

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:** 10.09.53.07

**Corresponding Federal Standard:**

Departmental Appeals Board (DAB), in Decision No. 1924 (2004), reconsidered in Ruling 2005-1 (2005)

**Discussion/Justification:**

The amendments update language regarding free care policy to align with federal regulation.

### TO BE COMPLETED BY DBED

- Agree

- Disagree

**Comments:**

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

Name: Jennifer Cox

Date: 7/5/2016

- Submit to Governor's Office

**Governor's Office Response**

**Comments:**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	07/05/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 8/19/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 09 53 07

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator**

Michele Phinney

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**5. Name of Person to Call About this Document**

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**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 3, 2016.

Repeal of Existing Regulations



## **Subtitle 09 MEDICAL CARE PROGRAMS**

### **10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old**

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

#### **Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to amend Regulation .07 under COMAR 10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old.

#### **Statement of Purpose**

The purpose of this action is to modify the indexing of rates in order to ensure that the amount of the applicable index will be known during the time that the annual budget is developed. Language is also proposed to align with federal policy allowing Medicaid payment for services provided free of charge to other patients.

#### **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](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through September 19, 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 changes do not alter the rates established for FY 2017 in accordance with existing regulatory provisions.
- 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. above.
- G. Small Business Worksheet:

Attached Document:

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**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL**  
**HYGIENE**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old**

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

*10.09.53.07 (05/03/2016)*

**.07 Payment Procedures.**

- A. (text unchanged)
- B. [Payment to a provider of nursing services may not exceed the following fee schedule] *The following rates are effective July 1, 2016:*
- (1) (text unchanged)
  - (2) [\$12.50] *\$12.91* for 15 minutes of services provided by a registered nurse to one participant;

(3) [\$8.63] \$8.91 for 15 minutes of services provided by a registered nurse to each of two or more participants in the same residence;

(4) [\$8.11] \$8.37 for 15 minutes of services provided by a licensed practical nurse to one participant;

(5) [\$5.60] \$5.78 for 15 minutes of services provided by a licensed practical nurse to each of two or more participants in the same residence;

(6) [\$4.28] \$4.42 for 15 minutes of services provided by a CNA or HHA to one participant;

(7) [\$2.95] \$3.05 for 15 minutes of services provided by a CNA or HHA to each of two or more participants in the same residence; and

(8) A flat rate of [\$50] \$51.64 per visit for a registered nurse supervisory visit of a nurse, CNA, or HHA.

C. Payment to a provider of nursing services may not exceed the lesser of:

(1) (text unchanged)

(2) The provider's customary charge to the general public [for nursing services] *unless the service is free to individuals not covered by Medicaid.*

*D. If the service is free to individuals not covered by Medicaid:*

*(1) The provider:*

*(a) May charge the Program; and*

*(b) Shall be reimbursed in accordance with §B of this regulation; and*

*(2) The provider's reimbursement is not limited to the provider's customary charge.*

[D.] E. Effective July 1, [2014] 2017, subject to the limitations of the State budget, the fee schedule rates in §B(2)—(8) of this regulation shall be adjusted annually by [adjusting the fee by] the percentage of the annual increase in the [March] previous July Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from the U.S. Department of Labor, Bureau of Labor Statistics.

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**