Overview and Legal and Fiscal Impact

These regulations implement the 3.5% reimbursement rate increase mandated by Chapter 262 of 2014, the Maryland Minimum Wage Act of 2014, for community services provided to individuals with developmental disabilities.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Department of Health:
- Developmental Disabilities: Fee Payment System for Licensed Residential and Day Programs: COMAR 10.22.17.06 through .08
- Community Supported Living Arrangements Payment System: COMAR 10.22.18.04

Legal Analysis

Background

Chapter 262 required, among other things, the Governor’s proposed budgets for fiscal 2016 through 2019 to include an annual 3.5% rate increase for Developmental Disabilities Administration (DDA) community services providers over the funding provided in the prior year’s legislative appropriation.

Summary of Regulations

The regulations establish new reimbursement rates, reflecting a 3.5% increase, for providers of community services to individuals with developmental disabilities. The increase affects rates in the fee payment system for licensed residential and day programs and rates for personal support services provided through the community supported living arrangements program. The rate increase is effective on July 1, 2017.

The community services are in the following areas of the fee payment system: residential programs, day programs, supported employment programs, community learning services, and
employment discovery and customization. As in the past, separate rates are set for the individual component, provider component, and add-on component of the payment system. Rates vary across the six geographic regions of the State.

For personal support services provided through the community supported living arrangements program, rates vary by county, the number of hours of services provided, and the number of individuals in a dwelling receiving the services.

**Legal Issues**

The regulations present no legal issues of concern.

**Statutory Authority and Legislative Intent**

The Maryland Department of Health cites §§ 2-104(b), 7-306.1, 7-307, 7-910(c) 15-105, 15-107, and 16-201 of the Health-General Article as statutory authority for the regulations. More specifically, § 2-104(b) authorizes the Secretary of Health to adopt regulations to carry out the provisions of law within the jurisdiction of the Secretary. Section 7-306.1 requires DDA to develop and implement a funding system for the distribution of State funds to private providers that are under contract with the administration to provide community-based services to individuals with disability in accordance with the State plan. Section 7-307 mandates a 3.5% annual increase in the reimbursement rate for community service providers for fiscal years 2016 through 2019. Section 7-307 also requires the department to reimburse community providers as provided in the section, notwithstanding any other provision of law. Section 15-105 requires the department to adopt regulations for the reimbursement of providers under the Maryland Medical Assistance Program. The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

**Technical Corrections and Special Notes**

In response to concerns raised by the Department of Legislative Services, staff for the department agrees to add § 7-307 of the Health-General Article as statutory authority for COMAR 10.22.17. The department also agrees to correct a typographical error in the citation of authority for COMAR 10.22.18 and make technical corrections to COMAR 10.22.17.08J. This analysis reflects those changes.

**Fiscal Analysis**

There is no fiscal impact on State or local agencies.
Agency Estimate of Projected Fiscal Impact

The regulations implement a provision of Chapter 262 of 2014, which requires that the Governor’s proposed budget for the Developmental Disabilities Administration (DDA), from fiscal 2016 through 2019, include an annual 3.5 percent rate increase for community services providers. Notably, the increase for fiscal 2016 was subsequently reduced to 3.0 percent in the operating budget (Chapter 310 of 2015). In fiscal 2017, the increase returned to 3.5 percent. The department advises that the 3.5 percent increase in rates for fiscal 2018 results in increased expenditures of $38,228,004 ($19,847,939 in general funds). However, increased expenditures have already been assumed under the fiscal and policy note for Chapter 262 (House Bill 295 of 2014). Accordingly, although the Department of Legislative Services generally concurs in the amount, the increase is not attributable to the regulations but to that legislation.

Impact on Budget

There is no impact on the State operating or capital budget. Full funding for the 3.5 percent rate increase is included in the fiscal 2018 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 as the fiscal and policy note for Chapter 262 already accounted for a meaningful impact on small business community service providers; there is no new impact due to these regulations.

Contact Information

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