

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Human Resources  
(DLS Control No. 14-209)**

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**Overview and Legal and Fiscal Impact**

The regulations alter the eligibility criteria for the Public Assistance to Adults Program (PAA).

The regulations present no legal issue of concern.

The regulations decrease the department's general fund expenditures by an estimated \$956,590 in fiscal 2015 and by approximately \$1.4 million annually thereafter by revising the determination process for PAA Assisted Living placements.

**Regulations of COMAR Affected**

**Department of Human Resources:**

Family Investment Administration: Public Assistance to Adults:  
COMAR 07.03.07.02-.03, .09, and .12

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**Legal Analysis**

**Summary of Regulations**

The regulations alter the definition of "assisted living" to mean services provided in a licensed protective institutional environment as described in COMAR 10.07.14 to an individual who is aged or disabled, or both and who cannot manage activities of daily living as described in COMAR 10.07.14.02(B)(2)(b). The regulations add a definition of "protected living arrangement" to mean a residential environment that provides care to vulnerable adults who are aged, disabled, or both, and who cannot manage activities of daily living as described in COMAR 10.07.14.02(B)(2)(b).

The regulations alter the eligibility criteria for PAA to provide that an individual is eligible for the program when, in any month, the individual (1) is a resident of the State; (2) is receiving a federal benefit for age, blindness or disability; (3) if not receiving a federal retirement or disability benefit, has filed an application for Supplemental Security Income and Social Security Disability Insurance; (4) is in an assisted living program, in a CARE home, or in a DHMH rehabilitative residence; and (5) the individual continues to cooperate with all technical and financial requirements of eligibility. The regulations provide that if the Social Security Administration makes a final unfavorable decision, the customer is no longer eligible for assisted living benefits from the PAA program unless (1) good cause exists for continued PAA eligibility or (2) Disability Services Operations (DSO) decides that the person meets the definition of

disabled following a consultative exam or coordination with the State Disability Determination Services Agency.

The regulations require the Department of Human Resources to establish a process through DSO to determine when medical justification for placement into a protected living environment is sufficient to support an individual's eligibility for the PAA-Assisted Living program, except that process does not apply to individuals participating in PAA-CARE homes or PAA-DHMH rehabilitative services.

The regulations provide that the representative payee may not be the assisted living home operator or staff. In addition, the regulations authorize the termination of protective payments immediately when the agency learns that the representative payee has a conflict of interest or is handling the recipient's funds in a fraudulent or exploitative manner. Finally, the regulations authorize the local department to dispense with timely notice but require the local department to send adequate notice of termination or reduction of benefits when the local department has confirmed that the recipient and assisted living home operator are using the program funds in a fraudulent manner.

### **Legal Issue**

These regulations present no legal issue of concern.

### **Statutory Authority and Legislative Intent**

The department cites §§ 5-205(a), 5-207(a), 5-403 through 5-407, and 5-409 of the Human Services Article as legal authority for the regulations. Section 5-205(a) authorizes the Family Investment Administration to be the central coordinating and directing agency of all public assistance programs in the State, including public assistance to adults. Section 5-207(a) authorizes the Executive Director of Family Investment to adopt regulations necessary to carry out the duties imposed on the Executive Director by law. Sections 5-403 through 5-407 and 5-409 pertain to the Public Assistance to Adults Program. Specifically, § 5-409 requires the Family Investment Administration to adopt regulations necessary or desirable to carry out the part, including regulations to establish eligibility requirements.

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

### **Technical Corrections and Special Notes**

COMAR 07.03.07.09C(2) and 07.03.07.12C(6) contain references to an "assistant living operator." The Department of Legislative Services has interpreted this to mean an "assisted living home operator." The Department of Human Resources has been informed of the interpretation.

## **Fiscal Analysis**

The regulations decrease the department's general fund expenditures by an estimated \$956,590 in fiscal 2015 and by approximately \$1.4 million annually thereafter by revising the determination process for PAA Assisted Living placements.

### **Agency Estimate of Projected Fiscal Impact**

The regulations alter definitions regarding assisted living placements in the PAA program and clarify eligibility criteria. The department advises that these changes reduce expenditures, as a portion of the current PAA-Assisted Living population are no longer eligible for placement within a facility. Instead, the individuals are served in the community as part of the Temporary Disability Assistance Program (TDAP). The department estimates that the regulations affect 175 individuals annually. The payment standard for TDAP participants (\$185 per month) is significantly less than the cost of care for individuals who are in facilities (\$926.85 per month). Accordingly, by reducing the PAA-Assisted Living population by 175 individuals annually and providing services instead within the community, the department estimates that general fund expenditures decrease by \$956,590 in fiscal 2015 and by \$1,434,885 annually thereafter. The department further advises that a sharp growth in the PAA-Assisted Living population has prevented the department from providing cost-of-living increases within the program. The department's estimate assumes that the resulting expenditure decrease allows the department to resume cost-of-living increases within PAA. These increases are estimated at \$123,000 annually or \$82,000 in fiscal 2015, and they have been accounted for in the above estimate. The Department of Legislative Services concurs.

### **Impact on Budget**

The regulations impact the State operating budget by decreasing general fund expenditures by \$956,590 in fiscal 2015 and by \$1,434,885 annually thereafter.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have a meaningful impact on small businesses. Assisted living facilities that primarily recruit PAA applicants who are younger and who have less severe disabilities likely experience a revenue decrease as fewer of these applicants qualify for program assistance. However, most facilities realize a minimal increase in revenues from the resumption of cost-of-living increases. The Department of Legislative Services concurs.

## **Contact Information**

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