

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Human Resources**  
(DLS Control No. 15-317)

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## **Overview and Legal and Fiscal Impact**

The regulations repeal existing Regulations .01-.14 and adopt new Regulations .01-14 under COMAR 07.02.14, In-Home Aide Services. Key changes are summarized below under *Summary of Regulations*.

The regulations present no legal issues of concern. However, additional comments have been included in the *Technical Corrections and Special Notes* section below for the consideration of the Joint Committee on Administrative, Executive, and Legislative Review.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Department of Human Resources:**

Social Services Administration: In-Home Aide Services: COMAR 07.02.14.01-.14

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## **Legal Analysis**

### **Background**

In-Home Aide Services (IHAS) are services provided to vulnerable adults and families with children to, among other things, (1) assist in the prevention or reduction of the length of institutional placement of vulnerable adults; (2) assist in the prevention or reduction of the length of out-of-home placement of children; and (3) prevent or reduce the risk of abuse, neglect, self-neglect, and exploitation.

### **Summary of Regulations**

The regulations recodify, with a number of changes, the regulations governing the In-Home Aide Services Program. Key substantive changes include the following:

- Adding to the purposes of the program;
- Altering eligibility requirements for the program;

- Reducing from 20 to 14 the maximum number of hours per week that IHAS may be provided and adding a cap of 364 hours in a 6-month period on the additional or intensive services that may be provided to clients who need services in excess of 14 hours per week;
- Adding a client's assets to the determination of whether the client is required to pay a fee for services;
- Eliminating the ranking scale used to determine eligibility for services and instead requiring local departments to use "a ranking scale of risks [*sic*] factors, a standardized scoring tool provided by the Administration, to determine the condition and service needs of the client";
- Requiring the local department of social services, if an applicant for services is found ineligible after screening, to send written notification of the reasons for the decision and the right to appeal;
- Specifying the actions a local department must take after an applicant is found eligible for services, depending on whether a service slot is available or not;
- Specifying the services that may be provided by an aide certified at the Certified Nursing Assistant level or equivalent with supervision of delegated nursing duties by a Registered Nurse and those that may be provided by a paraprofessional;
- Specifying the therapeutic services that may be provided, based on risk of future abuse or neglect, to families of vulnerable adults or children by a trained therapeutic aide;
- Authorizing temporary suspension of services if (1) the client is absent from the home; (2) the client is unavailable for services; (3) the client and/or family is addressing environmental conditions that pose a risk to persons providing in-home aide services; (4) the client has prevented the IHAS aide from performing tasks agreed upon in the IHAS personal care plan; or (5) the client develops a pattern of unavailability during a scheduled service time;
- Adding to the circumstances under which a local department may terminate services; and
- Reducing the period of time for requesting an emergency hearing on an appeal from 30 to 10 days.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 6-501 through 6-505 of the Human Services Article and §§ 5-524 and 5-710 of the Family Law Article as statutory authority for the regulations.

Sections 6-501 through 6-505 of the Human Services Article require the Department of Human Resources, with the advice, cooperation, and assistance of the Department of Aging and the Department of Health and Mental Hygiene, to administer a system of community services to serve as an effective alternative to inappropriate institutional care for elderly individuals, and specify the duties of the department, which include adopting regulations.

Section 5-524 of the Family Law Article requires the Social Services Administration to provide child welfare services to a child and the child's parent or guardian to assist in preventing the necessity of placing the child outside of the child's home and to reunite the child with the parent or guardian after the child has been placed in foster care. Section 5-710 of the Family Law Article requires a local department of social services to render the appropriate services in the best interests of a child, based on its findings and treatment plan after completing an investigation of a report of suspected child abuse or neglect.

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

## **Technical Corrections and Special Notes**

The Department of Legislative Services advised the department that the Statement of Purpose contains a several grammatical errors that require correction.

In addition, the regulations repeal current Regulation .10, which sets forth a ranking scale that local departments are required to use to determine eligibility for services, and instead require local departments to use "a ranking scale of risks [*sic*] factors, a standardized scoring tool provided by the Administration, to determine the condition and service needs of the client." It is the opinion of the Department of Legislative Services that the repeal of the ranking scale would allow the Social Services Administration to set eligibility standards for in-home aide services outside of the regulatory process.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

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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