

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 14-143)**

Overview and Legal and Fiscal Impact

The regulations implement a targeted case management program for children and youth with serious emotional disturbances that will be separate from the program that serves adults. Under current regulations, this population is served under a program which serves all age groups. The separate targeted case management program will allow the State to implement special provisions related to children and youth with serious emotional disturbances.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Medical Care Programs: Mental Health Case Management: Care Coordination for Children and Youth: COMAR 10.09.90.01-.14

Legal Analysis

Background

In addition to these regulations, the Department of Health and Mental Hygiene has proposed revisions to COMAR 10.09.45 to limit the population served under those regulations to adults. Under current COMAR 10.09.45, the population served under the program is all age groups. The separate targeted case management program proposed under these regulations will allow the State to implement special provisions related to children and youth with serious emotional disturbances. The purpose of mental health case management is to assist participants in gaining access to needed medical, mental health, social, educational, and other services.

Summary of Regulations

The regulations implement a separate targeted case management program for children and youth with serious emotional disturbances. The regulations apply to providers organized to deliver mental health case management services for children and youth.

Participant Eligibility

The regulations establish eligibility requirements for a participant to receive care coordination services. A participant is eligible for care coordination services if the recipient is in a federal eligibility category for Maryland Medical Assistance and meets the diagnostic requirements of being either (1) a minor with a serious emotional disturbance or co-occurring disorder or (2) a young adult with a serious emotional disturbance or co-occurring disorder enrolled in care coordination services since reaching age 18. In addition, a participant must (1) require community treatment and support in order to prevent or address (i) inpatient psychiatric or substance use treatment; (ii) treatment in a residential treatment center or residential substance use treatment facility; (iii) an out-of-home placement; (iv) emergency room utilization due to multiple behavioral health stressors; (v) homelessness or housing instability, or other lack of permanent, safe housing; or (vi) arrest or incarceration due to multiple behavioral stressors or (2) need care coordination services to facilitate community treatment following: (i) release from a detention center or correctional facility; or (ii) discharge to the community from a residential treatment center placement or inpatient psychiatric unit.

Participant Classification – Levels of Intensity

In addition to meeting the participant eligibility described above, the regulations require a participant to be classified according to specified levels of intensity, based on the severity of the participant's behavioral health or co-occurring disorder, in addition to assessed strengths and needs. The department or its designee is required to review participant levels of care to confirm they are appropriate to the needs of a participant. The regulations establish criteria for participant eligibility for general care coordination, moderate care coordination, and intensive care coordination. A participant may not remain at the level of intensive care for longer than six consecutive months, unless approved by the department or its designee.

Conditions for Provider Participation

The regulations establish conditions for a care coordination organization (CCO). A local county or multi-county core service agency is required to select child and youth CCOs through a competitive procurement process at least once every five years. A regional CCO may be procured at the mutual agreement of local core service agencies provided that the local core service agencies demonstrate there is sufficient provider capacity to serve the children and youth in a specific region. A CCO is required to (1) be approved by the department as a CCO; (2) commit to coordination with all agencies involved in a participant's plan of care (POC); and (3) work with State and local child- and family- serving agencies to develop a network of clinical and natural supports in the community to address the strengths and needs identified in each POC.

A provider is required, at the provider's own expense and for all staff, volunteers, students, and individuals providing care coordination services to participants and their families, to comply with a specified child care criminal history records check. In addition, the regulations prohibit the utilization of any individual who (1) was convicted of, received probation before judgment, or entered a plea of nolo contendere to a felony or a crime of moral turpitude or theft or have any other criminal history that indicated behavior which is potentially harmful to a participant; (2) was cited on any professional licensing or certification boards or any other registries with a determination of abuse, misappropriation of property, financial exploitation, or neglect; or (3) has an indicated finding of child abuse or neglect. The department is authorized

to waive certain prohibitions against working with a participant or the participant's family under specified circumstances.

Eligibility for Provider Participation

To be eligible to be approved as a CCO, the regulations require an entity to meet specified requirements, including (1) employment of appropriately qualified individuals as care coordinators and care coordinator supervisors with relevant work experience; (2) scheduling of assessments and other meetings with participants and care coordinators, peer support partners, intensive in-home service or mobile crisis response service providers within specified timeframes; and (3) maintenance of electronic health records.

Covered Services

The regulations require the department to reimburse for care coordination services upon documentation of those services. Covered services include a POC, child and family team meetings, referral and related activities, and monitoring and follow-up activities. Care coordination may include contacts that are directly related to identifying the needs and supports for helping a participant to access services. A CCO is required to engage in participant advocacy, including (1) empowering the participant and, if the participant is a minor, the minor's parent or guardian, to secure needed services; (2) taking any necessary actions to secure services on the participant's behalf; and (3) encouraging and facilitating the participant's decision making and choices leading to accomplishment of the participant's goals or, if the participant is a minor, encourage the parent or guardian to carry out those decisions.

After an initial assessment is completed, a POC is required to be developed based on the information obtained through the comprehensive screening and assessment tools approved by the department. The CCO is required to finalize the POC within 30 calendar days of the notification of enrollment and submit it to the department or its designee. The regulations establish requirements for the POC, including development of the POC, ongoing updates, transitional care planning, and discharge planning. The POC is required to contain, at a minimum (1) a description of the participant's strengths and weaknesses; (2) the diagnosis established as evidence of the participant's eligibility for services; (3) the goals of care coordination services to address the behavioral health, medical, social, educational, and other services needed by the participant, with expected target completion dates; (4) a specified crisis plan; (5) an ongoing record of contacts made on the participant's behalf; and (6) specified timelines for obtaining services.

All covered services are required to be preauthorized. The program is required to reimburse a provider: (1) as provided under the regulations and COMAR 10.09.89; and (2) in accordance with the fees established under COMAR 10.21.25.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites § 2-104(b) of the Health – General Article as authority for the regulations. Section 2-104(b) authorizes the Secretary of Health and Mental Hygiene to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement a separate targeted case management program for children and youth with serious emotional disturbances. The department indicates that creation of this new chapter shifts child and youth recipients from the current Targeted Case Management program (COMAR 10.09.45), which will now be limited to adults, into a separate chapter. As cost and enrollment levels are anticipated to remain largely unchanged, no fiscal impact is anticipated. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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