

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-282)**

Overview and Legal and Fiscal Impact

The regulation increases the maximum per diem rate paid by the Maryland Medical Assistance Program (Medicaid) for services in intermediate care facilities that provide substance use disorder treatment services.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Medical Care Programs: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: COMAR 10.09.23.07

Legal Analysis

Background

Medicaid covers Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services which consist of comprehensive and preventive health care and other diagnostic and treatment services that are necessary to correct or ameliorate defects and physical and mental illnesses in children younger than 21 years old. Covered EPSDT services include medically monitored intensive inpatient treatment services provided in an intermediate care facility.

A medically monitored intensive inpatient treatment program must offer a planned regimen of 24-hour professionally directed evaluation, care and treatment in an inpatient setting, meet certification requirements for detoxification services, and meet other requirements specified in regulations. Patients appropriate for this level of treatment must require 24-hour monitoring and care for subacute biomedical and emotional or behavioral conditions severe enough to warrant inpatient treatment and meet other placement criteria as specified by the American Society of Addiction Medicine.

Summary of Regulation

Under the existing regulation, the Department of Health and Mental Hygiene must pay an intermediate care facility that provides medically monitored intensive inpatient treatment services the provider's usual and customary charge or the provider's per diem costs for covered services, up to a maximum of \$350 per day. The regulation increases the maximum amount of this payment from \$350 per day to \$400 per day. The regulation also specifies that the maximum payment will be updated annually by the Centers for Medicare and Medicaid Service's published federal fiscal year market basket increase relating to hospitals excluded from the prospective payment system.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104(b), 15-103, and 15-105 of the Health – General Article as statutory authority for the regulation. Section 2-104(b) authorizes the Secretary of Health and Mental Hygiene to adopt regulations. Section 15-103(a) requires the Secretary to administer Medicaid. Section 15-105(b) requires the department to adopt regulations for the reimbursement of providers under Medicaid.

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

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation alters the per diem rate for Medicaid enrollees receiving services in an intermediate care facility for substance use disorder treatment. Covered EPSDT services include medically monitored intensive inpatient treatment services provided in an intermediate care facility. The department advises that the regulation has no fiscal impact on State or local governments as the rate change reflects the integration of two previously separate payments rather than an expansion of services or rate increase. The Department of Legislative Services concurs.

Impact on Budget

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

Agency Estimate of Projected Small Business Impact

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

Contact Information

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