MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee 10/30/2015	TO BE COMPLETED BY DSD Date Filed with Division of State Documents Document Number Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/11/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
10	09	07	01 and .03-.08

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

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: June 17, 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 **X-** 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 October 20, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title	**Telephone No.**
Secretary	410-767-6500

Date

October 29, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.07 Medical Day Care Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-111, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Health and mental Hygiene proposes to amend Regulations .01, and .03—.08 under COMAR 10.09.07 Medical Day Care Services.

Statement of Purpose

The purpose of this action is to amend and add language to:
(1) Align this chapter of regulations with the licensing regulations specified in COMAR 10.12.04 Day Care for the Elderly and Adults with a Medical Disability; and
(2) Clarify existing language.

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 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, or fax to 410-767-6483. Comments will be accepted through January 11, 2016. 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 proposed action updates current Medical Day Care Program regulations to align with licensing regulations specified in COMAR 10.12.04 Day Care for the Elderly and Adults with a Medical Disability, and there are no costs associated with practices implemented by service providers to comply with the regulations.

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

See E.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.07 Medical Day Care Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-111, Annotated Code of Maryland

10.09.07.01 (6/17/15)

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Adult Day Care Assessment and Planning System (ADCAPS)" means a **[**comprehensive assessment of a participant's strengths, needs, and abilities**]** *system that is comprised of a comprehensive assessment completed by a registered nurse, which is designed to evaluate the participant's strengths and needs, and to facilitate the development of a problem list, service plan, and plan of care*.

(2)—(5) (text unchanged)

(6) "Home and **[**Community Based Services (HCBS) Waiver**]** *community based services waiver*" means a program implemented by the Department and approved by the Secretary of Health and Human Services, which authorizes the waiver of certain specified federal statutory requirements limiting coverage for home and community based services under the Maryland Medical Assistance Program.

(7)—(15) (text unchanged)

(16) "Multidisciplinary team" means the group consisting of **[**appropriate**]** members of the medical day care center's professional staff, **[**and**]** the participant **[**or**]**, *the participant's* authorized representative, **[**or both,**]** *healthcare professionals, and waiver case managers, as appropriate,* that establishes and updates the *participant's* service plan and **[**the**]** plan of care **[**and assesses the appropriateness of the services provided to the participant by the medical day care center**]**.

(17)—(18) (text unchanged)

(19) "Participant" means an individual:

(a) (text unchanged)

(b) Who is enrolled in **[**an HCBS**]** *a home and community based services* waiver that includes medical day care as a waiver service; and

(c) Whose disabilities and needs cannot be satisfactorily and totally met in an episodic ambulatory care setting but require participation at least 1 day a week in a day-long rehabilitative or maintenance ambulatory care program which provides a mix of medical and social services and is authorized in the participant's **[**HCBS**]** *home and community based services* waiver service plan.

(20)—(22) (text unchanged)

(23) "Plan of care" means a written plan established by the multidisciplinary team in accordance with *COMAR 10.12.04.22, based upon a physician order and* an assessment of the participant's health status and **[**all of the participant's**]** special care requirements**[**, including all services or interventions necessary to maintain the participant at, or to restore the participant to, optimal capability for self care**]**.

(24)—(32) (text unchanged)

(33) "Significant change in condition" means a change in the participant's physical, mental, or psychological status as identified by the comprehensive assessment performed by a registered nurse.

[(33)**]** *(34)*—**[**(34)**]** *(35)* (text unchanged)

10.09.07.03

.03 Conditions for Participation.

Requirements for providing medical day care services are that the providers shall:

A.—G. (text unchanged)

H. Maintain medical records for each participant which shall include, as a minimum, the following:

(1)—(2) (text unchanged)

(3) The current **[**HCBS**]** *home and community based services* waiver service plan or the approved medical day care preauthorization form for the participant;

(4)—(6) (text unchanged)

(7) The initial social history, **[**quarterly**]** ADCAPS assessment and, when needed, social service and activity progress notes;

I.—L. (text unchanged)

M. Establish a multidisciplinary team who shall:

(1) (text unchanged)

(2) Determine the medical, psychosocial, and functional status of each participant by:

(a) (text unchanged)

(b) Completing the assessment with an initial plan of care within 30 days, after which the ADCAPS evaluations shall be conducted **[**quarterly**]** *every 4 months*;

(3) (text unchanged)

(4) Review and update with the participant or participant's representative, the individual plan of care semi-annually or more frequently when **[**there is a**]** *a significant* change in **[**the participant's**]** condition *is identified or reported*;

N.—O. (text unchanged)

10.09.07.04

.04 Staffing Requirements.

A. The medical day care center shall have adequate staffing capability to monitor the participants at all times. The composition of the staff depends in part on the needs of the participants and on the number of participants the medical day care center serves. At a minimum, the medical day care center shall meet the requirements of COMAR **[**10.12.04.13**]** *10.12.04.14*.

B.—C. (text unchanged)

10.09.07.05

.05 Covered Services.

A. The Program reimburses for a day of care which includes the following services:

(1)—(5) (text unchanged)

(6) Nutrition services which include the following:

(a) Meals and snacks as specified under COMAR **[**10.12.04.19**]** *10.12.04.20*;

(b) Therapeutic diets as specified under COMAR **[**10.12.04.19**]** *10.12.04.20*; and

(c) (text unchanged)

(7) (text unchanged)

(8) Activity programs in accordance with COMAR **[**10.12.04.14C**]** *10.12.04.15C*; and

(9) Transportation services that:

(a) Are in accordance with COMAR 10.12.04.27;

[(a)**]** *(b)*—**[**(h)**]** *(i)* (text unchanged)

B. (text unchanged)

10.09.07.06

.06 Limitations.

A. (text unchanged)

B. Covered services do not include:

(1) Days of service in excess of the frequency specified in the participant's **[**HCBS**]** *home and community based services* waiver service plan;

(2)—(4) (text unchanged)

10.09.07.07

.07 Authorization Requirements.

The provider is entitled to reimbursement from the Program when:

A. The participant is enrolled in **[**an HCBS**]** *a home and community based services* waiver; and

B. The service is specified in the participant's **[**HCBS**]** *home and community based services* waiver service plan.

10.09.07.08

.08 Payment Procedures.

A. (text unchanged)

B. Payment to a provider shall be limited to the number of days each participant attends the medical day care center, as authorized by a participant's **[**HCBS**]** *home and community based services* waiver service plan.

C.—E. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene