

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 10.09.02.06

COMAR Codification: 10.09.03.06

COMAR Codification: 10.09.06.06

COMAR Codification: 10.09.09.05

Corresponding Federal Standard:

42 CFR § 426.560(b)(2)

Discussion/Justification:

The action is consistent with the federal regulation.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

Commerce does not have the necessary expertise in this area. Commerce feels that the Department of Health and Mental Hygiene does have the necessary expertise and therefore Commerce trusts their assertion that the proposal is not more restrictive/stringent than corresponding federal standards.

Name: Jennifer Cox

Date: 6/30/2016

-Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/30/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/5/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

10	09	02	06
10	09	03	06
10	09	06	06
10	09	09	05

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator
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5. Name of Person to Call About this Document
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Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physicians' Services

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.03 Pharmacy Services

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.06 Hospital Services

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.09 Medical Laboratories

Authority: See proposal.

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to amend:

- (1) Regulation .06 under COMAR 10.09.02 Physicians' Services;
- (2) Regulation .06 under COMAR 10.09.03 Pharmacy Services;
- (3) Regulation .06 under COMAR 10.09.06 Hospital Services; and
- (4) Regulation .05 under COMAR 10.09.09 Medical Laboratories.

Statement of Purpose

The purpose of this action is to align Medicaid coverage of gender reassignment with the Maryland State Employees' Health Benefit program and recent changes in Medicare policy.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

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 September 6, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2017

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 has no economic impact because the economic impact of the gender confirmation surgery was accounted for in COMAR 10.09.02.05 Physicians' Services which was approved on December 10, 2015.

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

The coverage of gender reassignment procedures will not affect small businesses.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physicians' Services

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

10.09.02.06 (4/29/16)

.06 Preauthorization Requirements.

A. The following procedures or services require preauthorization:

(1)—(5) (text unchanged)

(6) Surgical procedures for the treatment of obesity; [and]

(7) *Surgical procedures for the purpose of gender reassignment; and*

[(7)] (8) Elective services from a noncontiguous state.

B.—F. (text unchanged)

10.09.03 Pharmacy Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-103.1, 15-105, and 15-118, Annotated Code of Maryland

10.09.03.06 (04/29/16)

.06 Preauthorization Requirements.

A. The provider shall obtain preauthorization from the Department or its designee for any prescription for:

(1)—(3) (text unchanged)

[(4) Male hormones for biologic females;]

[(5)] (4) Female hormones for biologic males *when used for treating sexual aggression;*

[(6)] (5)—[(12)] (11) (text unchanged)

B.—F. (text unchanged)

10.09.06 Hospital Services

Authority: Health-General Article, §§2-104(b), 15-102.8, 15-103, and 15-105, Annotated Code of Maryland

10.09.06.06 (4/29/16)

.06 Preauthorization Requirements.

A. The following procedures or services require preauthorization:

(1) Inpatient:

(a)—(g) (text unchanged)

(h) All evaluations, procedures, and treatments related [in any way to sex] *to gender reassignment.*

[(i) Medical Assistance prescriptions and injections for male hormones for biologic females and female hormones for biologic males.]

[(j)] (i)—[(o)] (n) (text unchanged)

(2) (text unchanged)

B.—F. (text unchanged)

10.09.09 Medical Laboratories

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

10.09.09.05 (4/29/16)

.05 Limitations.

The following are not covered:

A.—F. (text unchanged)

G. Medical laboratory services related to autopsies; *and*

[H. Medical laboratory services associated with sex change, unless the procedure has been preauthorized under one or more Medical Care Programs regulations; and]

[I.] H. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene