

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Budget and Management
(DLS Control No. 15-041)**

Overview and Legal and Fiscal Impact

This regulation (1) clarifies the scope of the Wellness Program as part of the State Employee and Retiree Health and Welfare Benefits Program; (2) establishes procedures for requesting a waiver from participating in the Wellness Program or a reasonable alternative or exemption from certain requirements of the Wellness Program; and (3) establishes the procedure for the Department of Budget and Management to evaluate these requests and issue determinations.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Budget and Management:

Personnel Services and Benefits: State Employees' Health Benefits: COMAR
17.04.13.10

Legal Analysis

Background

Under § 2-503 of the State Personnel and Pensions Article, the Secretary is required to adopt regulations for the administration of the State Employee and Retiree Health and Welfare Benefits Program. Beginning in 2015, the health plans offered under the Program include a Wellness Program as described in the *Guide to Your Health Benefits* issued by the department for each plan year.

Summary of Regulation

The regulation clarifies who the Wellness Program under the State Employee and Retiree Health and Welfare Benefits Program applies to, including employees, non-Medicare-eligible retirees, and non-Medicare-eligible enrolled spouses, with a few exceptions. The Wellness Program does not apply to enrolled children regardless of age. The regulation provides that each individual subject to the Wellness Program will have the opportunity to qualify for rewards at least once each year. Rewards may be a waiver of all or part of a deductible, copayment, or coinsurance or the avoidance of a penalty.

The regulation specifies the grounds under which an individual may request a waiver from participating in the Wellness Program as a whole or from participating in one or more of the healthy activity requirements under the Wellness Program. An individual who obtains a waiver will not qualify for any rewards and will not be subject to a premium surcharge or other financial or nonfinancial disincentive.

The regulation allows for a reasonable alternative or exemption from the healthy activities requirements or other requirement for obtaining a reward under the Wellness Program for individuals who qualify. The regulation authorizes the Director of the Wellness Program to request verification that a health factor makes it unreasonably difficult for the individual to satisfy, or medically advisable for the individual to attempt to satisfy, the requirements of the Wellness Program. The regulation further provides that if the individual's personal physician states that a healthy activity requirement is not medically appropriate for that individual, the Director is to permit a reasonable alternative.

The regulation provides procedures for submitting and evaluating requests for waivers or reasonable alternatives. Requests for waivers or reasonable alternatives must meet certain criteria and be supported by certain documentation. The regulation requires that documentation submitted with a request for a waiver be treated as confidential and disclosed only as permitted by applicable law and only to those individuals who need to know its contents as part of the review, evaluation, and approval process.

The regulation authorizes the Director to designate two or more employees as members of a waiver committee and provides for the procedures to be followed by the Director and the waiver committee to approve or deny requests. The Director or a designee is to issue a written determination of each request as soon as practicable. An individual may request reconsideration of the determination as provided in the regulation.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites the following provision of the State Personnel and Pensions Article as authority for the regulation: Title 2, Subtitle 5; Title 4, Subtitle 1; § 4-106; and Title 8, Subtitle 1. Title 2, Subtitle 5 concerns the State Employee and Retiree Health and Welfare Benefits Program, generally. More specifically, § 2-503 requires the Secretary of Budget and Management to adopt regulations for the administration of the program and ensure that the program complies with all federal and State laws governing employee benefit plans. Title 4, Subtitle 1 concerns personnel management, generally. Section 4-106 authorizes the Secretary to adopt regulations, guidelines, or policies to carry out provision of Division I of the State Personnel and Pensions Article. Title 8, Subtitle 1 concerns the Standard Pay and Executive Pay Plans, generally. Section 8-103 requires the Secretary to adopt regulations to carry out the subtitle.

The cited authority is correct and complete. The regulation complies 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 regulation clarifies the scope of the Wellness Program within the State Employee and Retiree Health and Welfare Benefits Program (the State plan), specifies the procedure for applying for a waiver from the program as a whole or from one or more of the healthy activities requirements under the program, specifies the provision of reasonable alternatives to the healthy activities requirements, and establishes the process for evaluating and granting waivers and reasonable alternatives. The department advises that the regulation has no impact on State or local governments. 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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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