHIP, if he otherwise satisfies the requirements for enrollment.~~

~~—6.— If a court order exists that requires the income of an applicant or client and his spouse to be divided:~~

~~—(a) Only the portion of the income designated as the applicant's or client's by the court order may be counted; and~~

~~—(b) A copy of the court order must be sent to the Division for review.~~

~~—7.] recipient.~~

4. An applicant or ~~client~~ *a recipient* shall:

(a) Report to the Division all changes in his income . ~~[or the income of his spouse.]~~

(b) Ensure that all income and verification of that income is reported to the Division.

~~[8.]~~ 5. If any income of the applicant or ~~client~~ *recipient* is distributed among more than one person, only the applicant's or ~~client's~~ *recipient's* portion of the income may be counted in determining the eligibility of the applicant or the continued eligibility of the ~~client~~.

~~9.]~~ *recipient.*

6. Any money that is deposited in a bank account will be considered income for the month it is deposited and will thereafter be considered an asset.

Sec. 32. NAC 427A.408 is hereby amended to read as follows:

427A.408 The following income must be excluded from the determination of the eligibility of an applicant or continued eligibility of a ~~client for enrollment in CHIP:]~~ *recipient:*

1. A refund of taxes.
2. Any money from a state agency that is intended to supplement the needs of the applicant or ~~client.]~~ *recipient.* Such money may not come from federal funds.
3. A payment from the United States Department of Housing and Urban Development.
4. A payment from ~~[Emergency Energy Conservation Service or Energy Crisis Assistance.]~~
the Energy Assistance Program.
5. Infrequent and irregular income if the total income does not exceed \$20 monthly and it is impossible to estimate such income in the future.
6. A payment from Volunteers in Service to America.
7. A payment from the Retired *and* Senior Volunteer and Foster Grandparent ~~[Program.]~~
Programs.

8. A payment from Indian General Assistance.
9. Aid and Attendance or Housebound Benefits received from the Veteran's Administration.
10. Income necessary for a plan of achieving self-support for an applicant or **[elient]** *recipient* who is blind or disabled. The plan must be an individual plan, in writing and approved by the Social Security Administration.
11. A reimbursement from the Veteran's Administration for unusual medical expenses.
12. A payment received from an absent parent or stepparent for child support.
13. Infrequent gifts from friends, including gifts of cash received on a special occasion such as Christmas, a birthday or an anniversary.
14. A payment on Medicare premiums.
15. Money received pursuant to a loan.
16. A payment in cash from an insurance company as reimbursement for medical costs paid by the **[elient]** *recipient* or to be applied toward medical bills.
17. Money received by members of an Indian tribe for the satisfaction of a judgment entered pursuant to a lawsuit or per capita payments made pursuant to Public Law 98-64 **[§]**, *25 U.S.C. §§ 117a, et seq.*
18. Income the applicant or **[elient]** *recipient* receives as a result of another person's death that is used for the expenses of the deceased person's last illness or burial. Any portion of such income remaining after deducting such expenses must be counted as income for the month the income was received. As used in this subsection, "expenses for a person's last illness or burial" include related hospital and medical expenses and expenses for the funeral, burial plot, interment, new clothing to wear to the funeral, food for visiting relatives and taxi fare to and from the hospital and funeral home.

19. A refund for a deposit or overcharge.

Sec. 33. NAC 427A.410 is hereby amended to read as follows:

427A.410 ~~{H.}~~ The assets of an applicant or ~~{client of CHIP}~~ *recipient* may not exceed the limit for assets *set forth in the institutional guidelines* established by the *Division of Welfare and Supportive Services of the Department of Health and Human Services subject to the amendments set forth by the* Commission ~~{~~

~~—2.—An asset must be evaluated at market value less encumbrances. Encumbrances must be verified unless the total value of the assets of an applicant or client does not exceed the limit set by the Commission.~~

~~—3.—Except as otherwise provided in this subsection, money received from the sale of property must be designated as an asset. If the money is received in increments pursuant to an installment agreement to purchase property in which the applicant or client is financing any portion of the amount owed, the amount applied to principal will be considered an asset and the amount applied to interest will be considered income. Any money received from the sale of a home which is not considered an asset of an applicant or client will not be considered an asset or income if it is used not less than 3 months after its receipt to purchase another home that can be excluded.~~

~~—4.—If an applicant or client is married and the value of his assets exceed the limit established by the Commission for a single person, the value of all the assets which are owned jointly by the marital community must be counted toward the assets of the applicant or client. If the value of the assets of the applicant or client combined with the value of all the assets which are owned jointly by the marital community does not exceed twice the limit established by the Commission for a single person, the applicant or client is eligible for enrollment in CHIP, if he otherwise satisfies the requirements for enrollment.~~

~~—5.— An asset must be available to an applicant or client to be counted. If an applicant or client can sell or dispose of an asset or his share of an asset without obtaining another person's approval, the asset, or his share of the asset, less encumbrances, is available and must be counted. If the applicant or client must obtain another person's approval to sell or dispose of his share of an asset, the other owner or owners must be contacted to determine whether such approval will be given. If the approval will not be given, the asset is not available and the applicant's or client's share of the asset must not be counted.~~

~~—6.— If a court order exists that divides assets between spouses, only the portion of assets designated as the applicant's or client's by the court order may be counted.~~

~~—7.— If the spouse of an applicant or client transfers any asset to the applicant or client, such an asset must be counted towards the applicant's or client's assets.~~

~~—8.— If an applicant or client is a legal representative of another person and receives an asset for that person, such an asset may not be counted towards the applicant's or client's assets if it is kept in a separate, identifiable account and can be identified as being received and designated for a person other than the applicant or client.], if any.~~

Sec. 34. NAC 427A.422 is hereby amended to read as follows:

427A.422 1. An applicant or ~~{client}~~ **a recipient** or his designated representative shall cooperate with the Division in securing any information necessary to determine the applicant's eligibility or ~~{client's}~~ **the recipient's** continued eligibility for enrollment in ~~{CHIP.}~~ **COPE**. If the applicant or ~~{client}~~ **recipient** or his **designated** representative fails to so cooperate, the Division will deny the application or terminate the services of ~~{CHIP.}~~ **COPE**.

2. If the application process is delayed because the applicant or his **designated** representative is not cooperating pursuant to subsection 1, and the applicant or his **designated**

representative cooperates on or before the Division's deadline for processing the application, the process must be continued.

3. An applicant or ~~client~~ *a recipient* or his *designated* representative shall inform the Division if any of the following changes concerning the applicant or ~~client~~ *recipient* occurs:

- (a) His address changes;
- (b) His living arrangements change;
- (c) His income or assets change;
- (d) He is hospitalized or placed under institutional care;
- (e) He changes his name; or
- (f) Any other change in circumstances material to the applicant's eligibility or ~~client's~~

recipient's continued eligibility for enrollment in ~~CHIP~~ *COPE*.

Sec. 35. NAC 427A.424 is hereby amended to read as follows:

427A.424 1. A ~~client~~ *recipient* may be required to provide copies of statements of his bank accounts each month.

2. Any information received by the Division between each reassessment that may affect the eligibility of the ~~client~~ *recipient* will be evaluated and acted on if applicable.

Sec. 36. NAC 427A.430 is hereby amended to read as follows:

427A.430 All ~~clients of CHIP~~ *recipients* must receive an individual assessment using the ~~["Multi-Dimensional Assessment Form" of the Division]~~ *standardized assessment tool* to identify the specific ~~problems and~~ needs of the ~~client~~ *recipient*. The assessment must be *conducted in person at the residence of the recipient and be* completed before the services of ~~CHIP~~ *COPE* will be initiated.

Sec. 37. NAC 427A.432 is hereby amended to read as follows:

427A.432 1. A written plan of care must be developed for each ~~[client]~~ *recipient* after the assessment required by NAC 427A.430 is completed. The ~~[client,]~~ *recipient*, his family or his designated representative shall participate in the process of developing the plan. The plan of care must be reviewed and signed by the case manager and the ~~[client]~~ *recipient* or a designated representative of the ~~[client,]~~ *recipient*.

2. The plan of care must include:

(a) A statement of the needs of the ~~[client,]~~ *recipient*;

(b) The objectives to be met by the services provided;

(c) The specific services to be provided, including the frequency and identity of the provider of such services; ~~[and]~~

(d) The estimated time to be dedicated to case management each month ~~[,]~~ ; *and*

(e) *The individualized goals of the recipient.*

3. The plan of care must provide for ~~[the least restrictive environment that may be reasonably expected to benefit the client,]~~ *service in the most integrated setting possible.*

4. After the plan of care is completed, it may be revised at any time. Any revision to the plan must be discussed with the ~~[client]~~ *recipient* or his designated representative by the case manager.

5. A copy of the plan of care must be given to the ~~[client]~~ *recipient* or his designated representative.

6. A new plan of care must be developed by the case manager and signed by the ~~[client]~~ *recipient* at least once every 12 months ~~[, regardless of whether the amount or type of services provided to the client change.]~~

~~—7.— A client shall accept the provision of services from CHIP pursuant to the plan of care. The Division may terminate services to a client who does not accept the provision of services pursuant to the plan of care.]~~ *or upon a significant change in the condition of or support available to the recipient.*

Sec. 38. NAC 427A.436 is hereby amended to read as follows:

427A.436 1. A ~~[client]~~ *recipient* must be reassessed by his case manager *in person and at the residence of the recipient* at least once every 12 months , *using the standardized assessment tool*, to:

(a) Determine whether the Division should reauthorize services for the ~~[client.]~~ *recipient.*

(b) If necessary, revise any information gathered during the assessment made pursuant to

NAC 427A.430.

(c) Review ~~[his:]~~ *the recipient's*:

(1) Ability to perform activities of daily living ~~;~~

~~—(2) Mental status;]~~ , *including, without limitation, the need for minimum essential personal assistance, as defined in NRS 426.723;*

(2) Need for ongoing services; and

(3) Systems of support such as family, friends or volunteers.

(d) Evaluate the services being provided by ~~[CHIP]~~ *COPE* and any progress made toward the goals listed in the plan of care.

(e) Assist in the development of a new plan of care.

2. The Division will reauthorize services from ~~[CHIP]~~ *COPE* for a ~~[client.]~~ *recipient for* not more than 12 months ~~;~~ if his level of functioning continues to meet the requirements for a

patient under the care of a nursing facility and his financial status has not changed so as to render him ineligible for ~~[CHIP.]~~ *COPE*.

Sec. 39. NAC 427A.438 is hereby amended to read as follows:

427A.438 *1.* A case manager shall:

~~[1.— Assess the client’s level of functioning by identifying the areas of functioning in which the client needs assistance and the medical, rehabilitative and social services appropriate to meet those needs.~~

~~—2.— Identify the resources that are currently being used to meet the client’s needs.~~

~~—3.— Locate resources in the community to meet the needs of the client and facilitate the development of those resources.~~

~~—4.— Develop and carry out]~~

(a) Collect information to verify the eligibility of a recipient.

(b) Evaluate the level of care needed by the recipient.

(c) Develop a plan of care for the ~~[client that takes into consideration the race and ethnic background of the client.~~

~~—5.] recipient.~~

(d) Estimate the costs of services for the ~~[client.~~

~~—6.] recipient.~~

(e) Monitor , on an ongoing basis, the provision of services ~~[at least once each month, unless more frequent monitoring is necessary, to ensure that the quality of care provided is sufficient for the safety and health of the client.~~

~~—7.— Negotiate and finalize agreements between the client and the provider of services.~~

- ~~—8. Monitor any provider of service to ensure that the provider meets the standards and licensing requirements of CHIP.~~
- ~~—9. Prepare the necessary billings for case management.~~
- ~~—10. Document the services that have been provided.~~
- ~~—11. Monitor the costs of services to ensure that cost effectiveness is maintained.~~
- ~~—12. Reassess the client at least once every 12 months in accordance with NAC 427A.436.~~
- ~~—13. Ensure the independence of the client by soliciting the opinions and advice of the client regarding the development of a plan of care for the client, the assessment of resources available to the client, the assessment of the needs of the client and any other action that is taken pursuant to this section.], including, without limitation, the plan of care for the recipient.~~

(f) Carry out the duties prescribed in paragraphs (a) to (e), inclusive, for a recipient on an annual basis.

2. A case manager shall provide services that assist persons in gaining access to a waiver, to other services offered by the State and to medical, social, educational and other services, without regard to the source of funding from which access to the service is gained. These services of a case manager may also be provided by the Division, by an agency of this State or by a private provider who is independent of the Division or an agency of this State.

Sec. 40. NAC 427A.440 is hereby amended to read as follows:

427A.440 1. If economically feasible, the following services will be made available to ~~[clients of CHIP:]~~ *recipients:*

(a) Adult day care ~~[,]~~ *, if such service is provided:*

(1) In a licensed facility for the care of adults during the day, as the term is defined in NRS 449.004;

(2) For 4 or more hours per day;

(3) On a regularly scheduled basis; and

(4) For 1 or more days per week.

(b) The provision of a personal care attendant ~~for homemaker~~ to assist a ~~client~~ *recipient* who is functionally impaired with activities of daily living, including shopping, laundry, cleaning, ~~transportation,~~ bathing, dressing, using the toilet, preparing meals and eating. The provision of services by a personal care attendant does not require an order from a physician.

(c) The provision of a homemaker to assist a recipient who is functionally impaired with activities of daily living, including laundry, cleaning and preparing meals. The provision of services by a homemaker does not require an order from a physician.

(d) The provision of a companion for a ~~client~~ *recipient* to provide relief for the primary caregiver. The companion will not be required to perform the services of a personal care attendant pursuant to paragraph (b) . ~~of this subsection.~~

(e) Case management services to assist recipients with gaining access to a waiver, to other services offered by the State and to medical, social, educational and other services, regardless of the funding source from which access is gained.

(f) A personal emergency response system.

(g) Services to assist with heavy household chores necessary to maintain a clean, sanitary and safe home environment.

(h) Respite services provided to recipients unable to care for themselves. Respite services must be provided on a short-term basis due to an absence of or need for relief of those persons normally providing the care.

2. If the ~~coordinator~~ *Social Services Manager* has determined that a ~~client~~ *recipient* is eligible to receive respite care and the requirements of NAC 427A.442 have been met, supervised respite care for a person who is functionally impaired will be available through ~~CHIP~~ *COPE*. Such care will be provided in the ~~client's~~ *recipient's* home for not more than 24 hours per day and not more than 14 days per fiscal year.

3. Any services provided pursuant to this section must be provided in accordance with the ~~client's~~ *recipient's* plan of care, and any person providing such services must be under the supervision of the case manager.

Sec. 41. NAC 427A.442 is hereby amended to read as follows:

427A.442 1. If the ~~Coordinator~~ *Social Services Manager* has determined that a ~~client~~ *recipient* is eligible to receive respite care at his residence, such care will be made available only if:

- (a) The ~~client~~ *recipient* has a primary caregiver who lives at the ~~client's~~ *recipient's* home;
- (b) The caregiver needs respite;
- (c) The ~~client~~ *recipient* needs supervised care at his residence at all times; ~~and~~
- (d) There are trained respite workers available in the ~~client's area~~ *recipient's area*; and
- (e) *Funds for respite care are available.*

2. A plan of care must be developed for respite care provided to a ~~client~~ *recipient* at his home. The plan may include the services of a personal care attendant and the services of a homemaker or companion.

3. Regularly scheduled services of ~~CHIP~~ *COPE* may be suspended during any period in which respite care is being provided. The provider of respite care may perform any suspended services of ~~CHIP~~ *COPE* that were provided at the ~~client's~~ *recipient's* home.

Sec. 42. NAC 427A.444 is hereby amended to read as follows:

427A.444 1. The Division may require a ~~{client}~~ *recipient* to pay a portion of the cost of services provided by ~~{CHIP}~~ *COPE*. The amount charged to a ~~{client}~~ *recipient* must be established by the Commission, but in no case may the amount exceed the actual cost of the services.

2. The amount charged to a ~~{client}~~ *recipient* may only be applied to the costs of:

- (a) Case management.
- (b) The services provided by a homemaker.
- (c) The care provided by a personal care attendant.
- (d) Respite care.
- (e) Adult day care.
- (f) The services of a companion.
- (g) Services for heavy household chores.*
- (h) A personal emergency response system.*

3. Any amount charged to a ~~{client}~~ *recipient* will be collected by the Division, is due on or before the fifth day of each month and is for the preceding month's service.

4. The ~~{client}~~ *recipient* or his designated representative must pay by check or money order and may make the payment by:

- (a) Mailing or otherwise submitting the check or money order to any office of the Division;

or

- (b) Submitting the check or money order to the case manager in person.

5. The Division may terminate the services of a ~~{client}~~ *recipient* for failure to pay any amount owing when it is due.

Sec. 43. NAC 427A.450 is hereby amended to read as follows:

427A.450 1. If a ~~[client,]~~ *recipient*, an applicant or a person who resides with the ~~[client]~~ *recipient* or applicant has a communicable disease, *the provision of service to the recipient* or the ~~[application process]~~ *processing of the application* must be temporarily suspended until the infected person has been examined by a licensed physician, a registered nurse or a physician assistant and has been determined to be free of the disease or is no longer contagious.

2. As used in this section, “communicable disease” means a disease that is caused by a specific infectious agent or its toxic products, and that can be transmitted, either directly or indirectly, from one person to another. The term does not include acquired immune deficiency syndrome or the human immunodeficiency virus.

Sec. 44. NAC 427A.452 is hereby amended to read as follows:

427A.452 1. If a ~~[client]~~ *recipient* is placed in a hospital or a nursing facility, the Division will suspend his services during the time he is in the hospital or nursing facility.

2. If the ~~[client]~~ *recipient* remains in the hospital or nursing facility for ~~[30]~~ *45* days or more, the Division will terminate his services and close his case.

3. If the ~~[client]~~ *recipient* remains in the hospital or nursing facility for less than ~~[30]~~ *45* days, the Division will review his case and his services may be reinstated or his case may be closed.

Sec. 45. NAC 427A.454 is hereby amended to read as follows:

427A.454 1. If any services of ~~[CHIP]~~ *COPE* must be reduced, the ~~[client]~~ *recipient or his designated representative* will be notified by the Division before the reduction of those services takes effect. This notification will include the reason for the reduction of services ~~[~~

~~—2.—~~ *A **client**] and information regarding the right of the recipient to an administrative review.*

2. The Division may reduce the services of COPE for the following reasons:

(a) The recipient or his designated representative requests a reduction in services.

(b) The recipient no longer needs the service.

(c) The recipient no longer needs the number of service hours previously provided.

(d) Another agency, program or support system will provide the service.

(e) Available funds have been expended.

3. A recipient or his designated representative may request a reduction of services provided by **[CHIP] COPE**. The Division will record the request in the **[client's] recipient's** case file and revise the plan of care for the **[client] recipient** to reflect the change in services.

Sec. 46. NAC 427A.456 is hereby amended to read as follows:

427A.456 1. In addition to any other requirements for closing a case and terminating the services of **[CHIP] COPE** set forth in NAC 427A.350 to 427A.488, inclusive, *and sections 2 to 9, inclusive, of this regulation*, the Division will close a case and terminate services if:

(a) The **[client] recipient** dies.

(b) The **[client] recipient** fails to meet the criteria for eligibility listed in NAC 427A.402.

(c) The **[client] recipient or his designated representative** requests the discontinuation of his services.

(d) The **[client] recipient** fails to apply for, pursue or accept a claim for other benefits or fails to provide information essential to establish such a claim.

(e) The **[client's] recipient's** residence becomes unsafe for the **[client] recipient** or his providers of service.

(f) The ~~client~~ *recipient* or his designated representative participates in any activity designed to defraud ~~CHIP~~ *COPE or the Division*.

(g) The ~~client~~ *recipient* fails to pay his portion of the cost of services provided by ~~CHIP~~ *the Division*.

(h) The cost of services provided to the ~~client~~ *recipient* is more than ~~75~~ *100* percent of the average cost of care for a patient who receives care in a nursing facility.

(i) The recipient fails to cooperate with the established plan of care.

(j) Funds previously available have been expended.

2. The Division may close a case if service becomes unavailable in the area where the ~~client~~ *recipient* resides.

3. Except in the case of the death of a ~~client,~~ *recipient*, the Division will notify a ~~client~~ *recipient* or his designated representative, in writing, if the ~~client's~~ *recipient's* case is being closed. The notice will be given at least 15 days before the services are to be terminated and will include:

- (a) The effective date the case is closed;
- (b) The reason or reasons for closing the case;
- (c) A statement of the rights of the ~~client~~ *recipient* to an administrative review; and
- (d) The process for filing a request for an administrative review.

Sec. 47. NAC 427A.460 is hereby amended to read as follows:

427A.460 1. An applicant for services of ~~CHIP~~ *COPE* is entitled to an administrative review if his application is denied.

2. A ~~client~~ *recipient* is entitled to an administrative review if:

- (a) His services are terminated;

(b) His services are reduced without his concurrence;

(c) He has not been given a choice between community home-based care and institutional care; or

(d) He has a grievance concerning the delivery, quality, duration or scope of his services.

Sec. 48. NAC 427A.462 is hereby amended to read as follows:

427A.462 1. An applicant or ~~client~~ *a recipient* or his *designated* representative may request an administrative review by:

(a) Signing, dating and returning to the office of the Division responsible for the region in which the applicant or ~~client~~ *recipient* resides the letter notifying him of the action to be taken by the Division; or

(b) Submitting a written request to the office of the Division responsible for the region in which the applicant or ~~client~~ *recipient* resides.

2. Except as otherwise provided in subsection 4, the request for an administrative review must be received in the regional office of the Division within 15 days after the date of the letter notifying the applicant *or recipient or his designated representative* of the action to be taken. The date of the letter shall be deemed the first day of the 15-day period.

3. If the 15th day falls on a holiday or weekend, the time for submitting a request will be extended to the next working day.

4. The Division will not accept a request for an administrative review received after the time specified in subsection 2 unless the applicant or ~~client~~ *recipient* or his *designated* representative demonstrates good cause for the failure to comply with the deadline.

5. The Administrator of the Division will review any requests to waive the deadline for good cause and shall make a determination within 10 days after the receipt of the request.

6. If the Administrator determines that the applicant or **[elient] recipient or his designated representative** has demonstrated good cause for the failure to comply with the 15-day deadline, he will schedule an administrative review for the applicant or **[elient] recipient**.

7. If the Administrator determines that the applicant or **[elient] recipient or his designated representative** has not demonstrated good cause for the failure to comply with the 15-day deadline, he will notify the applicant or **[elient] recipient** or his **designated** representative that the request for an administrative review is denied.

Sec. 49. NAC 427A.464 is hereby amended to read as follows:

427A.464 1. Within 10 days after the Division receives a request for an administrative review, the supervisor of the region in which the applicant or **[elient] recipient** resides shall contact the applicant or **[elient] recipient** or his **designated** representative to schedule a conference with a member of the staff of the Division to attempt to resolve the matter without the necessity of an administrative review.

2. The supervisor shall:

(a) Preside at the conference; and

(b) Complete a report on the outcome of the conference.

3. The conference does not affect the right of the applicant or **[elient] recipient** to an administrative review.

Sec. 50. NAC 427A.466 is hereby amended to read as follows:

427A.466 1. If, after the conference is held, the applicant or **[elient] recipient** wishes to continue with the administrative review, the Administrator of the Division will appoint a reviewing officer. Within 15 days after his appointment, the reviewing officer shall establish a date, time and location for the review.

2. The Division will mail a notice of the date, time and location of the administrative review to the applicant or **[client] recipient or his designated representative** at least 10 working days before the date scheduled for the review, unless the applicant or **[client] recipient** or his **designated** representative requests a review in a shorter period.

3. If requested by the Division or by the applicant or **[client] recipient** or his **designated** representative, the reviewing officer may postpone an administrative review for good cause. If the reviewing officer determines that a postponement is warranted, he shall reschedule the administrative review for a date which is not later than 15 days after the original date for the review.

4. The applicant or **[client] recipient** or his **designated** representative is entitled to withdraw the request for an administrative review any time before the reviewing officer renders a decision. The withdrawal must be in writing, dated and signed by the applicant or **[client] recipient** or his **designated** representative and mailed or delivered to the regional office of the Division which received the request for the administrative review. If an applicant or **[client] a recipient** or his **designated** representative indicates verbally a desire to withdraw a request for an administrative review, the Division will instruct him to submit a written withdrawal.

5. The reviewing officer shall cancel the administrative review if the applicant or **[client] recipient** or his **designated** representative fails to appear for the scheduled administrative review after receiving proper notification. The reviewing officer shall notify the applicant or **[client] recipient or his designated representative** within 1 working day after the failure to appear that the administrative review will be considered canceled unless the applicant or **[client] recipient or his designated representative** can demonstrate good cause for failing to appear. The applicant or **[client] recipient** or his **designated** representative must submit the reasons for failing to appear

within 10 days after the date of the letter notifying the applicant or **[client] recipient or his designated representative** of the cancellation if he wishes to continue the administrative review. The Administrator of the Division will determine whether good cause has been demonstrated for failing to appear.

Sec. 51. NAC 427A.468 is hereby amended to read as follows:

427A.468 1. A **[client] recipient** is entitled to receive services from **[CHIP] COPE** while an administrative review of a termination of those services is pending, unless the **[client] recipient** or his **designated** representative requests in writing that the services be discontinued.

2. If the services are continued and the decision to terminate those services is upheld, the **[client] recipient** may be required to pay for the cost of any services provided after the date on which those services were originally scheduled to be terminated.

Sec. 52. NAC 427A.470 is hereby amended to read as follows:

427A.470 An applicant or **[client] a recipient** is entitled to represent himself or to be represented by another person, including a legal representative, at the administrative review. The Division will inform the applicant or **[client] recipient** or his **designated** representative of this right:

1. At the time he applies for enrollment in **[CHIP;] COPE;** and
2. In a letter notifying the client of the action of the Division **[which] that** is subject to administrative review.

Sec. 53. NAC 427A.472 is hereby amended to read as follows:

427A.472 1. A reviewing officer shall request the case manager responsible for the contested action of the Division to attend the administrative review.

2. If the case manager is unable to attend the review:

(a) The supervisor for the region in which the applicant or ~~client~~ *recipient* resides shall serve as the representative of the Division.

(b) The case manager shall provide the reviewing officer with a report that contains:

(1) A summary of the factors on which the contested action of the Division is based; and

(2) All applicable laws, regulations and policies of the Division or the ~~Welfare~~ Division *of Welfare and Supportive Services* of the Department of *Health and* Human ~~Resources~~ *Services*.

↪ The reviewing officer shall cause the report of the case manager to be read into the record and entered into evidence during the administrative review.

Sec. 54. NAC 427A.474 is hereby amended to read as follows:

427A.474 1. An applicant or ~~client~~ *a recipient* or his *designated* representative is entitled to receive:

(a) Before the administrative review, a photocopy of all documents and records that will be used in the administrative review. The Division will provide these photocopies at no charge.

(b) From the Division, photocopies of additional relevant information that will not be used at the administrative review upon payment of a charge not to exceed the actual cost to the Division of producing the photocopies.

2. During the review, the Division will provide the applicant or ~~client~~ *recipient* or his *designated* representative with a photocopy of all documents presented by the Division at the administrative review.

Sec. 55. NAC 427A.480 is hereby amended to read as follows:

427A.480 1. A reviewing officer shall keep a case record of each administrative review that he conducts which contains:

(a) All correspondence that the reviewing officer has received regarding the subject matter of the administrative review;

(b) All exhibits presented and accepted during the administrative review; and

(c) A narrative log of all contacts that the reviewing officer has had with the applicant or ~~client~~ *recipient* or his *designated* representative, members of the staff of the Division, or legal counsel for any of the participants in the administrative review.

2. The case record established by the reviewing officer constitutes the official record of the hearing.

3. After the reviewing officer has rendered a decision, he shall submit the case record and the audiotape recording to the office of the Division in Carson City. That office shall retain the case record and the audiotape recording for:

(a) Four years after the date of the decision; or

(b) Until the resolution of a judicial review of the decision,

↳ whichever occurs later.

Sec. 56. NAC 427A.482 is hereby amended to read as follows:

427A.482 1. At the beginning of the administrative review, the reviewing officer shall:

(a) Introduce himself;

(b) Announce the date and time;

(c) State the name of the person requesting the administrative review;

(d) State the reason for the administrative review;

(e) Cause each person present to introduce himself and to state his purpose in attending the administrative review; and

(f) Advise those present that the administrative review is being recorded by an audiotape recorder.

2. The representative of the Division shall state the basis of the contested action taken by the Division. If the case manager is not present, the report prepared by him pursuant to subsection 2 of NAC 427A.472 must be read into the record.

3. The reviewing officer shall allow the applicant or ~~{client}~~ *recipient* or his *designated* representative to make a statement concerning the grievance and to present supporting evidence.

4. The reviewing officer shall collect, number and log all relevant evidence.

5. The reviewing officer, the applicant or ~~{client}~~ *recipient* or his *designated* representative or the representative of the Division may request that evidence which is not available at the administrative review be submitted. If such a request is made, the reviewing officer may:

(a) Continue the administrative review and order further investigation or request a party to produce the additional evidence; or

(b) Close the administrative review but hold the record open to permit submission of any additional evidence.

↪ If additional evidence is submitted, the reviewing officer shall provide each party with the opportunity to examine that evidence.

6. If the reviewing officer determines after the administrative review is closed that the record is unclear or insufficient to make a decision, he may contact the applicant or ~~{client}~~ *recipient* or his *designated* representative or the representative of the Division for clarification or additional information. Any material submitted after the close of the review must be made available to all participants in the administrative review and each shall have the opportunity for

rebuttal. The reviewing officer may reopen the administrative review if the nature of the additional information or the rebuttal thereof makes further consideration necessary.

7. Before closing the review, the reviewing officer shall advise those present that:

(a) He will base his decision on the case record and the testimony and evidence presented at the administrative review;

(b) He will render a decision within 15 days after the date of the administrative review;

(c) He will inform the applicant or ~~{client}~~ *recipient or his designated representative* by mail of his decision; and

(d) The applicant or ~~{client}~~ *recipient* or his *designated* representative may appeal the decision of the reviewing officer to the Administrator of the Division.

Sec. 57. NAC 427A.484 is hereby amended to read as follows:

427A.484 1. The decision of a reviewing officer must:

(a) Be based on the evidence and information presented at the administrative review and any additional information submitted pursuant to subsection 6 of NAC 427A.482;

(b) Comply with the regulations of the Division that were in effect at the time the Division took the contested action;

(c) Comply with the policies of ~~{CHIP;}~~ *COPE*;

(d) Contain a summary of the findings of fact;

(e) Identify supporting evidence and regulations;

(f) Respond to any reasonable arguments of the applicant or ~~{client}~~ *recipient* or his *designated* representative; and

(g) Be submitted in writing to the Administrator of the Division with the case record and all exhibits presented during the administrative review.

2. In issuing a decision, the reviewing officer shall not consider changes in physical or social factors ~~[which]~~ *that* occur after the close of the administrative review.

Sec. 58. NAC 427A.486 is hereby amended to read as follows:

427A.486 1. A reviewing officer shall mail the written decision to the applicant or ~~[client]~~ *recipient or his designated representative* within 15 days after the close of the administrative review. In addition to the written decision, the reviewing officer shall notify the applicant or ~~[client]~~ *recipient* or his *designated* representative by mail of:

- (a) The right to appeal the decision of the reviewing officer to the Division; and
- (b) The process to request an appeal to the Administrator of the Division.

2. A request for an appeal to the Administrator of the Division must be received by the Administrator within 10 days after the date of the decision.

Sec. 59. NAC 427A.500 is hereby amended to read as follows:

427A.500 As used in NAC 427A.500 to ~~[427A.570,]~~ *427A.550*, inclusive, *and section 10 of this regulation*, unless the context otherwise requires, the words and terms defined in NRS ~~[361.810 to 361.832,]~~ *427A.460 to 427A.505*, inclusive, have the meanings ascribed to them in those sections.

Sec. 60. NAC 427A.520 is hereby amended to read as follows:

427A.520 1. A claimant shall file proof of his age with his first claim by attaching a copy of his birth certificate, driver's license, social security letter, ~~[medicare]~~ *Medicare* card, military discharge papers or other appropriate document.

2. *A claimant may be required to file proof of his income by attaching a copy of his end-of-year statements, including, without limitation, Form 1099, Form 1098, Form W-2 and Form 1099-SA.*

3. A claimant may be required to file a copy of his income tax returns with his annual claim.

Sec. 61. NAC 427A.352, 427A.360, 427A.362, 427A.366, 427A.370, 427A.382, 427A.412, 427A.414, 427A.416, 427A.418, 427A.420, 427A.434, 427A.448, 427A.560 and 427A.570 are hereby repealed.

TEXT OF REPEALED SECTIONS

427A.352 “Adult day care” defined. “Adult day care” means care provided in a setting outside the client’s home, including supervision, recreation, a nutritious meal and socialization for any part of a day, but not to exceed 12 hours per day.

427A.360 “CHIP” defined. “CHIP” means the Community Home-Based Initiatives Program of the Division established pursuant to NRS 427A.250.

427A.362 “Client” defined. “Client” means a person who is enrolled in CHIP.

427A.366 “Coordinator” defined. “Coordinator” means the Coordinator of Senior Services of the Division.

427A.370 “Fair market value” defined. “Fair market value” means the average trade-in value of a vehicle or the current wholesale value of a vehicle, as estimated in the Kelley Blue Book or its equivalent, not including optional equipment or mileage.

427A.382 “Vehicle” defined. “Vehicle” includes a passenger car, truck, boat, snowmobile, trailer, motorcycle, motor home, camper or other recreational vehicle.

427A.412 Consideration of undue hardship for exclusion of asset of applicant or client.

The Division will consider undue hardship for the purpose of excluding an asset from the determination of eligibility if an applicant or client provides evidence that:

1. An asset was taken without the applicant's or client's consent;
2. Was not used for his support; and
3. There is no method, legal or otherwise, by which the applicant or client may have the

asset transferred back to his ownership or receive further income from the asset.

427A.414 Transfer of asset of applicant or client: Presumption; review of related denial or termination of services.

1. Except as otherwise provided in NAC 427A.416, if an applicant or client, his spouse or the legal representative of the applicant or client has transferred an asset for less than market value or given an asset away within 30 months before the time he applied for enrollment in CHIP or at any time after his application has been submitted, it will be presumed that the asset was disposed of for the purpose of becoming eligible or to remain eligible for CHIP and the asset must be counted towards the limit for assets.

2. If the application is denied or services are terminated due to such a disposal of an asset, the applicant or client may request an administrative review.

427A.416 Transfer of asset of applicant or client: Applicability of presumption. NAC 427A.414 does not apply:

1. To the transfer of an asset of an applicant or client made by a person other than the applicant or client or to a transfer made by the spouse of an applicant or client unless the person acted on behalf of the applicant or client as his legal representative.

2. If the applicant's or client's name and money are removed from a joint bank account for the purpose of establishing a new account in his name only.
3. To assets that have been divided between spouses pursuant to a court order.
4. If the applicant or client has a spouse or child who is blind or disabled, to an asset that the applicant or client has transferred to such a spouse or child.
5. To the transfer of an asset if the applicant or client will receive consideration for the asset pursuant to a valid contract. As used in this subsection, "consideration" means money or any other thing of value, or a combination of both, which is regarded as the equivalent or return given or suffered by one for the act or promise of another. The term includes the price paid for real property transferred.
6. To the transfer of an asset made pursuant to a written agreement to transfer assets between spouses.

427A.418 Items considered as assets. Except as otherwise provided in NAC 427A.420, the Division will consider the following items to be assets:

1. A checking account.
2. A savings account.
3. A certificate of deposit.
4. Cash on hand.
5. Stocks and bonds.
6. A promissory note, including a written loan agreement and an installment agreement to purchase property that includes a provision for payments to be applied towards the principal.
7. Machinery and equipment.
8. A trust fund.

9. A life estate.
10. Real property.
11. A life insurance policy. The following rules apply to life insurance policies:
 - (a) If the applicant or client is single, the cash value of each life insurance policy less encumbrances must be counted if the total face value of all policies exceeds \$1,500.
 - (b) If the applicant or client is married, the cash value of each life insurance policy less encumbrances must be counted if the total face value of all policies exceeds \$3,000.
12. A vehicle. If the applicant or client is not the sole owner of a vehicle, the fair market value of the vehicle less encumbrances may be divided equally among all owners and the applicant's or client's share must be counted as an asset.

427A.420 Items not considered as assets. The Division will not consider the following items to be assets in determining the eligibility of an applicant or continued eligibility of a client for enrollment in CHIP:

1. Any stock that is not marketable. The status of the stock must be verified by a person who has been approved by the Division.
2. A trust fund or trust account if the Chief of Elder Rights of the Division determines that the principal of the trust is not available to the client.
3. Household goods and personal effects.
4. Except as otherwise provided in subsection 5:
 - (a) One vehicle of any value, if it is used primarily for the transportation of the client; and
 - (b) Not more than \$8,000 in equity of one other vehicle.

5. An asset that has been determined by the division to be essential for the self-employment or self-support of an applicant or client, or his spouse, including real property, buildings, inventory, equipment, tools, machinery and vehicles. The asset must be in current use.

6. An asset necessary for a plan of self-support for an applicant or client who is blind or disabled. These assets may only be excluded from consideration during the time the plan remains in effect. The plan must be an individual plan, in writing and approved by the Social Security Administration.

7. The applicant's or client's principal place of residence. His residence will not be considered as an asset if he is not residing there, but:

(a) Intends to return and he or his designated representative evidences such intention in writing, regardless of whether there is medical evidence to the contrary. A client's intention to return to the residence must be verified at each redetermination of his eligibility.

(b) The residence is occupied by a spouse or a dependent relative of the applicant or client.

↪ As used in this subsection, "principal place of residence" means a home, including any property that is contiguous to the home, in which an applicant or client is residing or has resided in the past.

8. Not more than \$6,000 of the applicant's or client's equity in real property other than his principal place of residence, if the property is producing an annual net income of at least 6 percent of the excluded equity. The amount of equity in excess of \$6,000 must be counted as an asset.

9. Any real property of the applicant or the client that is for sale at or near market value or has been sold and escrow is not completed. The applicant or client shall verify the offered price and that no offers to purchase the property have been received for at least 3 months or that the

property has been sold and escrow is not completed. Verification of such facts must also be provided by at least two persons who have been approved by the Division. The property must remain for sale during the time a client is enrolled in CHIP to continue to be excluded.

10. A promissory note, written loan agreement or an installment agreement to purchase real property that is not marketable or is of no value, if a person approved by the Division has verified such fact.

11. A life insurance policy that has no provisions for cash surrender.

12. Any burial plot or plots that are intended for the use of the applicant or client, his spouse, or any other member of his immediate family. As used in this subsection:

(a) "Burial plot" includes a conventional grave site, crypt, mausoleum, urn or other repository customarily used for the remains of dead human bodies.

(b) "Immediate family" includes an applicant's or client's minor or adult child, stepchild or adopted child, his brother, sister, parent, adoptive parent and the spouse of any person listed in this paragraph.

13. Money set aside for a burial, not to exceed \$1,500, including burial insurance, a revocable burial contract, burial trust and any separate, identifiable asset that is clearly designated for expenses connected with a burial, cremation or other funeral arrangement.

14. Money received for the replacement or repair of a destroyed or damaged asset. If the amount of money received exceeds the cost of the replacement or repair, the excess must be applied toward the assets of the applicant or client.

15. An asset placed in a financial institution and clearly identified as an excluded asset.

16. A retroactive payment from Supplemental Security Income or Retirement Survivor's Disability Insurance. Such a payment may only be excluded from assets for 9 months after the date of receipt and may not be excluded if it is converted to another asset.

17. An asset that is necessary for the health of the applicant or client. The applicant or client must provide verification that he obtained the asset because it was necessary to his health. If a person other than the applicant or client obtained the asset, the coordinator shall determine whether the item is counted as an asset.

18. Real property that is owned by a member of an Indian tribe, but controlled by the Bureau of Indian Affairs.

427A.434 Statement of understanding: Provision to and execution by client.

1. After the plan of care has been reviewed and signed by a client, the case manager must give the client a copy of a statement of understanding provided by the Division. If the client is unable to read, the statement must be read to the client and the box on the statement indicating that it was read to the client must be marked.

2. If possible, the client must sign the statement of understanding. If the client is unable to sign the statement, a representative designated by the client may sign for the client. The relationship of the designated representative to the client and the reason that the representative is signing for the client must be noted on the statement.

3. A copy of the statement of understanding must be given to the client or his designated representative.

4. After a client has signed a statement of understanding, he must not be required to sign another statement of understanding unless his services are terminated and he is subsequently reinstated to the program.

427A.448 Contracting with relative of client for provision of services. The Division, if it determines that a financial hardship exists and that there is a shortage of qualified providers of service in the area, may enter into a contract with a relative of a client, other than his spouse, to provide the services of a personal care attendant or the services of a homemaker to the client. The Division will enter into the contract only if such services would not be otherwise available without a charge to the client.

427A.560 Fraudulent or excessive claims: Disallowance; repayment of refund; penalty. (NRS 361.873)

1. A claim will be disallowed if the Administrator of the Aging Services Division of the Department of Human Resources finds that the claimant received title to his home primarily for the purpose of obtaining property tax assistance to senior citizens.

2. The Administrator may deny in total any claim which he finds to be excessive or which was filed with fraudulent intent.

3. If either type of claim has been paid, and afterward denied, the claimant shall repay to the Aging Services Division the amount of the claim with a 10-percent penalty. If the amount of the refund and penalty is not repaid, it will be assessed against the property claimed by the claimant as a home.

427A.570 Sale of property for which refund was claimed: Repayment of refund; penalty. (NRS 361.873) If a claimant who has received a refund sells or otherwise transfers title to the property for which the refund was received before the payment of all taxes due on that property for the current tax year, the claimant shall repay to the Aging Services Division of the Department of Human Resources the portion of the refund which is equal to the proportion of the original tax bill for the year which is to be paid by the purchaser. If all taxes for the year have

been or are to be paid by the claimant, no return of the refund is required. If the amount of the required refund is not repaid, it will be assessed against the property claimed by the claimant as a home.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R 163-06**

The **Division for Aging Services of the Department of Health and Human Services** adopted regulations assigned **LCB File No. R 163-06** which pertain to **chapter 427A** of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Fifteen days prior to the public workshop on September 21, 2006, a notice of intent to act upon public regulation was posted at all libraries in the state, all four Division for Aging Services regional offices, the State Legislative Building, the Grant Sawyer Building, and the offices of the Department of Health and Human Services in Carson City. Copies of the proposed regulations were included, along with the Notice of Intent to Act Upon a Regulation.

Thirty days prior to the public hearing on June 12, 2007, a notice of intent to act upon public regulation was posted at all libraries in the state, all four Division for Aging Services regional offices, the State Legislative Building, the Grant Sawyer Building, and the offices of the Department of Health and Human Services in Carson City. Copies of the proposed regulations were included, along with the Notice of Intent to Act Upon a Regulation.

Copies of the summaries of both the workshop and the hearing can be obtained by contacting Dale Ann Luzzi, Division for Aging Services, 3416 Goni Road, #132, Carson City NV 89706, telephone number 775-687-4210.

2. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statement.

There were 24 people from various locations in the state at the Public Workshop on September 21, 2006. The only testimony was from Sally Ramm, Elder Rights Attorney, who conducted the workshop and read the proposed changes to the regulations into the record. No written statements were received.

There were 24 people from various locations in the state at the Public Hearing on June 12, 2007. Testimony was provided by Tammy Ritter, Manager of the Community Based Care unit of the Division for Aging Services, and Sally Ramm, Elder Rights Attorney, who conducted the hearing and read the proposed changes to the regulations into the record. No written statements were received.

3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.

No businesses are regulated by these proposed regulations.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Not applicable.

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

(a) Both adverse and beneficial effects;

(b) Both immediate and long-term effects;

Not applicable

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no cost to the agency for enforcement.

- 7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

These regulations overlap with the State Medicaid Services Manual and Medicaid Eligibility and Payment Manual because the program the regulations address (COPE) is modeled after the Medicaid waiver program called CHIP, and uses many of the same regulations.

Some of these regulations are also reflective of the federal HIPAA regulations, as they address personal health information.

- 8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

Not applicable

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

No new fees are **included** in these regulations.