

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/15/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/21/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

17 04 15 02, .03, .04

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: June 19, 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 L. Kristine Hoffman, Assistant Attorney General, (telephone #410 767-4722) on July 15, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

David R. Brinkley

Title

Secretary

Date

July 15, 2015

Telephone No.

410 260-7041

Title 17
DEPARTMENT OF BUDGET AND MANAGEMENT

Subtitle 04 PERSONNEL SERVICES AND BENEFITS

17.04.15 Maryland Rx Program

Authority: State Personnel and Pensions Article, §§2-502.1 and 2-503, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Budget and Management proposes to amend existing regulations .02, .03 and .04 under COMAR 17.04.15 Maryland Rx Program.

Statement of Purpose

The purpose of this action is to amend eligibility criteria and member responsibilities to facilitate a lucrative Program that will attract an array of participants for the Maryland Rx Program.

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 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 16
- 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, Local governments, and Qualifying not-for-profit organizations.
- G. Small Business Worksheet:

Attached Document:

17.04.15.01

.01 Purpose.

(text unchanged)

.02 Definitions.

A.-B. (text unchanged)

(1)-(4) (text unchanged)

[(5) Member.]

[(a) (5) ["Member"] "*Participant*" means an employee or retired employee of a purchasing pool member who is eligible to elect coverage in a purchasing pool member's prescription benefits plan.

[(b) (6) "Member" may include benefits coverage for the [member] *participant* and for the [member's] *participant's* dependents, according to the eligibility requirements and plan design of the purchasing pool member.

[(6) "Participant" means an individual enrollee in a pharmacy or prescription benefits plan sponsored by a purchasing pool member.]

(7)-(10) (text unchanged)

.03 Eligibility and Application.

A.-B. (text unchanged)

C. The determination whether an entity is eligible to be a purchasing pool member shall be made by the [Director] *Pharmacy Benefits Manager (PBM)*. *The PBM will provide verifying documentation as requested by the Director for auditing purposes.*

D. An entity who has been determined by the [Director] *PBM* to be ineligible to be a purchasing pool member may appeal the decision to the [Secretary] *Director*. The appeal shall be submitted in writing to the [Secretary] *Director* within 30 calendar days of the date of the written denial from the [Director] *PBM*. The [Secretary's] *Director's* decision is final.

.04 Purchasing Pool Member Responsibilities.

A. (text unchanged)

(1) (text unchanged)

[(2) Permit the Department to have access to aggregate claims and utilization information, excluding any information that identifies individuals receiving prescription benefits, for purposes of Maryland Rx Program administration;]

[(3)] (2) Pay all the costs and fees, including but not limited to claims costs, administrative fees, and dispensing fees, associated with its own prescription benefits plan administered as part of the Maryland Rx Program;

[(4)] (3) Provide enrollment and eligibility data to the contractor as necessary to administer the pharmacy or prescription benefits plan administered as part of the Maryland Rx Program;

[(5)] (4) Negotiate the administrative services to be provided in administering the purchasing pool member's prescription drug plan and the administrative fees paid by the purchasing pool member for those services, the negotiations to be with the Department's contractor, agent, or representative identified by the Department for management and administration of the Maryland Rx Program;

[(6)] (5) Commit to participating in the Maryland Rx Program for a full 12 month plan year period at a time;

[(7) Disclose to the State upon leaving the Maryland Rx Program whether the entity continues with the Department's contractor, agent, or representative identified by the Department for management and administration of the Maryland Rx Program as the purchasing pool member's pharmacy or prescription benefits manager and to provide aggregate enrollment information to the State for administration of the Maryland Rx Program; and]

[(8)] (6) Acknowledge that the purchasing pool member remains the sponsor of the entity's own prescription benefits plan for its employees and is responsible for the administration, legality, and operation of that plan.

B. (text unchanged)

[(1) The plan design of the pharmacy or prescription benefits plan sponsored by a purchasing pool member and administered as part of the Maryland Rx Program shall include the following:

(a) Have the same formulary and preferred drug list as the State prescription drug benefits plan operated as part of the Program;

(b) Use the same pharmacy network as the State prescription drug benefits plan operated as part of the Program;

(c) Have the same number and structure for copayments as the State prescription benefits plan operated as part of the Program;

(d) Have at least a \$10 differential between brand formulary (for example, preferred) and brand nonformulary (for example, nonpreferred) drugs covered through the plan; and

(e) Coverage for up to a 45-day supply for a single copayment.]

(1) A purchasing pool member may choose a copayment structure for the plan design of the pharmacy or prescription benefits plan that it shall sponsor and administer as part of the Maryland Rx Program and is not limited by the copayment structure set by the State for the State's prescription benefits plan operated as part of the Program; and

(2) (text unchanged)

C.-D. (text unchanged)

.05 Services Available to Purchasing Pool Members.

A.-B. (text unchanged)

.06 Department Responsibilities.

A.-C. (text unchanged)