

MARYLAND REGISTER

**Proposed Action on Regulations**

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

**1. Desired date of publication in Maryland Register: 11/13/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 09 20 01-.20

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator**

Michele Phinney

**Telephone Number**

410-767-5623

**Mailing Address**

201 W. Preston Street

**City State Zip Code**

Baltimore MD 21201

**Email**

michele.phinney@maryland.gov

**5. Name of Person to Call About this Document**

Emma Calvet

**Telephone No.**

410-767-0579

**Email Address**

emma.calvet@maryland.gov

**6. Check applicable items:**

- New Regulations

Amendments to Existing Regulations

    Date when existing text was downloaded from COMAR online: .

- 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 September 25, 2015. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Van T. Mitchell

**Title**

Secretary

**Telephone No.**

410-767-6500

**Date**

October 8, 2015

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.20 [Personal Care Services] Community Personal Assistance Services**

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 repeal existing Regulations .01—.11 and adopt new Regulations .01—.20 under COMAR 10.09.20 Community Personal Assistance Services. At this time, the Secretary of Health and Mental Hygiene is also withdrawing the repeal of existing Regulations .01—.11 and new Regulations .01—.19 under COMAR 10.09.20 Community Personal Assistance Services which were proposed in 42:2 Md.R. 182—188 (January 23, 2015).

**Statement of Purpose**

The purpose of this action is to modify Medicaid coverage of personal assistance services for individuals who do not require an institutional level of care, in order to cover and pay for services in a manner that is consistent with the Program's coverage of personal assistance services under COMAR 10.09.84 Community First Choice for individuals who require an institutional level of care.

**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 an impact on individuals with disabilities as follows: The proposed action affects providers of services to individuals with disabilities, but should have no significant impact on eligibility, access, or amount of services received by individuals.

**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](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through December 14, 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?

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:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The Program will no longer cover personal assistance services provided by participant-employed workers. Although the hourly reimbursement rate for agency providers of personal assistance services is higher, Department expenditures on behalf of participant-employed services for employer taxes, fiscal intermediary services, nurse monitoring, and case management all add up making costs about the same for either type of provider.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Although personal assistance services are provided by agencies, which are virtually all small businesses, the proposed action does not change conditions for participation or reimbursement for these providers.

G. Small Business Worksheet:

Attached Document:

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**Title 10**

# DEPARTMENT OF HEALTH AND MENTAL HYGIENE

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.20 [Personal Care Services] Community Personal Assistance Services

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

#### **.01 Definitions.**

*A. In this chapter, the following terms have the meanings indicated.*

*B. Terms Defined.*

- (1) "Activities of daily living" means tasks or activities that include, but are not limited to:
  - (a) Bathing and completing personal hygiene routines;
  - (b) Dressing and changing clothes;
  - (c) Eating;
  - (d) Mobility, including:
    - (i) Transferring from a bed, chair, or other structure;
    - (ii) Moving, turning, and positioning the body while in bed or in a wheelchair; and
    - (iii) Moving about indoors or outdoors; and
  - (e) Toileting, including:
    - (i) Bladder and bowel requirements;
    - (ii) Routines associated with the achievement or maintenance of continence; and
    - (iii) Incontinence care.
- (2) "Applicant" means an individual who is applying to receive services under this chapter.
- (3) "Assistance" means that another individual:
  - (a) Physically performs the activity for the participant;
  - (b) Physically helps the participant to perform the activity;
  - (c) Monitors the participant's performance of the activity in order to ensure health and safety; or
  - (d) Cues or encourages the participant to perform the activity.
- (4) "Certified medication technician (CMT)" means an individual, regardless of title, who:
  - (a) Completes a course in medication administration approved by the Maryland Board of Nursing;
  - (b) Is certified by the Maryland Board of Nursing under COMAR 10.39.04; and
  - (c) Performs medication administration tasks delegated by a nurse in accordance with COMAR 10.27.11.
- (5) "Certified nursing assistant (CNA)" means an individual, regardless of title, who:
  - (a) Is certified by the Maryland Board of Nursing under COMAR 10.39.01; and
  - (b) Routinely performs delegated nursing tasks delegated by a nurse in accordance with COMAR 10.27.11.
- (6) Community Setting.
  - (a) "Community setting" means the area, district, locality, neighborhood, or vicinity where a group of people live which provides participants with opportunities to:
    - (i) Seek employment and work in competitive integrated settings;
    - (ii) Engage in community life;
    - (iii) Control personal resources; and
    - (iv) Receive services.
  - (b) "Community setting" does not mean:
    - (i) Hospitals;
    - (ii) Nursing facilities;
    - (iii) Institutions for mental diseases;
    - (iv) Intermediate care facilities for individuals with intellectual disabilities;
    - (v) Community-based residential facilities for individuals with intellectual or developmental disabilities licensed under COMAR 10.22.02; or
    - (vi) Other institutions.
- (7) "Conflicts of interest" means real or seeming incompatibility between one's private interests and one's public or fiduciary duties.
- (8) "Delegated nursing functions" means nursing services provided to a participant by an enrolled personal assistance worker under the supervision of a:
  - (a) Registered nurse in accordance with COMAR 10.27.11; or
  - (b) Nurse practitioner in accordance with COMAR 10.27.07.
- (9) "Department" means the Maryland Department of Health and Mental Hygiene, or its authorized agent acting on behalf of the Department.
- (10) "Home" means the participant's place of residence in a community setting.

- (11) "Institution" means an establishment that furnishes, in single or multiple facilities, food, shelter, and some treatment or services to four or more individuals unrelated to the proprietor.
- (12) "Instrumental activities of daily living" means tasks or activities that include, but are not limited to:
- (a) Preparing meals;
  - (b) Performing light chores that are incidental to the personal assistance services provided to the participant;
  - (c) Shopping for groceries;
  - (d) Nutritional planning;
  - (e) Traveling as needed;
  - (f) Managing finances and handling money;
  - (g) Using the telephone or other appropriate means of communication;
  - (h) Reading; and
  - (i) Planning and making decisions.
- (13) "Medicaid" means the Program, administered by the State of Maryland under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for categorically eligible and medically needy participants.
- (14) "Medically necessary" means that the service or benefit is:
- (a) Directly related to diagnostic, preventive, curative, ameliorative, palliative, or rehabilitative treatment of an illness, injury, disability, or health condition;
  - (b) Consistent with current accepted standards of good medical practice;
  - (c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and
  - (d) Not primarily for the convenience of the participant, the participant's family, the provider, or the worker.
- (15) "Nurse" means an individual who is currently licensed to practice nursing in the State under COMAR 10.27.01.
- (16) "Nurse monitor" means a registered nurse who completes nursing assessments on participants and evaluates the delivery of care.
- (17) "Participant" means an individual who:
- (a) Has been determined to meet the qualifications for participation in Community Personal Assistance Services as specified in Regulation .03 of this chapter; and
  - (b) Is enrolled with the Department to receive Medicaid services.
- (18) "Personal assistance provider agency" means a public or private agency that:
- (a) Employs or contracts with personal assistance workers; and
  - (b) Has been enrolled by the Program as a provider of personal assistance services.
- (19) Personal Assistance Services.
- (a) "Personal assistance services" means assistance specific to the functional needs of a participant with a chronic illness, medical condition, or disability.
  - (b) "Personal assistance services" includes:
    - (i) Assistance with activities of daily living and instrumental activities of daily living; and
    - (ii) The performance of delegated nursing functions.
- (20) "Plan of service" means the support plan that:
- (a) Reflects what is important to the individual and what is important for his or her welfare; and
  - (b) Is developed with support from the supports planner with input from the individual and, when applicable, the individual's representative.
- (21) "Preauthorized" means approved by the Department or its designee before services can be rendered.
- (22) "Program" means the Maryland Medicaid Program.
- (23) "Provider" has the same meaning as defined in COMAR 10.09.36.
- (24) "Provider agreement" means a contract between the Department and the provider for rendering the services under this chapter.
- (25) "Recommended plan of care" means the recommended service plan developed by a nurse after a face-to-face evaluation of an applicant or participant.
- (26) "Representative" means:
- (a) The person authorized by the individual, on the form provided by the Department, to serve as a representative in connection with the provision of personal assistance services and supports; or
  - (b) The person who signs the plan of service on the participant's behalf.
- (27) "Supports planner" means an individual who coordinates services, including:
- (a) Supporting development of a plan of service;
  - (b) Interacting with third parties on behalf of, or in conjunction with, the applicant or participant; and
  - (c) Ensuring an accurate plan of service is provided to the Department.
- (28) "Telephonic timekeeping system" means a system developed by the Department for workers to time stamp the start and finish of services provided to a participant.
- (29) "Worker" means an individual who is employed by or contracts with a personal assistance provider agency to provide personal assistance services.

**.02 Requirements for Provider Licensing or Certification.**

The following health professionals providing services under this chapter shall be licensed to practice in the jurisdiction in which services are rendered:

- A. Registered nurses;
- B. Licensed practical nurses;
- C. Certified medication technicians; and
- D. Certified nursing assistants.

**.03 Participant Eligibility.**

A. To participate in the Program, the participant shall:

- (1) Be determined by the Department to need personal assistance services;
- (2) Be eligible for Medicaid under an eligibility coverage group described in COMAR 10.09.24, except for Regulations .02B(57), .03C, .03-1— .03-3, and .05-3; and

(3) Reside at home.

B. To be eligible for participation, a participant shall have an active plan of service. The plan of service shall:

(1) Be based on:

- (a) The evaluation and recommended plan of care; and
- (b) Consultation with the applicant or participant;

(2) Address the applicant's or participant's health and safety needs;

(3) Specify the services needed to safely support the participant in the community, including a plan for receiving personal assistance services in case of an emergency;

(4) Specify the provider agency providing personal assistance services; and

(5) Include the signature of the:

- (a) Participant or, when applicable, the individual's representative;
- (b) Supports planner; and
- (c) Personal assistance provider agency listed within the plan of service.

C. A participant's eligibility for services shall be re-evaluated by the Department every 12 months, or more frequently if needed due to a significant change in the participant's condition or needs.

D. Participant eligibility shall be terminated if the participant:

(1) No longer meets the required level of care;

(2) No longer resides at home;

(3) Is without personal assistance services for 30 consecutive calendar days;

(4) Voluntarily chooses, or the participant's legal representative chooses on the participant's behalf, to disenroll from the Program;

(5) Moves to another state;

(6) Is an inpatient for 30 consecutive days or more in an institutional setting, including but not limited to a chronic hospital or nursing facility; or

(7) Dies.

**.04 Conditions for Provider Participation — General Requirements.**

A. To participate as a provider of a service covered under this chapter, a provider:

(1) Shall meet all of the conditions for participation as a Medicaid provider as set forth in COMAR 10.09.36, except as otherwise specified in this chapter;

(2) Shall verify the qualifications of all individuals who render services on the provider's behalf and provide a copy of the current license or credentials on request;

(3) Shall implement the reporting and follow-up of incidents and complaints in accordance with the Department's established policy by:

(a) Reporting incidents and complaints within 24 hours of knowledge of the event;

(b) Submitting a written report within 7 calendar days on a form designated by the Department; and

(c) Notifying the local department of social services immediately if the provider has a reason to believe that the participant has been subjected to abuse, neglect, self-neglect, or exploitation, in accordance with COMAR 07.02.16;

(4) Shall agree to cooperate with required inspections, reviews, and audits by authorized governmental agents;

(5) Shall agree to provide services, and to subsequently bill the Department in accordance with the reimbursement methodology specified in this chapter, for only those services covered under this chapter which have been:

(a) Preauthorized in the participant's plan of service;

(b) Provided in a manner consistent with the participant's plan of service; and

(c) Identified in the provider agreement as within the scope of the provider's Medicaid participation;

(6) Shall agree to maintain and have available written documentation of services, including dates and hours of services provided to participants, for a period of 6 years from the date of service, in a manner approved by the Department;

(7) Shall agree not to suspend, terminate, increase, or reduce services for an individual without authorization from the Department and only after consultation and input from the participant or, when applicable, the participant's representative;

(8) Shall submit a transition plan to the case manager or supports planner and participant or, when applicable, the participant's representative when suspending or terminating services;

(9) Shall verify Medicaid eligibility at the beginning of each month that services will be rendered; and

(10) May not be a Medicaid provider or principal of a Medicaid provider that has overpayments that remain due to the Department.

B. To participate as a provider of a service covered under this chapter, a provider or its principals may not, within the past 24 months, have:

(1) Had a license or certificate suspended or revoked as a health care provider, health care facility, or direct care services worker;

(2) Been suspended or removed from participating as a Medicaid provider under COMAR 10.09.84;

(3) Undergone the imposition of sanctions under COMAR 10.09.36.08;

(4) Been subject to disciplinary action, including actions by the licensing board or any provider or principal of any provider agency;

(5) Been cited by a State agency for deficiencies which affect participants' health and safety; or

(6) Experienced a termination of a Medicaid provider agreement or been barred from work or participation by a public or private agency due to:

(a) Failure to meet contractual obligations; or

(b) Fraudulent billing practices.

C. A provider who renders health-related services to participants shall agree to:

(1) Periodically provide information about a participant in accordance with the procedures and forms designated by the Department; and

(2) Share and discuss the documented information at the request of the participant.

#### **.05 Specific Conditions for Provider Participation — Personal Assistance.**

A. Personal assistance service providers shall:

(1) Be licensed as a Residential Service Agency under COMAR 10.07.05;

(2) Employ a registered nurse who shall:

(a) Assess each new participant who requires personal assistance services;

(b) Participate in developing the worker instructions and in assigning appropriate personnel;

(c) Delegate nursing tasks, as appropriate, to a CNA or a CMT in accordance with COMAR 10.27.11; and

(d) Participate in instructing the workers who will provide the assistance, when indicated;

(3) Employ workers who will accept instruction on the personal assistance services required in the participant's plan of service from the following:

(a) The participant or, when applicable, the participant's representative;

(b) The nurse monitor;

(c) A treating physician or nurse practitioner; or

(d) An individual from the Department;

(4) Provide services directly through their workers under the direction of the participant or, when applicable, the participant's representative;

(5) Allow participants to have a significant role in the delivery of their specific care including:

(a) Directing the services and supports identified in their plan of service; and

(b) Exercising as much control as desired to select, train, schedule, determine duties, and dismiss the personal assistance worker in their home;

(6) Notify the Department in writing at least 45 days in advance of any:

(a) Voluntary closure;

(b) Change of ownership;

(c) Change of location;

(d) Sale of the business;

(e) Change in the name under which the provider is doing business; or

(f) Change in provider tax identification number;

(7) Include in the notice to the Department the method for informing participants and representatives of its intent to close, change ownership, change location, or sell its business;

(8) Include in the notice to the Department, and inform participants and representatives, of the transition plan developed by the agency to ensure continuity of services to participants;

(9) If applicable, apply for a new license whenever ownership is to be transferred from the person or organization named on the license to another person or organization in time to assure continuity of services; and

(10) Submit a Medicaid provider application to the Department if the new owner chooses to participate in the Program.

B. A worker who performs delegated nursing services in accordance with COMAR 10.27.11 shall:

(1) If required to administer medications in accordance with the plan of service, be a certified medications technician; and

(2) If performing other delegated nursing functions, also be a certified nursing assistant.

C. A personal assistance provider agency may not assign the participant's representative to provide services to that participant.

**.06 Specific Conditions for Provider Participation — Supports Planning.**

To participate in the Program as a supports planning provider under Regulation .10 of this chapter, a provider shall:

A. Be free from conflicts of interest;

B. Agree to be monitored by the Department; and

C. Be:

(1) Identified by the Department through a solicitation process; or

(2) The area agency on aging that is enrolled to provide case management services under COMAR 10.09.54.

**.07 Specific Conditions for Provider Participation — Nurse Monitoring.**

To participate in the Program as a nurse monitoring provider under Regulation .11 of this chapter, a provider shall:

A. Be designated by the Department through a process approved by the Centers for Medicare and Medicaid Services in accordance with §1915(b)(4) of the Social Security Act;

B. Employ or contract with registered nurses who hold a current professional license to practice in Maryland;

C. Agree to accept all referrals from the Department; and

D. Agree to be monitored by the Department.

**.08 Covered Services — General.**

The Program shall reimburse for the services specified in Regulations .09—.11 of this chapter, when, pursuant to the requirements of this chapter, these services have been preauthorized by the Department in the participant's plan of service, billed in accordance with the payment procedures in Regulation .14 of this chapter, and documented as necessary to prevent institutionalization.

**.09 Covered Services — Personal Assistance.**

A. Definition. "Unit of service" means a 15-minute increment of service that is approved in the plan of service and rendered to a participant by a qualified provider in the participant's home or a community setting.

B. The Program covers the following services when provided by a personal assistance provider:

(1) Assistance with activities of daily living;

(2) Delegated nursing functions if this assistance is:

(a) Specified in the participant's plan of service; and

(b) Rendered in accordance with the Maryland Nurse Practice Act, COMAR 10.27.11, and other requirements of the Maryland Board of Nursing;

(3) Assistance with tasks requiring judgment to protect a participant from harm or neglect;

(4) Assistance with or completion of instrumental activities of daily living, provided in conjunction with the services covered under §B(1)—(3) of this regulation; and

(5) Assistance with the participant's self-administration of medications, or administration of medications or other remedies, when ordered by a physician.

C. Personal assistance services may not include:

(1) Services rendered to anyone other than the participant or primarily for the benefit of anyone other than the participant;

(2) The cost of food or meals prepared in or delivered to the home or otherwise received in the community; or

(3) Housekeeping services, other than those incidental to services covered under §B of this regulation.

**.10 Covered Services — Supports Planning.**

A. Definition. "Unit of service" means a 15-minute increment of service that is approved by the Department and rendered to a participant by a qualified provider.

B. Supports planning services shall:

(1) Address the individualized needs of the participant;

(2) Be sensitive to the educational background, culture, and general environment of the participant;

(3) Support the participant to self-direct services and exercise as much control as desired to select, train, supervise, schedule, determine duties, and dismiss the personal assistance provider; and

(4) Ensure freedom of choice among any willing provider for all services.

C. Supports planning services include time spent by a qualified provider conducting any of the following activities:

(1) Assisting the participant in developing a plan of service in consultation with the applicant or participant and any individual requested by the participant;

(2) Assisting the participant with referral, access, and coordination of services, both Medicaid and non-Medicaid, to address the participant's needs including, but not limited to:

(a) Behavioral health;

- (b) Educational services;
  - (c) Disposable medical supplies and durable medical equipment;
  - (d) Housing;
  - (e) Medical services; and
  - (f) Social services;
- (3) Monitoring the provision of services to determine if services are received in accordance with the plan of service;
- (4) Using information technology systems developed by the Department;
  - (5) Coordinating with the fiscal intermediary to assist in managing budgeted resources;
  - (6) Providing guidance and support to help individuals self-direct their services; and
  - (7) Verifying the participant's eligibility at the beginning of each month that personal assistance services will be rendered.

**.11 Covered Services — Nurse Monitoring.**

A. Definition. "Unit of service" means a 15-minute increment of service that is approved by the Department and rendered to a participant by a qualified provider.

B. The Program covers the following services when provided by a nurse monitor:

- (1) Being available to give instruction and to answer questions;
- (2) Complying with the Department's reportable events policy; and
- (3) Maintaining an up-to-date client profile in an electronic database designated by the Department.

C. The Program covers nurse monitoring services according to the following schedule:

- (1) Contact with the participant for the purpose of reviewing participant status at a minimum of every 6 months with at least one in-person home or workplace visit every 12 months; and
- (2) Additional nurse monitoring services in accordance with COMAR 10.27.09 and 10.27.11 at a frequency established in conjunction with the participant or, when applicable, the participant's representative, based on the participant's medical condition or clinical status.

D. Home and Workplace Visits.

- (1) The nurse monitoring provider shall use the home or workplace visit for the following purposes:
  - (a) To assess the participant's condition;
  - (b) To assess the quality of personal assistance services; and
  - (c) To determine the need for discharge from personal assistance services or referral to other services.
- (2) The nurse monitor shall assess the quality of personal assistance services by:
  - (a) Reviewing documentation related to the provision of personal assistance services; and
  - (b) Observing the performance of the worker, as appropriate.

**.12 Conditions for Reimbursement.**

The Program shall reimburse for the services specified in Regulations .09—.11 of this chapter, if provided in accordance with the requirements of this chapter, and if the service:

- A. Is recommended on the participant's plan of service as necessary in order to assure the health and safety of an applicant or participant in the community;
- B. Has been preauthorized by the Department in the participant's plan of service;
- C. Is provided to an enrolled participant;
- D. Is medically necessary; and
- E. Is provided by a Medicaid provider who meets the conditions for participation under this chapter.

**.13 Limitations.**

A. The Department shall establish a budget for personal assistance services that may be included in the participant's plan of service, based on each participant's assessed need.

B. The Program does not cover the following services:

- (1) Service primarily for the purpose of housekeeping unrelated to the participant's activities of daily living, such as:
  - (a) Cleaning of the floor and furniture in areas not occupied by the participant;
  - (b) Laundry other than that incidental to the care of the participant; and
  - (c) Shopping for groceries or household items unless in the company of the participant;
- (2) Meals delivered to the home;
- (3) Services provided by providers not approved for participation by the Department;
- (4) Expenses incurred while escorting participants:
  - (a) To obtain medical diagnosis or treatment;
  - (b) To or from the participant's workplace; or
  - (c) For participation in social or community activities;
- (5) Expenses related to room and board for either the participant or the worker; or
- (6) Personal assistance services provided outside the State of Maryland for more than 14 days per calendar year.

C. *Payment for supports planning and nurse monitoring services shall be limited to direct services to the participant and may not be made for:*

- (1) *Administrative overhead;*
- (2) *Travel;*
- (3) *Internal quality monitoring activities;*
- (4) *Staff supervision, training, or consultation; or*
- (5) *Services rendered by an individual supports planner or nurse monitor in excess of 7 hours per day unless pre-authorized by the Department in writing.*

**.14 Payment Procedures.**

A. *Request for Payment — Personal Assistance.* To receive payment as a personal assistance provider agency under Regulation .09 of this chapter, a provider and its workers shall use the telephonic timekeeping system approved by the Department to:

- (1) *Document time; and*
- (2) *Submit claims.*

B. *Request for Payment — All Other Covered Services.* To receive payment as a provider of services covered under Regulations .10 and .11 of this chapter, a provider shall submit claims in accordance with procedures outlined in the Department's billing manual.

C. *Billing time limitations are set forth in COMAR 10.09.36.06.*

D. *Payments.*

- (1) *Payments for services rendered to a participant shall be made directly to a qualified provider.*
- (2) *A provider shall be paid the lesser of:*
  - (a) *The provider's usual and customary charge to the general public unless the service is free to individuals not covered by Medicaid; or*
  - (b) *The rate established under §E of this regulation or according to the fee schedule published by the Department.*

E. *Rates.*

- (1) *The rate of payment to personal assistance provider agencies shall be \$16.48 per hour; and*
- (2) *Payment to personal assistance agencies for services provided by a personal assistance worker to each of two participants in the same residence shall be \$10.99 per hour.*

F. *The rates in §E of this regulation shall increase on July 1 of each year, subject to the limitations of the State budget, by the lesser of:*

- (1) *2.5 percent; or*
- (2) *The percentage of the annual increase in the March Consumer Price Index for All Urban Consumers, all items component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics.*

**.15 Recovery and Reimbursement.**

*Recovery and reimbursement procedures shall be as set forth in COMAR 10.09.36.07.*

**.16 Cause for Suspension or Removal and Imposition of Sanctions.**

*Cause for suspension or removal and imposition of sanctions shall be as set forth in COMAR 10.09.36.08.*

**.17 Appeal Procedures — Providers.**

*Appeal procedures shall be as set forth in:*

- A. *COMAR 10.09.36.09; and*
- B. *COMAR 10.01.03.*

**.18 Appeal Procedures — Applicants and Participants.**

*Appeal procedures for applicants and participants are those set forth in:*

- A. *COMAR 10.09.24.13; and*
- B. *COMAR 10.01.04.*

**.19 Interpretive Regulation.**

*Interpretive regulatory requirements shall be as set forth in COMAR 10.09.36.10.*

**.20 Implementation Date.**

*This chapter shall be implemented October 1, 2015.*

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**

