

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/25/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/7/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

10 09 23 04

10 09 28 01-.11

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

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5. Name of Person to Call About this Document

Michael Cimmino

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 4, 2015.

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 June 15, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Va. T. Mitchell

Title

Secretary

Telephone No.

410-767-6500

Date

June 24, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.23 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.28 Residential Rehabilitation for Children in Certain Out-of-Home Placements

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to :

- (1) Amend Regulation .04 under COMAR 10.09.23.04 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services; and
- (2) Repeal in their entirety Regulations .01—.11 under COMAR 10.09.28 Residential Rehabilitation for Children in Certain Out-of-Home Placements.

Statement of Purpose

The purpose of this action is to repeal residential rehabilitation services for children in certain out-of-home placements from regulations in order to align with the Medicaid State Plan. As part of the follow-up from a federal audit, Maryland agreed to remove the bundled rate for these services effective July 1, 2015. Providers will continue to be paid for services through the Department of Human Resources (DHR) and the Department of Juvenile Services (DJS).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

DHMH is no longer able to reimburse residential rehabilitation as a Medicaid covered service. The approximate annual federal Medicaid reimbursement for residential rehabilitation is \$23,000,000, therefore, removing this as a covered service will save

Medicaid \$23,000,000 in federal funds. However, DHR and DJS will continue to pay providers the same rate. This will require DSS and DJS will have to assume Medicaid's previous financial contribution, approximately \$23,000,000.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E-)	\$23,000,000
B. On other State agencies: DSS & DJS	(E+)	\$23,000,000
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. Medicaid will no longer contribute to the residential rehabilitation program. CMS contributes approximately \$23,000,000 to the program. Therefore, it is assumed that when Medicaid removes the service, the federal Medicaid program will save \$23,000,000.

B. DJS and DSS must assume the approximate \$23,000,000 that Medicaid currently contributes to the program. DJS and DSS will continue to pay providers the same rate, and will have to fund the program without Medicaid's contribution. Therefore, it is assumed that DJS and DSS will increase expenditures by \$23,000,000.

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 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 September 7, 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:

By removing residential rehabilitation for treatment foster care as a Medicaid service, the state will no longer receive federal matching funds of approximately \$23 million. As such, the State will have to fund the program with state and other federal dollars.

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.

There is no impact because DSS & DJS will maintain current rates regardless of the loss of Medicaid federal match funding.

G. Small Business Worksheet:

Attached Document:

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10.09.23 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

10.09.23.04 (5/4/2015)

.04 Covered Services.

A.—C. (text unchanged)

D. Additionally Medically Necessary Plan of Treatment Services.

(1) (text unchanged)

(2) EPSDT services covered under §D of this regulation include:

(a)—(h) (text unchanged)

10.09.28.05] [(i) Residential rehabilitation services for children in certain out-of-home placements, as specified in COMAR

[(j)] (i)—[(k)] (j) (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene