

**RULES
OF
THE TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND SUBSTANCE ABUSE SERVICES**

**CHAPTER 0940-02-05
REGIONAL MENTAL HEALTH (RMHI) CARE AT THE EXPENSE OF THE STATE AND PERIODIC
PAYMENTS**

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0940-02-05-.01 PURPOSE.

- (1) The purpose of these rules is to describe the Department's policy for determining:
 - (a) Indigence such that a service recipient may receive care from a Regional Mental Health Institute (RMHI) at the expense of the state; and
 - (b) The periodic payments to be made by non-indigent service recipients or responsible relatives for care by a RMHI.
- (2) These rules do not apply to a person subject to evaluation, diagnosis or treatment under Title 33, Chapter 5; or Chapter 7, Part 3.
- (3) These rules only apply to Tennessee residents who are legally in the United States of America. Services recipients who are not Tennessee residents or are not legally in the United States of America shall be liable for the total charge for services provided and shall not be eligible for a periodic payment plan under this chapter.
- (4) Pursuant to T.C.A. § 33-1-204, these rules shall not create an entitlement to services from the state.

Authority: T.C.A. §§ 4-4-103, 33-1-204, 33-1-302, 33-1-305, 33-1-309, 33-2-1102, and 33-2-1108.
Administrative History: Original rule filed March 30, 2012; effective June 28, 2012.

0940-02-05-.02 DEFINITIONS.

- (1) "Assets" means, excluding income, the total value of an individual's equity in real and personal property of whatever kind or nature. Assets include, but are not limited to, the individual's stocks, bonds, cash, accounts receivable, moneys due, or any other interests whether they are self-managed or held by the service recipient's authorized representative or by any other individual or entity on behalf of the service recipient.
- (2) "Charges" means the cost per patient day calculated under Rule 0940-02-01 Determination of Average Daily Cost, unless the actual cost exceeds 200% of the Average Daily Cost, in which case the Chief Officer of the RMHI may charge all or some portion of the actual bill to the service recipient, responsible relative, or third party payor.
- (3) "Department" or "TDMHSAS" means the Tennessee Department of Mental Health and Substance Abuse Services.

(Rule 0940-02-05-.02, continued)

- (4) "Federal Poverty Guidelines" means the latest federal poverty measurement guidelines, for all contiguous states and the District of Columbia, issued by the United States Department of Health and Human Services and published annually in the Federal Register under 42 U.S.C. 9902(2).
- (5) "Income" means gross income and is the total of earned and unearned income used by the Internal Revenue Service of the United States of America to determine whether an income tax return shall be filed.
- (6) "Liabilities" are debts and obligations. Liabilities consist of current liabilities, which are bills that are due to creditors to settle debts within a relatively short period of time (usually within one year) and include such obligations as utilities, rent insurance premiums, taxes, medical bills, repair bills, credit card balances. Liabilities also include long-term liabilities, which are debts that are not expected to be liquidated within one year and include mortgages and long-term leases, student and automobile loans and other structured and amortized loans.
- (7) "Net Worth" means the value of a person's assets compared to their liabilities.
- (8) "Period of indigence" means the period of time during which a service recipient has received or is receiving RMHI services and was determined to be indigent under this chapter.
- (9) "Period of non-indigence" means the period of time when a service recipient has received or is receiving RMHI services and was determined to be non-indigent under this chapter.
- (10) "Regional Mental Health Institute or RMHI" means a mental health hospital operated by TDMHSAS for service recipients with mental illness or serious emotional disturbance.
- (11) "Responsible relative" means the parent of an unemancipated child with mental illness, serious emotional disturbance, alcohol dependence, drug dependence, or developmental disabilities who is receiving service in programs of the Department.
- (12) "Service recipient" means a person who is receiving care or has received care from a RMHI.
- (13) "Tennessee resident" means a person living in Tennessee with the intention of living there permanently or for an indefinite period of time.

Authority: T.C.A. §§ 4-4-103, 33-1-101, 33-1-302, 33-1-305, 33-1-309, and 33-2-1102. **Administrative History:** Original rule filed March 30, 2012; effective June 28, 2012. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012.

0940-02-05-.03 RMHI CARE AT THE EXPENSE OF THE STATE FOR INDIGENT SERVICE RECIPIENTS.

- (1) Any service recipient who receives care at a RMHI while indigent under this chapter shall receive that care at the expense of the state.
- (2) Nothing in this rule exempts any public or private third-party payor from financial liability for any allowable charges for care from an RMHI.
- (3) For the purposes of this rule, a service recipient is indigent during any period of time within which both of the following are true:
 - (a) The service recipient's income is less than 100% of the Federal Poverty Guidelines.

(Rule 0940-02-05-.03, continued)

- (b) The service recipient's net worth falls below the sum of \$50,000 plus 500% of the Federal Poverty Guidelines.
- (4) If an indigent service recipient has any responsible relatives, then an indigency determination will be made for the responsible relatives in addition to the service recipient. Only when the service recipient and all responsible relatives are found to be indigent, may a service recipient receive care at the expense of the state.
- (5) The determination of indigence shall be made by person(s) designated by the RMHI Chief Officer.
- (6) If the service recipient or responsible relative does not agree with the initial or subsequent determination, either person may request that the RMHI's Chief Officer review the decision. If the service recipient or responsible relative does not agree with the determination of the RMHI's Chief Officer, then either person may request that the Commissioner or designee make a final determination.
- (7) The Department may review and alter an indigency determination at any time, but shall review at least annually the indigency status of any service recipient continuously receiving care by an RMHI for one year or longer.
- (8) The service recipient or responsible relative may request a review and alteration of an indigency determination any time a change in income or net worth can be demonstrated.
- (9) The Department may access information to determine indigence from any relevant source of data, including but not limited to, state and federal agencies administering benefits to a service recipient or responsible relative.
- (10) The Department shall document the method by which indigence was determined in addition to all backup information used to substantiate the determination.
- (11) A service recipient or responsible relative shall be found to be non-indigent if:
 - (a) A service recipient or responsible relative does not meet the criteria set forth in 0940-02-05-.03(3); or
 - (b) Insufficient information is available to determine indigence.
- (12) A person shall be liable for the total charges for care by an RMHI and for the amount of the state's expense incurred in recovering the amounts, including attorney salaries or fees, unless declared indigent under this rule. In order to be declared indigent, the person or responsible relative shall:
 - (a) Provide TDMHSAS with information TDMHSAS deems necessary for the determination of indigency; or
 - (b) Provide TDMHSAS with a written release allowing TDMHSAS to access any information TDMHSAS deems necessary to determine indigency.
- (13) A person or responsible relative shall notify TDMHSAS of any change in status that may affect an indigency determination.
- (14) A person or responsible relative who knowingly provides false information that results in an inaccurate determination of indigence shall be liable for the total charges for care by an RMHI

(Rule 0940-02-05-.03, continued)

and for the amount of the state's expense incurred in recovering the amounts, including attorney salaries or fees.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-305, 33-1-309, 33-2-1102, 33-2-1103, 33-2-1105, and 33-2-1109. **Administrative History:** Original rule filed March 30, 2012; effective June 28, 2012. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012.

0940-02-05-.04 PERIODIC PAYMENTS BY NON-INDIGENT SERVICE RECIPIENTS OR RESPONSIBLE RELATIVES.

- (1) Service recipients and their responsible relatives, if any, shall be liable for charges incurred for care received at a RMHI during any period of non-indigence as determined under this chapter.
- (2) The state has a continuing claim against a service recipient or responsible relative or his or her estate for any unpaid difference between the amount owed and the amount paid for care from a RMHI for any period of non-indigence.
- (3) At any time, a service recipient or responsible relatives may request a periodic payment plan under which a monthly payment amount will be established.
- (4) In cases where the service recipient or responsible relatives have a public or private third party payor, the periodic payment plan may apply to the agreed deductible, co-payments or any portion of the charges not reimbursed by the third party provided that the RMHI has not agreed to accept the third party payment as payment in full.
- (5) A payment plan may be established only when the service recipient's and all responsible relatives' net worth is less than the sum of \$50,000 plus 500% of the Federal Poverty Guidelines.
- (6) Person(s) designated by the RMHI Chief Officer shall determine whether a service recipient or responsible relative meets net worth requirements specified in Rule 0940-02-05-.04(5) to be eligible for a payment plan, and, if so, establish the amount of the monthly payment according to the schedule in Rule 0940-02-05-.04(11).
- (7) The Department may review and alter a periodic payment plan at any time.
- (8) If the service recipient or responsible relative does not agree with the initial or subsequent determination, either person may request that the RMHI's Chief Officer review the decision. If the service recipient or responsible relative does not agree with the determination of the RMHI's Chief Officer, then either person may request that the Commissioner or designee make a final determination.
- (9) The service recipient or responsible relative may request review and alteration of a payment plan determination any time a change in income or net worth can be demonstrated.
- (10) A person shall be liable for the total charges for care by an RMHI and for the amount of the state's expense incurred in recovering the amounts, including attorney salaries or fees, unless declared eligible to receive a payment plan under this rule. In order to be declared eligible to receive a payment plan, the person or responsible relative shall:
 - (a) Provide TDMHSAS with information TDMHSAS deems necessary to establish a payment plan; or

(Rule 0940-02-05-.04, continued)

- (b) Provide TDMHSAS with a written release allowing TDMHSAS to access any information TDMHSAS deems necessary to establish a payment plan.
- (11) A person or responsible relative who knowingly provides false information that results in an inaccurate establishment of a payment plan shall be liable for the total charges for care by an RMHI and for the amount of the state's expense incurred in recovering the amounts, including attorney salaries or fees.
- (12) The following monthly payment plan shall be established for service recipients or responsible relatives who request a payment plan and meet the net worth requirement stated in Rule 0940-02-05-.04(5).

Service recipient's income as a percentage of Federal Poverty Guidelines (FPG)	Formula for monthly payment amount
100% but less than 150% FPG	5% of the monthly equivalent of 100% FPG for a family size of one
150% but less than 200% FPG	5% of the monthly equivalent of 150% FPG for a family size of one
200% but less than 250% FPG	5% of the monthly equivalent of 200% FPG for a family size of one
250% but less than 500% FPG	5% of the monthly equivalent of 250% of FPG for a family size of one
Over 500% FPG	5% of average monthly income

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-305, 33-1-309, 33-2-1102, 33-2-1103, 33-2-1104, 33-2-1105, and 33-2-1107. **Administrative History:** Original rule filed March 30, 2012; effective June 28, 2012. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012.