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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 4, 2001

Honorable Feather O. Houstoun, Secretary
Department of Public Welfare
333 Health & Welfare Building
Harrisburg, PA 17105

Re: Regulation #14-471 (IRRC #2206)
Department of Public Welfare
Income

Dear Secretary Houstoun:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: Honorable Dennis M. O'Brien, Majority Chairman, House Health & Human Services Committee
Honorable Frank L. Oliver, Democratic Chairman, House Health & Human Services Committee
Honorable Harold F. Mowery, Chairman, Senate Public Health & Welfare Committee
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health & Welfare Committee
Nia Wilson, Legal Counsel, House Health & Human Services Committee
Stanley Mitchell, Chief Counsel, House Health & Human Services Committee

Comments of the Independent Regulatory Review Commission

on

Department of Public Welfare Regulation No. 14-471

Income

October 4, 2001

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Department of Public Welfare must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by September 4, 2003, the regulation will be deemed withdrawn.

1. Section 183.2. Definitions. - Clarity.

Lump sum income

The term “lump sum income” is used in the regulation but is not defined. However, the regulation repeatedly uses the term “lump sum income.” We have two concerns.

First, since “lump sum income” is not defined, it is unclear what would specifically be considered “lump sum income.” For example, if a person receives an annuity one month of a year, is that considered a lump sum for the month of receipt or a resource? Also, does lump sum income occur at actual receipt of the income or the deemed receipt of income? Could multiple disbursements of a single amount be treated as lump sum income?

Second, it is not clear how the regulation will be applied to income. The Preamble states insurance payments are lump sum income. However, how is this distinguished from an insurance reimbursement? Also, how would an inheritance with limitations on spending affect a person’s eligibility?

2. Section 183.105. Increases in income. - Clarity.

Subsection (i)

The last sentence in this subsection states, “The lump sum income deductions are applied, as specified in §§ 183.91, 183.93, 183.94, 183.95, and 183.98(1) - (3)...” This provision is confusing for three reasons.

First, the reference to Section 183.98 is limited to Subsections (1) - (3). Why are Subsections (4) – (7) excluded, since they also apply to lump sum income?

Second, why wasn't Section 183.92, which relates to a legally responsible relative residing elsewhere, included in the reference?

Third, this sentence states, "the lump sum income deductions are applied, as specified in §§ 183.91, 183.93, 183.94, 183.95...." However, these sections do not use the specific term "lump sum income deductions." How are "lump sum income deductions" applied in these sections?

3. Implementation Procedures.

Will family groups who were rendered ineligible under the existing regulation be notified that they may now be eligible under the new regulation? If so, how?