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Title 9. Rehabilitative and Developmental Services
Division 4. Department of Alcohol and Drug Programs
Chapter 3. Programs for Alcohol and Drug Impaired Drivers
Subchapter 4. Participant Standards

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§ 9879. Financial Assessment to Determine Participant's Ability to Pay Program Fees.

- (a) For purposes of this regulation, the term "participant" includes both program participants and potential participants, who have not yet been enrolled in accordance with Section 9848.
- (b) The DUI program shall post a notice at each location at which program services are provided, in a location visible to all participants and to the general public, stating that:
- (1) A participant may request the DUI program to conduct a financial assessment, in accordance with this regulation, to determine his/her ability to pay the program fee.
 - (2) The DUI program shall not deny services to a participant if, based on the results of a financial assessment, the DUI program determines that the participant is unable to pay the full program fee as shown on the standardized payment schedule.
 - (3) A participant may request the Department to review a financial assessment conducted by the DUI program, in accordance with this regulation. To do so, the participant shall submit a written request to the Driving-Under-the-Influence Program Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95811.
- (A) The Department shall review the financial assessment conducted by the DUI program only if the participant has provided documentation of income to the DUI program in accordance with the requirements of this regulation.
- (B) The Department's review shall be limited to determining whether the DUI program has complied with the requirements of this regulation. If the Department determines that the DUI program has not complied with the requirements of this regulation, the Department shall issue a written notice of deficiency in accordance with Section 9824.
- (c) The DUI program shall assess the program fee and set the payment schedule based on the participant's documentation of income and a standardized payment schedule developed in accordance with Subsection 9878(d).
- (d) Prior to conducting a financial assessment, the DUI program shall:
- (1) Schedule a financial assessment interview with the participant, and
 - (2) Notify the participant that he/she:
 - (A) Is required to provide documentation of his/her income, as specified in subdivisions (e) and (f) of this regulation, at the time of the financial assessment interview, and
 - (B) Will be assessed the full program fee, as shown on the standardized payment schedule, if he/she fails to provide documentation of income at the time of the financial assessment interview.
- (e) The DUI program shall consider as income any of the following, when earned or received by the participant or any person legally required to support the participant:
- (1) Gross wages, salaries, bonuses, commissions, and tips;
 - (2) Compensation for work-related expenses in excess of the actual expense;
 - (3) Net profits from self employment;
 - (4) Net income from real or personal property;

(5) Spousal support;

(6) Regular payments from Social Security, retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance [including Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), emergency assistance money, non-federally funded general assistance or general relief money payments], educational grants, or training stipends; and

(7) Gross personal income as reported on the federal income tax return.

(f) The DUI program shall require any participant, who has requested a financial assessment, to provide the following documentation of income:

(1) If the participant provides an award letter from the county welfare department, confirming eligibility for general assistance, the DUI program shall require no further documentation of income;

(2) If the participant does not provide a general assistance award letter, the DUI program shall require him/her to provide the following documentation:

(A) An award letter from the county welfare department, or other governmental agency, documenting eligibility for other public assistance and indicating the income level on which eligibility was based; or

(B) Pay vouchers or pay stubs documenting salary for the prior two months; or

(C) Income tax returns for the prior calendar year. The DUI program may require the participant to provide a transcript or letter from the Internal Revenue Service or the State Franchise Tax Board verifying the income reported on the prior year's tax return.

(3) The DUI program may require the participant to sign a release of information authorizing the DUI program to obtain income and wage verification from the State Employment Development Department.

(4) The DUI program may accept other documentation of income at its option.

(5) The DUI program shall not require documentation of income other than that specified in Subsections (f)(1), (f)(2), or (f)(3) of this regulation.

(g) If the income documentation the participant provides shows weekly income rather than monthly income, the DUI program shall compute the participant's monthly income by multiplying the weekly income by 4.33 weeks per month. If the income documentation the participant provides shows annual income rather than monthly income, the DUI program shall compute the participant's monthly income by dividing the annual income by 12 months per year.

(h) The DUI program shall conduct a financial assessment interview within five days of any of the following circumstances:

(1) At the request of the participant or the DUI program, but no more frequently than every 30 days. At the time of the request, the participant shall provide:

(A) Documentation of a change in financial condition which may make the participant eligible for an adjustment of the program fee or payment schedule, or

(B) A written statement describing the need for a financial assessment.

(C) If the participant fails to attend a financial assessment interview scheduled at his/her request, the DUI program may require the participant to wait 30 days before scheduling a subsequent financial assessment.

(i) If the participant is 15 or more days delinquent in payment of program fees approved by the Department, the DUI program may suspend educational sessions, individual counseling sessions, and group counseling sessions for 15 days as shown below:

(1) At least ten days prior to the period of suspension, the DUI program shall provide the participant with a delinquency notice that contains the following information:

(A) The amount of program fees currently past due;

(B) A statement that failure to pay the delinquent amount will result in suspension of education, individual and group counseling services;

(C) A statement that failure to pay the delinquent amount by the end of the suspension period may result in an additional 30 day suspension or dismissal from the program;

(D) The procedure for disputing the accuracy of the delinquency;

(E) A statement notifying the participant of his/her right to request a financial assessment as specified in subdivision (h) of this regulation; and

(F) A statement that failure to schedule and appear for a financial assessment may result in dismissal from the program.

(2) The suspension shall remain in effect for a maximum of 15 days or until the participant pays the delinquent amount in full,

whichever occurs first.

(3) When the DUI program suspends education, individual and group counseling activities for 15 days, the DUI program shall concurrently issue a notification of pending suspension of all program activities or dismissal if the delinquent fees are not paid in full by the end of the 15 day suspension period.

(A) The DUI program shall not assess fees for the services missed as a result of the 15-day suspension.

(B) The DUI program shall continue to conduct face-to-face interviews as specified in Section 9858.

(4) If the participant fails to pay the delinquent fees in full by the end of the initial 15-day suspension period, the DUI program may either suspend all program activities for a maximum of 30 days or dismiss the participant from the program.

(A) The DUI program shall not assess fees for services missed as a result of the 30-day suspension.

(B) The DUI program may dismiss a participant who was suspended and failed to pay the delinquent fees by the end of the 30-day suspension period.

(5) Program activities missed during the period of suspension shall not be considered as failure to attend program services without a leave of absence, pursuant to Sections 9876.5(a) and 9886(a)(5). The suspension time does not count as active time in the program and the 21 day attendance requirement in Section 9886(a)(5) does not apply.

(j) Following a financial reassessment, the DUI program shall require the participant to pay for services provided by the DUI program as shown below:

(1) When a financial reassessment determines that the participant is eligible for a maximum program fee of no more than \$5.00 per month, the DUI program may require the participant to pay for services provided by the DUI program prior to the date of the financial reassessment at the rate of payment which was assessed prior to the date of the reassessment.

(2) When a financial reassessment determines that the participant is no longer eligible for a maximum program fee of no more than \$5.00 per month, the DUI program shall not require the participant to pay the program fee in excess of \$5.00 per month for services provided by the DUI program during the period of eligibility and prior to the date of the reassessment.

(3) When a financial reassessment determines that the participant is eligible to pay the program fee through the extended payment option or the reduced fee option, described in Section 9878(f)(3), the DUI program may require the participant to pay for services provided by the DUI program prior to the financial reassessment at the rate of payment which was assessed prior to the date of the financial reassessment.

(4) When a financial reassessment determines that the participant is no longer eligible to pay the program fee through the extended payment option or the reduced fee option, described in Section 9878(f)(3), the DUI program shall allow the participant to pay for services provided by the DUI program prior to the date of the financial reassessment, at the reduced rate of payment.

(k) If a participant re-enrolls in the program following dismissal or voluntary withdrawal from the program, the DUI program may assess the program fee at the time of re-enrollment based on the approved program fee as shown on the standardized payment schedule in effect at the time of re-enrollment, except as follows:

(1) Any increase or decrease in the assessed program fee the participant is required to pay as the result of a financial assessment shall apply only to the remaining services to be provided.

(2) The DUI program shall not increase a participant's assessed program fee when a participant returns to active participant status following a temporary absence due to an approved leave of absence.

(l) The DUI program shall amend the participant contract to reflect increases or decreases in the participant's fee resulting from a financial reassessment conducted in accordance with the provisions of this regulation.

(m) The DUI program shall maintain in the participant record a copy of all financial assessments and documentation of income provided by the participant.

(n) A participant may request the Department to review a financial assessment conducted by the DUI program, in accordance with this regulation. To do so, the participant shall submit a written request to the Driving-Under-the-Influence Program Branch, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95811.

(1) The Department shall review the financial assessment conducted by the DUI program only if the participant has provided documentation of income to the program in accordance with the requirements of this regulation.

(2) The Department's review shall be limited to determining whether the DUI program has complied with the requirements of this regulation. If the Department determines that the DUI program has not complied with the requirements of this regulation, the Department shall issue a written notice of deficiency in accordance with Section 9824.

Note: Authority cited: Section 11836.15, Health and Safety Code; and Section 23538, Vehicle Code. Reference: Sections 11836.15 and 11837.4, Health and Safety Code.

HISTORY

1. New section filed 6-14-93 as an emergency; operative 6-14-93 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-12-93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-1-93 as an emergency; operative 10-8-93 (Register 93, No. 36). A Certificate of Compliance must be transmitted to OAL by 2-7-94 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 2-2-94 as an emergency; operative 2-5-94 (Register 94, No. 5). A Certificate of Compliance must be transmitted to OAL by 6-6-94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of printing error in subsection (g)(2) (Register 94, No. 15).
5. Certificate of Compliance as to 2-2-94 order including amendment of section transmitted to OAL 5-31-94 and filed 7-13-94 (Register 94, No. 28).
6. Repealer of subsections (h)(2)-(i)(2) and new subsections (i)-(i)(5) filed 12-10-97; operative 1-9-98 (Register 97, No. 50).
7. Amendment of subsections (b)(3)(B) and (f)(2)(C), new (f)(3), subsection renumbering and amendment of newly designated subsection (f)(5) and subsection (n)(2) filed 3-23-2000; operative 4-22-2000 (Register 2000, No. 12).
8. Amendment of section and Note filed 3-22-2012; operative 4-21-2012 (Register 2012, No. 12).

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