

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 14-251)**

Overview and Legal and Fiscal Impact

The regulations make several changes to the Low Intensity Support Services Program, including lowering the cap on funding per individual and altering the manner in which individuals are approved for program funding.

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:

Developmental Disabilities: Low Intensity Support Services (LISS) Program:
COMAR 10.22.14.03 and .05 -.11

Legal Analysis

Background

Chapter 59 of 2014 lowered the cap, from \$3,000 to \$2,000, on the low intensity support services to be provided by the Developmental Disability Administration (DDA) per qualifying individual per fiscal year.

Summary of Regulations

The regulations alter provisions related to the Low Intensity Support Services (LISS) program. The regulations define “random selection process” as the system used to promote equality and fairness to identify which applicants will be considered for funding in each fiscal year during Round 1, which occurs annually in August, and Round 2, which occurs in February. The regulations require applicants for LISS to submit to the Department of Health and Mental Hygiene a specified abbreviated LISS application and, unless the services are for a minor, a completed application for the Medical Assistance Program along with verification that the application was submitted.

To be eligible for LISS, an individual (1) shall be a Maryland resident; (2) shall have a developmental disability or be eligible for individual support services; (3) shall have a valid social security number; (4) may not be enrolled in any Maryland Medical home and community-based services waiver or the Rare and Expensive Case Management program;

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(5) shall submit a LISS request by July 31st for Round 1 and January 31st for Round 2; and (6) shall be identified by the random selection process. An individual receiving Developmental Disability Administration (DDA) services may not receive LISS funding and an individual who receives funding in Round 1 may not apply for Round 2 in the same fiscal year, even if the entire maximum amount of \$2,000 is not awarded in Round 1.

The regulations provide that LISS services and items (1) shall be rendered by a provider whose administrative fee does not exceed 15% of the total cost of the item or service; (2) may not be provided by a legally responsible person (as defined in Health – General Article § 7-701(c)); (3) shall be received within the same fiscal year as the request; and (4) shall be approved in accordance with the regulations. The regulations repeal the requirement that the DDA pre-approve funding for any out-of-State services. The services covered by the LISS program are altered to include crisis intervention and follow-up. Housing adaptations and barrier removals remain covered under the program, provided that the applicant or applicant’s family owns the property needing the adaptation. Housing assistance (including eviction assistance, utility disconnection, and deposits) and recreation programs are repealed as covered services.

The regulations authorize approval of funding for eligible individuals for services up to \$2,000 per fiscal year and provide that requests for amounts exceeding \$2,000 may not be considered. In addition, the regulations provide that an individual may not appeal non-selection through the random selection process. Finally, the regulations require the agency that administers the LISS program to establish, manage, and maintain specified service files for each participant and to deny funding if the (1) applicant does not meet eligibility criteria; (2) service or item requested is not permitted by regulations; or (3) provider of the services does not meet the requirements of the regulations.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 7-703, 7-708, 7-717, and 7-904 of the Health – General Article as authority for the regulations. More specifically, the regulations are authorized by §§ 7-717 and 7-904. Section 7-717 provides that DDA shall establish a cap of no less than \$2,000 of low intensity support services per individual per fiscal year to a qualifying individual. Section 7-904 requires the Secretary of Health and Mental Hygiene to adopt regulations for the licensing of services for an individual with a developmental disability or a recipient of individual support services.

The 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 Chapter 59 of 2014, which lowered the minimum cap on funding for individuals served by the LISS Program from \$3,000 to \$2,000. The regulations also alter the application process for the program and change the distribution of awards from a “first-come, first-served” basis to a biannual random selection process.

The department advises that the regulations increase expenditures for DDA by \$5,141,770 in general funds for fiscal 2015. The Department of Legislative Services disagrees as this figure reflects the entire fiscal 2015 budget for the program. The fiscal and policy note for Chapter 59 of 2014 (SB 418) noted that there was no anticipated fiscal effect as the legislation altered the amount of money that may be spent on each individual receiving funding from the program but does not affect aggregate program spending.

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 a meaningful economic impact on small businesses in the State because an additional \$511,770 will be provided for community services under the program. The Department of Legislative Services disagrees as this figure represents the cumulative total paid to four providers for administrative costs associated with the program (and is included in the \$5,141,770 fiscal 2015 budget). Funding for the program, including for community providers, does not increase due to the regulations.

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