

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 14-279)**

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**Overview and Legal and Fiscal Impact**

The regulations extend the period of time for which an applicant or recipient is certified as eligible to receive Medical Assistance benefits under the Employed Individuals with Disabilities Program (EID). The regulations also repeal a requirement that the Department of Health and Mental Hygiene recalculate and adjust each year specified premium amounts under EID.

The regulations present no legal issues 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: Employed Individuals with Disabilities:  
COMAR 10.09.41.02; .06-.09, .12, and .13

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**Legal Analysis**

**Background**

The Employed Individuals with Disabilities Program (EID) provides Medical Assistance (Medicaid) benefits to working individuals in the State with disabilities who meet certain conditions. To be eligible for EID, an individual must be at least 18 years old but not yet 65 years old, be a U.S. citizen or “qualified alien,” have a disability that meets Social Security’s medical criteria, be working for pay, meet a specified income limit (which may be as high as \$71,052 per year for a single person and up to \$95,388 for a married couple), and meet a resource (asset) limit of \$10,000 (for an unmarried individual) and \$15,000 (for a married individual). There is no minimum amount that an individual must earn to qualify. Individuals in EID must pay a monthly premium, the amount of which varies depending on the individual’s income.

**Summary of Regulations**

The regulations modify the period of time for which an EID applicant’s or recipient’s eligibility to receive Medicaid benefits is certified. Under the regulations, the certification period is defined to mean a period of time of up to 12 months, instead of 6 months, beginning on the first day of the month in which the Department of Health and Mental Hygiene receives the

application for coverage. Similarly, the period of time in which the department is to make a redetermination of a recipient's continued eligibility in EID is modified to occur at least every 12 months instead of 6 months.

In addition, the regulations repeal a requirement that the department recalculate specified premium amounts annually and adjust them to reflect the federal poverty level then in effect. The regulations that are being repealed require adjusted premium amounts to be based on 2% of the annual income for a household of two for specified income categories under the federal poverty guidelines.

### **Legal Issue**

The regulations present no legal issue of concern.

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

The department cites § 15-138 of the Health – General Article as authority for the regulations. More specifically, § 15-138(a) requires the department to implement EID by a specified date to the extent that funding is available in the State budget. Section 15-138(c) requires the Secretary of Health and Mental Hygiene to adopt regulations that develop specific eligibility criteria for participation in EID. Under § 15-138(d), the department must review the regulations, in consultation with the Coalition for Work Incentives Improvement, at least every three years after the adoption of regulations that develop specific eligibility criteria for participation in EID.

Although not cited by the department, § 2-104 of the Health – General Article authorizes the Secretary of Health and Mental Hygiene to adopt regulations to carry out provisions of law that are within the jurisdiction of the Secretary.

With the addition of § 2-104 of the Health – General Article, the authority cited by the department 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 (1) extend from 6 to 12 months the certification period for individuals enrolled in the Medicaid Employed Individuals with Disabilities program to be consistent with the eligibility determination period for other Medicaid programs and (2) repeal language that established an annual premium adjustment effective March 1, 2014, as this adjustment was never implemented. The department indicates that the regulations have no fiscal impact. 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**

**Legal Analysis:** Patrick D. Carlson – (410) 946/(301) 970-5350

**Fiscal Analysis:** Jennifer B. Chasse – (410) 946/(301) 970-5510