



Representative W. Travis Cummings, Chair  
Senator Denise Grimsley, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson



KENNETH J. PLANTE  
COORDINATOR  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, Florida 32399-1400  
Telephone (850) 488-9110  
Fax (850) 922-6934  
www.japc.state.fl.us  
joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE  
**JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE**

November 24, 2015

Ms. Kimberly A. Tendrich  
Chief Privacy Officer  
Legal Counsel CMS  
Office of General Counsel  
Florida Department of Health  
800 Clematis Street, #5548  
West Palm Beach, Florida 33402

**Re: Department of Health  
Rules 64C-2.002 and .003, F.A.C.**

Dear Ms. Tendrich:

I have reviewed the above-referenced proposed rules, which were advertised in the Florida Administrative Register on November 16, 2015. I have the following comments.

**64C-2.002:** It appears that section 391.021 should be added as a law implemented.

Please explain why section 391.026(2) is cited as a law implemented and how this rule implements that statute.

**64C-2.002(1):** This subsection incorporates by reference the CMS Clinical Eligibility Screening Form, DH8000-CMS (12/2015). The form provided for review has a form number of DH8000. The form's number displayed on the form should be identical to the form's number in the rule text.

**64C-2.002(2):** This subsection incorporates by reference the CMS Clinical Eligibility Attestation, Form DH8001-CMS (12/2015).

DH-8001-CMS:

Page 4: It appears that the department may have intended the words "clinically eligible" above the signature line to be "clinical eligibility."

This form appears to require the signer to attest to various statements of fact. "Attest" is defined as "1. To bear witness; testify" and "2. To affirm to be true or genuine; to authenticate by signing as a witness." *Black's Law Dictionary* 124 (7th ed. 1999). Please explain whether the attestations on this page are intended to be made under oath. If so, please explain the department's statutory authority for this requirement. Moreover, any such "oath" appears to be unenforceable because it is not administered before an official authorized to administer oaths.

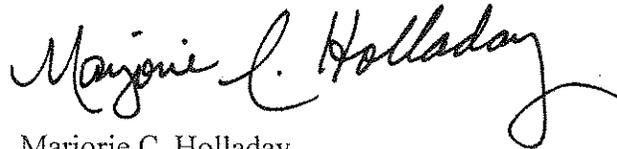
This page also provides an incomplete facsimile number where the completed form may be returned to the department. Please ensure this number is provided in the form before the rule is filed for adoption.

**64C-2.003:** It appears that section 391.021 should be added as a law implemented.

Please explain why section 391.026(2) is cited as a law implemented and how this rule implements that statute.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay  
Chief Attorney

cc: Ms. Renee C. Harkins, Assistant General Counsel