

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/2/2014

2. COMAR Codification

Title Subtitle Chapter Regulation
14 11 01 .02-.04, .09, .13

3. Name of Promulgating Authority

Department of Disabilities

4. Name of Regulations Coordinator Telephone Number
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6. Check applicable items:
 New Regulations

INDEPENDENT AGENCIES

Subtitle 11 PROGRAM SERVICES

14.11.01 Attendant Care Program

Authority: Human Services Article §§7-401—7-406, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of the Department of Disabilities proposes to adopt revised Regulations .02—.04, 09, and 13 under chapter COMAR 14.11.01 Attendant Care Program.

Statement of Purpose

The purpose of this action is to outline the revisions to the Attendant Care Program by the Department.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows: By making these revisions, it is anticipated that additional individuals with disabilities will be eligible for the program, which should help certain individuals maintain or gain employment or avoid confinement in a nursing facility.

Opportunity for Public Comment

Comments may be sent to George P. Failla, Deputy Secretary / Acting Secretary, Maryland Department of Disabilities, 217 E. Redwood St., Suite 1300, Baltimore, MD 21202, or call 410-767-3659, or email to mdod@mdod.state.md.us, or fax to 410-333-6674. Comments will be accepted through June 2, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General Funds

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The Attendant Care Program is subject to the §7-404(c) of the Human Services Article which limits participation to the number of eligible individuals that can be served with the funds appropriated in the State Budget.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The program is not applicable to small businesses.

G. Small Business Worksheet:

N/A

Attached Document:

Title 14 INDEPENDENT AGENCIES

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.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1)-(4) Unchanged

- (5) "Attendant care agreement" means a written agreement developed by the Department that:
- (a) Provides:
 - (i) The effective date for reimbursable services; and
 - (ii) The terms for reimbursement under the Program; and
 - (b) Is signed by the participant and the Program Director *at the time of initial enrollment and at the request of the Program Director if any circumstances change for the individual or the program.*
- (6) "Attendant care services" means any of the following services for an individual, which are [certified] *deemed* as necessary by an attending physician or by a [registered] *certified nurse practitioner serving the individual including:*
- (a) *Activities of daily living such as:*
 - [(a)] (i) Dressing;
 - [(b)] (ii) Preparing food and assisting with eating;
 - [(c)] (iii) Bathing and personal hygiene;
 - [(d)] (iv) Assisting with routine bodily functions, including bowel and urinary care; *and*
 - [(e)] (v) Moving into, out of, or turning in bed; *and/or*
 - (b) *Instrumental activities of daily living such as:*
 - [(f)] (i) Laundering and other clothing care;
 - [(g)] (ii) Cleaning house; and
 - [(h)] (iii) Performing other services of daily care, including shopping and transportation.
- (7)-(17) Unchanged
- (18) "*Review of financial eligibility*" means *initiating verification that the participant remains financially eligible within one calendar year since the completion of the most recent review or more frequently if requested by the Department or the individual.*
- [(18)] (19) "Severe chronic disability" means a recurring medical condition that substantially limits an individual's *mobility and/or ability to perform activities of daily living, instrumental activities of daily living, and/or self-care*
- (a) [Mobility; and] *Permanently; or*
 - (b) [Ability to perform activities of daily living and self-care; or] *Ongoing as a result of a serious medical condition.*
 - [(c) Both.]
- [(19)] (20) "Sliding reimbursement scale" means the percentage breakdown of maximum financial assistance afforded to a Program participant based upon adjusted gross income and household size.
- [(20)] (21) "Standard assessment of functional capability" means the document designated by the Department to evaluate an applicant's:
- (a) Ability to perform essential activities of daily living and self-care;
 - (b) Mobility; [and]
 - (c) *Need for assistance with instrumental activities of daily living; and*
 - [(c)] (d) Need for attendant care services.
- [(21)] (22) "Time sheet" means a form designated by the Department to record the *start and stop times for the delivery of attendant care services to the participant for billing and documentation purposes.*

.03 Eligibility.

- A. To be eligible for the Program, an applicant:
- (1)-(2) Unchanged
 - (3) Shall be determined by the applicant's attending physician *or certified nurse practitioner* to have a severe chronic or permanent physical disability that
 - (a) [precludes] *Precludes* or impairs the independent performance of essential activities of daily living, *instrumental activities of daily living*, self-care, or mobility as determined by the standard assessment of functional capability form; *and*
 - (b) *Is subject to eligibility review at a frequency determined by the Department, if the condition is likely to improve;*
 - (4) May not have an annual adjusted gross income greater than [\$53,522] *\$119,999.00;*
 - (5)-(6) Unchanged
 - (7) Shall agree to abide by the Program requirements by signing an attendant care agreement form *at the time of initial enrollment and at the request of the Program Director if any circumstances change for the individual or the Program.*
- B. The Program Director, or designee, shall [conduct] *initiate* an annual review of each participant's eligibility at least once every 12 months *from completion of last review*, or more frequently if needed.
- C. Unchanged

.04 Limitations on Service and Participation in the Program.

- A.-B. Unchanged

C. The Program Director shall seek to achieve the demographic absent a limited or situational waiver from the Secretary; notwithstanding the above, an applicant found ineligible or properly disenrolled from the Program shall be required to observe a waiting period prior to reapplication of not less than:

- (1) One year for reason of disability or financial eligibility, or*
- (2) Three years upon a finding of fraud or misuse of program funds.*

D. Applicants to the Program shall be encouraged to complete an application for Medical Assistance and utilize personal care services under the following programs, if applicable:

- (1) Medical Assistance Personal Care Program,*
- (2) Community First Choice Program, and/or*
- (3) a Home and Community Based Waiver.*

.09 Participant's Responsibilities.

A. A participant shall:

(1)-(6) Unchanged

(7) Comply with the attendant care agreement requirements, and provide a signed copy to the Department [at least once every 12 months] *at the initial eligibility determination and at the request of the Department at any time thereafter.*

B.-C. Unchanged

.13 Financial Assistance.

A.-B. Unchanged

C. A participant *eligible in the category set forth in Regulation .04B(1) of this chapter* shall pay a minimum of [5 percent] *2 percent* of the cost of attendant care services, unless the Program Director determines that the minimum copayment causes the participant financial hardship and issues a written waiver of the copayment.

D. A participant *eligible in the category set forth in Regulation .04B(2) of this chapter* shall pay a minimum of 5 percent of the cost of attendant care services, unless the Program Director determines that the minimum co-payment causes the participant financial hardship and issues a written waiver of the co-payment.