

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Behavioral Health and Developmental Disabilities Administration

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Financial Liability for Mental Health Services

5. Rule numbers or rule set range of numbers:

R 330.8005 - R 330.8284

6. Estimated time frame:

3 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The administrative rules apply to the determination of an ability to pay (ATP) for individuals receiving mental health services. The process outlined for establishing the ATP in a Community Mental Health setting is not consistent with Federal guidelines for determining ATP and as a result, Community Mental Health Services Programs (CMHPSP) are not able to be accredited by Health Resources and Services Administration (HRSA) to enter into their loan forgiveness program for medical professionals. House Bill (HB) 5165 of 2021 has recently amended the statutory language of the ability to pay and the current rules under MCL 330.1818. The statute requires DHHS to rescind the current rules that conflict with the statutory requirements of developing a financial ability to pay under federal poverty guidelines and allows DHHS to promulgate new rules to come into compliance with the statutory amendments.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

By authority conferred on the department of health and human services by sections 114, 818, and 842 of 1974 PA 258, being sections MCL 330.1114, MCL 330.1818, and MCL 330.1842, and section 44 of 1969 PA 306 of the Administrative Procedures Act, MCL 24.244(1).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The statutory provisions of the newly amended MCL 330.1818 mandates DHHS to rescind current rules as unenforceable under the new statutory language. Rulemaking to comply with the new statutory provisions is permissible and DHHS opts to introduce new rules in compliance with the new statutory language.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules currently conflict with both state and federal compliance requirements and need to be amended to comport with federal guidelines and new state statutory requirements.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The subject matter of the rules is contained in guidelines, forms with instructions, manuals, and other documents.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rules are listed on the department's annual regulatory plan as rules to be processed for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The statute is mandatory for rescission and permissive for DHHS to do further rule promulgation. See MCL 330.1818 and 330.1842.