

RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

DATE: APRIL 30, 2009

NOTICE OF

PROPOSED ADOPTION OF RULES, REGULATIONS,  
POLICIES, PROCEDURES, AND OTHER MATERIALS  
RELATING TO THE ADMINISTRATION OF THE FOLLOWING PROGRAM(S):

In accordance with Title 42, Chapter 35, of the General Laws of the State of Rhode Island, notice is hereby given that the Department of Human Services (DHS) proposes to adopt rules, regulations, policies, procedures, and other materials relating to the following programs(s):

**FAMILY INDEPENDENCE PROGRAM (FIP) REPEAL**

The Family Independence Act (RIGL 40-5.1) was repealed effective July 1, 2008, and was replaced by The Rhode Island Works (RIW) Program (RIGL 40-5.2). Effective July 1, 2009, The Family Independence Program policies in Section 0800, et al, are repealed and replaced by the Rhode Island Works Program policies in Sections 1400, et al.

For all assistance units that were receiving cash assistance on October 1, 2008, without any break in eligibility through June 30, 2009, the RI Works time limits will take effect on July 1, 2009.

A Fiscal Note is available upon request. In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information. (Complies with 42-35-3(3).) The health, safety, and welfare of the public preclude any economic impact that may be incurred as a result of these regulations.

Interested persons may inspect said proposed rules, regulations, policies, procedures, summary of policies, and other related materials on the R.I. Secretary of State's website at [www.sec.state.ri.us/ProposedRules/](http://www.sec.state.ri.us/ProposedRules/) or on the Department of Human Services website at [www.dhs.ri.gov](http://www.dhs.ri.gov), or in the Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, Rhode Island 02920, between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday.

Interested persons may submit data, views, or written arguments to the Office of Legal Counsel, Department of Human Services, Louis Pasteur Building, Bldg. 57, 600 New London Avenue, Cranston, Rhode Island 02920, within thirty (30) days of the date of this notice.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on these rules if requested by twenty-five (25) persons, or an agency, or by an

association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

### SCOPE OF CHANGE

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### SUMMARY OF CHANGE

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## ~~0822~~ ~~RESOURCES~~

### ~~0822.05~~ ~~NONEXEMPT RESOURCES~~

~~REV:05/1997~~

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~~No family shall be eligible for cash assistance if the combined value of its available resources (reduced by any obligations or debts with respect to such resources) exceed one thousand dollars (\$1,000). Eligibility is denied or terminated if the value of available non-exempt resources exceeds the one thousand dollars (\$1,000) limit.~~

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~~Resources are considered available both when actually available and when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. However, in the event of joint ownership of an asset, there is an opportunity to rebut the presumption of ownership of the resource. (Refer to DHS Manual Section 0356.10.20-26.)~~

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~~The applicant's resources include those of the spouse in the home (with the exception of persons applying in loco parentis and not applying for assistance for his/her own needs). A child's resources include his/her own and those of the eligible or ineligible parent(s) and stepparent with whom s/he is living.~~

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~~The sponsored alien's resources include the deemed resources of the sponsor and sponsor's spouse (see Section 0824.60).~~

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~~However, in a joint Family Independence program/SSI household, the resources which are solely the SSI recipient's are not counted for Family Independence purposes.~~

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~~The information the individual supplies on the DHS-2 both at application and redetermination about his/her current or terminated resources is documented through bank books, property records, and other similar documentary sources. Potential resources, which the individual will, or may, acquire before the time of the next redetermination are controlled by using SPEC/Tikl to ensure that the agency knows when the resource becomes available or that a case review verifies it is not available.~~

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~~The source used for verification of the resource and date is recorded in the appropriate area of the DHS-2 and in the Case Log (CLOG).~~

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~~If resources are found to be beyond the amount retainable, the application is rejected or assistance is discontinued.~~

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~~The Regional Manager is consulted when there is a question of ownership of resources that cannot be otherwise resolved.~~

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~~The agency representative must advise the recipient to inform the agency of any changes in his/her resources that may affect his/her eligibility. Such changes are noted in the Case Log (CLOG).~~

## **0822.10 EXCLUDED RESOURCES**

REV:07/2001

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~~The amount of real and personal property that can be retained by each assistance unit may not be in excess of one thousand (\$1,000) dollars equity value excluding the resources detailed in Sections 0822.10.05 through 0822.10.40.~~

### **0822.10.05 Real Property That Is the Home**

REV:05/1997

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~~Real property that is excluded includes:~~

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~~the home owned and occupied by a child, parent, relative or other individual. The home exclusion applies to any land that appertains to the home and any other buildings located on such land, for example, a barn or a shed. To appertain to the home, the real property must adjoin the plot on which the home is located and not be separated from it by intervening real property owned by others. The agency representative must complete a STAT/Prop panel for each property.~~

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~~owned by a husband and wife (1) if the deed indicates the property is held by them as tenants by the entirety~~

~~and (2) if the property is not the home of the assistance unit (as defined above) and (3) if the spouse of the applicant/recipient refuses to sell his/her interest in the property. To ascertain if these conditions are met, the eligibility technician must verify, by examination of the deed, that the parties own the property as tenants by the entirety and determine if the parties are still married because a divorce (but not a legal separation) automatically dissolves a tenancy by the entirety. If the three conditions specified above appear to be met, the agency representative must refer the case, through the Regional Manager, to the Department's Office of Legal Services for a determination of the property's excludability. The referral should include copies of the deed to the property and any other relevant documents.~~

### **0822.10.10 Real Property Other Than the Home**

REV:05/1997

~~Real property, except for the home in which the assistance unit is living or otherwise excludable as specified in Section 0822.10.05, is excludable subject to the following provisions:~~

~~The family must make a good faith effort to sell the property, generally by listing it with a licensed realtor. The realtor must indicate in a signed statement that the asking price is consistent with the property's current Fair Market Value (FMV). If the family chooses to sell the property independently, they must demonstrate a good faith effort, for example, by adequate newspaper advertising of the property for sale. Any method of disposal other than listing with a realtor is subject to review and approval by the Regional Manager before it can be excluded.~~

~~The status of said property and the family's good faith effort to sell it must be reviewed on a quarterly basis.~~

~~Any aid payable to the family for any such period shall be conditioned upon such disposal and any payments of such aid for that period shall be considered overpayments to the extent that they would not have occurred at the beginning of the period for which such payments were made.~~

~~The family must notify the agency upon executing a purchase and sale agreement, a copy of which is submitted to the eligibility technician. Further, within five (5) days of the closing, the family must provide the eligibility technician with a copy of the closing or settlement sheet.~~

~~The amount of assistance to be repaid cannot exceed the~~

~~net proceeds from the sale. After ascertaining the amount of cash and medical assistance expended and the net proceeds from the sale, the eligibility technician, in consultation with the supervisor and, as needed, the Regional Manager, determines the amount of the overpayment, if any, to be repaid and whether continuing eligibility exists.~~

~~If repayment is necessary, a certified check made payable to the Rhode Island Department of Human Services must be given to the agency representative. The agency representative transmits the check attached to an AP-87.2 receipt form to the Collections, Claims, and Recoveries Unit.~~

~~If the net proceeds from the sale of the property, together with all other resources at the beginning of the disposal period, are within the allowable resource limit, no repayment is warranted.~~

### **~~0822.10.15~~ ~~Other Income-Producing Property~~**

~~REV:05/1997~~

~~Income producing property other than real estate is excluded.~~

~~Examples include but are not limited to equipment such as farm tools, carpenter's tools, and vehicles used in the production of goods and services necessary for the family to earn a living. If the property has been used by the applicant/recipient to generate income and the reasonable expectation exists that it will be used for that purpose in the foreseeable future, the property is not subject to the one thousand dollars (\$1,000) resource limitation.~~

#### **~~0822.10.15.05~~ ~~Factors Determining Exclusion~~**

~~REV:05/1997~~

~~In making the determination that income producing property is excluded, the agency representative evaluates such factors as:~~

~~the client's present or future capacity to utilize the property to become self supporting;~~

~~the suitability of the property to serve as one of the means to this goal; and~~

~~the length of time expected to elapse before the property might be put to use in the individual's employment plan.~~

~~The Regional Manager is consulted when there is a question of whether such property should be excluded.~~

#### **~~0822.10.15.10~~ ~~Examples of Determining Exclusion~~**

~~REV:05/1997~~

~~This section presents examples of the determination of exclusion of income producing property.~~

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~~EXAMPLE ONE: A self-employed electrician owns a panel truck, power tools and assorted other tools of his trade, the total value of which amounts to nine thousand dollars (\$9,000). He is unable to work for at least six (6) months, at the end of which time his doctor's prognosis indicates a resumption of his former occupation. The electrician's anticipated return to work, for which his truck and tools are essential, render the potentially income producing property excludable as a resource.~~

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~~EXAMPLE TWO: A house painter sustains serious injury in an automobile accident. Although medical prognosis allows for eventual partial recovery and job retraining, she is not expected to function again in her former occupation. Her ladders, scaffolding, and various tools of the painting trade are of no further use to her as a means of producing income. Their estimated current Fair Market Value (FMV) is five hundred dollars (\$500) and counts toward the assistance unit's one thousand dollars (\$1,000) limit for non-excluded resources.~~

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~~EXAMPLE THREE: A seasonally unemployed fisherman owns a boat, fishing nets and other equipment necessary for his occupation. He expects to return to employment on his fishing boat in five (5) months. Since the reasonable expectation exists of a resumption of his usual occupation, the boat and fishing equipment are excluded from consideration as a resource.~~

## **0822.10.20 — Income-Producing and Other Vehicles**

REV:02/2004

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~~The following shall not be counted as resources of the family:~~

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~~\* One vehicle for each adult household member but not to exceed two (2) vehicles per household, and~~

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~~\* The value of vehicles used primarily for income producing purposes is excluded. Such vehicles include but are not limited to:~~

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~~\* a taxi, truck, or fishing boat;~~

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~~\* a vehicle which annually produces income consistent with its fair market value, even if~~

~~only used on a seasonal basis;~~

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~~\* a vehicle necessary to transport a physically disabled family member where the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person; and~~

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~~\* a vehicle used as a family's home.~~

### **0822.10.25 Exclusion of Household Furnishings**

REV:05/1997

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~~Household furnishings and appliances, clothing, personal effects, and keepsakes of limited value are excluded.~~

### **0822.10.30 Exclusion of Burial Plot**

REV:05/1997

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~~One (1) burial plot or space for each member of the assistance unit is excluded. A burial space is any conventional gravesite, crypt, mausoleum, urn, or other repository customarily used for the remains of a deceased person.~~

### **0822.10.35 Exclusion of Funeral Agreement**

REV:05/1997

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~~A bona fide funeral agreement, not to exceed one thousand dollars (\$1,000) of equity value for each member of the assistance unit, is excluded. A bona fide or good faith funeral agreement is a cash resource reserved authentically and solely to meet the funeral expenses of the beneficiary. It must not constitute a mere shelter for funds that would otherwise count toward the one thousand dollars (\$1,000) resource limit.~~

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~~Evidence that funds in a purported funeral agreement are being tapped for other than their avowed purpose is a contraindication that the agreement is bona fide. Every funeral agreement must be submitted to and, if appropriate, approved by the Regional Manager before it can be excluded as a resource. Further, at each recertification, the eligibility technician must review each excluded funeral agreement. Any new, significant information bearing on the agreement is submitted to the Regional Manager for evaluation and determination of its continued excludability.~~

### **0822.10.40 Resources Excluded by Law**

REV:05/1997

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~~Resources excluded by law in determining need and the amount of assistance include:~~

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~~for the month of receipt and the following month, any portion of the refund of federal~~

~~income taxes, made to the family by reason of  
Section 32 of the Internal Revenue Code  
relating to the earned income tax credit, and  
any advance payment of such earned income  
credit made to such family by an employer;~~

~~the resources of any family member receiving  
SSI;~~

~~funds awarded under PL 98-123 to the Red Lake  
Bank of Chippewa Indians.~~

~~Funds awarded under PL 98-124 to the  
Assiniboine Tribe of the Fort Belknap Indian  
Community, and the Assiniboine Tribe of the  
Fort Belknap Indian Reservation.~~

## **0822.15 DETERMINATION OF RESOURCES**

REV:05/1997

~~The resource limit per assistance unit is one thousand dollars (\$1,000) for all non-excluded resources. Resources which count toward the one thousand dollars (\$1,000) resource limit include, but are not limited to, 1) real property; and 2) personal property which includes liquid resources, such as cash, stocks, bank accounts, automobiles and non-essential items.~~

~~An income tax refund (but not the earned income tax credit portion) is treated as a resource and counts toward the assistance unit's one thousand dollars (\$1,000) resource limit.~~

~~When the non-excluded resources exceed the resource limit, the applicant is ineligible or assistance is discontinued.~~

### **0822.15.05 Real Property**

REV:05/1997

~~Real property is land and includes houses or objects permanently attached to the land. The equity value of any non-excluded real property owned by the assistance unit must be counted toward the one thousand dollars (\$1,000) resource limit.~~

~~In determining the value of the resource, equity value is defined as the current Fair Market Value (FMV) minus encumbrances. (If the value of the real property, when added to that of the unit's other resources, raises their total value above the one thousand dollars (\$1,000) limit, see Section 0822.10 for conditions under which the property may be excluded.)~~

~~The eligibility technician must complete a STAT/Prop panel on each parcel of real property owned by the applicant/recipient.~~

~~Evidence of ownership includes any of the following: the deed, current mortgage statement, assessment notice, the recent tax bill, or a report of title search. If not available, the eligibility technician must~~

~~obtain the information from the Recorder of Deeds, by telephone or other means.~~

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~~The supervisor must consult the Regional Manager in assessing the value of property if the value is questionable in relation to the one thousand dollars (\$1,000) resource limit.~~

## **~~0822.15.10~~ — ~~Personal Property~~**

~~REV:05/1997~~

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~~Personal property includes liquid resources, such as cash, stocks, bonds, mutual funds, money market accounts, certificates of deposit (C.D.s), bank and credit union accounts, IRAs, Keough plans, vehicles, and non-essential items.~~

### **~~0822.15.10.05~~ — ~~Liquid Resources~~**

~~REV:05/1997~~

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~~Liquid resources are those properties in the form of cash or other financial instruments which are convertible to cash and include bank and credit union savings and checking accounts, stocks, bonds, mutual funds, time deposit shares, money market accounts, promissory notes, mortgages, and similar holdings.~~

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~~The value of any liquid resources must be counted toward the one thousand dollar (\$1,000) resource limit. If liquid resources exceed the one thousand dollar (\$1,000) resource limit, alone or in combination with other resources, the applicant is ineligible or assistance is discontinued.~~

### **~~0822.15.10.10~~ — ~~Medical Insurance~~**

~~REV:05/1997~~

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~~If a family has any medical insurance, such as Blue Cross/Blue Shield, Major Medical, Harvard/Pilgrim Health Plan of New England, Federal Medicare (Part A, Part B), Delta Dental or any other medical insurance, this is identified as a resource for medical payment, but is not considered an eligibility factor in the determination of eligibility.~~

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~~The medical resource must be noted on the DHS-2. The agency representative must complete a STAT/Insu panel for each medical resource.~~

### **~~0822.15.10.15~~ — ~~Valuation of Vehicles~~**

~~REV:02/2004~~

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~~Vehicle means a passenger car or other motor vehicle used to provide transportation of persons or goods.~~

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~~Each vehicle owned by the household is handled as follows.~~

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~~First, determine if the motor vehicle is excluded under Section 0822.10.20. If the vehicle(s) is excluded, no further action is required. If the vehicle is not excluded, count the vehicle's equity~~

~~value (which is fair market value less encumbrances) towards the household's resource limit of one thousand dollars (\$1,000).~~

### ~~**0822.15.10.20** — **Nonessential Items**~~

~~REV:05/1997~~

~~Usually accepted household items are exempted. However, when there is evidence that the applicant possesses household or personal items of unusual or exceptional value, there should be verification of this resource by establishing the fair market price and equity value for it. Items of unusual value are those not normally used to maintain an adequate standard of comfort and convenience for the household.~~

~~The value of recreational boats, art objects, or valuable collections are luxury items of unusual value and represent resources that must be added to all other total resources to determine whether the resources are within the one thousand dollars (\$1,000) limit. It is the current fair market value of the item rather than the item itself that determines the unusual value.~~

~~The statement on the DHS-2 (indicating the applicant does not own items of unusual value) referring to other resources owned by the applicant/recipient will be accepted without further development unless there is evidence to the contrary (e.g., information from other sources, or answers to other questions on the application that cast doubt on the validity of the response).~~

~~If the applicant/recipient owns a valuable resource, then the current FMV must be determined. Any reliable and reasonable method may be used to establish and verify the current FMV, e.g., sales slips, insurance, prior appraisals, or contacts with local merchants.~~

~~If the total equity value is under the one thousand dollars (\$1,000) limit, this amount must be added to all other countable resources to determine whether the total resources are within the one thousand dollars (\$1,000) limit. If the value of the assistant unit's items exceeds the one thousand dollars (\$1,000) resource limit, the applicant/recipient is ineligible.~~

### ~~**0822.15.10.25** — **Resources of Ineligible Parent of Children**~~

~~REV:02/2004~~

~~The non-excluded resources of statutorily barred parents and other assistance unit members ineligible because they have reached their FIP lifetime time limit are counted in determining the assistance unit's eligibility.~~

~~All the non-excluded resources of a disqualified individual, parent, or child, are counted in determining the assistance unit's eligibility and payment amount.~~

## ~~**0822.20** — **TRANSFER OF RESOURCES**~~

~~REV:05/1997~~

~~Initial eligibility is not affected unless an applicant sold or transferred property in the month of application.~~

## ~~0822.20.05 — Resources Transferred in Application Month~~

~~REV:05/1997~~

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~~Receipt of monies from resources disposed of by an applicant in the month of application is treated as a resource. The proceeds are verified and a determination made as to whether the proceeds are within the eligibility limit for that particular resource.~~

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~~If it exceeds the limit, eligibility does not exist in that month. In any questionable case, the case is referred to the FRED Unit for investigation (Section 0802.25).~~

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~~Eligibility can be reestablished in a later month when resources are brought within the resource limit.~~

## ~~0822.25 — ASSETS ACQUIRED AFTER RECEIPT OF FIP~~

~~REV:05/1997~~

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~~If a recipient inherits real property which is being used, or is to be used, by the recipient as a home, there is no bar to continuing eligibility. The equity value of any other real property must be considered, together with all other countable resources, in determining the whether the household's resources are within the one thousand dollar (\$1,000) resource limit.~~

## ~~0822.30 — RECOVERY OF RESOURCES AFTER DEATH~~

~~REV:01/2002~~

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~~Assistance provided to a recipient is not subject by policy to recovery after the death of a recipient. However, in certain situations, the law provides for recovery by the Department.~~

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~~These situations must be referred to the Regional Manager and forwarded to the Third Party Liability Unit for a decision on action.~~

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~~Refer to Section 0830 for further information.~~