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For Department of State Use Only

Sequence Number: 11-11-09
Rule ID(s): 4533
File Date: 11/10/2009
Effective Date: 04/30/2010

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Department of Human Services
Division:	Rehabilitation Services
Contact Person:	Whitney Frazier
Address:	Office of General Counsel Citizens Plaza Building, 10th Floor 400 Deaderick Street Nashville, Tennessee
Zip:	37243-1403
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Email:	Whitney.Frazier@state.tn.us

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) Revised (**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**
1240-08-02	General Rules
Rule Number	**Rule Title**
1240-08-02-.02	Definitions

Chapter Number	**Chapter Title**
Rule Number	**Rule Title**

Chapter Number	**Chapter Title**
Rule Number	**Rule Title**

Chapter 1240-08-02
General Rules

Amendments

Rule 1240-08-02-.02, Definitions, is amended by adding the following new paragraph (12) and subsequently renumbering the remaining paragraphs in the rule, so that, as amended, paragraph (12) shall read as follows:

(12) "Fair Hearing" shall mean a contested case proceeding before an impartial hearing officer designated by the Commissioner of the Department of Human Services who shall afford the individual and the Division, or their authorized representatives, the opportunity to present their case, with or without witnesses, to determine whether action or inaction by the county, area, regional, district, or state office is erroneous and should be corrected. Each party has an opportunity to disclose all relevant facts and issues, respond to and present evidence, conduct cross-examination, and submit rebuttal evidence as permitted under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. Hearings may be conducted by telephone, television, or other electronic means, and shall be open to public observation unless otherwise provided by state or federal law. Hearings are conducted in accordance with the Uniform Administrative Procedures Act codified at T.C.A. § 4-5-101 et seq. An aggrieved party may obtain a review of any final order by appealing to chancery court in Nashville, or the county where he or she resides, in accordance with T.C.A. § 4-5-322. If dissatisfied with the chancery court's decision, the individual may appeal further to the court of appeals of Tennessee, in accordance with T.C.A. § 4-5-323.

Authority: T.C.A. §§ 4-5-202; 4-5-301 et seq.; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. Part 361; 34 C.F.R. §§ 370.1 et seq.; Executive Order No. 43.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Department of Human Services on 10/14/2009, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

DEBRA E BATTS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires May 22, 2010

Date: 10-14-09

Signature:

Name of Officer: Whitney Frazier

Title of Officer: Assistant General Counsel
Department of Human Services

Subscribed and sworn to before me on: October 14 2009

Notary Public Signature: Debra E. Batts

My commission expires on: May 22, 2010

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

11-6-09
Date

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Filed with the Department of State on: 11/10/09

Effective on: 4/30/10

Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules do not appear to affect small businesses as defined in the Act. These rules do not regulate or attempt to regulate businesses.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendment to rule 1240-08-02-.02 simply adds a definition for "fair hearing" to the Department of Human Services Rehabilitation Services Division rules in accordance with the Uniform Administrative Procedures Act codified at T.C.A. § 4-5-101 et seq. to provide an explanation of the fair hearing process for contesting decisions of the Division regarding the provision of services.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There are no substantive changes in law in the regulations.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Applicants for and recipients of vocational rehabilitation services from the Department of Human Services.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenses resulting from the promulgation of this rule since the rule only provides more detail on what is involved in a fair hearing to contest a decision by the Department concerning the provision of vocational rehabilitation services to an applicant for or recipient of those services.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Adelle Wood, Director, Vocational Rehabilitation Policy
Department of Human Services, Citizens Plaza, 2nd Floor
400 Deaderick Street
Nashville, Tennessee 37243
(615) 313-4899

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Adelle Wood, Director, Vocational Rehabilitation Policy
Department of Human Services, Citizens Plaza, 2nd Floor
400 Deaderick Street
Nashville, Tennessee 37243
(615) 313-4899
and
Whitney Frazier, Assistant General Counsel

Department of Human Services, Citizens Plaza, 10th Floor 400 Deaderick Street Nashville, Tennessee 37243 (615) 313-5622

(H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Adelle Wood, Director, Vocational Rehabilitation Policy Department of Human Services, Citizens Plaza, 2nd Floor 400 Deaderick Street Nashville, Tennessee 37243 (615) 313-4899 and Whitney Frazier, Assistant General Counsel Department of Human Services, Citizens Plaza, 10th Floor 400 Deaderick Street Nashville, Tennessee 37243 (615) 313-5622

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A