

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: 11/14/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

10 09 41 02; .06-.09, .12 and .13

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: April 11, 2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Lapp, Assistant Attorney General, (telephone #410-767-5292) on September 10, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Telephone No.

410-767-6500

Date

September 29, 2014

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.41 Employed Individuals with Disabilities

Authority: Health-General Article, §15-138, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02; .06—
.09, .12 and .13 under COMAR 10.09.41 Employed Individuals with Disabilities.

Statement of Purpose

The purpose of this action is to amend the requirements specified in regulations to:
(1) Extend the certification period associated with the Employed Individuals with Disabilities (EID) program from 6 months to a 12 month certification period; and
(2) Restore a less restrictive pre-existing premium requirement since the current requirement was promulgated effective March 1, 2014, but not implemented.

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:
The proposed action will make the redetermination eligibility process less burdensome for enrollees who participate in the EID program.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through December 15, 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?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- 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:
These regulations will simplify the redetermination process for enrollees who participate in the EID program and will have no economic impact.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
See response on E above.
- G. Small Business Worksheet:

Attached Document:

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DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.41 Employed Individuals with Disabilities

Authority: Health-General Article, §15-138, Annotated Code of Maryland

10.09.41.02 (4/11/14)

.02 Definitions.

- A.—B. (text unchanged)
- C. Terms Defined.
- (1)—(4) (text unchanged)
- (5) "Certification period" means a period of time of up to [6] 12 months, beginning on the first day of the month in which the Department receives the application, for which the EID applicant's or recipient's eligibility to receive Medical Assistance benefits is certified.

(6)—(32) (text unchanged)

(33) "Redetermination" means a determination by the Department, at least every [6] 12 months, regarding the continuing eligibility of a recipient, in accordance with the requirements of this chapter.

(34)—(36) (text unchanged)

.06 Time Standards.

A.—B. (text unchanged)

C. Time for Payment of Premium.

(1) (text unchanged)

(2) If a claim of hardship raised pursuant to Regulation .07C of this chapter is denied by the Department, the applicant or recipient to whom Regulation [.07A(2)].07C(3) of this chapter applies shall pay the premium required by Regulation .07A of this chapter within 10 days of the date of the Department's notice pursuant to Regulation .07C(2) of this chapter.

D.—G. (text unchanged)

.07 Premium.

A. Submission of Premium.

(1) Unless an exception under §A(2) of this regulation applies or a timely claim of hardship is raised pursuant to §C of this regulation, an applicant or recipient shall, as a condition of eligibility for the EID coverage group, pay the premium specified in §A(3) of this regulation[, subject to adjustment as required by §A(5) of this regulation, as applicable].

(2) (text unchanged)

(3) [Beginning October 1, 2008, through February 2014, an] An applicant or recipient whose assistance unit has income:

(a)—(c) (text unchanged)

[(4) Annual Premium Adjustment. Beginning March 1, 2014, and as of March 1 of each year thereafter, the Department shall recalculate the premium amounts set forth in §A(3) of this regulation and adjust them to reflect the federal poverty level then in effect.

(5) Adjusted premium amounts authorized by §A(4) of this regulation shall be based on 2 percent of the annual income for a household of two for an applicant or recipient subject to:

(a) §A(3)(a) of this regulation, at the federal poverty level then in effect;

(b) §A(3)(b) of this regulation, at 200 percent of the federal poverty level then in effect; or

(c) §A(3)(c) of this regulation, at 250 percent of the federal poverty level then in effect.]

[(6)] (4) (text unchanged)

[(7)] (5) An applicant or recipient to whom §A(3) of this regulation applies shall, within 30 days of the Department's request for payment pursuant to Regulation [§A(6)] §A(4) of this regulation:

(a) Pay the full premium due as specified in the request for payment issued pursuant to [§A(6)]§A(4) of this regulation; or

(b) (text unchanged)

[(8)] (6) (text unchanged)

B. Nonpayment of Premium.

(1) If an applicant who is required to pay a premium under §A(3) of this regulation, and is the subject of a [notice] *request for payment* issued by the Department pursuant to Regulation [.08B(3)] §A(4) of this regulation, does not pay the premium or submit a hardship claim within 30 days of the Department's notice, the Department shall:

(a)—(b) (text unchanged)

(2) If recipient who is required to pay a premium under §A(3) of this regulation, and is the subject of a [notice] *request for payment* issued by the Department pursuant to Regulation [.08B(3)] §A(4) of this regulation, does not pay the premium or submit a hardship claim within 30 days of the Department's notice, the Department shall:

(a) (text unchanged)

(b) Issue a termination notice as required by Regulation [.08C(1)] .08C(2) of this chapter; and

(c) (text unchanged)

(3) An applicant or recipient whose eligibility is denied or terminated due to failure to pay the premium as specified in [§A(6)] §A(4) of this regulation may not be reenrolled in the EID coverage group until the applicant or recipient pays all monies due to the Department in full.

C. Hardship.

(1) If the applicant or recipient suffers financial adversity or misfortune so severe that payment of the [enrollment fee] *premium* would compromise the applicant's or recipient's ability to obtain and provide basic food, shelter, and clothing for members of the assistance unit or other legal dependents of the applicant or recipient, the applicant or recipient may submit a claim of hardship, specifying the underlying circumstances, to the Department.

(2)—(3) (text unchanged)

.08 Determination, Notice, and Certification Period.

A.—B. (text unchanged)

C. Denial or Termination.

- (1) (text unchanged)
- (2) Recipient—Notice of Termination. If the Department finds that a recipient is no longer eligible for the EID coverage group, the Department shall issue to the recipient a written notice of termination that includes:
 - (a)—(b) (text unchanged)
 - (c) The regulation supporting the finding; *and*
 - [(d) A refund of any enrollment fee paid by the recipient; and]
 - [(e)] (d) (text unchanged)

D. Grounds for Department's Denial or Termination.

- (1) (text unchanged)
- (2) Grounds for denial or termination from the EID coverage group shall include that an applicant or recipient:
 - (a) (text unchanged)
 - (b) Did not submit, within the time standard specified in Regulation .06B of this chapter:
 - (i) (text unchanged)
 - (ii) All information and verifications requested by the Department pursuant to Regulation [.05A(3)—(5)] .05A(3)—(7) of this chapter, to determine the applicant's or recipient's eligibility for the EID coverage group;
 - (c) Did not cooperate with the Department's eligibility determination process as required by Regulation [.05E] .05A(9) of this chapter;
 - (d) Did not:
 - (i) Pay the [enrollment fee] *premium* required by Regulation .07A of this chapter; or
 - (ii) (text unchanged)
 - (e)—(f) (text unchanged)

E. Certification Period.

- (1)—(2) (text unchanged)
- (3) Unless the recipient is terminated before the end of the certification period due to a change in circumstances or other reason for ineligibility, a recipient's certification period ends, except as provided in §§D(2)(f) and E(4) of this regulation, on the last day of the current [6] 12-month eligibility period.
- (4) (text unchanged)

.09 Posteligibility Requirements.

A. Department's Responsibility. If it makes a determination as described in Regulation .08A of this chapter, the Department shall:

- (1) (text unchanged)
- (2) Provide to the applicant or recipient written notice of the findings, rights, and obligations as specified in [COMAR 10.09.24.12A] *COMAR 10.09.24.12A(2) and (4)* and Regulation .08B or C of this chapter.

B.—C. (text unchanged)

.12 Fraud, Liens, Recovery, and Reimbursement.

A.—I. (text unchanged)

J. Recipients. A recipient shall assist and cooperate with the Department's efforts to collect available health insurance benefits and other third party payments by:

- (1)—(2) (text unchanged)
- (3) Providing to the Department, [in an accident situation] *as set forth in §J(2) of this regulation*, the information required under such circumstances pursuant to [COMAR 10.09.24] *COMAR 10.09.24.12* and Regulation .09B(1)(d) of this chapter.

.13 Hearings.

A. An EID applicant or recipient shall have the hearing rights specified in [COMAR 10.09.24.13] *COMAR 10.01.04*, subject to the qualification set forth in §B of this regulation.

B. To apply the terms of [COMAR 10.09.24.13] *COMAR 10.01.04* to the hearing rights of an EID applicant or recipient, substitute "the Department" for references therein to the "local department of social services".

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene