Maryland General Assembly
Department of Legislative Services

Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-244)

Overview and Legal and Fiscal Impact

The regulation reduces the license fee required to be paid by residential service agencies to the Department of Health and Mental Hygiene.

The regulation presents no legal issues of concern.

General fund revenues decrease annually beginning in fiscal 2016 by about $165,000 in each of the first two years (although the impact may be mitigated in fiscal 2016, depending on the effective date of the regulation). Beginning in fiscal 2018, the impact of the fee reduction is more fully realized as revenues decrease by approximately $990,000 in that year, as discussed below. The impact over a three-year period is approximately a $1.3 million reduction in general fund revenues.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:
Hospitals: Residential Service Agencies: COMAR 10.07.05.04

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. This regulation is part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found here.

Summary of Regulation

The regulation reduces the nonrefundable three-year license fee required to be paid by residential service agencies to the department. The fee is reduced from $2,100 to $1,000.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites Title 19, Subtitle 4A of the Health – General Article as statutory authority for the regulation. This subtitle governs residential service agencies, defined as "any person that is engaged in a nongovernmental business of employing or contracting with individuals to provide home health care for compensation to an unrelated sick or disabled individual in the residence of that individual." More specifically, § 19-4A-03 requires the department to adopt regulations that set standards for the care, treatment, health, safety, welfare, and comfort of individuals who receive home health care services through a residential service agency. Regulations must provide for the licensing and renewal of licenses for a three-year term, as well as the charging of fees in a manner that will produce funds to at least cover the actual direct or indirect costs of the inspection and licensure of residential service agencies.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Correction

The department has amended the "Notice of Proposed Action" to correctly reference Regulation .04.

Fiscal Analysis

General fund revenues decrease annually beginning in fiscal 2016 by about $165,000 in each of the first two years (although the impact may be mitigated in fiscal 2016, depending on the effective date of the regulation). Beginning in fiscal 2018, the impact of the fee reduction is more fully realized as revenues decrease by approximately $990,000 in that year, as discussed below. The impact over a three-year period is approximately a $1.3 million reduction in general fund revenues.

Agency Estimate of Projected Fiscal Impact

The regulation reduces the initial and renewal licensure fees for residential service agencies from $2,100 to $1,000 for a three-year licensure period (a reduction of $1,100 for each residential service agency, equating to $366.66 on an annualized basis). The department advises that general fund revenues decrease by $407,367 annually, which reflects 1,111 licensees renewing on a rolling basis and a total reduction of $1.2 million over the three-year period. The Department of Legislative Services disagrees, as discussed below.

The department has since advised that approximately 1,200 residential service agencies operate in Maryland at any time and about 150 new applications for licensure (the midpoint between 120 and 180 new applications) are received annually, reflecting significant turnover. Through fiscal 2014, the licensure period for residential service agencies was one year. However, effective July 1, 2014, the licensure period was extended to three years, with a commensurate change in the licensure fee from $700 annually to $2,100 triennially. Thus, the majority of residential service agencies have already transitioned to a triennial licensure period, with their renewal not due until fiscal 2018 or 2019. Accordingly, general fund revenues decline by approximately $165,000 in fiscal 2016 and 2017, due to reduced licensure fees paid by about 150 new residential service agencies each year. Beginning in fiscal 2018, general fund revenues decrease by approximately $990,000, representing the remaining 75% of licensees renewing and accounting for replacement of some of them due to continued attrition. The impact over the three-year licensure period totals $1,320,000. A similar pattern likely continues in the out-years.

Impact on Budget

Although general fund revenues decrease beginning in fiscal 2016, there is no impact on the State operating or capital budget for the department.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

The department indicates that licensure fees may be reduced without impacting the ability of the Office of Health Care Quality to license and survey residential service agencies. No recent increase in the annual licensure fee was reported.

Contact Information

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