

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 16-138)**

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**Overview and Legal and Fiscal Impact**

The regulations alter requirements for specialty mental health services under the Maryland Medical Assistance Program.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Health and Mental Hygiene:**

Medical Care Programs: Specialty Mental Health Services:  
COMAR 10.09.59.01, .04, and .06

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**Legal Analysis**

**Background**

Fragmentation of the service delivery system for mental health and substance-related disorder services prompted the State to carve out behavioral health services from the Medicaid managed care system, beginning in 2015. Behavioral health services are overseen by the Department of Health and Mental Hygiene's Behavioral Health Administration and delivered through a contract with an administrative service organization. The department has been incrementally revising Medicaid program regulations to implement the carve-out.

**Summary of Regulations**

The regulations require mental health providers participating in the Medicaid program to comply with new behavioral health regulations, if licensed, as well as existing community mental health regulations, if approved. The regulations also alter the covered services which are reimbursable as specialty mental health services. Under the regulations, only specified drug screening tests, instead of a wider variety of laboratory services, are covered.

**Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 2-104(b), 2-105(b), 15-103, and 15-105 of the Health – General Article as statutory authority for the regulations. 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 2-105(b) makes the Secretary responsible for the health interests of the people of this State and requires the Secretary to supervise generally the administration of the health laws of this State and its subdivisions. 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, and authorizes the Secretary to contract for the provision of care under the program to eligible program recipients. Section 15-105 requires the department to adopt rules and regulations for the reimbursement of providers under the program.

This authority is correct and complete. The regulations comply 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 regulations update definitions and provisions regarding laboratory screenings that the Behavioral Health Administration's administrative services organization is responsible for covering under Medicaid. The regulations conform with the department's recent carve-out of behavioral mental health services. The department advises that the regulations have 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 regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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