

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 16-012)**

Overview and Legal and Fiscal Impact

The regulation repeals COMAR 10.09.79.01-.13 because federal authority for the Psychiatric Residential Treatment Facility (PRTF) Demonstration Waiver implemented under this chapter has expired.

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:

Psychiatric Residential Treatment Facility (PRTF) Demonstration Waiver:

COMAR 10.09.79.01-.13

Legal Analysis

Background

The Department of Health and Mental Hygiene operated a Centers for Medicare and Medicaid Services (CMS) demonstration project known as the PRTF Demonstration Waiver. However, the United States Congress did not renew the project as a permanent program. Accordingly, effective October 1, 2012, new participants were unable to enroll in the project. The department applied for a 1915(i) State Plan Amendment to serve a similar, but not identical, population of youth and their families. CMS approved the State Plan Amendment effective October, 2014. Accordingly, the department will continue to provide a majority of the services it provided under the PRTF Demonstration Waiver under the 1915(i) State Plan Amendment.

Summary of Regulation

The regulation repeals COMAR 10.09.79.01-.13 because federal authority for the PRTF Demonstration Waiver implemented under this chapter has expired.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104(b), 15-103, 15-130.1, and 16-201 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 to carry out the provisions of law that are within the jurisdiction of the Secretary. Section 15-103 requires the Secretary to administer the Maryland Medical Assistance Program, specifies the scope of the program, authorizes the Secretary to establish a program under which program recipients are required to enroll in managed care organizations, authorizes the Secretary to contact for the provision of care under the program to eligible program recipients, and authorizes the Secretary to administer the Medicare Option Prescription Drug Program as part of the program. Section 15-130.1 requires the department to apply to CMS for a psychiatric residential treatment demonstration waiver if CMS announces in the Federal Register that it is accepting applications for a waiver. Section 16-201 requires the Secretary to adopt regulations that set charges for services that the department provides for specified recipients of services in or through State-operated (1) clinics; (2) day care, day treatment, and day hospital care; (3) group homes and small residential homes; (4) inpatient care in regional and State hospitals and centers; and (5) inpatient and outpatient care of any other kind.

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 action repeals the chapter governing the Psychiatric Residential Treatment Facility Demonstration Waiver as federal authority for the waiver has expired. As no individuals are currently receiving services under the waiver, the department advises that the action has no impact on State or local governments. 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 repeal of the regulations has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, the department has agreed to delete § 10-901 of the Health – General Article as statutory authority for the regulation because Chapter 469 of the Acts of 2015 repealed § 10-901, effective October 1, 2015. This change will be made when the regulation is published in the *Maryland Register*.

Contact Information

Legal Analysis: Lynne Blume Rosen – (410) 946/(301) 970-5350

Fiscal Analysis: Jennifer B. Chasse – (410) 946/(301) 970-5510