

DEPARTMENT OF COMMUNITY HEALTH

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

(By authority conferred on the department of mental health by sections 1 to 4 of Act No. 80 of the Public Acts of 1905, as amended, section 33 of Act No. 306 of the Public Acts of 1969, as amended, and sections 114, 130, 136, 157, 206, 244, 498n, 498r, 842, 844, 908, and 1002a of Act No. 258 of the Public Acts of 1974, as amended, being sections 19.141 to 19.144, 24.233, 330.1114, 330.1130, 330.1136, 330.1206, 330.1244, 330.1498n, 330.1498r, 330.1842, 330.1844, 330.1908, and 330.2002a of the Michigan Compiled Laws)

PART 8. FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES

SUBPART 1. DEPARTMENT OF MENTAL HEALTH

R 330.8005 Definitions.

Rule 8005. As used in this part:

(a) "Assets" means real and personal property that is owned, in whole or in part, by the responsible party and that has cash value or equity value, but does not include any of the following:

(i) A homestead and accumulated funds separately held to pay homestead taxes, assessments, and insurance.

(ii) The cash value of life insurance for the responsible party, his or her spouse, and immediate family members as allowed for eligibility under the medical assistance program or its successor.

(iii) A prepaid funeral contract or agreement that is allowed for eligibility under the medical assistance program or its successor and that has been certified by the department or the medical assistance program or its successor as irrevocable or an out-of-state irrevocable contract that is allowed for eligibility under the medical assistance program or its successor.

(iv) Burial space, including any accumulated interest, as defined and allowed for eligibility under the medical assistance program or its successor.

(v) Burial funds, not including added interest or dividends, or both, as defined and allowed for eligibility under the medical assistance program or its successor.

(vi) Household goods customarily found in the home and intended for the maintenance, use, or occupancy of the home.

(vii) Personal goods that are incidental items for personal use.

(viii) Other personal property that is essential for health maintenance and mobility, such as a wheelchair or walker; continued enrollment in an educational or training program; employment, such as a mechanic's tools; or business, such as a business vehicle.

(ix) Pension, self-directed pension, deferred compensation, annuity, or similar funds that cannot be withdrawn or used as collateral for a loan.

(b) "Dependent" means a person who is allowed as an exemption under section 30 of Act No. 281 of the Public Acts of 1967, as amended, being §206.30 of the Michigan Compiled Laws.

(c) "Expenses" means the reasonable unreimbursed expenditures of money, actual and estimated, during a financial year to maintain a standard of living essential for one's self and his or her dependents. All of the following are considered necessities:

(i) Food, clothing, and personal necessities.

(ii) Shelter, including utilities and repairs for the upkeep of a homestead.

(iii) Employment or business expenses.

(iv) Medical services.

(v) Taxes.

(vi) Elementary, secondary, and postsecondary education.

(vii) Repayment of personal financial obligations contractually established before an application was made for services, including such outstanding debts as lease payments, credit card obligations, and other educational or training expenses.

(viii) Payments made under a divorce decree or court order.

(ix) Transportation to maintain employment and necessary family activities.

(d) "Homestead" means a current owned or rented dwelling for which a property tax credit is allowed under section 211.7a(c) of Act No. 206 of the Public Acts of 1893, as amended, being §211.7a(c) of the Michigan Compiled Laws.

(e) "Income" means earned and unearned funds.

(f) "Protected assets" means the portion of assets, as specified in these rules, that shall not be considered when the total financial circumstance is used to determine financial liability.

(g) "Protected income" means the portion of income, as specified in these rules, that shall not be considered when the total financial circumstance is used to determine financial liability.

(h) "Spouse" means the legal marriage partner of the individual.

(i) "Undue financial burden" means a determination of ability to pay that would materially decrease the standard of living of a responsible party or his or her dependents by decreasing the responsible party's capacity to pay for expenses as defined in these rules.

History: 1979 AC; 1981 AACS; 1997 AACS.

R 330.8008 Application of rules and policies.

Rule 8008. Financial liability for services approved for state financial support by the department and provided by the department or community mental health services programs directly or under contract shall be determined pursuant to these rules and stated in the department's and community mental health services programs' written policies and procedures.

History: 1979 AC; 1989 AACS; 1997 AACS.

R 330.8012 Charges for invalid admission.

Rule 8012. The department shall charge counties and responsible parties for state services rendered to an involuntary patient or judicially admitted individual, unless it has been medically determined under the act that the individual is not a person requiring treatment or that the individual does not meet the criteria for judicial admission or unless it is determined that probable cause for involuntary admission does not exist.

History: 1979 AC; 1997 AACCS.

R 330.8014 Review of financial liability determination.

Rule 8014. Determination of financial liability shall be reviewed not less often than annually after an initial determination. Services shall not be withheld pending review of financial liability.

History: 1979 AC.

R 330.8016 Limitations of individual and spouse financial liability.

Rule 8016. Calculation of the total days of care as a resident in a facility for which a spouse is financially liable shall include the days of care for which the spouse alone or the spouse and individual jointly have been liable in accordance with all previous determinations of liability by the state or a county.

History: 1979 AC.

R 330.8018 Limitation of parental liability.

Rule 8018. Calculation of the total liability of parents for care of children as residents in facilities shall include the days of care for which the parents have been liable in accordance with previous determinations of liability by the state or a county.

History: 1979 AC.

R 330.8021 Appeal of determination of financial liability.

Rule 8021. An individual receiving services, his spouse, or his parent may appeal the amount of financial liability by notifying the director of the facility or county community mental health services board in writing or on a form provided by the department, within 30 days of obtaining a new determination.

History: 1979 AC.

R 330.8024 Payment of transcription costs of contested hearings.

Rule 8024. A party who requests a transcription of a contested hearing at which oral evidence has been recorded shall pay for the reasonable costs of the production of that transcript. Reasonable costs for a transcript shall be the number of pages multiplied by the current department of management and budget transcription cost per page plus postage and handling.

History: 1981 AACCS.

SUBPART 2. COMMUNITY MENTAL HEALTH

R 330.8201 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8204 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8205 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8206 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8207 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8208 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8209 Limitation on concurrent determinations of ability to pay.

Rule 8209. There shall be only 1 ability-to-pay determination in effect for a responsible party at any given time and there shall be a cooperative, collaborative effort among the department, the community mental health services programs, and the department's and programs' contractors to assure that the information is available to all appropriate service providers.

History: 1989 AACS; 1997 AACS.

R 330.8210 Rescinded.

History: 1989 AACS; 1997 AACS.

R 330.8214 Delay of emergency services prohibited.

Rule 8214. The process of determining financial liability shall not delay the provision of required emergency mental health services.

History: 1989 AACS; 1997 AACS.

R 330.8215 Explanation of financial liability process.

Rule 8215. The department and the community mental health services programs shall provide an explanation of the financial liability process before the start of service or as soon as practical thereafter. The explanation shall be given orally and in writing in a language and manner understandable by the responsible party, and a service charge schedule shall be made available to the party.

History: 1989 AACS; 1997 AACS.

R 330.8217 Minor seeking treatment under section 707 of the act.

Rule 8217. A minor who is 14 years of age or older and who is seeking treatment under section 707 of the act shall be considered as the responsible party for the determination of ability to pay if the parents are not notified of the treatment.

History: 1989 AACS; 1997 AACS.

R 330.8220 Rescinded.

History: 1989 AACS; 1997 AACS.

R 330.8224 Rescinded.

History: 1989 AACS; 1997 AACS.

R 330.8227 Rescinded.

History: 1989 AACS; 1997 AACS.

R 330.8229 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8230 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8234 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8237 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8238 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8239 Determination of ability to pay from ability-to-pay schedule.

Rule 8239. (1) An adult responsible party's ability to pay for adult inpatient psychiatric services of less than 61 days and crisis residential services of less than 61 days, adult nonresidential services, and all services to minors shall be the amount established by this rule's ability-to-pay schedule based upon the responsible party's state taxable income. The responsible party's ability to pay shall be established on a per-session, monthly, or annual basis, and the basis selected and methodology used shall be identified and described in the department's and community mental health services program's written policies, except as follows:

(a) The ability to pay for adult inpatient psychiatric services of less than 61 days and adult residential crisis services of less than 61 days shall be determined on a monthly basis.

(b) An ability to pay may be determined on a per-session basis for nonresidential services other than respite care services. During a calendar month, the per-session ability to pay shall not be more than the monthly ability-to-pay amount determined from the schedule specified in this rule. The per-session ability to pay is applicable to each session of service provided to all persons for whom the responsible party has an obligation to pay under the act, but shall not be, in aggregate, more than the monthly ability-to-pay amount.

(2) A responsible party who has been determined under the medical assistance program or its successor to be Medicaid eligible shall be deemed to have a \$0.00 ability to pay from the schedule specified in this rule.

**PUBLIC MENTAL HEALTH SYSTEM
ABILITY TO PAY SCHEDULE**

STATE TAXABLE INCOME	ABILITY TO PAY
MONTHLY	ANNUAL

\$0.00 to: \$6,000.00	\$0.00	\$0.00	\$6,001.00 to: \$7,000.00	\$2.00	\$24.00
\$7,001.00 to: \$8,000.00	\$4.00	\$48.00	\$8,001.00 to: \$9,000.00	\$6.00	\$72.00
\$9,001.00 to: \$10,000.00	\$8.00	\$96.00	\$10,001.00 to: \$11,000.00	\$11.00	\$132.00
\$11,001.00 to: \$12,000.00	\$14.00	\$168.00	\$12,001.00 to: \$13,000.00	\$18.00	\$216.00
\$13,001.00 to: \$14,000.00	\$22.00	\$264.00	\$14,001.00 to: \$15,000.00	\$27.00	\$324.00
\$15,001.00 to: \$16,000.00	\$32.00	\$384.00	\$16,001.00 to: \$17,000.00	\$38.00	\$456.00
\$17,001.00 to: \$18,000.00	\$45.00	\$540.00	\$18,001.00 to: \$19,000.00	\$53.00	\$636.00
\$19,001.00 to: \$20,000.00	\$62.00	\$744.00	\$20,001.00 to: \$21,000.00	\$72.00	\$864.00
\$21,001.00 to: \$22,000.00	\$83.00	\$996.00	\$22,001.00 to: \$23,000.00	\$95.00	\$1,140.00
\$23,001.00 to: \$24,000.00	\$108.00	\$1,296.00	\$24,001.00 to: \$25,000.00	\$122.00	\$1,464.00
\$25,001.00 to: \$26,000.00	\$137.00	\$1,644.00	\$26,001.00 to: \$27,000.00	\$153.00	\$1,836.00
\$27,001.00 to: \$28,000.00	\$170.00	\$2,040.00	\$28,001.00 to: \$29,000.00	\$188.00	\$2,256.00
\$29,001.00 to: \$30,000.00	\$206.00	\$2,472.00	\$30,001.00 to: \$31,000.00	\$225.00	\$2,700.00
\$31,001.00 to: \$32,000.00	\$244.00	\$2,928.00	\$32,001.00 to: \$33,000.00	\$264.00	\$3,168.00
\$33,001.00 to: \$34,000.00	\$284.00	\$3,408.00	\$34,001.00 to: \$35,000.00	\$304.00	\$3,648.00
\$35,001.00 to: \$36,000.00	\$324.00	\$3,888.00	\$36,001.00 to: \$37,000.00	\$344.00	\$4,128.00
\$37,001.00 to: \$38,000.00	\$364.00	\$4,368.00	\$38,001.00 to: \$39,000.00	\$384.00	\$4,608.00
\$39,001.00 to: \$40,000.00	\$405.00	\$4,860.00	\$40,001.00 to: \$41,000.00	\$426.00	\$5,112.00
\$41,001.00 to: \$42,000.00	\$447.00	\$5,364.00	\$42,001.00 to: \$43,000.00	\$468.00	\$5,616.00
\$43,001.00 to: \$44,000.00	\$489.00	\$5,868.00	\$44,001.00 to: \$45,000.00	\$510.00	\$6,120.00
\$45,001.00 to: \$46,000.00	\$531.00	\$6,372.00	\$46,001.00 to: \$47,000.00	\$552.00	\$6,624.00
\$47,001.00 to: \$48,000.00	\$573.00	\$6,876.00	\$48,001.00 to: \$49,000.00	\$594.00	\$7,128.00
\$49,001.00 to: \$50,000.00	\$615.00	\$7,380.00			

For state taxable income over \$50,000.00, ability to pay shall be 15% of that income.

(3) If the ability to pay for parents is assessed separately and their combined ability to pay is more than the cost of services, then the charges shall be prorated.

(4) A responsible party may request a new determination, based on the party's total financial circumstances, within 30 days from notification of the initial determination made from the ability-to-pay schedule specified in this rule.

(5) Parents of children receiving public mental health services under the home and community-based children's waiver shall be deemed to have a \$0.00 ability to pay for the services provided.

History: 1989 AACCS; 1997 AACCS.

R 330.8240 Determination of fee for respite services.

Rule 8240. (1) The fee for respite services for a full day or any portion thereof shall be determined by dividing the monthly ability-to-pay amount determined from the schedule specified in R 330.8239 by 30 and rounding up to the nearest dollar, but shall not be more than the cost of services. A responsible party may request a new determination under R 330.8239(4).

(2) Respite fees charged during a calendar month shall not be, in aggregate, more than the monthly ability-to-pay amount determined from the schedule.

History: 1989 AACCS; 1997 AACCS.

R 330.8241 Ability-to-pay method selected.

Rule 8241. A per-session, monthly, or annual ability to pay shall apply to each program area, and the ability-to-pay method selected shall be identified in the department's and community mental health services programs' written policies and procedures.

History: 1997 AACCS.

R 330.8242 Ability-to-pay determinations based on total financial circumstances.

Rule 8242. If a responsible party's ability to pay is determined pursuant to section 819 of the act, then all of the following provisions apply:

(a) The financial determination based on the responsible party's total financial circumstances shall consider all of the following as specified in these rules:

- (i) Income and protected income.
- (ii) Net assets and protected assets.
- (iii) Unreimbursed expenses.

(b) When determining ability to pay for an individual, a portion of the individual's income shall be protected as follows:

(i) If the individual is receiving residential services or inpatient services other than psychiatric inpatient services, then the following amounts are protected income:

(A) The personal needs allowance identified under title XIX of the social security act, 42 U.S.C. §1396a(q)(2), or the amount allowed under the medical assistance program or its successor, whichever is greater.

(B) The first monthly amount of earned income identified under title XVI of the social security act, 42 U.S.C. §1382a(b)(4), plus 1/2 of earned income that is greater than the first monthly amount.

(C) Up to the income disregard identified under title XVI of the social security act, 42 U.S.C. §1382a(b)(2).

(ii) If the individual is receiving inpatient psychiatric or crisis residential services, then protected income may be up to the personal needs allowance and the income disregard allowance described in paragraph (i)(A) and (B) of this subdivision as

stated in the department's and community mental health services programs' written policies and procedures.

(c) Protected assets shall be the same asset limit amounts allowed for the Medicaid group 2 category under the medical assistance program or its successor.

(d) For adult inpatient psychiatric stays of not less than 61 days, the ability to pay shall be determined based on a full financial determination from the date of admission.

(e) A minor who has been determined under the medical assistance program or its successor to be Medicaid eligible shall be deemed to have a \$0.00 ability to pay for nonresidential services.

History: 1997 AACCS.

R 330.8244 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8250 Division of assets jointly owned in determining ability to pay.

Rule 8250. In determining ability to pay, the value of assets that are jointly owned shall be divided equally among all owners, unless otherwise specified by an ownership agreement.

History: 1989 AACCS; 1997 AACCS.

R 330.8251 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8254 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8256 Collection of ability-to-pay amounts.

Rule 8256. The department and the community mental health services programs shall make a reasonable, bona fide collection effort and shall adopt policies that shall be consistently applied to all responsible parties for collection of determined ability-to-pay amounts. The amounts collected shall not be more than the determined ability to pay amount, plus any costs awarded by the court.

History: 1989 AACCS; 1997 AACCS.

R 330.8257 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8264 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8267 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8270 Installment payments; written policies and procedures.

Rule 8270. The department and the community mental health services programs shall have written policies and procedures if installment payment plans are allowed.

History: 1989 AACCS; 1997 AACCS.

R 330.8273 Nominal therapeutic fees for nonresidential services.

Rule 8273. Community mental health services programs may charge an individual a nominal therapeutic fee for nonresidential services if all of the following conditions are met:

(a) The community mental health services program has adopted a written therapeutic fee policy that is fair, equitable, and uniformly applied.

(b) The fee charged is \$3.00 or less for each counseling session.

(c) The individual was determined to have a \$0.00 ability to pay under R 330.8239.

(d) The individual's plan of service clinically substantiates the need for, and orders, a therapeutic fee to be assessed as specified in this rule.

History: 1997 AACCS.

R 330.8275 Court orders.

Rule 8275. A community mental health services program shall comply with the terms of a court order that is related to an individual's obligation to pay for services rendered and that is issued before the individual presented for services. The amount shall not be less, but may be more, than the amount that would be determined by establishing the individual's ability to pay in accordance with these rules.

History: 1997 AACCS.

R 330.8277 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8279 Undue financial burden.

Rule 8279. A responsible party's ability to pay shall not create an undue financial burden that does either of the following:

(a) Deprives the party and his or her dependents of the necessities described in these rules.

(b) Deprives the party and his or her dependents of the financial means to maintain or reestablish the individual in a reasonable and appropriate community-based setting.

History: 1997 AACCS.

R 330.8280 Rescinded.

History: 1989 AACCS; 1997 AACCS.

R 330.8284 Rescinded.

History: 1989 AACCS; 1997 AACCS.