

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Department of Aging
(DLS Control No. 20-013)**

Overview and Legal and Fiscal Impact

These regulations update existing regulations related to the Senior Assisted Living Group Home Subsidy Program and alter the available subsidy amount under the program by, among other things, (1) increasing the resource limit, (2) increasing the monthly personal expense allowance, and (3) excluding the value of burial spaces and funds when calculating an applicant's resources. The program is also renamed to be the Senior Assisted Living Subsidy Program.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies in fiscal 2020. However, Maryland Department of Aging general fund expenditures may increase by an indeterminate amount for subsidies to individuals financially eligible for the Senior Assisted Living Subsidy Program, as discussed below. Revenues and expenditures for local area agencies on aging increase accordingly. To the extent higher subsidies allow seniors to reside in assisted living longer before becoming Medicaid-eligible, Medicaid expenditures (50% general funds, 50% federal funds) may decrease by an indeterminate amount.

Regulations of COMAR Affected

Maryland Department of Aging:

Grants and Subsidies: Senior Assisted Living Group Home Subsidy Program:
COMAR 32.03.03.01-.03, .05, and .07-.08

Legal Analysis

Summary of Regulations

The regulations change the name of the "Senior Assisted Living Group Home Subsidy Program" to the "Senior Assisted Living Subsidy Program" and make conforming changes.

The regulations amend several existing definitions, repeal the definition of "group home," and add definitions for the terms "burial funds," "burial spaces," "Consumer Price Index," "irrevocable burial fund," and "monthly allowance for personal expenses." "Monthly allowance for personal expenses" equals \$130 per month, and increases, subject to the limitations of the State budget and based on the Consumer Price Index (CPI), on July 1 annually beginning July 1, 2021, as specified.

Regulation .05 amends eligibility requirements for subsidies. Among other things, applicants (1) must be 62 years or older; (2) may not have resources that are greater than \$19,000 if single, or \$25,000 if married; and (3) must not have disposed of or transferred more than 5% of the applicant's net worth in the previous five years for less than fair market value (subject to certain exceptions). Regulation .05 also excludes the value of burial spaces, burial funds, and irrevocable burial funds for the purposes of calculating an applicant or subsidized resident's resources, as specified. Finally, Regulation .05 requires the resource limit for applicants to increase based on CPI, on July 1 annually beginning July 1, 2021, as specified. The Maryland Department of Aging must publish the resource limits annually.

Regulation .07 increases the maximum monthly subsidy amount paid by a local office to a licensee on behalf of a subsidized resident. More specifically, under Regulation .07, the monthly subsidy amount is the lesser of (1) the difference between the subsidized resident's net monthly income and the facility's approved monthly fee or (2) the maximum monthly subsidy amount set forth in writing annually by the local office, which must be between the minimum rate of \$650 and the maximum rate of \$1,000 per month, inclusive. Further, the maximum monthly subsidy rate shall increase based on CPI on July 1 of each year beginning July 1, 2021, as specified. The department must publish the maximum subsidy amount limit annually.

In addition to the substantive changes described above, the regulations also make various technical and clarifying changes, update references and citations, and repeal outdated cross-references.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 10-211 of the Human Services Article as statutory authority for the regulations. Section 10-211 requires the Secretary of Aging to develop assisted living programs for seniors in conjunction with public or private for profit or nonprofit corporations or State or federal units. Among other duties, the Secretary must provide for and set, by regulation, the amount of subsidies necessary from State general funds to assist low-income seniors to reside in assisted living programs as an alternative to more costly institutional care. The Secretary must adopt regulations to govern eligibility requirements for these subsidies.

The 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 in fiscal 2020. However, Maryland Department of Aging general fund expenditures may increase by an indeterminate amount for

subsidies to individuals financially eligible for the Senior Assisted Living Subsidy Program, as discussed below. Revenues and expenditures for local area agencies on aging increase accordingly. To the extent higher subsidies allow seniors to reside in assisted living longer before becoming Medicaid-eligible, Medicaid expenditures (50% general funds, 50% federal funds) may decrease by an indeterminate amount.

Agency Estimate of Projected Fiscal Impact

The regulations increase, from \$650 to \$1,000, the maximum monthly subsidy each qualified, low-income senior residing in an assisted living program under the Senior Assisted Living Subsidy Program may receive and set \$650 as the minimum monthly subsidy. The regulations increase the monthly allowance for personal expenses from \$60 to \$130 per month. The regulations also increase the resource limits for financial eligibility for the subsidy from \$11,000 to \$19,000 per individual (and from \$14,000 to \$25,000 for married applicants), and add burial spaces and burial funds to the list of resources exempt from these limits. The maximum monthly subsidy amount, monthly allowance for personal expenses, and resource limits for financial eligibility must be adjusted annually based on the Consumer Price Index for the most recent calendar year. The department advises that the regulations have no impact on State or local agencies as no additional funding is included in the fiscal 2020 budget for the subsidy program. The Department of Legislative Services concurs, as discussed below.

In fiscal 2019, the department provided \$4,368,589 in subsidies to 552 seniors, but there is no data available about the specific subsidies provided to individual participants. Increasing the amount of the subsidy and the number of individuals potentially eligible for the subsidy does not necessarily increase the total amount of funding provided for the program. However, in the absence of additional funding, fewer individuals could receive subsidies under the program. For example, assuming each individual able to be served by the program in fiscal 2019 were to receive the full \$1,000 subsidy for a full year, only 364 individuals could receive funding under the amount provided in the fiscal 2019 budget.

Otherwise and for illustrative purposes only, assuming that each of the 552 seniors who received subsidies in fiscal 2019 received a \$650 monthly subsidy for a full year, costs would increase by \$350 per month per participant to provide the maximum \$1,000 monthly subsidy to each participant for a full year. Thus, general fund expenditures would increase by \$2.3 million to provide the full subsidy amount to 552 participating seniors for a full year. This illustrative example does not account for an increase in the number of participating seniors due to the broadened eligibility.

Impact on Budget

There is no impact on the State operating or capital budget for fiscal 2020 as no additional funding is provided for the subsidy program. However, to the extent higher subsidy amounts are provided and/or more seniors participate, general fund expenditures increase for the department to provide those subsidies. Revenues and expenditures for participating AAAs increase correspondingly. To the extent higher subsidies and enhanced eligibility allow seniors to reside in

assisted living longer before becoming Medicaid-eligible, Medicaid expenditures (50% general funds, 50% federal funds) may decrease by an indeterminate amount.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a meaningful economic impact on small business assisted living facilities in the State (most assisted living facilities in the State are small businesses). The department estimates that the regulations allow a greater number of individuals to be eligible for the subsidy; thus, small business assisted living facilities may benefit from an increased number of subsidy recipients. The Department of Legislative Services concurs and notes that increasing the maximum subsidy also provides greater income to participating facilities.

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