**Section 299.1030 Determination of Ability to Pay Services Charges**

a) The Department, in determining the ability of the person to pay services charges, will assemble any necessary information pertaining to his/her financial status and will then set the amount for which the person will be held liable. The person must furnish financial information on admission or as soon thereafter as possible to enable the Department to make a proper determination of the sources available for reimbursement of the cost of services charges. The Department will require the person to update his/her financial information on not less than an annual basis. The liability for payment of services charges shall be based on information available at the time of determination. (The data may include savings, trusts, wills, evidence of indebtedness, evidence of court-ordered payments, and the like.) Each person for whom a determination has been made shall be issued a Notice of Determination, notifying the person of his/her liability. The notice shall be issued even when current determined liability is $0.00.

b) When there is a demonstrated ability to pay, payment for services is an obligation, established by Section 90 of the Act, against the person, guardians, trustees and/or payees.

c) Subsequent review may be initiated by the recipient prior to the annual redetermination due to changes in ability to pay or as a result of an administrative hearing. Service recipients have a duty to inform the Department of any changes in their financial status.

d) The determination of the ability to pay and amount of liability of the person for services charges, up to the prevailing maximum rate, shall be based on all assets and income of the person. After considering the person's legal dependent's financial needs (see subsection (h)), all resources and assets are reduced to the allowable reserve exemption in accordance with subsection (e).

e) The allowable reserve exemption is determined by the amount of assets owned at the time of initiation of services, except that the allowable reserve exemption from all sources cannot exceed that established by HFS (see 89 Ill. Adm. Code 120.382). The service recipient's allowable reserve exemption can only be increased by the unused portions of the monthly personal and clothing allowance or unspent workshop or other monetary incentive funds, such as living skills program funds. Amounts to be paid by the service recipient for services charges may not be deferred to build a reserve to the maximum amount allowed.

f) If the person becomes eligible and is approved for Medicaid, 42 CFR 430 (2016) and HFS rules at 89 Ill. Adm. Code 120.382 govern the allowable reserve and personal and clothing allowance.

g) The Department shall allow deductions from income for a community spouse maintenance needs allowance and a family maintenance needs allowance for each dependent family member who does not have enough income to meet his/her needs. Family members include dependent children under age 21, dependent adult children, dependent parents, or dependent siblings of either spouse, who are living with the community spouse. To determine the amount of the deduction:

1) The deduction for the community spouse maintenance needs allowance, as set forth in 89 Ill. Adm. Code 120.61(d), is equal to the community spouse maintenance needs standard less any non-exempt monthly income of the community spouse. The deduction is allowed only to the extent that income of the spouse who is receiving services at a Department-operated facility is contributed to the community spouse. However, the deduction for the community spouse maintenance needs allowance shall not be less than the amount ordered by the court for support of the community spouse or the amount determined as the result of the fair hearing.

2) The deduction for the family maintenance needs allowance for each dependent family member is equal to one-third of the difference between the family maintenance needs standard and any non-exempt income of the family member as set forth in 89 Ill. Adm. Code 120.61(d).

h) Prior to the assessment of services charges against a recipient, the Department shall review the financial needs of the recipient's legal dependents. The financial needs of these legal dependents shall be based on amounts expended up to an amount equal to the minimum yearly income for which a person would be subject to a charge as shown in Table A of this Part. Any amounts allowed that are not expended for support of legal dependents claimed on the recipient's U.S. Individual Income Tax Return shall be subject to services charges.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)