

**Title 9--DEPARTMENT OF
MENTAL HEALTH
Division 10--Director, Department of Mental Health
Chapter 31--Reimbursement for Services**

PROPOSED AMENDMENT

9 CSR 10-31.016 Determining State of Domicile

PURPOSE: *This amendment clarifies provisions for determining state of domicile and expands intelligence tests to include those not administered by the Division of Developmental Disabilities (formerly the Division of Mental Retardation and Developmental Disabilities).*

PURPOSE: *This rule prescribes department procedures for determining the domiciliary state of any patient resident or client receiving services from a facility, program or service operated or funded by the department as required by section 630.210, RSMo.*

(1) A person domiciled in Missouri is one who resided in Missouri not for a mere special or temporary purpose, but with intent to remain in Missouri permanently or for an indefinite time which may be demonstrated, but not necessarily determined by ownership of a residence in Missouri, filing of a Missouri state income tax return, voter registration in Missouri, registration of a motor vehicle in Missouri, employment in Missouri or the receipt of public assistance from Missouri.

(2) A person and a person's dependents are domiciled in Missouri when the person is a member of the armed services and stationed in Missouri. Domicile shall continue to be conferred upon dependents of a member, if they remain in Missouri, after the member of the armed services is transferred from Missouri.

(3) The domicile of a minor under the age of eighteen (18) and not emancipated shall be that of the parent(s) having physical custody of the minor.

(4) The domicile of a minor under the age of eighteen (18) whose parents are deceased or parental rights have been terminated shall be the state in which a guardian has been appointed for the minor, unless his or her guardian is domiciled in Missouri, in which case, the minor's domicile is Missouri.

~~[(3)]~~ **(5) A person at or over the age of eighteen (18) is considered incapable of forming his/her own intent to be domiciled in Missouri when--**

~~[(A)]~~ *The person is under age eighteen (18) and not emancipated;*

~~[(B)]~~ **(A) The person's Intelligence Quotient (IQ) is forty-nine (49) or less, or has a mental age of seven (7) or less based on [tests administered by the Division of Mental Retardation and Developmental Disabilities] a comprehensive test of intelligence;**

~~[(C)]~~ **(B) The person is declared legally incapacitated as defined in section 475.010, RSMo; or**

~~[(D)]~~ **(C) Medical documentation or other documentation acceptable to the department supports a finding that the person is incapable of forming intent to be domiciled in Missouri.**

[(4) If a person is determined under section (3) of this rule to be incapable of forming intent to be domiciled in Missouri, then the state of domicile shall be--

(A) The domicile of the parents of a minor under age eighteen (18) if the minor is not emancipated and parental rights have not been terminated;

(B) The state appointing a guardian for a minor under age eighteen (18) when the parents are deceased or parental rights have been terminated;

(C) The state in which the person is living at the time the person becomes incapable of forming intent when incapability occurs at or after age eighteen (18); or

(D) The state in which the parents or legal guardian reside when incapacity to form intent of the person aged eighteen (18) and older occurs prior to the person's eighteenth birthday.]

(6) The domicile of a person at or over the age of eighteen (18) who is incapable of forming intent to be domiciled under section (5) of this rule shall be the current domicile of the person's guardian, unless the person has previously established domicile in and continuously resided in the State of Missouri, in which case, domicile shall remain the State of Missouri.

[(5)] (7) Domiciliary status shall not be conferred on persons placed in institutions in Missouri by another state.

[(6)] (8) Missouri is not the state of domicile when the person--

(A) Removes him/herself and his/her personal effects from Missouri with an intent to establish domicile elsewhere;

(B) Accepts employment, other than on a temporary basis, in another state and does not retain a residence in Missouri;

(C) Accepts public assistance from another state;

(D) Becomes a registered voter in another state;

(E) Renounces Missouri as his/her state of domicile;

(F) Licenses his/her motor vehicle in another state; or

(G) Performs any other act which indicates intent to abandon Missouri as state of domicile.

Auth: sections 630.050, 630.120, RSMo (Supp. 2013).* Original rule filed Nov. 22, 1983, effective April 15, 1984. Amended: Filed Dec. 4, 1990, effective April 29, 1991.

*Original authority 1980.