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Sequence Number: 04-13-09
 Notice ID(s): 1054
 File Date: 04/27/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Human Services
Division:	Family Assistance
Contact Person:	Kim Beals
Address:	Office of General Counsel Citizens Plaza Building, 2nd Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
Phone:	615-313-4731
Email:	Kim.Beals@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Jeffrey Blackshear
Address:	Office of General Counsel Citizens Plaza Building, 10 th Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
Phone:	615-313-4731
Email:	Jeffrey.Blackshear@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	103 E. Walnut Street
Address 2:	Conference Room
City:	Johnson City
Zip:	37601
Hearing Date :	06/16/09
Hearing Time:	6:30 PM <input type="checkbox"/> CST <input checked="" type="checkbox"/> EST

Address 1:	Lowell Thomas State Office Building, 2 nd Floor Conference Room B, Ste 210
Address 2:	225 Martin Luther King, Jr. Drive
City:	Jackson
Zip:	38301
Hearing Date :	06/17/09
Hearing Time:	6:30 PM <input checked="" type="checkbox"/> CST <input type="checkbox"/> EST

Address 1:	Donnelly J. Hill State Office Building, 2 nd Floor Auditorium
Address 2:	170 North Main Street
City:	Memphis
Zip:	38103

Hearing Date :	06/18/09		
Hearing Time:	6:30 PM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Address 1:	Conference Room A, 7th Floor		
Address 2:	531 Henley Street		
City:	Knoxville		
Zip:	37902		
Hearing Date :	06/18/09		
Hearing Time:	6:30 PM	<input type="checkbox"/> CST	<input checked="" type="checkbox"/> EST

Address 1:	1st Floor Auditorium		
Address 2:	540 McCallie Ave.		
City:	Chattanooga		
Zip:	37402		
Hearing Date :	06/22/09		
Hearing Time:	6:30 PM	<input type="checkbox"/> CST	<input checked="" type="checkbox"/> EST

Address 1:	Cookeville District Office, Multi Purpose Room		
Address 2:	1000 England Drive, Suite B		
City:	Cookeville		
Zip:	38501		
Hearing Date :	06/22/09		
Hearing Time:	6:30 PM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Address 1:	Citizens Plaza Building, 2 nd Floor Board Room		
Address 2:	400 Deaderick Street		
City:	Nashville		
Zip:	37243-1403		
Hearing Date :	06/23/09		
Hearing Time:	6:30 PM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Address 1:	Maury County Department of Human Services Office, Lobby		
Address 2:	1400 College Park Drive, Suite B		
City:	Columbia		
Zip:	38401		
Hearing Date :	06/24/09		
Hearing Time:	6:30 PM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
1240-03-03	Technical and Financial Eligibility Requirements for Medicaid
Rule Number	Rule Title
1240-03-03-.03	Resource Limitations for Categorically Needy

Substance of Proposed Rules

Chapter 1240-03-03
Technical and Financial Eligibility Requirements for Medicaid

New Rules

Rule 1240-03-03-.03, Resource Limitations for Categorically Needy, is amended by adding to paragraph (9) a new subparagraph (f), which shall read as follows:

- (f) Allocation of Additional Resources to the Community Spouse.
1. In the event that the allocation of income as specified in 1240-03-03-.04 does not provide to the community spouse the allowed standard maintenance amount (SMA), additional resources can be allocated to the community spouse as specified below in order to make up the shortfall between the allocated income and the SMA.
 2. The amount of additional resources that are necessary to cover the shortfall in the SMA shall be determined in reference to the purchase of a single premium annuity as follows:
 - (i) After calculating the shortfall in the SMA, determine the amount of resources that must be invested in a single premium annuity in order to generate the income necessary to cover the shortfall.
 - (ii) An acceptable single premium annuity would either:
 - (I) Exhaust the original principal, with no residual payments to beneficiaries upon the death of the community spouse; or
 - (II) Allow for repayment of the original principal to beneficiaries, minus all annuity payments made, upon the death of the community spouse.
 - (iii) The annuity may not allow for additional payments, except for the return of the remaining principal, to be made to beneficiaries following the death of the community spouse.
 3. The additional allocation of resources does not require the actual purchase of the single premium annuity.
 4. The amount of additional resources that are necessary to cover the shortfall in the SMA shall not be determined in reference to any investment which contemplates the return of the entire principal at maturity.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105(11) and (12), 71-5-102, 71-5-106, 71-5-111, and 71-5-121; 26 U.S.C. §§ 408 and 408A, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396d(p) and (s), 42 U.S.C. § 1396p, 42 U.S.C. § 1396p(c)(1)(A), (B), (C), (D), (E), (E)(iv), (F), (G), (H), (I) and (J), 42 U.S.C. § 1396p(c)(2)(D), 42 U.S.C. § 1396p(d)(4)(B), 42 U.S.C. § 1396p(d)(5) and 42 U.S.C. § 1396p(e)(1),(2),(3) and (4), 42 U.S.C. § 1396p(f)(1), (2), (3) and (4), 42 U.S.C. § 1396p(g), 42 U.S.C. § 1396r-5(b), (c), (d), (f) and (g), and 42 U.S.C. § 1396r-5(d)(6) and (e); 20 C.F.R. §§ 416.1205(c), 416.1212, 416.1220, 416.1222 and 416.1224; 42 C.F.R. § 435.601 and 435.602, 42 C.F.R. §§ 435.700, 435.721(b), 435.725, 435.735, 435.831, 435.832, SS-7037 (January, 2009)

435.840, 435.845, and 435.914 (b) and (c); 45 C.F.R. § 233.20; PL 97-248, PL 98-369 § 2611, PL 99-509 § 9401(a)(3), PL 100-93 § 9; PL 101-239 Omnibus Reconciliation Act (OBRA) 1989 § 8014 and OBRA 1993, PL 104-193, and PL 109-171 §§ 6011, 6012, 6013, 6014, 6015, and 6016.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 4/27/09

Signature: DK Beals

Name of Officer: Kim Beals

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: April 27, 2009

Notary Public Signature: Debra E. Bates

My commission expires on: May 22, 2010

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Filed with the Department of State on: APRIL 27, 2009

Tre Hargett

Tre Hargett
Secretary of State

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