

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Higher Education Commission
(DLS Control No. 15-193)**

Overview and Legal and Fiscal Impact

The regulations implement the Maryland Dent-Care Loan Assistance Repayment Program.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Higher Education Commission:

Financial Aid: Maryland Dent-Care Loan Assistance Repayment Program:
COMAR 13B.08.09.01-.11

Legal Analysis

Background

In order to increase transparency with its scholarship and financial aid programs, the Office of Student Financial Assistance in the Maryland Higher Education Commission has initiated an ongoing process to convert all financial aid program guidelines into regulations by the end of 2015. The Maryland Dent-Care Loan Assistance Repayment Program provides financial assistance to dentists who agree to provide oral health services to a certain percentage of Maryland Medical Assistance Program recipients in order to increase access to oral health services for that population.

Summary of Regulations

The regulations implement the Maryland Dent-Care Loan Assistance Repayment Program and are consistent with the requirements contained in Title 18, Subtitle 24 of the Education Article, which establish and govern the Maryland Dent-Care Loan Assistance Repayment Program. An individual must meet certain criteria to be eligible to receive financial assistance under the Program, such as the individual must be licensed to practice in Maryland by the State Board of Dental Examiners and be employed as a full-time dentist. Additional eligibility requirements include that the individual must demonstrate financial need and must

agree that 30% of the patients treated by the dentist each year during which the individual receives an award will be Maryland Medical Assistance Program recipients.

Within the parameters of the statute, the regulations specify the application, selection, and awarding procedures for the program. The regulations also set forth the service obligation requirements for recipients, the process for verification of the service obligation, and the process and penalty for when a breach of a service obligation occurs. The regulations also specify the conditions under which a recipient's service obligation may be deferred, cancelled, suspended, or waived. Finally, the regulations specify the responsibilities of the Department of Health and Mental Hygiene, Office of Oral Health.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 11-105(u), 18-204(c), and Title 18, Subtitle 24 of the Education Article as statutory authority for the regulations. Section 11-105(u) gives the commission authority to adopt any rule or regulation necessary to carry out its powers and duties. Section 18-204(c) states that the Office of Student Financial Assistance may adopt any rule or regulation necessary to carry out its powers and duties, one of which is to administer student financial assistance programs such as the Maryland Dent-Care Loan Assistance Repayment Program. Sections 18-2401 through 18-2408 establish and govern the Maryland Dent-Care Loan Assistance Repayment Program. Terms are defined in § 18-2401 and the program is established in § 18-2402. Section 18-2403 requires the Office of Student Financial Assistance to administer the program with the assistance of the Department of Health and Mental Hygiene, Office of Oral Health and sets forth the responsibilities of the Office of Oral Health. Section 18-2404 specifies the qualifications for recipients. Sections 18-2405 and 18-2407 require the Office of Student Financial Assistance, in collaboration with the Office of Oral Health to adopt regulations to determine the number and amount of grants awarded under the program and to carry out the provisions of the statute. Section 18-2406 specifies the duration of a grant and § 18-2408 states that funding for the program shall be as provided in the State budget.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the commission agreed to make the following changes to the regulations:

- in Regulation .02A, adding a requirement for an individual to demonstrate financial need, in accordance with § 18-2404(2), and adding a requirement for an individual to agree to meet the service obligations;

- in Regulation .07B(1), specifying that a recipient shall provide dental care services to Maryland Medical Assistance Program recipients for one year for each year the individual receives an award, for consistency with the current program guidelines and administration of the program; and
- making stylistic, technical, and clarifying changes to the title of the Chapter and in Regulations .01C and D, .02C, .04A, .07A and B, .09F, and .10.

There are two additional noteworthy items. First, please note that the language in Regulation .07B(1) does not exactly match the language in § 18-2404(3) regarding the length of a recipient's service obligation. The regulation requires a recipient to provide dental care services to Maryland Medical Assistance Program recipients, which must be at least 30% of their practice, for one year for each year the individual receives an award. However, the statute specifies that an applicant must agree that at least 30% of the patients treated by the dentist each year for a three-year period will be Maryland Medical Assistance Program recipients. Staff for the commission stated that the current program guidelines use a ratio of one year of service for each year of loan assistance (up to a maximum of three years) rather than requiring a three-year commitment. Although the option to serve less than three years is offered, staff for the commission said that most recipients agree to serve a three-year service obligation.

Second, please note that the penalty for a breach of service obligations under Regulation .09B(2) is severe. In addition to the requirement for a recipient to repay the amount received under the program for any period of service obligation that is not met, the recipient also must pay \$7,500 for each month of obligated service that was not completed. For example, if a recipient pledges to serve for a three-year period but serves only for a two-year period, the individual would be subject to a penalty of \$90,000. Staff for the commission stated that breaches of service obligations under this program are extremely rare and the guidelines for the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants include the same penalty provisions.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations codify existing guidelines and practices (both written and unwritten) developed by the commission regarding the Maryland Dent-Care Loan Assistance Repayment Program (MDC-LARP) and have no impact on State or local governments. The Department of Legislative Services concurs to the extent that the regulations do not modify current practice. MDC-LARP was established by Chapters 536 and 537 of 2000 and has been modified over the years; however, no regulations regarding the loan repayment program have been promulgated.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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