

MARYLAND REGISTER

## Proposed Action on Regulations

### Comparison to Federal Standards Submission and Response

**Name:** Jennifer P Hine  
**Agency:** Department of Budget and Management  
**Address:** 301 W. Preston St., Rm 602  
**State:** MD  
**Zip:** 21201  
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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

**COMAR Codification:** 17.04.13.03, .03-1, .04, .06

**Corresponding Federal Standard:**

Patient Protection and Affordable Care Act of 2010, (26 USC § 4980(H) (Shared responsibility for employers regarding health coverage), 79 FR 8544 (implementing regulations)).

**Discussion/Justification:**

Aligning our benefit eligibility rules with this federal mandate. Making technical updates and corrections relating to expiring regulations.

**TO BE COMPLETED BY DBED**

- Agree

-Disagree

**Comments:**

I am not a subject matter expert in the State's benefit eligibility rules. However, I believe DBM is the subject matter expert in this circumstance and I trust their assertion that the proposal is not more restrictive or stringent than corresponding federal standards.

Name: Sandy Popp

Date: 10/20/2014

\_ -Submit to Governor's Office  
**Governor's Office Response**

**Comments:**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b> 10/21/2014	<b>TO BE COMPLETE D BY DSD</b>  Date Filed with Division of State Documents  Document Number  Date of Publication in MD Register

**Title 17**  
**DEPARTMENT OF BUDGET AND MANAGEMENT**

**Subtitle 04 PERSONNEL SERVICES AND BENEFITS**

**17.04.13 State Employees' Health Benefits**

Authority: State Personnel and Pensions Article, Title 2, Subtitle 5, Title 4, Subtitle 1, §4-106, and Title 8, Subtitle 1, Annotated Code of Maryland

**Notice of Proposed Action**

□

The Secretary of Budget and Management proposes to amend existing regulations .03, .03-1, .04 and .06 under COMAR 17.04.13 State Employees' Health Benefits.

**Statement of Purpose**

The purpose of this action is to amend the regulations in accordance with the federal Patient Protection and Affordable Care Act Play or Pay Mandate that requires employers with more than 50 employees to offer affordable coverage that meets the minimum value indicated by the law to all

**1. Desired date of publication in Maryland Register: 12/12/2014**

**2. COMAR Codification**

<b>Title</b>	<b>Subtitle</b>	<b>Chapter</b>	<b>Regulation</b>
17	04	13	03, .03-1, .04, .06

**3. Name of Promulgating Authority**

Department of Budget and Management

<b>4. Name of Regulations Coordinator</b>	<b>Telephone Number</b>
Jennifer P Hine	410-767-4718

**Mailing Address**

301 W. Preston St., Rm 602

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Baltimore	MD	21201

**Email**  
Jennifer.Hine@maryland.gov

**5. Name of Person to Call  
About this Document**  
Jennifer P. Hine

**Telephone  
No.**  
410 767-  
4718

**Email Address**  
jennifer.hine@maryland.gov

**6. Check applicable items:**

- New Regulations
- Amendments to Existing Regulations  
Date when existing text was downloaded  
from COMAR online: September 9, 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

employees working 30 or more  
hours per week or an average of  
130 hours per month beginning  
January 1, 2015.

**Comparison to Federal  
Standards**

There is a corresponding federal  
standard to this proposed action,  
but the proposed action is not more  
restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

This change will result in  
additional costs to the State  
Employee and Retiree Health and  
Welfare Benefits Program in the  
form of additional employer  
contributions (subsidy) for  
individuals now eligible for  
benefits subsidy. Subsidy dollars  
will be collected from applicable  
agencies in the same manner as  
current health benefits subsidies.

Revenue  
(R+/R-)

**II. Types**

**of Expenditure Magnitude  
Economic (E+/E-)  
Impact.**

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A. On issuing (E+) 8 Million  
agency:

NONE

**III. Assumptions.** (Identified by  
Impact Letter and Number from  
Section II.)

A(). Estimated cost of the 75%  
subsidy for medical and

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 Hisham Amin, Assistant Attorney General, (telephone #410 767-3891) on October 15, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

T. Eloise Foster

**Title**

Secretary

**Telephone No.**

410 260-7041

**Date**

October 15, 2014

prescription coverage for contractual employees.

**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 no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Anne Timmons, Director, Employee Benefits Division, Department of Budget and Management, 301 W. Preston Street, 5th Floor, Baltimore, MD 21201, or call 410 767-4710, or email to [anne.timmons@maryland.gov](mailto:anne.timmons@maryland.gov), or fax to 410 333-7122. Comments will be accepted through January 12, 2015. 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?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General funds (\$8M)

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:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

No impact; impact to State as an employer under federal healthcare reform law.

G. Small Business Worksheet:

## Attached Document:

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### **.03 Eligibility for Coverage and Subsidy.**

A. (text unchanged)

(1) Employees *whose coverage is required by law, full-time employees, and part-time employees as defined by State Personnel and Pensions §7-701* who are [in permanent positions and] regularly paid salary or wages through an official State payroll center, including but not limited to:

(a)-(b) (text unchanged)

(c) *The institutions of the University System of Maryland, including graduate assistants, and the Far East and European Divisions of the University of Maryland;*

(2)-(6) (text unchanged)

(a) (text unchanged)

(b) Notwithstanding any other provision in this regulation, a surviving spouse or surviving child must meet the requirements to be a dependent eligible for coverage as provided in §A([8] 9) of this regulation;

(7) Retired employees who began State service on or before June 30, 2011, or who began State service on or after July 1, 2011 and are retirees of the Judges' Retirement System, and, *in accordance with §§ A(7)(a) and (b) below*, who:

(a)-(b) (text unchanged)

(c) *Neither service as a faculty member, teacher, or staff member for a community college or a local board of education prior or subsequent to State service, nor membership in the Teachers' Pension or Retirement Systems, shall in itself disqualify a former State employee who is otherwise eligible under §§ A(7)(a) or (b).*

(8) Retired employees who began State service on or after July 1, 2011, and, *in accordance with §§ A(8)(a) and (b) below*, who:

(a)-(b) (text unchanged)

(c) *Neither service as a faculty member, teacher, or staff member for a community college or a local board of education prior or subsequent to State service, nor membership in the Teachers' Pension or Retirement Systems, shall in itself disqualify a former State employee who is otherwise eligible under §§ A(8)(a) or (b).*

(9) (text unchanged)

(a) A spouse of an employee or retired employee; or

(b) A dependent child of an employee or retired employee, as identified in this chapter[;].

[(c) Until December 31, 2014, the domestic partner of the employee or retired employee, as the term domestic partner, is defined in this chapter, if the domestic partner was enrolled on June 30, 2013. The domestic partner is eligible for coverage only in those benefits plans and options identified by the Secretary on an annual basis, which may include only:

(i) Health benefits plans and options that are both State self-funded and not subject to regulation;

(ii) Stand-alone dental or vision benefits plans which are not subject to Insurance Article, §15-403.2, Annotated Code of Maryland, and COMAR 31.10.35;

(iii) Life insurance; and

(iv) Personal, accidental death and dismemberment insurance; or

(d) Until December 31, 2014, the dependent child of a domestic partner, as the term, dependent child of a domestic partner, is defined in this chapter, if the domestic partner or the dependent child of the domestic partner was enrolled on June 30, 2013. The dependent child of a domestic partner is eligible for coverage only in those benefits plans and options identified by the Secretary on an annual basis, which may include only:

(i) Health benefits plans and options that are both State self-funded and not subject to regulation;

(ii) Stand-alone dental or vision benefits plans which are not subject to Insurance Article, §15-403.2, Annotated Code of Maryland, and COMAR 31.10.35;

(iii) Life insurance; and

(iv) Personal, accidental death and dismemberment insurance;]

(10) [Part-time e]Employees working less than 50 percent of a normal workweek and their designated beneficiaries, in accordance with Regulation .04B([2] 3) of this chapter; and

(11) Contractual employees[,] *regularly working at least 30 hours per week, or an average of 130 hours per month* [including those contractual employees as defined in COMAR 17.04.03.13 and similar contractual employees in State personnel systems other than the State Personnel Management System], in accordance with 26 USC § 4980(H) and Regulation .04B(2) of this chapter.

[B. Ineligible Persons. The following persons are ineligible for Program coverage:

(1) Temporary extra employees as described in COMAR 17.04.03.12;

(2) Emergency employees as described in State Personnel and Pensions Article, §2-509, Annotated Code of Maryland; and

(3) Dependents as provided in §C of this regulation.]

[C] B. Ineligible Dependents.

(1) Dependents of persons who are ineligible [in accordance with §B(1)—(3) of this regulation] are *likewise* ineligible for coverage.

(2)-(3) (text unchanged)

[D] C. Subsidy.

(1)-(3) (text unchanged)

(4) *Contractual employees regularly working more than 30 hours per week, or more than an average of 130 hours per month, shall be provided a State subsidy of 75% of the premium cost for medical and prescription drug coverage. A measurement period may be necessary to establish the employee's eligibility for the State subsidy.*

(5) *Employees working less than 50% of the workweek and contractual employees working less than 30 hours per week or 130 hours per month shall not be provided a State subsidy.*

#### 17.04.13.03-1

##### **.03-1 Satellite Organizations and Local Governments — Eligibility for Coverage and Subsidy.**

A. The employees of the following entities are eligible to participate in the Program upon the application of the entity[;], *provided that, at the discretion of the Secretary, such participation does not impede, undermine, or conflict with the Program's federal compliance obligations or governmental and cafeteria plan status:*

(1)-(2) (text unchanged)

B. Each entity identified in §A of this regulation shall permit the spouses and dependent children of its employees to be eligible for coverage but may elect[;] *whether and to what extent to provide a subsidy for the participation in the Program of its employees and their dependents.*

[(1) Whether and to what extent to provide a subsidy for the participation in the Program of its employees and their dependents; and

- (2) Whether the domestic partner of an entity's employee or the dependent children of a domestic partner of an entity's employee are eligible for coverage in the Program, as follows:
- (a) A domestic partner is eligible for dependent coverage only if the domestic partner was enrolled on June 30, 2013;
  - (b) A dependent child of a domestic partner is eligible for dependent coverage only if the domestic partner or dependent child of a domestic partner was enrolled on June 30, 2013; and
  - (c) Domestic partners and dependent children of a domestic partner are ineligible for dependent coverage after December 31, 2014.]

## 17.04.13.04

### **.04 Effective Dates for Eligible Persons.**

A. Eligibility. *Generally* [E]each employee is eligible for coverage on the first scheduled working day. Each retired employee is eligible for coverage on the first day of retirement or the first day of election in accordance with §B(1)(a) of this regulation. Dependents of covered employees or retired employees are eligible on the date the employee or retired employee becomes eligible. Later acquired dependents become eligible on the date they become dependents of a covered employee or retired employee. *Eligibility for the State subsidy may come at a date separate from and subsequent to eligibility for coverage in general.*

#### B. Coverage.

(1) (text unchanged)

(a)-(b) (text unchanged)

(c) A newborn child may be covered from birth when maternity benefits are provided [to any female member]. However, the employee shall make application within 60 days from the date of the child's birth to convert to an appropriate membership to provide coverage for the newborn child. Coverage for the newborn shall be effective [for the coverage period applicable to the health insurance deduction made following] *on the date of birth provided the employee[s] [submittal] submits [of] the completed application and payroll deduction authorization form[.] within 60 days of the date of birth.* However, if, *due to an untimely application* retroactive coverage is necessary back to the date of birth, the employee shall contact the Health Benefits Administrator[.] *and shall submit any necessary payment with the completed application and payroll deduction authorization form.* Coverage may be purchased pre-tax on a prospective basis only in accordance with the State cafeteria plan adopted by the Department of Budget and Management in accordance with federal tax law.

(2) [Part-Time and] Contractual Employees [Listed in Regulation .03A(11) of this chapter.] *Working More than 30 Hours per Week or 130 Hours per Month.*

[a] A part-time or contractual employee may apply for coverage for the employee and eligible dependents within 60 days of employment by submitting to the appointing authority an application for the coverage desired, or shall wait for the annual open enrollment period. The part-time or contractual employee shall pay the total cost of the premium in accordance with the direct billing procedures of the Department of Budget and Management, and may not receive a State subsidy. Coverage shall be effective the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment.

(b) A part-time or contractual employee may obtain coverage for later acquired or newly eligible dependents by submitting to the appointing authority an application for the coverage desired within 60 days of the qualifying event, or shall wait for the annual open enrollment period. Coverage for that dependent shall be the date of the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment.]

*(a) An eligible contractual employee working more than 30 hours per week, or an average of 130 hours per month, as determined after any necessary measurement period, shall apply for coverage for himself and eligible dependents within 60 days of eligibility by submitting to the appointing authority an application for the coverage desired, or shall wait for the annual open enrollment period unless otherwise indicated in §C of this regulation. The eligible contractual employee working more than 30 hours per week, or an average of 130 hours per month, shall be provided a State subsidy equal to 75% of the premium for elected medical and prescription drug coverage. The employee shall pay 25% of the total cost of the premium in accordance with the direct billing procedures of the Department of Budget and Management. For all other coverage elected, the employee shall pay the total cost of the premium in accordance with the direct billing procedures of the Department of Budget and Management, and may not receive a State subsidy. Coverage shall be effective the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment.*

*(b) Coverage for later acquired or newly eligible dependents of a covered contractual employee is obtained by submitting to the appointing authority an application within 60 days of the change in status. Coverage for that dependent shall be effective the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment. Coverage on a post-tax basis may be purchased retroactively to the date the contractual employee's dependent or dependents became eligible for coverage.*

(c) A newborn child may be covered from birth when maternity benefits are provided. However, the employee shall make application within 60 days from the date of the child's birth to convert to an appropriate membership to provide coverage for the newborn child. Coverage for the newborn shall be effective [for the date of the next available monthly billing cycle for premium payment following] *as of the child's date of birth provided the [submittal of] employee submits the completed application and makes any necessary payments within 60 days of the date of birth.* [to the appointing authority and receipt of payment.] However, if retroactive coverage is necessary *due to an untimely application*, the [part-time or] contractual employee shall contact the Health Benefits Administrator[.] *and make any necessary payments to effect such retroactive coverage.*

(3) *Permanent Employees Working Less than 50% of the Workweek and Contractual Employees Working Less than 30 Hours per Week..*

(a) *An eligible permanent employee working less than 50% of the workweek or contractual employee working less than 30 hours per week or 130 hours per month may apply for coverage for the employee and eligible dependents within 60 days of employment by submitting to the appointing authority an application for the coverage desired, or shall wait for the annual open enrollment period. Such employees shall pay the total cost of the premium in accordance with the direct billing procedures of the Department of Budget and Management, and may not receive a State subsidy. Coverage shall be effective the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment.*

(b) *An eligible permanent employee working less than 50% of the workweek or contractual employee working less than 30 hours per week or 130 hours per month may obtain coverage for later acquired or newly eligible dependents by submitting to the appointing authority an application for the coverage desired within 60 days of the qualifying event, or shall wait for the annual open enrollment period. Coverage for that dependent shall be the date of the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority and receipt of payment.*

(c) *A newborn child may be covered from birth when maternity benefits are provided. However, the employee shall make application within 60 days from the date of the child's birth to convert to an appropriate membership to provide coverage for the newborn child. Coverage for the newborn shall be effective as of the date of birth provided the employee submits a completed application and makes any necessary payment within 60 days of the date of birth. However, if retroactive coverage is necessary due to an untimely application, the part-time or contractual employee shall contact the Health Benefits Administrator and make any necessary payments to effect such retroactive coverage.*

C. (text unchanged)

(1)-(2) (text unchanged)

## 17.04.13.06

### **[.06 Conversion or Continuation of Health Insurance Benefits.**

A. Conversion or continuation of health insurance benefits for eligible persons listed in Regulation .03A of this chapter shall be in accordance with COMAR 31.11.01 and all applicable federal laws.

B. When conversion or continuation of health insurance benefits for a domestic partner of an employee or retired employee or dependent child of a domestic partner of an employee or retired employee, who loses coverage under circumstances where a spouse or dependent child of an employee or retired employee would be eligible for conversion or continuation coverage under §A of this regulation, is not mandated by applicable federal or State law, parallel continuation coverage shall be made available on similar terms and conditions to such a domestic partner of an employee or retired employee, or dependent child of a domestic partner of an employee or retired employee.]