

STATE OF WYOMING



DEPARTMENT OF HEALTH

DIRECTOR'S OFFICE RULES FOR TAX REFUND TO THE ELDERLY AND DISABLED CHAPTER 1

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DEPARTMENT OF HEALTH**

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AND DISABLED
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**RULES AND REGULATIONS FOR TAX REBATE FOR THE
ELDERLY AND DISABLED PROGRAM**

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**WYOMING DEPARTMENT OF HEALTH, OFFICE OF THE DIRECTOR
RULES FOR TAX REFUND TO THE ELDERLY AND DISABLED
PROGRAM
CHAPTER 1**

STATEMENT OF REASONS

THE WYOMING DEPARTMENT OF HEALTH IS PROMULGATING THIS AMENDED RULE PURSUANT TO HEA 60, CHAPTER 110, ENACTED DURING THE 2008 GENERAL LEGISLATIVE SESSION, TO BE CODIFIED AT W.S. 39-11-109 AND THE WYOMING ADMINISTRATIVE PROCEDURES ACT AT W.S. 16-3-101, ET SEQ.

THIS AMENDED RULE IS BEING PROMULGATED IN COMPLIANCE WITH UPDATED LEGISLATION, AND, FURTHER, TO UPDATE LANGUAGE AND FORMATTING INVOLVING TAX REFUNDS TO THE ELDERLY & DISABLED PROGRAM.

AS REQUIRED BY W.S. 16-3-103(A)(D)(G) THE AMENDED RULE MEETS MINIMUM SUBSTANTIVE STATE STATUTORY REQUIREMENTS.

RULES FOR TAX REFUND TO THE ELDERLY AND DISABLED

CHAPTER 1

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**DEPARTMENT OF HEALTH
RULES AND REGULATIONS FOR THE TAX REFUND
TO THE ELDERLY AND DISABLED PROGRAM
CHAPTER 1**

Section 1. Authority.

This rule is being promulgated by the Department of Health to comply with HEA 60, 2008 Wyo. Sess. Laws, Chapter 110, enacted during the 2008 Legislative Session, to be codified at W.S. 39-11-109 and the Wyoming Administrative Procedures Act at W.S. 16-3-101, et seq.

Section 2. Purpose and Applicability.

These rules are being adopted to implement legislation involving tax refunds to the elderly and disabled.

Section 3. General Provision.

(a) The Wyoming Department of Health may issue materials to providers and/or other affected parties to interpret the provisions of this Chapter. Such materials shall be consistent with and reflect the rules and regulations contained within this Chapter. The provisions contained in the materials shall be subordinate to the provisions of this Chapter.

(b) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter.

(c) If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

Section 4. Definitions.

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably. The drafters have attempted to

utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

For the purpose of these rules, the following shall apply:

(a) "Abandoned." To leave with no intent to return.

(b) "Actual income" includes, but is not limited to, pre-tax wages, earnings from self-employment, interest, dividends, annuities, trusts, pensions, alimony, support payments (Child Support or AFDC/POWER/TANF), benefits received by any member of the household, including children (SSI, SSDI, SSA, State SSI), public assistance payments, unemployment compensation, federal Social Security payments, Veteran's benefits and disability payments, Native American Per Capita payments, rental income or net income from other qualified income, as determined by the Department;

(c) "Applicant." Individual applying for the tax refund program.

(d) "Department" means the Wyoming Department of Health.

(e) "Earned Income" is money received (wages, salary, self-employment earnings, etc.) for which a person has performed a service.

(f) "Equity Value" means the current market value less any legal debts against the property, such as mortgages and encumbrances.

(g) "Foster Grandparents Program." The Program's purpose is to provide opportunities for low income persons aged sixty (60) or over to provide supportive, person-to-person services in health, education, welfare, or related settings to help alleviate the physical, mental, or emotional problems of children having special needs.

(h) "Household assets" means real property, which is land and the buildings and structures placed on that land; and personal property, including, but not limited to: money and cash on hand, including currency, gold, silver, and other coins, including money on deposit in savings, checking accounts, and IRAs; bonds, promissory notes and debentures; shares of stock, pensions, mutual funds and other investments; and annuities and annuity contracts.

(i) "Income year" is the full calendar year proceeding January 1 of the year during which the application is made. For example, if it is now 2008, the income year is 2007.

(j) "IRAs." Individual Retirement Accounts.

(k) "Joint Applicant." An individual who was legally married on December 31 of the income year to a living person.

(l) "LIEAP." Low Income Energy Assistance Program.

(m) "Qualification Criteria." Age, Disability, Residency, Income (see Section 3).

(n) “Resident.” A person who has been a resident of Wyoming and domiciled within Wyoming for a period of not less than one (1) year (twelve (12) continuous months) and who has not claimed residency elsewhere for any purpose for the one (1) year period immediately preceding the date of application for a refund.

(o) “SEPs.” Simplified Employee Pensions.

(p) “SCP.” Senior Companion Program.

(q) “SSAN.” Social Security Account Number.

(r) “State/County/City/Federal funded institutions.” Wyoming Penitentiary, Wyoming Pioneer Home, Wyoming Retirement Center, Wyoming Veteran’s Home, Wyoming State Hospital, Wyoming State Training School, County/City/State/Federal Detention Centers.

(s) “Substantial gainful employment.” A person who has earned income (wages, salary, and self-employment) of under five thousand dollars (\$5,000.00) a year is not “substantially” employed for this purpose.

(t) “Suspended application.” An application missing information, incorrect, or without required documentation which has been stopped temporarily by the Department.

(u) “Title 19.” Medicaid.

(v) “Third-party payments.” Payments made on an individual’s bills by sources other than the individual’s income.

(w) “Total Disability” means a physical or mental condition which permanently prevents the person from performing any substantial gainful employment during the one (1) year period immediately preceding the date of application for a refund under this article. The medical condition must be documented or documentable, and must be the root cause of the low employment level.

Section 5. Qualifications.

(a) Qualifications based on age or disability:

(i) An applicant must have attained the age of sixty-five (65) by the last day of December of the income year;

(ii) An applicant who is totally disabled must have attained the age of eighteen (18) by the last day of December of the income year;

(iii) A married couple, at least one of whom is at least sixty-five (65) years of age or totally disabled; or

(iv) A person who is at least age sixty (60) on December 31 of the income year and who was once married to someone who was qualified for and received this refund the prior year, may continue to apply and receive the refund provided the non-age qualifications are met as set forth in Section 3(b)(c)(d)(e) of these rules. A person qualified under this paragraph (a)(iii) does not have to be disabled.

(b) Qualifications based on income:

(i) A single applicant must have less than the amount established in W.S. 39-11-109(c)(ii) during the income year.

(ii) A joint applicant must have had a combined income less than the amount established in W.S. 39-11-109(c)(ii) during the income year. A joint applicant's income includes the income of his/her spouse or anyone else in the household, including children.

(c) Qualifications based on residency:

(i) An applicant must be a Wyoming resident and United States Citizen at the time of application, and must have been a resident of Wyoming and a United States citizen for the twelve (12) continuous months prior to date of application

(ii) A person who resides in a State/County/City/Federal funded institution is not eligible for the refund.

(d) Wyoming applicants whose household assets do not exceed the eligibility requirements found at W.S. 39-11-109(c)(vii) and who are not residents of any State/County/City/Federal funded institutions, are qualified for an exemption and refund of State taxes as provided in this subsection.

(e) The application shall indicate whether the applicant has received any refund for a property tax exemption under W.S. 39-13-105, a property tax refund under W.S. 39-13-109(c)(iii), and/or a property tax credit under W.S. 39-13-109(d) for the same calendar year.

Section 6. Amount of Refund.

(a) A qualified single person shall receive the amount listed in W.S. 39-11-109(c)(ii) reduced by the percentage that his actual income exceeds the amount referenced in W.S. 39-11-109(c)(ii) per year.

(b) Qualified married persons shall receive the referenced amount listed in W.S. 39-11-109(c)(ii) reduced by the percentage that their actual income exceeds the amount provided in W.S. 39-11-109(c)(ii) per year.

(c) Until remarriage, a person sixty (60) years or older once qualified through marriage remains eligible individually for single person benefits, subject to income limitations, after the death of his/her spouse. Applications can be made by a living applicant only. Relatives, attorneys, or estates can not apply on behalf of a deceased individual, except in the case of a surviving spouse as noted in this section.

(d) No person having total household assets exceeding the amount provided in W.S. 39-11-109(c)(ii) per adult member of the household as adjusted annually by the state average Wyoming cost-of-living index published by the economic analysis division of the Department of Administration and Information is eligible for a refund.

(e) In determining assets, the following property is exempt from consideration:

(i) The structure and lands occupied as the applicant's primary residence;

(ii) Household furnishings and personal belongings;

(iii) One (1) personal motor vehicle per adult in the household;

(iv) Assets held under a bona fide pension plan or individual retirement account (IRA); and

(v) The cash value of any life insurance policies held.

(f) Any refund provided by this subsection shall be reduced by the dollar amount received by the applicant for the preceding calendar year from any property tax exemption received under W.S. 39-13-105, for any property tax refund received under W.S. 39-13-109(c)(iii), or for any property tax credit received under W.S. 39-13-109(d) for the same calendar year.

Section 7. Application Basis: Single or Joint.

(a) An individual who is not legally married to a living person is single. An unmarried person may not apply jointly (see exceptions for joint applicants).

(b) An individual must apply jointly with a spouse who died during the application year. The total yearly income of both must be reported on the application. The applicant will enter the word "deceased" in the spouse's signature block and attach a

copy of the death certificate. The same procedure will be used if the spouse died after the end of the application year, but before completing an application for the refund.

(c) An individual who was legally married on December 31 of the application year to a living person is required to apply jointly, except as noted below. Only one (1) person of a joint application is required to meet the qualifications except for income. Exceptions under which a married applicant may apply as a single person and exclude his/her spouse's income from the application are as follows:

(i) If a person is legally married, but has been abandoned by his/her spouse, and is not receiving any economic benefit from any income or property of the spouse, and has not lived with the spouse for at least one (1) year, such person may apply as a single person. The spouse's SSAN must be entered on the application form with the words "abandoned" entered in the space for the spouse's name. (If the spouse is in a detention center, the cost to the State/City/County/Federal government will be counted as income.) In no case will applications be processed for two (2) people married to each other and both claiming abandonment.

(ii) An individual can apply as a single person if his/her spouse is in a nursing home and payment for care is provided by Title 19 (Medicaid). There is no time limit on this status. For example, if the spouse went into the nursing home yesterday, they may apply as single the next day. The remaining spouse must show proof that his/her spouse is receiving Title 19 assistance and is in a nursing home.

(iii) An individual who is legally separated is single for purposes of the refund. A person in the legal process of obtaining a divorce is considered legally separated, but documentation must be provided.

(iv) The spouse of a joint applicant cannot apply as a single person.

Section 8. Income Inclusions and Exclusions.

(a) All income, as defined above, is included for purposes of determining eligibility for this refund, except for the specific exclusions noted in Section 5(b). Income for this purpose is not defined or amplified by any considerations of income taxability or non-taxability under the U.S. Internal Revenue Service Code.

(b) Items listed below are excluded from income for the purpose of this program:

(i) Payments made for the Foster Grandparents and the Senior Companion Programs, as well as any other stipend payment programs;

(ii) LIEAP payments;

- (iii) Tax Refund to Elderly and Disabled payments;
- (iv) Housing subsidies;
- (v) Group home rent subsidies; and
- (vi) The value of food stamps received.

(c) Items listed below are to be included as income. This list does not override the definition of income or the inclusion to income listed elsewhere in the rules. This list only serves to clarify items which may be misunderstood.

(i) Payments by Social Security and/or State of Wyoming for Medicare/Medicaid premiums;

(ii) Third party payments for medical care, including private insurers, Medicare and Medicaid, support by City, County, State, or Federal government;

(iii) Title 19 payments for a person who is in a nursing home or similar institution;

(iv) The following are considered assets: recreational vehicles, snowmobiles, property other than the house where you are currently residing, motorcycles, cabins, jewelry, or other items so determined by the Department.

Section 9. Application Procedures.

(a) An application must be completed and postmarked by the last working day of the month of August of each year. Applications received by the Department or its representative that are postmarked after the closing date will be denied without action to the applicant.

(b) The program is non-continuing. An application must be submitted each year. No individual notice, reminder, blank form, or other personal contact will be made by the Department to invite a prior participant to apply again. Public Notice will be made through local radio, newspaper, television, and senior center.

(c) Applications must be fully documented each year. Copies of documents attached to the application are part of the application and will not be returned to the applicant.

(d) A timely submitted application may be suspended by the Department for cause. An application which appears to qualify may be suspended, for example, if proper documentation is not attached. Suspended applications will be marked "suspended" by the Department and a copy returned to the applicant with a cover letter outlining the

problem. A suspended application received by the Department after November 15 with no corroborating documentation will be rejected.

(e) Applications will not be suspended a second time without good cause. A suspended application that is resubmitted with information still missing, incorrect, or without required documentation will be rejected.

(f) Applicants are required to sign the application form. Except in the case of a surviving spouse, both members of a joint application must sign. The signature of a legal guardian will be accepted as an original signature if the guardianship papers are attached. A person who has been given power of attorney may sign the application form if a copy of the power of attorney is attached to the application. Social Security representative payees may also sign as necessary. An application form received without proper signature(s) and documents will be suspended.

(g) Applications must be made on the current application form as prescribed by the Department. Only an original application form will be accepted.

(h) All changes to the application must be initialed by the individual signing the form, such as, when the total income is "lined through" and a new amount entered. If discrepancy exists between the documents submitted and information entered on the form, the application will be delayed until verification can be made.

(i) Changes of address to applications "in process" must be made in writing to the Department. The request must be dated, signed by the applicant, and include the applicant's Social Security Number. Address changes must be received by November 25.

(j) An application will be rejected if it fails to meet the qualification criteria. A rejected application will be marked as unqualified and a letter of denial remitted. A rejected application cannot be resubmitted. Rejected applications will not be returned to the applicant.

(k) As per the Wyoming Administrative Procedures Act, an appeal process exists whereby an applicant can appeal the decision made by the Department of Health to reject an application.

(l) In the event an applicant dies between the times his/her application is submitted and the time the payment is made, the refund automatically passes to the legal heir(s). If there is no legal heir, the money will revert to the State General Fund.

Section 10. Documentation.

(a) Applications must be accompanied by a copy of the applicant's tax return (form 1040 or form 1040A, or form 1040EZ) for the income year. If the applicant did

not file a tax return, the statement on the application must be initialed attesting that he/she did not file a U.S. Income Tax Return for the income year.

(b) Certain types of income are not reportable on the U.S. Federal Income Tax Return. Documents for these items of income must be included with the application regardless of whether the applicant attached a copy of his/her tax return. These items of countable income include, but are not limited to, Social Security payments, Veteran's Administration (VA) disability payments, Railroad Retirement & Railroad Social Security (RRTA 1099 & 1099R) payments, and Native American Per Capita payments, etc.

(c) Applicants who did not file a tax return are required to attach copies of forms W-2, W-2p, 1099INT, 1099DIV, 1099G, 1099M, etc., for income for the year. A business owner, including owners of rental property of all types, is required to attach a copy of his/her year end income statement to the application.

(d) Non-documented income is required to be reported. A bank or other institution is not required to provide a 1099INT in the case of interest income under ten dollars (\$10.00) per year, for example. Such income must be included in the total reported on the application, and noted that no document was available.

(e) Applicants between the ages of eighteen (18) and sixty-five (65) must attach proof of total disability. A report from the Veterans Administration (VA) or a benefit verification statement from the Social Security Administration attesting to a total disability is adequate.

(f) The application must be submitted with a document attesting date of birth or age. A copy of a Wyoming Driver's License or identification card is adequate for this purpose. If these are not available, then a copy of a birth certificate, baptismal certificate, or other similar attest will be acceptable.

(g) If the applicant is claiming single based on a legal separation, as much of the legal separation document as necessary to clearly show the names of the parties, the legal firm, the date of the agreement, and that it is a legal separation must be attached.

(h) A person claiming single as an abandoned spouse must provide a signed, notarized statement which clearly states how long they have been separated, and stating that they receive no economic benefit from their spouse. A spouse (inmate) being detained in a facility is not abandonment.