

LCB File No. R163-06

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

(The provisions of this regulation pertaining to complaints against certain facilities and agencies that provide care for older patients have been removed from this regulation and are now located in R167-06)

~~[PRACTICE BEFORE AGING SERVICES DIVISION]~~

***ADVOCATES FOR RESIDENTS OF FACILITIES FOR LONG TERM CARE
(NRS 427A.135 AND 138)***

~~[NAC 427A.010—Definitions. As used in NAC 427A.010 to 427A.310,]~~ ***NAC 427A.135***
Definitions. As used in NAC 427A.135 through NAC 427A.1380, inclusive, unless the context otherwise requires:

1. “Hearing officer” means the ~~[Administrator of the Aging Services Division]~~ ***Specialist for the Rights of Elderly Persons*** of the Department of ***Health and*** Human ~~[Resources]~~ ***Services***, or a person designated by him.
2. “Person” means a natural person, partnership, association, corporation or other public or private entity.
3. ***“Complainant” is a resident or the person filing the complaint on behalf of a resident. Can also be a person claiming retaliation for filing a complaint or providing information regarding a complaint. An advocate or the representative of an advocate can file a complaint.***
4. ~~[3.]~~ “Respondent” means a person against whom a complaint has been filed.

~~[NAC 427A.020—Scope]~~ ***NAC 427A.1350 Scope and construction.*** The provisions of ~~[NAC 427A.010 to 427A.310, inclusive:]~~ ***NAC 427A.135 through NAC 427A.1380:***

1. Govern all practice and procedure for a hearing held pursuant to NRS 427A.135 or 427A.138; and
2. Must be liberally construed to secure a just, speedy and economical determination of all issues presented to the hearing officer.

~~[NAC 427A.030—Severability. Each provision of NAC 427A.010 to 427A.310,]~~ **NAC 427A.1351 Severability.** Each provision of NAC 427A.135 through 427A.1380, inclusive, is hereby declared to be severable and the invalidity of any provision does not affect the validity of any other provision.

~~[NAC 427A.040—Deviation]~~ **NAC 427A.1352 Deviation from requirements.** In special cases, upon a showing of good cause, the hearing officer may permit deviation from the requirements set forth in ~~[NAC 427A.010 to 427A.310, inclusive,]~~ **427a.135 through NAC 427A.1380**, if compliance is impractical or unnecessary.

~~[NAC 427A.050]~~ **NAC 427A.1353 Communications to hearing officer.** Formal written communications and documents must be addressed to the hearing officer and shall be deemed to be received officially only when delivered to the hearing officer.

~~[NAC 427A.060—Service]~~ **NAC 427A.1354 Service of documents: Method.** Notices, findings of fact, opinions and decisions of the hearing officer, and any document filed by a party, may be served by mail. Service shall be deemed to be complete when a true copy of the document, properly addressed and with postage paid, is deposited with the United States Postal Service.

~~[NAC 427A.070—Service]~~ **NAC 427A.1355 Service of documents: Proof.** Each document which is required to be served must contain an acknowledgment of service or certificate of mailing.

~~[NAC 427A.080—Computation]~~ **NAC 427A.1356 Computation of time.** The time within which any act required by ~~[NAC 427A.010 to 427A.310, inclusive,]~~ **NAC 427A.135 through NAC 427A.1380** must be 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.

~~[NAC 427A.090—Pleadings:]~~ *NAC 427A.1357 Pleadings: Designation; execution.* Each pleading must be:

1. Designated as a complaint, answer or motion; and
2. Signed by the party submitting it.

~~[NAC 427A.100—Pleadings:]~~ *NAC 427A.1358 Pleadings: Filing; availability.*

1. An original and two legible copies of each pleading must be filed with the hearing officer in all matters before him.

2. The hearing officer may direct that the party who filed a pleading make copies of it available to any other person who has requested copies, if the hearing officer first determines that the person making the request may be affected by the proceeding.

~~[NAC 427A.110—Pleadings:]~~ *NAC 427A.1359 Pleadings: Amendment; construction.*

The hearing officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings must be liberally construed and defects which do not affect a substantial right of a party must be disregarded.

~~[NAC 427A.120—Complaints:]~~ *NAC 427A.1360 Complaints: Investigation; form, contents and filing; notice.*

1. The ~~[specialist for the rights of elderly persons shall]~~ *Administrator 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, and two copies must be filed with the specialist for the 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 for the 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.

~~[NAC 427A.130—Answers]~~ *NAC 427A.1361 Answers to complaints.*

1. A respondent has 10 days after being served a complaint in which to file his answer with the hearing officer.
2. Matters alleged by way of an affirmative defense must be separately stated and numbered.
3. If the respondent fails to answer within 10 days, he shall be deemed to have denied generally the allegations of the complaint, and except with the consent of all opposing parties and the hearing officer, he may not raise any affirmative defense at the hearing.
4. If no answer is filed, the hearing will proceed solely upon the issues set forth in the complaint, unless the hearing is continued to a future date by order of the hearing officer.

~~[NAC 427A.140—Hearings:]~~ *NAC 427A.1362 Hearings: Presiding officer; location; notice.*

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]~~ *that* has previously been continued may be reset on 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.

~~[NAC 427A.150]~~ *NAC 427A.1363 Hearings: Rights of parties.* At any hearing, each party may enter appearances, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the proceeding.

~~[NAC 427A.160—Hearings:]~~ *NAC 427A.1364 Hearings: Appearance of parties.* A party may enter an appearance at the beginning of a hearing or at any time designated by the hearing officer by giving his name and address and stating his position or interest to the hearing officer. The appearance must be recorded in the transcript of the hearing.

~~[NAC 427A.170—Hearings:]~~ **NAC 427A.1365 Hearings: Failure to appear.**

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.

~~[NAC 427A.180—Hearings:]~~ **NAC 427A.1366 Hearings: Conduct of persons.** Each party to a hearing, his counsel and all spectators shall conduct themselves in a respectful manner.

~~[NAC 427A.190—Hearings:]~~ **NAC 427A.1367 Hearings: Preliminary procedure.** The hearing officer will call the proceeding to order, take the appearances and make any introductory remarks. Each party may then make an opening statement.

~~[NAC 427A.200—Hearings:]~~ **NAC 427A.1368 Hearings: Order of procedure.** 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 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*.

~~[NAC 427A.210—Hearings:]~~ *NAC 427A.1369 Hearings: Rules of procedure and evidence.*

1. In conducting a hearing, the hearing officer is not bound by the Nevada Rules of Civil Procedure and no informality in any proceeding or in the manner of taking of testimony invalidates any decision he issues.

2. The Nevada Rules of Civil Procedure may be generally followed, but may be relaxed by the hearing officer if deviation from those rules of evidence will aid in ascertaining the facts.

3. If an objection is made to the admissibility of evidence, the evidence may be received but it is subject to any subsequent ruling of the hearing officer.

4. The hearing officer may exclude inadmissible, incompetent, cumulative or irrelevant evidence.

5. A party objecting to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered.

6. Evidence admitted at hearings must be material and relevant to the issues.

~~[NAC 427A.220—Hearings:]~~ *NAC 427A.1370 Hearings: Oaths of witnesses.* All testimony to be considered in a hearing must be taken under oath. Before taking the witness stand, each person must swear before the hearing officer to the truthfulness of the testimony he is about to give in the hearing.

~~[NAC 427A.230—Hearings:]~~ *NAC 427A.1371 Hearings: Consolidation.*

1. The hearing officer may consolidate two or more proceedings into one hearing if it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by consolidation.

2. The hearing officer will determine the order of procedure in a consolidated hearing.

~~[NAC 427A.240—Hearings:]~~ *NAC 427A.1372 Hearings: Continuances.* The hearing officer may, before or during a hearing, and on a proper showing, grant continuances for submission of further proof of any matter or for any other just cause.

~~[NAC 427A.250—Stipulations]~~ *NAC 427A.1373 Stipulations of parties.*

1. With the approval of the hearing officer, the parties may stipulate to any fact at issue by a written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.

2. Any stipulation is binding upon all parties to it, and may be treated as evidence at the hearing.

3. The hearing officer may demand proof by requiring evidence of the facts stipulated.

~~[NAC 427A.260—Briefs;]~~ *NAC 427A.1374 Briefs; setting matter for oral argument.*

1. The hearing officer may order briefs to be filed and specify a time limit for their filing.

2. Three copies of any requested brief must be filed with the hearing officer in matters before him.

3. Each brief must be accompanied by an acknowledgment of service or a certificate of mailing to other parties of record.

4. Following the filing of briefs and after deciding contested motions, the hearing officer may set the matter for oral argument and give reasonable notice to all parties.

~~[NAC 427A.270—Official]~~ *NAC 427A.1375 Official notice.* The hearing officer may take official notice of:

1. The rules, regulations, official reports, decisions and orders of any regulatory agency of the state.

2. Matters of common knowledge and established technical or scientific facts.

3. Official documents, if relevant and properly introduced into the record of formal proceedings by reference. A proper and definite reference to the documents must be made by the party offering them and the documents must be published and generally circulated so that the parties in interest may examine the documents and present rebuttal evidence.

~~[NAC 427A.280—Transcripts.]~~ *NAC 427A.1376 Transcripts.* 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 recording* may obtain it from the hearing officer upon payment of the proper fee.

~~[NAC 427A.290—Submission]~~ *NAC 427A.1377 Submission of matter for decision.* Unless otherwise ordered, a proceeding stands submitted for decision by the hearing officer after the taking of evidence, the filing of briefs or the presentation of oral argument required by the hearing officer.

~~[NAC 427A.300—Issuance]~~ *NAC 427A.1375 Issuance of decision.*

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 of the Department of Human Resources]~~ *Administrator* 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.

~~[NAC 427A.310—Appeal]~~ *NAC 427A.1379 Appeal of decision.* Any person aggrieved by a decision issued pursuant to a hearing held pursuant to NRS 427A.135 or 427A.138 may appeal to the director of the Department of Human Resources whose decision on the appeal is a final decision.

***COMPLAINTS AGAINST CERTAIN FACILITIES AND AGENCIES
THAT PROVIDE CARE FOR OLDER PATIENTS
(NRS 427A.175; NRS 449.065)***

NAC 427A.175 Definitions. As used in NAC 427A.175 through NAC 427A.1782, inclusive, unless the context otherwise requires:

1. *“Hearing officer” means the Specialist for the Rights of Elderly Persons of the Department of Health and Human Services, or a person designated by him.*

2. *“Person” means a natural person, partnership, association, corporation or other public or private entity.*
3. *“Complainant” is a resident claiming the loss or damage to his property as a result of any act or failure to act by a facility for long term care.*
4. *“Respondent” means a facility against which a complaint has been filed.*

NAC 427A.1751 Scope and construction. The provisions of NAC 427A.175 through NAC 427A.1782:

1. *Govern all practice and procedure for a hearing held pursuant to NRS 427A.175 and NRS 449.065 and;*
2. *Must be liberally construed to secure a just, speedy and economical determination of all issues presented to the hearing officer.*

NAC 427A.1752 Severability. Each provision of NAC 427A.175 through 427A.1782, inclusive, is hereby declared to be severable and the invalidity of any provision does not affect the validity of any other provision.

NAC 427A.1753 Deviation from requirements. In special cases, upon a showing of good cause, the hearing officer may permit deviation from the requirements set forth in NAC 427A.175 through NAC 427A.1782 if compliance is impractical or unnecessary.

NAC 427A.1754 Communications to hearing officer. Formal written communications and documents must be addressed to the hearing officer and shall be deemed to be received officially only when delivered to the hearing officer.

NAC 427A.1755 Service of documents: Method. Notices, findings of fact, opinions and decisions of the hearing officer, and any document filed by a party, may be served by mail. Service shall be deemed to be complete when a true copy of the document, properly addressed and with postage paid, is deposited with the United States Postal Service.

NAC 427A.1756 Service of documents: Proof. Each document that is required to be served must contain an acknowledgment of service or certificate of mailing.

NAC 427A.1757 Computation of time. The time within which any act required by NAC 427A.175, through NAC 427A.1782 must be 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.

NAC 427A.1758 Pleadings: Designation; execution. Each pleading, if filed, must be:

- 1. Designated as a complaint, answer or motion; and*
- 2. Signed by the party submitting it.*

NAC 427A.1759 Pleadings: Filing; availability.

1. An original and two legible copies of each pleading, if filed, must be filed with the hearing officer in all matters before him.

2. The hearing officer may direct that the party who filed a pleading make copies of it available to any other person who has requested copies, if the hearing officer first determines that the person making the request may be affected by the proceeding.

NAC 427A.1760 Pleadings: Amendment; construction. The hearing officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings must be liberally construed and defects that do not affect a substantial right of a party must be disregarded.

NAC 427A.1761 Complaints: Investigation; form, contents and filing; notice.

- 1. The complaint must be in writing and signed and verified by the person making it, and two copies must be filed with the specialist for the rights of elderly persons within 1 year after the act complained of was committed.*
- 2. A complaint must be stated with sufficient particularity to enable the respondent to prepare a defense.*

3. *If, from the complaint, it appears that the charges may be well founded, the specialist for the rights of elderly persons shall send written notice to the respondent by certified mail at least 20 days before the date set for the hearing. The notice must set forth the complaint and the date of the hearing.*

NAC 427A.1762 Answers to complaints.

1. *A respondent has 10 days after being served a complaint in which to file his answer with the hearing officer.*
2. *If the respondent fails to answer within 10 days, he shall be deemed to have denied generally the allegations of the complaint.*
3. *If no answer is filed, the hearing will proceed solely upon the issues set forth in the complaint, unless the hearing is continued to a future date by order of the hearing officer.*

NAC 427A.1763 Hearings: Presiding officer; location; notice.

1. *A hearing held pursuant to NRS 427A.175 must be held before the hearing officer or a person designated by him.*
2. *A hearing that has previously been continued may be reset on at least 10 days' notice.*
3. *Each hearing must be held at a place in the state designated by the hearing officer in the notice of hearing.*

NAC 427A.1764 Hearings: Rights of parties. At any hearing, each party may enter appearances, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the proceeding.

NAC 427A.1765 Hearings: Appearance of parties. A party may enter an appearance at the beginning of a hearing or at any time designated by the hearing officer by giving his name and address and stating his position or interest to the hearing officer. The appearance must be recorded in the transcript of the hearing.

NAC 427A.1766 Hearings: Failure to appear.

1. If the 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.

NAC 427A.1767 Hearings: Conduct of persons. Each party to a hearing, his counsel and all spectators shall conduct themselves in a respectful manner.

NAC 427A.1768 Hearings: Preliminary procedure. The hearing officer will call the proceeding to order, take the appearances and make any introductory remarks. Each party may then make an opening statement.

NAC 427A.1769 Hearings: Order of procedure. Matters must be heard at a hearing in the following order:

- 1. The opening statements of the complainant and the respondent.*
- 2. The presentation of the case of the 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 complainant, if any.*
- 5. The rebuttal testimony by respondent, if any.*
- 6. The closing arguments, in the following order:*
 - (a) The argument of the complainant, if any.*

- (b) The argument of the respondent.*
- (c) The rebuttal argument of the complainant.*

NAC 427A.1770 Hearings: Rules of procedure and evidence.

1. In conducting a hearing, the hearing officer is not bound by the Nevada Rules of Civil Procedure and no informality in any proceeding or in the manner of taking of testimony invalidates any decision he issues.

2. The Nevada Rules of Civil Procedure may be generally followed, but may be relaxed by the hearing officer if deviation from those rules of evidence will aid in ascertaining the facts.

3. If an objection is made to the admissibility of evidence, the evidence may be received but it is subject to any subsequent ruling of the hearing officer.

4. The hearing officer may exclude inadmissible, incompetent, cumulative or irrelevant evidence.

5. A party objecting to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered.

6. Evidence admitted at hearings must be material and relevant to the issues.

NAC 427A.1771 Hearings: Oaths of witnesses. All testimony to be considered in a hearing must be taken under oath. Before taking the witness stand, each person must swear before the hearing officer to the truthfulness of the testimony he is about to give in the hearing.

NAC 427A.1772 Hearings: Consolidation.

1. The hearing officer may consolidate two or more proceedings into one hearing if it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by consolidation.

2. The hearing officer will determine the order of procedure in a consolidated hearing.

NAC 427A.1773 Hearings: Continuances. The hearing officer may, before or during a hearing, and on a proper showing, grant continuances for submission of further proof of any matter or for any other just cause.

NAC 427A.1774 Stipulations of parties.

1. With the approval of the hearing officer, the parties may stipulate to any fact at issue by a written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.

2. Any stipulation is binding upon all parties to it, and may be treated as evidence at the hearing.

3. The hearing officer may demand proof by requiring evidence of the facts stipulated.

NAC 427A.1775 Briefs; setting matter for oral argument.

1. The hearing officer may order briefs to be filed and specify a time limit for their filing.

2. Three copies of any requested brief must be filed with the hearing officer in matters before him.

3. Each brief must be accompanied by an acknowledgment of service or a certificate of mailing to other parties of record.

4. Following the filing of briefs and after deciding contested motions, the hearing officer may set the matter for oral argument and give reasonable notice to all parties.

NAC 427A.1776 Official notice. The hearing officer may take official notice of:

1. The rules, regulations, official reports, decisions and orders of any regulatory agency of the state.

2. Matters of common knowledge and established technical or scientific facts.

3. Official documents, if relevant and properly introduced into the record of formal proceedings by reference. A proper and definite reference to the documents must be made by the party offering them and the documents must be published and generally circulated so that the parties in interest may examine the documents and present rebuttal evidence.

NAC 427A.1777 Transcripts. The hearing officer will cause a record to be made of all formal hearings. Any party who wishes to secure a copy of the recording may obtain it from the hearing officer upon payment of the proper fee.

NAC 427A.1778 Submission of matter for decision. Unless otherwise ordered, a proceeding stands submitted for decision by the hearing officer after the taking of evidence, the filing of briefs or the presentation of oral argument required by the hearing officer.

NAC 427A.1779 Issuance of decision.

- 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 Administrator 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.*

NAC 427A.1780 Report of reviewing officer summarizing proceedings.

1. A reviewing officer shall summarize the proceedings in a written report using the following format:

A. INTRODUCTION—The date, time and place of the administrative review and the name of each person present at the administrative review.

B. NATURE OF CASE—Overview of the issues presented during the administrative review.

C. FINDINGS OF FACT—The facts of the case as determined by the reviewing officer.

D. CONCLUSIONS OF LAW—The laws, regulations, procedural rules and policies that support the findings and decision of the reviewing officer.

E. DECISION—The decision to either uphold or overrule the action of the Division.

2. The reviewing officer shall submit the written report to the Administrator of the Division with the case record.

NAC 472A.1781 Case record of review; retention of case record and recording.

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 or his 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.

NAC 427A.1782 Appeal of decision. Any person aggrieved by a decision issued pursuant to a hearing held pursuant to NRS 427A.175 may appeal to the Administrator whose decision on the appeal is a final decision.

PROGRAM TO PROVIDE COMMUNITY-BASED SERVICES TO FRAIL ELDERLY PERSONS

(NRS 427A.250 – 280)

General Provisions

~~NAC [427A.350 – Definitions. As used in NAC 427A.350 to 427A.488, inclusive, unless the context otherwise requires, the words and terms defined in NAC 427A.352 to 427A.382,]~~
427A.250 Definitions. As used in NAC 427A.250 to 427A.2633, inclusive, unless the context otherwise requires, the words and terms defined in NAC 427A.2501 to 427A.2633, inclusive, have the meanings ascribed to them in those sections.

~~[NAC 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.~~

~~—NAC 427A.354 “Asset” defined. “Asset” means property that:~~

- ~~—1. Belongs to an applicant or client; and~~
- ~~—2. Has a monetary value.~~

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

~~—NAC 427A.358 “Case manager” defined. “Case manager” means an employee of the Division who carries out the duties of case management for a client or clients of CHIP.~~

~~—NAC 427A.360 “CHIP” defined. “CHIP” means the community home based initiatives program of the Division established pursuant to NRS 427A.250.~~

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

~~—NAC 427A.364 “Commission” defined. “Commission” means the Nevada Commission on Aging.~~

~~—NAC 427A.366 “Coordinator” defined. “Coordinator” means the coordinator of senior services of the Division.~~

~~—NAC 427A.368 “Division” defined. “Division” means the Aging Services Division of the Department of Human Resources.~~

~~NAC 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.]~~

NAC 427A.2501 “Asset” defined. “Asset” means property that:

- 1. Belongs to an applicant or recipient.*
- 2. Has a monetary value.*

NAC 427A.2502 “Case management” defined. “Case management,” means a process where a recipient’s needs are identified and the social, habilitative and medical services to meet those needs are located, coordinated and monitored.

NAC 427A.2503 “Case manager” defined. “Case manager” means an individual with current licensure as a social worker or associate in Social Work from the Nevada Board of Examiners for Social Workers or meets the criteria for licensure as a social worker, but is currently licensed in another capacity such as a marriage and family counselor or a counselor certified by the Nevada Bureau of Alcohol and Drug Abuse and is exempt from Social Work licensure per NRS 641.040; or who has a licensure as a registered nurse from the Nevada State Board of Nursing, and who carries out the duties of case manager for a recipient or recipients of the State funded COPE program as described in NRS 427A.250.

NAC 427A.2504 State funded “COPE” defined: State funded “COPE” means the Community Service Options Program for the Elderly established pursuant to NRS 427A.250.

NAC 427A.2505 Minimal Essential Personal Assistant defined: Pursuant to NRS 426.723, Minimal Essential Personal Assistance is defined as assistance of a person with a severe functional disability for six hours or less a day in eating, bathing, toileting, dressing, moving about and taking care of himself.

NAC 427A.2506 “Recipient” defined. “Recipient” means a person who is enrolled in the state funded program known as “COPE”.

NAC 427A.2507 “Social Services Manager” defined. “Social Services Manager” means the Social Services Manager of the Community Based Care staff within the Division.

NAC 427A.2508 “Division” defined. “Division” means the Aging Services Division of the Department of Health and Human Services.

~~[NAC 427A.372]~~ *NAC 427A.2509 “Fiscal year” defined. “Fiscal year” means a period beginning on July 1 and ending on June 30 of the following year.*

~~NAC [427A.374]~~ *427A.2510 “Income” defined. “Income” means the receipt of money or other thing of value.*

~~NAC [427A.378]~~ *427A.2511 “Legal representative” defined. “Legal representative” means:*

- 1. A person who has been designated to act for an applicant or recipient of the state funded program known as COPE by a power of attorney;*
- 2. A legal guardian of an applicant or recipient; or*
- 3. Any other person who is legally authorized to act for an applicant or recipient.*

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

~~[NAC 427A.379 “Nursing facility” defined. “Nursing facility” means a facility for intermediate care as defined in NRS 449.0038, or a facility for skilled nursing as defined in NRS 449.0039.~~

~~—NAC 427A.380 “Respite care” defined. “Respite care” means care for a patient that provides a respite for the primary caregiver from the stresses and responsibilities that result from the daily care of the patient.~~

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

~~—NAC 427A.384 Designation of representative to act on behalf of client. If a client has difficulty acting on his own behalf, he may designate a representative to act on his behalf. If the client designates such a representative, he shall notify CHIP and all subsequent correspondence from the Division must be sent to the client and his designated representative.~~

~~—NAC 427A.386 Transfer of case between regions of state. If a client 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.]~~

~~[NAC 427A.388 Confidentiality and release of records of client.~~

~~—1. The records of a client are confidential and may only be released to:~~

~~—(a) A person who is authorized by the client 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 pursuant to an order of a court of competent jurisdiction.~~

~~—(c) An employee of the Division, if the Administrator of the Division]~~

NAC 427A.2512 “Nursing facility” defined. “Nursing facility,” means a facility for intermediate care as defined in NRS 449.0038, or a facility for skilled nursing as defined in NRS 449.0039.

NAC 427A.2513 “Standardized Assessment Tool” defined. “Standardized Assessment Tool” means a form for measuring the needs of a recipient or applicant. The form used is the same as that used in nursing homes.

NAC 427A.2514 “Waiver” defined. A waiver is an option provided by Medicaid under Section 1915(c) of the Social Security Act that permits states to offer home and community-based services to eligible individuals.

NAC 427A.2515 “CHIP” defined. “CHIP” stands for “Community Home-based Initiative Program.” This is a waiver program that allows eligible individuals to receive services in their own places of residence as an alternative to institutional care. Regulations for this program can be found in the Medicaid Services Manual.

NAC 427A.2516 Designation of representative to act on behalf of recipient. If a recipient has difficulty acting on his own behalf, he may designate a representative to act on his behalf. If the recipient designates such a representative, he shall notify the Division and all subsequent correspondence from the Division must be sent to the recipient and his designated representative.

NAC 427A.2517 Transfer of case between regions of state. If a 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.

NAC 427A.2518 Confidentiality and release of records of recipient.

1. The records of a recipient are confidential and may only be released to:

(a) A person who is authorized by the 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 recipient pursuant to an order of a court of competent jurisdiction.

(c) An employee of the Division, if the 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]~~ The Social Services Manager deems it necessary;

(2) The client is a ~~[client]~~ *recipient* 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]~~ *Social Services* ~~[Division.]~~ *Manager.*

2. The records of a client may be released for statistical or evaluative purposes if they are used in such a way that the identity of the client 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 will be in compliance with the Health Insurance Portability and Accountability Act.

NAC ~~[427A.390]~~ 427A.2519 Review and copying of case file of ~~[client.]~~ *recipient.*

1. ~~[CHIP shall make a client's]~~ *COPE shall make a 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.

Enrollment and Determination of Eligibility

NAC ~~[427A.400]~~ 427A.260 Enrollment in program: Procedure; denial.

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 functional and financial eligibility requirements and the funds are* available, the ~~[Division]~~ *Division* will authorize services from ~~[CHIP]~~ *COPE* for the applicant and the applicant must be enrolled in ~~[CHIP. An authorization for services will]~~ *COPE. Program eligibility must be reestablished at least annually.* ~~[not exceed 12 months.]~~

2. The Division may, at the discretion of its Administrator, establish a waiting list for enrollment ~~[in CHIP.]~~ *that ensures services will be provided in a reasonable time as established by the Department.*

3. If an applicant is denied enrollment, the *Division* staff ~~[of CHIP]~~ shall inform the applicant of the reason or reasons why his application was denied *and provide information on appeal rights.*

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.]~~ *program access to COPE.*

NAC ~~[427A.402]~~ 127A.2601 Eligibility for program; duties of Division when no provider is available.

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.
 - (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)),

↪ 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 the Department of Human Resources; or

(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.]~~ *If not for the provision of services would require imminent placement in a nursing facility within 30 days.*

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

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

(l) Recipient must require assistance with bathing, toileting and eating.

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.

NAC ~~[427A.404]~~ 427A.2602 Evaluation of income and assets of applicant or ~~[client.]~~ recipient The Division will evaluate the income and assets of an applicant or ~~[client in determining the eligibility or continued eligibility of the applicant or client for enrollment in CHIP.]~~ *recipient in determining and re-determining the eligibility annually of the applicant or recipient for enrollment in COPE.*

NAC ~~427A.406~~ 427A.2603 Income of applicant or ~~client~~ recipient: Limitation; determination; reporting.

1. The *allowable* net monthly income of a ~~client may not exceed the limit for monthly income~~ *recipient follows institutional guidelines as* established by the *Division of Welfare and Supportive Services under the Department or as set by the Commission on Aging (NRS 427A.032-038)* during any month that ~~the client is enrolled in CHIP.~~ *services are provided.*

2. To determine the net monthly income of an applicant or ~~client,~~ *recipient*, any income excluded pursuant to ~~NAC 427A.408~~ *NAC 427A.2604* 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,~~ *NAC 427A.2604*, must be verified, documented and counted in determining the eligibility *or continued eligibility* of an applicant or ~~the continued eligibility of a client.~~ *recipient.*

~~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.]~~ **4.** An applicant or ~~client~~ *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.]~~ *recipient*.

~~[9.]~~ 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.

NAC ~~[427A.408]~~ 427A.2604 Income of applicant or ~~[client:]~~ *recipient*: Exclusions.

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.
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 Senior Volunteer and Foster Grandparent Program.
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 client 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 client 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.

18. Income the applicant or ~~client~~ *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.

~~**[NAC 427A.410 Assets of applicant or client: Limitation; determination and evaluation.**~~

~~—1. The assets of an applicant or client of CHIP may not exceed the limit for assets established 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.~~

~~—NAC 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.~~

~~—NAC 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.~~

~~—NAC 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.~~

~~—NAC 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.~~

~~—NAC 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.]~~

NAC ~~[427A.422]~~ 427A.2605 Cooperation with Division in determining eligibility; notification of change in circumstances material to eligibility.

1. An applicant or ~~[client]~~ *recipient* or his designated representative shall cooperate with the Division in securing any information necessary to determine the applicant’s eligibility or ~~[client’s continued eligibility for enrollment in CHIP.]~~ *recipient’s continued eligibility*. If the applicant or ~~[client]~~ *recipient* or his 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 representative is not cooperating pursuant to subsection 1, and the applicant or his representative cooperates on or before the Division’s deadline for processing the application, the process must be continued.

3. An applicant or ~~[client]~~ *recipient* or his 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*.

NAC ~~[427A.424—Provision by client]~~ *427A.2606 Provision by recipient of monthly statements of bank accounts; action by Division on information received between reassessments.*

- 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.

Provision of Services

NAC ~~[427A.430]~~ *427A.2607 Individual assessment of [clients.—All clients of CHIP] recipients. All recipients of COPE must receive an individual assessment using the [“Multi-Dimensional] “Standardized Assessment [Form”] Tool” of the Division to identify the specific [problems and] needs of the [client.] recipient. The assessment must be completed before the services of [CHIP will be initiated.] COPE will be initiated and must be conducted face to face in the recipient's residence.*

NAC ~~[427A.432]~~ *427A.2608 Plan of care for [client:] recipient: Development and revision; provision of copy to [client;] recipient; effect.*

- 1. A written plan of care must be developed for each ~~[client]~~ *recipient* after the assessment required by ~~[NAC 427A.430]~~ *NAC 427A.2607* 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.

(e) 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 provision in the most integrated setting.**

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 or his designated representative.~~

~~—6.— A new plan of care must be developed by the case manager and signed by the client 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.~~

~~—NAC 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.~~

~~—NAC 427A.436 Periodic reassessment of client and reauthorization of services.~~

~~—1. A client must be reassessed by his case manager at least once every 12 months to:~~

~~—(a) Determine whether the Division should reauthorize services for the client.~~

~~—(b) If necessary, revise any information gathered during the assessment made pursuant to NAC 427A.430.~~

~~—(c) Review his:~~

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

~~—(2) Mental status; and~~

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

~~—(d) Evaluate the services being provided by CHIP 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 for a client, 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.~~

~~—NAC 427A.438 Duties of case manager.—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 plan of care for the client that takes into consideration the race and ethnic background of the client.~~

- ~~—5. Estimate the costs of services for the client.~~
- ~~—6. Monitor 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.~~

~~—NAC 427A.440—~~ **Provision and scope of services under program.**

- ~~—1. If economically feasible, the following services will be made available to clients of CHIP:~~
- ~~—(a) Adult day care.}] recipient or his designated representative.~~

6. A new plan of care must be developed by the case manager and signed by the recipient at least once every 12 months or upon a significant change in condition or supports available.

NAC 427A.2609 Periodic reassessment of client and reauthorization of services.

1. A recipient must be reassessed by his case manager using the standardized assessment tool at least once every 12 months during a face-to-face meeting in the resident's home. The purpose of the reassessment is to:

(a) Determine whether the Division should reauthorize services for the recipient.

(b) If necessary, revise any information gathered during the assessment made pursuant to NAC 427A.2607.

(c) Review his:

(1) Ability to perform activities of daily living including the need for minimum essential personal assistance;

(2) Need for ongoing services; and

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

(d) Evaluate the services being provided by 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 COPE for a client 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 COPE.

NAC 427A.2610 Duties of case manager.

1. The Division for Aging Services will operate the program, which includes administrative functions such as data collection for eligibility verification, evaluation of level of care (LOC), service plan development, annual reassessments, and estimated costs. These duties will be performed by a case manager that is an employee of the Division.

2. Case Management will provide services that will assist individuals who receive waiver services in gaining access to needed waiver and other State plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services to which access is gained. Case managers shall be responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case Management services can be provided by the Division, Agencies or Independent Private Providers that meet provider qualifications.

NAC 427A.2611 Provision and scope of services under program. Services are offered to eligible recipients who, without in home supportive services and minimum essential personal assistance of 6 hours or less per day, would require imminent placement within 30 days in a hospital or nursing facility. Provision of services is in accordance with the guidelines of the CHIP waiver.

1. If economically feasible, the following services will be made available to recipients of COPE:

(a) Adult day care. Service provides 4 or more hours per day on a regularly scheduled basis for one or more days per week in a licensed day care facility as defined in NRS 449.004.

(b) The provision of a personal care attendant or 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 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.

(d) Case Management – Services which will assist individuals who received Waiver services in gaining access to needed waiver and other State plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services to which access is gained.

(e) Personal Emergency Response System (PERS) – An electronic device, which enables certain individuals to secure help in an emergency.

(f) Chore Services – Heavy household chores needed to maintain a clean, sanitary and safe home environment.

(g) Respite – Services provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need of relief of those persons normally providing the care.

(h) Nutrition Therapy – Service including a range of nutrition intervention strategies provided by a registered dietician to a nutritionally at-risk individual.

~~[2.—If the coordinator]~~ *2. If the Social Service Manager has determined that a ~~client~~ recipient is eligible to receive respite care and the requirements of ~~[NAC 427A.442]~~ NAC 427A.2613 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.

NAC ~~[427A.442]~~ 427A.2612 Provision of respite care.

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) *The availability of funds.*

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 home.

NAC ~~[427A.444]~~ 427A.2613 Payment by client of partial cost of services provided.

1. The Division may require a client 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 *on Aging*, 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) *Chore service.*

(h) Nutrition therapy.

(i) Personal Emergency Response System (PERS).

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 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.

~~[NAC 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.]~~

NAC ~~[427A.450]~~ 427A.2614 Procedure when ~~[client,]~~ *recipient*, applicant or person residing with ~~[client or resident has]~~ *recipient has a communicable disease.*

1. If a ~~[client,]~~ *recipient*, an applicant or a ~~[person who resides with the client or applicant]~~ *resident of their household* has a communicable disease, service or the application process 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.

~~[NAC 427A.452—Procedure upon placement of client in hospital or nursing facility.~~

- ~~—1. If a client 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 remains in the hospital or nursing facility for 30 days or more, the Division will terminate his services and close his case.~~
- ~~—3. If the client remains in the hospital or nursing facility for less than 30 days, the Division will review his case and his services may be reinstated or his case may be closed.~~

~~—NAC 427A.454—Reduction of services: Notification of client; request by client.~~

- ~~—1. If any services of CHIP must be reduced, the client 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 or his designated representative may request a reduction of services provided by CHIP. The Division will record the request in the client's case file and revise the plan of care for the client to reflect the change in services.~~

~~—NAC 427A.456—Termination of services: Grounds; notification of client.~~

- ~~—1. In addition to any other requirements for closing a case and terminating the services of CHIP set forth in NAC 427A.350 to 427A.488, inclusive, the Division will close a case and terminate services if:
 - ~~—(a) The client dies.~~
 - ~~—(b) The client fails to meet the criteria for eligibility listed in NAC 427A.402.~~
 - ~~—(c) The client requests the discontinuation of his services.~~
 - ~~—(d) The client 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 residence becomes unsafe for the client or his providers of service.~~
 - ~~—(f) The client or his designated representative participates in any activity designed to defraud CHIP.~~
 - ~~—(g) The client fails to pay his portion of the cost of services provided by CHIP.~~
 - ~~—(h) The cost of services provided to the client is more than 75 percent of the average cost of care for a patient who receives care in a nursing facility.~~~~

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

NAC 427A.2615 Procedure upon placement of recipient in hospital or nursing facility.

1. If a 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 recipient remains in the hospital or nursing facility for 60 days or more, the Division will terminate his services and close his case.

3. If the recipient remains in the hospital or nursing facility for less than 60 days, the Division will review his case and his services may be reinstated or his case may be closed.

NAC 427A.2616 Reduction of services: Notification of recipient; request by recipient.

1. If any services of COPE must be reduced, the recipient 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 and the recipient's hearing rights. Reasons for reduction:

The recipient requests a reduction in services

The recipient no longer needs the service previously provided

The recipient no longer needs the number of service hours previously provided

Another agency, program or support system will provide the service

Available funds have been expended

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

NAC 427A.2617 Termination of services: Grounds; notification of recipient.

1. In addition to any other requirements for closing a case and terminating the services of COPE set forth in NAC 427A.250 to 427A.2633, inclusive, the Division will close a case and terminate services if:

(a) The recipient dies.

(b) The recipient fails to meet the criteria for eligibility listed in NAC 427A.2601.

(c) The recipient requests the discontinuation of his services.

(d) The 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 recipient's residence becomes unsafe for the recipient or his providers of service.

(f) The recipient or his designated representative participates in any activity designed to defraud COPE.

(g) The recipient fails to pay his portion of the cost of services provided by COPE.

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

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

(k) Available funds have been expended.

~~[3. Except in the case of the death of a client, the Division will notify a client or his designated representative, in writing, if the client's]~~ *2. Except in the case of the death of a recipient, the Division will notify a recipient or his designated representative, in writing, if the 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.*

Administrative Review

NAC ~~[427A.460]~~ 427A.2618 Right of review.

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.*

NAC ~~[427A.462]~~ 427A.2619 Request for review.

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

NAC ~~[427A.464]~~ 427A.2620 Preliminary conference for resolution of matter.

1. Within 10 days after the Division receives a request for an administrative review, the supervisor of the region in which the applicant or ~~[client]~~ *recipient* resides shall contact the applicant or ~~[client]~~ *recipient* or his 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.

NAC ~~[427A.466]~~ 427A.2621 Appointment and initial duties of reviewing officer; provision of notice; postponement; withdrawal of request; failure to appear.

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 **[elient] recipient** at least 10 working days before the date scheduled for the review, unless the applicant or **[elient] recipient** or his representative requests a review in a shorter period.

3. If requested by the Division or by the applicant or **[elient] recipient** or his 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] that** is not later than 15 days after the original date for the review.

4. The applicant or **[elient] recipient** or his 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 **[elient] recipient** or his representative and mailed or delivered to the regional office of the Division **[which] that** received the request for the administrative review. If an applicant or **[elient] recipient** or his 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 **[elient] recipient** or his representative fails to appear for the scheduled administrative review after

receiving proper notification. The reviewing officer shall notify the applicant or ~~[client]~~ *recipient* within 1 working day after the failure to appear that the administrative review will be considered canceled unless the applicant or ~~[client]~~ *recipient* can demonstrate good cause for failing to appear. The applicant or ~~[client]~~ *recipient* or his representative must submit the reasons for failing to appear within 10 days after the date of the letter notifying the applicant or ~~[client]~~ *recipient* 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.

NAC ~~[427A.468]~~ 427A.2622 Continuation of services during review.

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 or his 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 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.

NAC ~~[427A.470]~~ 427A.2623 Right to representation. An applicant or ~~[client]~~ *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 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.

NAC ~~[427A.472]~~ 427A.2624 Attendance by case manager; procedure when case manager unable to attend.

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 the Department of ~~Human Resources~~ *Health and Human 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.

NAC ~~427A.474~~ 427A.2625 Disclosure of documents, records and additional relevant information.

1. An applicant or ~~client~~ *recipient* or his 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 representative with a photocopy of all documents presented by the Division at the administrative review.

NAC ~~427A.476~~ 427A.2626 Conducting of review.

1. A reviewing officer shall:

(a) Conduct the administrative review in an informal manner; and

(b) Ensure that all relevant issues are considered during the administrative review.

2. The reviewing officer may cause the removal from the administrative review of any person who:

(a) Uses disrespectful language;

(b) Engages in contemptuous conduct; or

(c) Refuses to comply with the directions of the reviewing officer.

NAC ~~[427A.478]~~ 427A.2627 Recording of review.

1. A reviewing officer shall record the administrative review with an audiotape recorder.
2. The reviewing officer's tape recorder is the only recording device that may be allowed at the administrative review.

NAC ~~[427A.480]~~ 427A.2628 Case record of review; retention of case record and recording.

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 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.

NAC ~~[427A.482]~~ 427A.2629 Procedure upon review.

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~~ **NAC 427A.2625** must be read into the record.

3. The reviewing officer shall allow the applicant or ~~client~~ **recipient** or his 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 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 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** by mail of his decision; and

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

NAC ~~[427A.484]~~ 427A.2630 Decision of reviewing officer.

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;]~~ **NAC 427A.2630;**

(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 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.

NAC ~~[427A.486]~~ 427A.2631 Notification of decision and right to appeal; request for appeal.

1. A reviewing officer shall mail the written decision to the applicant or ~~[client]~~ *recipient* 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 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.

NAC ~~[427A.488]~~ 427A.2632 Report of reviewing officer summarizing proceedings.

1. A reviewing officer shall summarize the proceedings in a written report using the following format:

A. INTRODUCTION—The date, time and place of the administrative review and the name of each person present at the administrative review.

B. NATURE OF CASE—Overview of the issues presented during the administrative review.

C. FINDINGS OF FACT—The facts of the case as determined by the reviewing officer.

D. CONCLUSIONS OF LAW—The laws, regulations, procedural rules and policies ~~[which]~~ *that* support the findings and decision of the reviewing officer.

E. DECISION—The decision to either uphold or overrule the action of the Division.

2. The reviewing officer shall submit the written report to the Administrator of the Division with the case record.

SENIOR CITIZENS' PROPERTY TAX ASSISTANCE

~~NAC [427A.500—Definitions. (NRS 361.873) As used in NAC 427A.500 to 427A.570,]~~
427A.455 Definitions. (NRS 427A.455) As used in NAC 427A.455 to 427A.530b, inclusive, unless the context otherwise requires, the words and terms defined in ~~[NRS 361.810 to 361.832,]~~ *NRS 427A.455 to 427A.505,* inclusive, have the meanings ascribed to them in those sections.

NAC 427A.485 Claimant to retain proof of income received, age, residence and name. (NRS 427A.485) Each claimant shall retain:

1. Documentary evidence of proof of all income received, including, but not limited to, receipts or stubs representing tax free interest, wages, salaries, the untaxed portion of pensions or annuities, payments received under the Federal Social Security Act, railroad retirement or veterans' benefits, state and federal old age or welfare assistance benefits,

disability payments and life insurance proceeds, for each tax year for which a refund is claimed under the Senior Citizens' Property Tax Assistance Act.

2. Adequate proof of age, residence and name, including, but not limited to, birth certificate, driver's license, Medicare card or military discharge papers.

NAC 427A.500 Renters refund: Rent deemed to constitute accrued property tax. (NRS 427A.500, NRS 427A.505, 427A.520, 427A.525) If the amount paid by a claimant pursuant to a bona fide tenancy or leasing agreement for the right to occupy a home or lot during the calendar year immediately preceding the filing of his claim includes, without being stated separately, any amount paid:

1. For food, furnishings, nursing services, attendant care or institutional care, the total annual rent paid by the claimant shall be deemed to be 40 percent of the total amount paid pursuant to the tenancy or leasing agreement.

2. Except as otherwise provided in subsection 1, for utilities, the total annual rent paid by the claimant shall be deemed to be 85 percent of the total amount paid pursuant to the tenancy or leasing agreement.

NAC 427A.510 Determination of member of household who may file claim. ~~(NRS 361.873)~~ (NRS 427A.510) In determining which person is to file the claim when the eligible members of the household cannot agree, the Administrator of the Aging Services Division of the Department of *Health and* Human ~~[Resources]~~ *Services* shall direct that the:

1. Person who, in his discretion is the most appropriate, file the claim and that any benefit be made payable to both eligible persons jointly if he finds that the reason for the disagreement is an inability to agree upon disposition of the payment;

2. Eligible person who desires a benefit file the claim if the Administrator finds that the reason for the disagreement is that the other eligible person in the household does not desire to file for a claim; or

3. Person whom he deems to be the proper claimant, upon good cause shown, file the claim in any other case where there is a disagreement concerning the inability to procure the requisite consent.

NAC 427A.515 Homeowners' refund: Entitlement; limitation (NRS 427A.515) To be eligible for a refund the senior citizen's name must appear as owner on the secured or unsecured tax roll.

NAC ~~427A.520~~ 427A.530a Filing of claims: Proof of age; income tax ~~returns.~~ (NRS ~~361.873~~) returns; proof of income (NRS 427A.530)

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 a copy of his income tax returns with his annual claim.

3. A claimant shall file proof of income by attaching copies of year-end statements, e.g. 1099 Forms, 1098 Forms, W-2 Forms, SA 1099 Forms, etc.

NAC 427A.530b Extension of time to file claim. ~~(NRS 361.873)~~ (NRS 427A.530) The Aging Services Division of the Department of *Health and* Human ~~Resources~~ *Services* will extend the time to file a claim for a refund in the following situations:

1. If the claimant submits a certificate of a medical doctor, hospital Administrator or other similarly responsible official, stating that the claimant was incapacitated by illness or disability for a minimum of 60 days immediately preceding the last day for the filing of claims, the claimant will be allowed an additional 30 days after the incapacity or disability within which to file the claim.

2. If the Aging Services Division determines that in its judgment good cause exists for a claimant's failure to file a claim timely, the claimant will be allowed such an additional period as the Aging Services Division determines to be appropriate and reasonable within which to file the claim.

~~**NAC 427A.540—Claimant to retain proof of income received, age, residence and name. (NRS 361.873)—Each claimant shall retain:**~~

~~—1. Documentary evidence of proof of all income received, including, but not limited to, receipts or stubs representing tax free interest, wages, salaries, the untaxed portion of pensions or annuities, payments received under the Federal Social Security Act, railroad retirement or~~

~~veterans' benefits, state and federal old age or welfare assistance benefits, disability payments and life insurance proceeds, for each tax year for which a refund is claimed under the Senior Citizens' Property Tax Assistance Act.~~

~~—2.— Adequate proof of age, residence and name, including, but not limited to, birth certificate, driver's license, medicare card or military discharge papers.~~

~~—NAC 427A.550— Renters refund: Rent deemed to constitute accrued property tax. (NRS 361.873)— If the amount paid by a claimant pursuant to a bona fide tenancy or leasing agreement for the right to occupy a home or lot during the calendar year immediately preceding the filing of his claim includes, without being stated separately, any amount paid:~~

~~—1.— For food, furnishings, nursing services, attendant care or institutional care, the total annual rent paid by the claimant shall be deemed to be 40 percent of the total amount paid pursuant to the tenancy or leasing agreement.~~

~~—2.— Except as otherwise provided in subsection 1, for utilities, the total annual rent paid by the claimant shall be deemed to be 85 percent of the total amount paid pursuant to the tenancy or leasing agreement.~~

~~—NAC 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.~~

~~—NAC 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.]~~

NAC 427A.560 Remove this section—it duplicates provisions of NRS 427A.570 and 427A.575.