

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	03/30/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/15/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

17 04 13 10

3. Name of Promulgating Authority

Department of Budget and Management

4. Name of Regulations Coordinator

Jennifer P Hine

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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: .

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 L. Kristine Hoffman, Assistant Attorney General, (telephone #410 767-4722) on March 30, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

David R. Brinkley

Title

Secretary

Telephone No.

410 260-7041

Date

March 30, 2015

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

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The Secretary of Budget and Management proposes to adopt new regulation .10 under COMAR 17.04.13 State Employees' Health Benefits.

Statement of Purpose

The purpose of this action is to clarify the scope of the Wellness Program, to establish the procedures for requesting a waiver from participating in the Wellness Program or requesting a reasonable alternative to or exemption from certain requirements of the Wellness Program, and to establish the procedure for the Department to evaluate requests and issue determinations.

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 Anne Timmons, Director, Employees' 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, or fax to 410-333-7122. Comments will be accepted through June 1, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

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:

Not applicable, no budgetary impact.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These regulations illustrate policy and procedure and have no budgetary 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.

No impact; regulations apply to State Employee and Retiree Health and Welfare Benefits Program only.

G. Small Business Worksheet:

Attached Document:

17.04.13

10. Wellness Program

A. Definitions. - In this regulation, the following terms have the meanings indicated:

(1) "Conscientious, religious or cultural objection" means a statement that the individual holds sincere beliefs or practices of a religious, moral, cultural or ethical nature that prohibit the individual from participating in one or more of the healthy activities requirements or in the Wellness Program as a whole.

(2) "Department" means the Department of Budget and Management.

(3) "Director" means the individual appointed to manage the Employee Benefits Division or unit of the Department with primary responsibility of managing the Program.

(4) "Healthy activities requirements" means those activities that must be completed in order for an individual to obtain the full rewards available under the Wellness Program, unless a reasonable alternative is identified by the individual's personal physician and submitted to the Director, or a waiver is granted by the Director.

(5) "Reasonable alternative" means an activity that may be substituted for a healthy activity requirement and that may provide an individual with another method of qualifying for the opportunity to earn the full rewards available under the Wellness Program.

(6) "Reward" means:

(a) obtaining an incentive, such as a waiver of all or part of a cost-sharing mechanism, which may include deductibles, copayments or coinsurance; and

(b) avoidance of a penalty, such as the absence of a premium surcharge or other financial or nonfinancial disincentive.

(7) "Waiver" means a determination by the Director to exempt an individual from one or more of the healthy activities requirements or other applicable standards for obtaining a reward.

(8) "Wellness Program" means the program within the State Employee and Retiree Health and Welfare Benefits Program and described in the Guide to Your Health Benefits provided by the Department for each plan year.

B. Scope of the Wellness Program.

(1) The Wellness Program applies to employees, non-Medicare-eligible retirees and non-Medicare-eligible enrolled spouses, subject to the following:

(a) If the retiree is Medicare-eligible, but the spouse is not, the spouse is exempt from the wellness requirements.

(b) The Wellness Program does not apply to retirees and retirees' spouses for whom Medicare is primary.

(2) The Wellness Program does not apply to enrolled children regardless of age.

(3) Each individual to whom the Wellness Program applies will have the opportunity to qualify for the rewards at least once per year.

C. Waivers.

(1) The Wellness Program includes the opportunity to request a waiver from participating in the Wellness Program as a whole or from participating in one or more of the healthy activities requirements. A waiver is available as follows:

(a) On the basis of conscientious, religious or cultural objection, or

(b) On the ground that the individual can provide reasonable support demonstrating that the healthy activities requirements are detrimental to or cannot improve the individual's health.

(2) An individual who obtains a waiver from participating in the Wellness Program will not qualify for incentive-based rewards and will not be subject to a premium surcharge or other financial or nonfinancial disincentive.

D. Reasonable Alternatives.

(1) The Wellness Program will allow a reasonable alternative to or exemption from the healthy activities requirement or otherwise applicable standard for obtaining the reward for:

(a) any individual for whom, for that period, it is unreasonably difficult due to a medical condition to satisfy the healthy activities requirement or otherwise applicable standard; and

(b) any individual for whom, for that period, it is medically inadvisable to attempt to satisfy the healthy activities requirement or otherwise applicable standard. For these persons, a reasonable alternative determined by the individual's personal physician will be permitted upon the individual's request, or the required healthy activity or other condition for obtaining the reward will be waived.

(2) The Director may request verification, in the form of a signed and dated statement from the individual's personal physician, that a health factor makes it unreasonably difficult for the individual to satisfy, or medically inadvisable for the individual to attempt to satisfy the healthy activities requirement or otherwise applicable standard in an activity-only wellness program.

(3) If the individual's personal physician states that a healthy activity requirement is not medically appropriate for that individual, the Director will permit a reasonable alternative that accommodates the recommendations of the individual's personal physician with regard to medical appropriateness.

E. Process for Evaluating Requests for Waivers and Reasonable Alternatives

(1) Applications.

(a) A request for a waiver or reasonable alternative shall be submitted in writing to the Employee Benefits Division, and must be signed by the individual who is seeking the waiver or reasonable alternative.

(b) A request for a waiver based on conscientious, religious or cultural objection shall include a statement that articulates the sincerely held belief(s) or practice(s) of a religious, moral, cultural or ethical nature that prohibit the requestor from participating in the healthy activities requirement(s), and an explanation of how the belief(s) or practice(s) prohibit such participation.

(c) A request for a waiver asserting that the healthy activities are detrimental to or cannot help the individual's health shall include documentation that supports the stated basis for the request.

(d) A request for reasonable alternative to the healthy activities requirements may include documentation that supports the stated basis for the request. Where an individual provides credible support that it is unreasonably difficult due to a medical condition to satisfy the healthy activities requirements or otherwise applicable standard or that it is medically inadvisable to attempt to satisfy the healthy activities requirements or otherwise applicable standard, a reasonable alternative will be permitted, or the required healthy activity or other condition for obtaining the reward will be waived.

(e) A physician recommendation for a reasonable alternative or physician statement in support of a request for waiver or reasonable alternative must be on official letterhead, signed and dated, in order to be considered.

(f) All documentation submitted with a request for waiver shall be treated as confidential and shall be 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.

(2) Committee to Review Requests for Waivers and Reasonable Alternatives

(a) The Director may designate two or more employees as members of a Waiver Committee consistent with the specifications of this regulation, to review and evaluate requests. At least one employee member shall be from the Employee Benefits Division of the Department Office of Personnel Services and Benefits.

(b) For each request, the Waiver Committee shall make a recommendation to the Director or designee to grant or deny the request, or to request additional information from the requestor.

(c) The Director or designee has discretion to accept or reject the recommendation, and may request additional information from the Waiver Committee or from the requestor.

F. Determinations by the Director

(1) The Director or designee shall issue a written determination approving or denying the request as soon as practicable. Approval of a request for waiver or reasonable alternative is discretionary, subject only to abuse of that discretion, and denial may be based on any legally permissible reason.

(a) A determination approving a request for a waiver shall state the healthy activities to which it applies.

(b) A determination authorizing a reasonable alternative shall describe the reasonable alternative.

(c) A determination denying a request shall include instructions for requesting reconsideration.

(2) An individual may request reconsideration of the determination.

(a) A request for reconsideration must be submitted to the Director within 10 days of receipt of the determination.

(b) A request for reconsideration shall state the reasons the individual believes the determination should be reconsidered and may be accompanied by supporting documentation.

(c) The Director or designee shall issue a response to the request for reconsideration in writing within 30 calendar days of receipt of the request.