

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	10/29/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

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

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

12 11 09 01 - .05

**3. Name of Promulgating Authority**

Department of Public Safety and Correctional Services

**4. Name of Regulations Coordinator**

George H Hall

**Telephone Number**

410 339 5073

**Mailing Address**

300 E Joppa Road Suite 400B

**City State Zip Code**

Towson MD 21286

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ghhall@dpscs.state.md.us

**5. Name of Person to Call About this Document**

George Hall

**Telephone No.**

410 339 5000

**Email Address**

**6. Check applicable items:**

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: February 28, 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 Stuart M. Nathan, Assistant Attorney General, (telephone #410 585 3070) on October 20, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Gregg L. Hershberger

**Title**

Secretary

**Telephone No.**

410 339 5000

**Date**

October 24, 2014

**Title 12**  
**DEPARTMENT OF PUBLIC SAFETY AND**  
**CORRECTIONAL SERVICES**

**Subtitle 11 OFFICE OF THE SECRETARY**

**12.11.09 Inmate Welfare Fund**

Authority: Correctional Services Article, §§2-109 and 10-502, Annotated Code of  
Maryland

**Notice of Proposed Action**

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The Secretary of Public Safety and Correctional Services proposes to amend Regulations .01, — .04 and add Regulation .05 under COMAR 12.11.09 — Inmate Welfare Fund.

**Statement of Purpose**

The purpose of this action is to update existing terminology to reflect current practices and add provisions for an internal Inmate Welfare Fund Board with oversight for management of inmate welfare funds.

**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 no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to George Hall, Director - Policy and Regulations, Department of Public Safety and Correctional Services, 300 E. Joppa Rd Suite 1000 Towson, MD 21286, or call 410 339 5000, or email to , or fax to . Comments will be accepted through 30 days after publishing. 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

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 are internal procedures intended to facilitate management of the existing process and do not require additional resources to implement or maintain.

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

These regulations affect the Department of Public Safety and Correctional Services only.

G. Small Business Worksheet:

Attached Document:

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## **Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

### **Subtitle 11 OFFICE OF THE SECRETARY**

#### **Chapter 09 Inmate Welfare Fund**

Authority: Correctional Services Article, §§2-109 and 10-502, Annotated Code of Maryland

#### **.01 Purpose.**

These regulations provide policy and procedures for administration of inmate welfare funds at Department of Public Safety and Correctional Services (*Department*) correctional *and detention* facilities.

#### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) Commissary.

(a) "Commissary" means a *contractual* service operation from which an inmate may purchase food, health items, and other sundry merchandise to enhance the inmate's health and welfare needs.

(b) (text unchanged)

[(2) "Commissioner" means the Commissioner of Correction and the Commissioner of Pretrial Detention and Services.

(3) "Director" means the Director of the Patuxent Institution.]

(2) *Inmate.*

(a) "*Inmate*" has the meaning stated in *Correctional Services Article, §1-101, Annotated Code of Maryland.*

(b) "*Inmate*" includes an individual referred to as a:

(i) *Resident; or*

(ii) *Detainee.*

[(4)] — [(5)] (3)— (4) (text unchanged)

[(6)] (5) "*Inmate welfare fund*" means a fund used to benefit the general inmate population that is derived primarily from [profits] *commissions* from [the sale of goods through the commissary operation and such commission generating operations as vending machines and telephone usage.] *vendors who provide:*

(a) *Commissary services;*

(b) *Inmate telephone services; and*

(c) *Vending machines services.*

[(7)] "*Warden*" means the warden of a Division of Correction institution, warden of the Baltimore City Detention Center, or warden of the Patuxent Institution or designee.]

(6) "*Managing official*" has the meaning stated in *Correctional Services Article, §1-101, Annotated Code of Maryland.*

[(8)] (7) (text unchanged)

### **.03 Funding Administration.**

A. Each *Department* correctional or detention facility shall establish and maintain an inmate welfare fund according to this chapter.

[B. Before November 1 of each fiscal year, the Director of the Division of Financial Services along with each Commissioner and the Director shall:

(1) Review existing and proposed cost allocations for inmate-related programs; and

(2) Transfer allocations from the respective institutional inmate welfare funds to identified inmate-related programs.]

*B. The Inmate Welfare Fund Board (Board) shall oversee inmate welfare fund administrative activities.*

*C. Board membership shall consist of the following Department personnel:*

(1) *Secretary (Chairman);*

(2) *Deputy Secretary for Operations (DSO);*

(3) *Deputy Secretary for Administration (DSA);*

(4) *Chief of Staff (COS);*

(5) *Executive Director — North Region;*

(6) *Executive Director — Central Region;*

(7) *Executive Director — South Region;*

(8) *Director of Financial Services;*

(9) *Director of Administrative Services for Operations.*

*D. The Board, at a minimum, shall:*

(1) *Review existing and proposed cost allocations for Department inmate-related programs to determine the use of inmate welfare funds in the subsequent budget year;*

(2) *Identify and quantify priority projects to be supported with inmate welfare funding;*

(3) *Identify the type of expenditures that require Board approval;*

(4) *Identify the type of expenditures and the dollar amount delegated to Operations that may be disbursed without Board approval;*

(5) *Determine the amount each Department correctional and detention facility's inmate welfare fund is obligated to contribute to Department inmate-related programs; and*

(6) *Prepare a year-end report that identifies all inmate welfare fund revenues and expenditures by type and dollar amount for the previous fiscal year.*

*E. The Board, at a minimum, shall meet in January and June of each year.*

*F. The Deputy Secretary for Administration shall provide administrative support staff for the Board who shall:*

(1) *Schedule meetings;*

(2) *Document Board discussions and decisions;*

(3) *File and maintain records of discussions and decisions; and*

(4) *Perform other duties related to Board activities.*

### **.04 Inmate Welfare Fund Expenditures.**

A. [Inmate goods and services shall include all of] *Inmate welfare funds are reserved for the following Department programs and services:*

(1) [Medical supplies and services as authorized by the Commissioner or the Director] *Chaplaincy;*

[(2)] *Commissary goods for resale;*

[(3)] (2) [Athletic and recreational services, supplies, and equipment] *Inmate legal services included in the Office of the Secretary budget in Program 01;*

[(4)] (3) [Educational services, material, supplies, and equipment] *Education and library services provided by the Department of Labor, Licensing and Regulation;*

[(5)] (4) [Entertainment expenditures, including movie rentals, newspapers, and books] *Inmate Grievance Office;*

[(6)] (5) [Repair and replacement of property] *Positions that supervise inmate education and chaplaincy programs included in the Deputy Secretary for Operations budget program 03; and*

[(7)](6) [Indigent inmate welfare packages; and] *Priority inmate-related projects.*

[(8) Other goods and services as approved by the Commissioner or the Director for their respective facilities].

B. Each [warden or facility administrator of this regulation] managing *official* [an inmate welfare fund] shall have the authority to approve inmate welfare fund expenditures [for the categories in §A(2)—(7)] *authorized by the Board under Regulation .03 of this chapter*, if [the correctional facility's]:

(1) [Working capital requirement, as defined under Regulation.02B(8) of this chapter, is maintained] *The facility maintains adequate inmate welfare funds to make the required contribution to Department-related programs listed under §A of this regulation before the end of each fiscal year; and*

(2) [Allocation, determined under Regulation.03B of this chapter, to the Department's inmate-related programs is made by the end of the fiscal year] *The available balance of the facility inmate welfare fund does not drop below zero after the expenditure is made.*

C. Before [using] *a managing official uses* inmate welfare funds to procure goods or services [not included in §B of this regulation] *that have not been authorized by the Board*[:

(1) A warden], *the managing official* shall obtain authorization from the [warden's Commissioner or Director] Board[: or

(2) A facility administrator shall obtain authorization from the facility administrator's warden who shall receive authorization required under §C(1) of this regulation].

D. A request *to the Board* under §C of this regulation shall include:

(1) — (text unchanged)

(3) Justification for the expenditure; *and*

(4) The current inmate welfare fund account balance[: and

(5) The average working capital requirement for the institution].

E. A copy of the Board's approval *of a request submitted* under §C of this regulation shall be attached to the related purchase order.

[F. Emergency Procurement Exception.

In an emergency, a warden may use inmate welfare funds to obtain goods or services necessary to address the emergency:

(1) As provided under COMAR 21.05.06.02; and

(2) Without meeting the requirements of §§B and C of this regulation.]

#### **.05 Interest Earned on Inmate Welfare Funds.**

*If applicable, interest earned on inmate welfare fund money, except for operating expenses, shall be deposited in the inmate welfare fund.*