

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Department of Health and Mental Hygiene  
(DLS Control No. 16-045)**

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**Overview and Legal and Fiscal Impact**

The regulation clarifies COMAR 10.09.24.05-4B relating to Medicaid eligibility decisions to conform the language to federal regulations and current Medicaid eligibility policy and procedure.

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: Medical Assistance Eligibility: COMAR 10.09.24.05-4

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**Legal Analysis**

**Background**

To be eligible for Medical Assistance as a disabled individual, an applicant or recipient is required to meet the definition of disabled in COMAR 10.09.24.02B. Under COMAR 10.09.24.02B, “disabled” means “the inability to perform any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.” The Family Investment Administration (FIA) of the Maryland Department of Human Resources is the central coordinating and directing agency of all public assistance programs in the State.

Under COMAR 10.09.24.05-4B, the FIA is required to determine disability. A local department of social services is required to obtain a medical report and other nonmedical evidence for an individual applying for Medical Assistance on the basis of disability. The medical report and nonmedical evidence is required to include a diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the Supplemental Security Income Program. An FIA review team is required to review the medical report and other evidence obtained and determine if the individual’s condition meets the definition of disability. The FIA may not make an independent determination of disability, if the Social Security Administration (SSA) has made a disability determination within 90 days of the date of the

Medical Assistance application on the same issues presented in the Medical Assistance application. A determination by the SSA is binding on the FIA until it is changed by the SSA. If the SSA determination is changed, the new determination is also binding on the FIA.

## **Summary of Regulation**

The regulation clarifies COMAR 10.09.24.05-4B relating to Medicaid eligibility decisions to conform the language to federal regulations and current Medicaid eligibility policy and procedure.

The regulation alters from the local department of social services to the Department of Health and Mental Hygiene or its designee the entity required to refer to the SSA for reconsideration or reopening of the determination of all applicants who allege new information or evidence affecting previous SSA determinations of ineligibility based on disability, except if the individual has applied for Medical Assistance and alleges a disabling condition different from, or in addition to, that considered by the SSA in making its determination (COMAR 10.09.24.05-4B(4)(d)(i)).

## **Legal Issues**

The regulation presents no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites § 2-104(b) 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.

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 clarifies existing policies regarding Medicaid disability decisions to make State regulations consistent with federal regulations. The department advises that the regulation 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 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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