

MARYLAND REGISTER

Proposed Action on Regulations

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

1. Desired date of publication in Maryland Register: 11/13/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

07 02 14 .01-.14

3. Name of Promulgating Authority

Department of Human Resources

4. Name of Regulations Coordinator

Andrea Garvey

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5. Name of Person to Call About this Document

Valerie Colmore

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: September 2015.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Cathy Dryden, Assistant Attorney General, (telephone #410-767-7726) on October 22, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Sam Malhotra

Title

Secretary

Telephone No.

410-260-7787

Date

October 26, 2015

Title 07
DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.14 In-Home Aide Services

Authority: Human Services Article, §§6-501—6-505; Family Law Article, §§5-524, 5-710, and 14-207; Annotated Code of Maryland (Agency Note: Federal Regulatory Reference—45 CFR 1357)

Notice of Proposed Action

[]

The Secretary of Human Resources proposes to repeal existing Regulations .01-.10 under COMAR 07.02.14 In-Home Aide Services, and adopt both amended and new Regulations .01-.14 under COMAR 07.02.14 In-Home Aide Services.

Statement of Purpose

The purpose of this action is to clarify the conditions of eligibility for in-home aide services, responsibilities and clarify fees for services, emergency suspensions, determining the waitlist process, and circumstances that initiate local department's adverse actions, client's appeal rights in response to a termination and/or reduction in services.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

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 an impact on individuals with disabilities as follows: This program serves individuals with disabilities. It provides personal care and chore services to individuals with disabilities who meet the program eligibility criteria.

Opportunity for Public Comment

Comments may be sent to Valerie Colmore, Social Services Administration, Department of Human Resources, 311 West Saratoga Street, Baltimore, MD 21201, or

call 410-767-7475, or email to valerie.colmore@maryland.gov, or fax to . Comments will be accepted through December 14, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General Funds

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:

NA

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

NA

G. Small Business Worksheet:

NA

Attached Document:

Title 07 DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

Chapter 14 In-Home Aide Services

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Opportunity for Public Comment

Comments may be sent to Andrea Garvey, Regulations Coordinator, Department of Human Resources, Office of Government, Corporate and Community Affairs, 311 W. Saratoga St., Baltimore, MD 21201, or call 410-767-2149, or email to andrea.garvey@maryland.gov, or fax to 410-333-0637. A public hearing has not been scheduled.

.01 Purpose.

The purpose of the In-Home Aide Services Program ("IHAS") is to [complement] *supplement* other social services programs by providing specific services to individuals of all ages in the community in order to:

- A. Prevent or reduce the length of institutional placement of *vulnerable adults*;
 - B. Prevent or reduce the length of out-of-home placement of children;
 - C. Prevent or [remedy] *reduce the risk of* abuse, neglect, self-neglect, [or] *and* exploitation;
 - D. Promote self-sufficiency;[.]
 - E. *Provide in-home aide services to adults with functional disabilities;*
 - F. *Provide therapeutic support services to families;*
 - G. *Promote a safe environment; and*
 - [C] H. *Engage existing formal and informal natural supports*[Prevent or reduce the length of out-of-home placement of children].
- [C. Prevent or remedy abuse, neglect, self-neglect, or exploitation; or]
[D. Promote self-sufficiency.]

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Abuse" *has the meaning stated in COMAR 07.02.11.03B (2) and COMAR 07.02.15.02B (1)* [means the sustaining of any physical injury of an IHAS client receiving service as a result of:
- (a) Cruel or inhumane treatment; or
 - (b) A malicious act by a person.]
- (2) "Administration" means the Social Services Administration of the Department of Human Resources.
- (3) "Case management" *has the meaning stated in COMAR 07.02.15.02B (7)* ["r" means an individual designated by the local department or other social service agency to:
- (a) Assess the individual's need for services;
 - (b) Develop a plan to meet these needs;
 - (c) Assist the individual to obtain necessary services; and
 - (d) Monitor the services provided, and the individual's continued need for services.]
- (4) "Client" means an eligible individual receiving In-Home Aide Services.
- (5) "Emergency suspension" *means any action that, as determined by the IHAS supervisor or RN, involves the suspension of services because of an event or situation which imminently threatens the IHAS aide's health, safety, or welfare, based upon §.12(A) of this regulation.*
- (6)[(5)] "Exploitation" means any action which involves the misuse of an IHAS client's funds, property, or person.
- (7)[(6)] "Functional disability" means difficulty in performing activities of daily living because of:
- (a) A physical, cognitive, or psychiatric condition; or
 - (b) Environmental factors.
- (8) "Hearing" *means a contested case hearing as defined in State Government Article, §10-202(d), Annotated Code of Maryland.*
- (9) "Home"
- (a) *Is a place where a client resides; and*
 - (b) *Does not include an acute care hospital, an emergency room, a psychiatric hospital, an assisted living facility, a Project Home/CARE Home, a home of an aide, or any other facility that provides care or supervision for clients.*
- (10) "IHAS personal care plan" *means an individualized written plan that indicates:*
- (a) *Measurable Goals;*
 - (b) *Tasks to be performed;*
 - (c) *Frequency of contact; and*
 - (d) *Hours per day.*
- (11)[(7)] "Institutionalization" means placement in a hospital, psychiatric hospital, or nursing home.
- (12) "Intensive services" *means requiring more than 14 hours of services per week with the approval of the delegating nurse that such services can be delivered safely.*
- (13)[(8)] "Local department" means the Department of Social Services in a Maryland county [one of the 23 counties] or Baltimore City, or *its designee* [the Montgomery County Department of Health and Human Services,] where the applicant resides [or will reside].
- (14) "Natural supports" *means the informal use of family, faith community, neighbors, friends, or any alternative assistance or resources identified as part of the case management Service plan.*
- (15)[(9)] "Neglect" *has the meaning stated in COMAR 07.02.11.03B (34) or COMAR 07.02.15.02B (17)* [means the willful deprivation of an IHAS client of adequate food, clothing, essential medical treatment, or rehabilitative therapy, shelter, or supervision].
- (16) "Reconsideration" *means a comprehensive reassessment of a client's medical and functional status by a case manager or a registered nurse to determine if the IHAS personal care plan remains appropriate and effective.*
- (17) "Redetermination" *means a comprehensive reassessment of a client's income and assets for eligibility and determination whether the client is required to pay a fee for service.*
- (18) "Registered nurse" *has the meaning stated in COMAR 10.27.11.02B (17).*
- (19) "Safe environment" *means that a client is able to remain in their living situation and negotiate the living environment independently with supports to gain access to groceries, medications, medical appointments, transportation, and with limited assistance with personal care.*
- (20 [(10)] "Self-neglect" *has the meaning stated in COMAR 07.02.15.02B (20)* [means the inability of an IHAS client to perform activities of daily living or to provide the IHAS client with the services:
- (a) That are necessary for the client's physical and mental health; and
 - (b) The absence of which impairs or threatens the client's well-being].
- (21) "Service Plan" *has the meaning stated in COMAR 07.02.15.02B (21) and is related to the case management services provided to the client.*
- (22) "Supervising nurse" *has the meaning stated in COMAR 10.27.11.02.22. The process of critical watching, directing and evaluating another's performance.*

(23) "Therapeutic services" means supportive services by a specially trained aide designed to effect behavioral changes, improvement in care giving skills or in-home management skills to prevent out-of-home placement or to expedite reunification.

.03 Eligibility.

- A. An individual is eligible for IHAS if the individual:
- (1) *Has a functional disability;*
 - (2)[(1)] Is receiving case management in a social service program from the local department, *which has meaning as set forth in §.02(3) of this chapter* or from a social service agency through an arrangement with the administration, and requires the service as a part of a *case management service* [treatment] plan to:
 - (a) *Prevent and remedy the risk of abuse, neglect, self-neglect, or exploitation* [or reduce the length of institutional placement];
 - (b) *Promote a safe environment* [Prevent or reduce the length of out-of-home placement of children];
 - (c) *Promote self-sufficiency* [Prevent or remedy abuse, neglect, self-neglect, or exploitation]; [or]
 - (d) *Engage existing formal and informal supports* [Promote self-sufficiency];
 - (e) *Provide in-home aide services to adults with functional disabilities;*
 - (f) *Provide therapeutic support services to families;*
 - (g) *Prevent or reduce the length of institutional placement; or*
 - (h) *Prevent or reduce the length of out-of-home placement of children.*
 - (3)[(2)] Is unable to obtain the necessary paraprofessional services from another resource;
 - (4)[(3)] Is willing to accept IHAS; [and]
 - (5) *Meets financial eligibility requirements of the case managed social service program including income and assets;*
 - (6)[(4)] *Agrees to pay any fee required in a fee schedule published by the administration [.]; and*
 - (7) *Requires care that does not exceed the scope of the program, or is temporarily receiving services through a child protective services or adult protective services program.*
- B. *The proposed IHAS services may not exceed 14 hours per week or 364 hours for a 6-month period.*
- [B. Waiver of Fees.
- (1) The director of a local department or the designee may waive a fee for service for applicants or clients who require services as part of a treatment plan to prevent or remedy abuse, neglect, self-neglect, or exploitation.
 - (2) The local department shall document in the case record every 90 days the continued need for the waiver. The proposed IHAS services may not exceed 14 hours per week or 364 hours for a 6-month period.]

.04 Fees for Service.

- A. *The local department shall determine the client's income and assets and whether the client is required to pay a fee for services as indicated in a fee schedule published by the administration.*
- B. *Waiver of Fees. The director of a local department or the Director's designee may waive a fee for service for applicants or clients who require services as a part of a service plan to prevent or remedy abuse, neglect, self-neglect, or exploitation.*
- C. *The continued need for a waiver of program fees shall be reviewed, and approved or denied by the Director or the Director's designee at least every 6-months, in conjunction with the redetermination process.*

[.04 Application Process.

- A. Application.
- (1) Local departments shall accept and process requests for In-Home Aide Service by, or on behalf of, any individual or family.
 - (2) The local department shall assign requests for IHAS that do not come from a case manager in the local department or other social services agency to a case manager in the local department.
- B. If the case manager in a local department or other social service agency decides that IHAS services are needed, the case manager shall make a request for services to an IHAS supervisor on behalf of an eligible individual. The request shall include:
- (1) An assessment of the individual's functional capacity, if required;
 - (2) A medical evaluation by the individual's physician, if required;
 - (3) A ranking scale scored according to Regulation .10F of this chapter;
 - (4) A copy of the service plan which the IHAS is required to complete;
 - (5) Income documentation;
 - (6) Documentation of eligibility; and
 - (7) An application for IHAS signed by the individual or individual's representative.

C. A functional assessment, medical evaluation, or personal care plan is required if necessary to determine the amount and type of the IHAS to be delivered.]

.05 Applications for Service.

A. The local department shall screen a complete referral for in-home aide services, submitted by a case manager in a local department or other social service agency on the required forms prescribed by the administration that includes:

- (1) An assessment of the individual's functional capacity;
- (2) A ranking scale of risk factors determined by the administration;
- (3) A copy of the case manager's proposed service plan which includes a request for IHAS;
- (4) Income and asset documentation;
- (5) An application for IHAS signed by the individual or the individual's representative; and
- (6) A medical evaluation by the individual's health care provider, if required and/or is beneficial to service delivery.

B. If, after screening, the applicant is found not eligible, the local department shall send written notification to the applicant that includes the reason for the decision and the right to appeal.

C. If, after screening, the applicant is found eligible, the local department shall:

- (1) Determine if a service slot is available, then;
- (2) If a service slot is not available, place the applicant on the IHAS waiting list and send written notification to the applicant of this action, or;
- (3) If a service slot is available:
 - (a) inform the applicant of the date the registered nurse will make their initial home visit;
 - (b) provide the client with a copy of the case manager's suggested IHAS personal care plan that was submitted with the IHAS application packet.
 - (c) hold a case consult with input from client, in-home aide and the case manager regarding service delivery within sixty (60) days of case opening; and
 - (d) put into action the IHAS supervisor approved, final IHAS personal care plan within sixty (60) days of start of service with an update provided at least every six months.

[.05 Local Department Response to Application for IHAS.

A. The IHAS supervisor shall review the request for completeness, and inform the case manager of additional information required to determine the applicant's need for IHAS. If the request is complete, and the IHAS supervisor decides that the applicant is eligible, the IHAS supervisor shall insert the applicant's name in the appropriate order on the waiting list for IHAS.

B. The IHAS supervisor shall notify the case manager of the applicant's ranking and of the availability of service within 2 working days of the receipt of the completed request.

C. When the service is to begin, the IHAS supervisor, with the case manager, shall develop a written plan for aide services for the individual that includes:

- (1) The goals to be met;
- (2) Tasks to be performed;
- (3) Amount and the length of service to be provided including a personal care plan prepared by a registered nurse or physician if personal care is required;
- (4) The specific results expected from the provision of aide services; and
- (5) The date service is expected to begin.

D. If the IHAS supervisor agrees with the case manager that an applicant requires immediate service in order to prevent abuse, neglect, self-neglect, exploitation, institutional placement, or foster care for children, and there is a resource available, the IHAS supervisor shall request the case manager to forward a complete written request within 5 working days.

E. If the local department is notified by another local department that a client who is in danger of immediate institutionalization, child foster care, or death, without IHAS, has moved to the area of the local department, the local department shall begin IHAS immediately if funds or staff are available. The local department shall forward a copy of the case record within 3 working days of the notification of the move.]

.06 Waiting List.

- A. Local departments shall keep a waiting list if they are unable to serve eligible clients immediately.
- B. Local departments shall use a waiting list for clients who have been found eligible for in-home aide services which includes the use of a ranking scale of risks factors, a standardized scoring tool provided by the administration, to determine the condition and service needs of the client.
- C. Local departments shall provide services to applicants with the highest ranking score first. When there is a waiting list and scores are equal, those with earlier dates of application are served first.
- D. Individuals on the waiting list shall be served as staff and funding resources become available.

E. If a rescoring is required by Regulation.06B of this chapter, the local department shall score the client based on the current case manager's assessment of the client's condition, if IHAS were not in place.

F. Persons placed on the waiting list will be provided written notification of the action and the client's eligibility with a re-evaluation of level of need for service at least once a year.

.07[.06] [Delivery] Scope of Service.

A. If funds *and/or* staff are available; the local department may provide *IHAS* [the] by:

- (1) Assigning an *aide who is employed by the local department* [staff member];
- (2) Purchasing [the] services from a private-for-profit or nonprofit agency that has contracted with the Administration to provide the services; or
- (3) Purchasing the services from a self-employed individual.

B. The local department *may, based on client needs and the availability of staff and funding, provide up to 14 hours per week of the following services with an aide certified at the Certified Nursing Assistant level or equivalent with supervision of delegated nursing duties by a Registered Nurse* [shall, if funds or staff are available, make available during weekends and evenings as well as during normal working hours, the following services]:

- (1) [Meal planning and preparation] *Assisting with dressing*;
- (2) [Personal care services which include:] *Bathing*;
[(a) Help with dressing, bathing, feeding, grooming, and assistance with the bedpan or urinal;]
[(b) Assistance in and out of bed, with ambulation, and transfers from bed to wheel chair;]
- (3) [Cleaning the eligible individual's bedroom, bath, kitchen, and personal laundry] *Feeding*;
- (4) [Providing transportation to health and shopping facilities as well as other community resources required by the service plan.] *Grooming*;

- (5) *Assisting with toileting*;
- (6) *Transferring in and out of bed and wheelchair; and*
- (7) *Assisting with ambulation*;
- (8) *Cleaning the bedroom, bathroom, and kitchen*
- (9) *Washing personal laundry*;
- (10) *Providing limited Transportation and/or Escort services to health care appointments and shopping facilities as well as access to other community resources as identified in the IHAS personal care plan*;
- (11) *Providing Meal preparation; and*
- (12) *Teaching meal planning, safe food handling, meal preparation and home management.*

C. The local department [shall have available, during weekends and evenings as well as during normal working hours, the following therapeutic aide services] *may, based on client need and available funding, provide para-professional services to decrease client risk factors. These services include:*

- (1) [Teaching meal planning and meal preparation; and] *Light chores*;
- (2) [Providing therapeutic aide services that include emotional support, introducing the client to neighborhood resources, and reinforcing appropriate self-care and caretaking behaviors, and teaching budgeting and home management.] *Personal laundry*;
- (3) *Limited transportation and Escort services*;
- (4) *Meal preparation, planning and teaching of safe food handling.*

D. [Provision of Additional Services.] *The local department may, based on risk of future abuse or neglect, provide to families of vulnerable adults or children therapeutic aide services by a trained therapeutic Aide. These services include:*

[(1) The local department may make arrangements for the provision of additional types of in-home aide services including heavy chore services to the eligible individual.]

- (1) *Emotional support*;
- (2) *Communication support*;
- (3) *Introduction to neighborhood resources*;
- (4) *Reinforcement of appropriate self-care and caretaking behaviors*;
- (5) *Budgeting*;
- (6) *Home management; and*
- (7) *Effective caregiving skills.*

[(2) If the case manager documents in the case record that intensive aide service, that is, more than 20 hours of aide service per week, is necessary to prevent imminent nursing home placement, or abuse, neglect, or self-neglect, and funds or staff are or become available, the local department shall provide the number of hours and days of care, including evening and weekend care, necessary to prevent nursing home placement, or abuse, neglect, or self-neglect, subject to the limitations in Regulation .07B of this chapter.

(3) A family with children shall receive intensive aide service, that is more than 20 hours of aide service per week, if funds or staff are or become available, and if the:

(a) Need for the additional amount of service is documented in the case record as necessary to prevent foster care, or to reduce the length of foster care placement; and

(b) Case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the service plan for effecting reunification or preventing out-of-home placement.]

E. The [local department shall establish procedures to ensure the delivery of the aide service as required by the plan for aide service] *client shall agree to comply with the specific provisions of the IHAS personal care plan, including any recommendations of a supervising nurse.*

F. [Status Reports] *The IHAS personal care plan agreement shall follow the established guidelines under the Nurse Practice Act as set forth in COMAR 10.27.09.03 that limit the type of hands-on services that may be delegated to unlicensed care staff.*

[(1) Regardless of the method by which service is delivered, the local department shall require the service provider to complete a report to the IHAS supervisor on the client's current situation as often as necessary, and not less than monthly, to record any change in the client's situation. The report is required if the client prevents the aide from performing the tasks agreed to in the plan for aide services or the aide:

- (a) Identifies a change in the client's functional capacity;
- (b) Identifies a physical deterioration or improvement;
- (c) Receives a request for services which are not part of the plan for aide services;
- (d) Has a poor relationship with the client, or a household member;
- (e) Identifies abuse, neglect, self-neglect, or exploitation of the client;
- (f) Identifies a change in the client's environment;
- (g) Receives a request from the client to terminate service;
- (h) Notes termination or initiation of services from another source; or
- (i) Identifies a threat to the aide's well-being because of environmental hazards, contagious disease, or because the client, or a member of the household threatens physical harm or is verbally abusive to the aide.

(2) The IHAS supervisor shall keep the report in the case record in the local department, and shall forward a copy of the report to the case manager.]

G. If the aide suspects that the client or a dependent in the client's care is in [physical] danger *or at risk of harm*, the aide shall report the circumstances immediately to the IHAS supervisor, the case manager, or the local department's after-hours emergency service. *Upon receiving the report, the IHAS supervisor shall decide the steps needed to ensure the client's safety and ensure those steps are documented and followed.*

[H. Significant Change in Client's Status.

(1) If there is a change in the client's status which the IHAS supervisor determines may affect the case management plan or the plan for aide service, the supervisor shall inform the case manager within 2 working days.

(2) The IHAS supervisor shall send a current report on the client's situation to the case manager with a request that the client be reassessed, and a medical reevaluation and revised personal care plan be prepared if indicated.

(3) The IHAS supervisor, with the case manager, shall develop a new or revised plan for aide services within 5 working days of receipt of the reassessment and personal care plan.

I. The local department may suspend services up to 4 weeks:

(1) While the client is absent from the home; or

(2) If the client requests termination.

J. The IHAS supervisor shall:

(1) Notify the case manager when the client is not at home; and

(2) Notify the case manager if the client has requested termination, and include a copy of the aide's status report.

K. Emergency Suspension.

(1) If the IHAS supervisor determines that there is an immediate threat to the aide's health, safety, or welfare from environmental hazards, or from a client, a member of the client's household, or someone regularly present during times of service, the local department may immediately suspend services on an emergency basis.

(2) If services are suspended on an emergency basis, the notice provisions of Regulation .09B of this chapter do not apply. The local department shall send by certified mail written notice of the suspension to the client stating:

(a) The regulatory basis for the suspension;

(b) That the client is entitled to a hearing within 7 calendar days of a request for a hearing;

(c) That the Secretary's designee shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(d) That if the emergency suspension order is upheld, aide services shall be suspended until it is determined that the health, safety, or welfare of the aide is no longer threatened; and

(e) That the suspension may lead to termination.]

.08[.07] Limitations on Service.

A. The local department may provide aide services up to the maximum of [20] 14 hours per week for each eligible individual [except for individuals identified in Regulation .06D(2) and (3) of this chapter] *based on a comprehensive assessment and determination of need.*

B. For a client requiring intensive service as [identified in Regulation .06D(2)] *set forth in §.09 of this [chapter] regulation*, the IHAS supervisor shall determine the total [cost] *hours* for 6 months of IHAS[.], *not to exceed 364 hours*. [The local department may not provide IHAS to a client] [i] *If the [total public cost for 6 months of IHAS exceeds 67 percent of the average Statewide cost of nursing home care for 6 months as determined by the Administration] service request exceeds 364 hours in a 6-month period, the client is not eligible for IHAS.*

C. The local department may only provide intensive services to individuals identified in §.09E [Regulation .06D(2) or (3)] *of this chapter if funds and staff are available, and the case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the case management service plan for effecting reunification or preventing out-of-home placement.*

[.08 Redetermination and Termination.

A. The local department shall redetermine the client's income and whether the client is required to pay a fee at least every 6 months.

B. The local department shall reconsider the client's need for In-Home Aide Services, including any required change in the personal care plan, and complete a current ranking scale, at least every 6 months or sooner if the client's situation has changed significantly.

C. The local department shall terminate services under any of the following circumstances:

(1) Objectives of service have been reached and the IHAS supervisor and case manager agree that service is no longer needed;

(2) The family, client, or case manager is able to secure the necessary service from an alternative source;

(3) The case manager evaluates the client as no longer in need of IHAS;

(4) The client is deceased;

(5) The client moves to the jurisdiction of another local department;

(6) The client is hospitalized, placed in a long-term care facility, or is receiving community-based waiver program services;

(7) The client is no longer eligible;

(8) The limit in Regulation .07A of this chapter has been reached;

(9) The case manager, with the IHAS supervisor, determines that the service has not been effective in achieving the specific changes in the client's condition or family's situation which were expected to result from providing services;

(10) If an individual on the waiting list has a ranking score of seven or above, the local department shall:

(a) Terminate the client with the lowest score below seven; or

(b) If there is more than one client with the lowest score, terminate the client whose service began first;

(11) If the resources of the local department are insufficient to serve the existing clients, the local department shall terminate the client with the lowest ranking score below seven on the IHAS Ranking Scale, and continue terminating until the remaining clients can be served with the resources available;

(12) The service is suspended for 4 weeks;

(13) The client requests termination;

(14) The client declines IHAS service; or

(15) The client has prevented the IHAS aide from performing tasks agreed upon in the care plan for aide service.

D. If a local department terminates service under §C(5) of this regulation, and if the client or individual in the client's care is in danger of immediate institutionalization, child foster care, or death without IHAS, the local department shall notify the new local department immediately in order that IHAS may begin at the earliest possible moment. If the client's new address is near enough, the local department may continue IHAS until the new department begins IHAS.

E. Except when the services are suspended on an emergency basis, the local department shall send notice to the client at least 15 days before taking action which will deny, reduce, suspend, or terminate services. The notice shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to, and the method to request, a fair hearing.]

.09 Provision of Additional Services.

A. *Depending on the availability of funding and staff, the local department may provide services in excess of 14 hours per week. However, the total number of the service hours provided is not to exceed 364 hours in a 6-month period unless additional services are authorized by supervisory approval, due to imminent safety or risk factors, for no more than a six week time period.*

B. *A local department may provide additional hours of in-home aide services to the eligible individual. Additional services provided under §.07 of this regulation are either emergent or clinically based intensive services.*

C. *The eligible individual shall agree to comply with the provisions of the service plan and IHAS care plan, including the recommendations of the supervising nurse.*

- D. A local department may provide additional services to a family with children if:*
- (1) The need for an additional amount of services is documented in the case record as being necessary to prevent out-of-home placement or to reduce the length of out-of-home placement; and*
 - (2) The case manager assesses the family as potentially capable of providing adequate and safe care to the child without the use of in-home aide services within the time specified in the case management service plan, for effecting reunification or preventing out-of-home placement.*

[.09 Appeal Rights and Nondiscrimination.

A. The local department shall give written notification of the right to and the procedures for requesting and obtaining a fair hearing, to each applicant or client of IHAS at the time of application, and if the local department notifies the applicant or client of an action which might deny, delay, suspend, reduce, or terminate service. The procedures are set forth in COMAR 07.01.04.

B. Emergency Action Hearing Requests.

(1) All emergency action hearing requests shall be filed with the local department within 30 days of the certified mailing of the notice of the local department's action, and shall state the name and address of the client, and the effective date of the action appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

C. Discrimination. The local department may not discriminate in the delivery of service, as required by the nondiscrimination procedures as set forth in COMAR 07.01.03.]

.10 Status Reports.

A. *The in-home aide service provider shall submit a report, on a form approved by the Administration, to the IHAS Supervisor on the client's current situation, regardless of the method by which services are delivered:*

(1) At least on a monthly basis, or more often than monthly if there is a change in the client's risk level and/or well-being; and

(2) Specifying any changes in the client's situation including whether the client prevents the aide from performing the tasks agreed to in the IHAS personal care plan and/or case management service plan.

(a) The local department shall monitor to ensure that the status reports are submitted monthly.

(b) The IHAS supervisor or designee shall take appropriate action in response to the status reports.

B. *The In-home aide service provider shall submit a written report, on a form approved by the Administration, to the case manager at least every six months summarizing their professional observations of the client's health and overall well-being during the reporting period. This report should include the in-home aide's recommendations for future service needs.*

C. *The supervising Registered Nurse shall complete client assessments and aide supervision as approved by the Administration and as regulated by the Nurse Practice Act. A copy of all nursing related documentation will be forwarded to the IHAS Supervisor for review.*

[.10 Ranking Applicants and Clients.

A. Local departments shall use the ranking scale shown in §F of this regulation, for applicants who are eligible for aide services.

B. Local departments shall keep a waiting list if they are unable to serve eligible applicants immediately upon request for services. If a local department has more than one office, it may maintain a separate waiting list for each office.

C. Subject to Regulation .08C(10) of this chapter, if there is a waiting list, local departments shall provide aide services to applicants with the highest point total first. Applicants with equal scores shall be served according to the date of application, and those with earlier application dates shall be served first.

D. Individuals on the waiting list shall be served as resources become available.

E. If a rescoring is required by Regulation .08B of this chapter, the local department shall score the client based on the case manager's assessment of the client's condition if IHAS were removed.

F. IHAS Ranking Scale.

(1) IHAS is necessary in order to prevent eviction, or correct environmental conditions which are unsafe or detrimental to the applicant's or the client's health. — 1

(2) Applicant's or client's income is equal to or below the amount for the appropriate family size in a fee schedule published by the administration. — 1

(3) The wage earner would lose job income or job if aide service is not provided. — 1

(4) The applicant or client has suffered a personal or financial loss within the last 6 months which affects the individual's emotional or social functioning. — 1

(5) A community resource is not available and willing to assist the applicant or client with the problem which is causing the need for aide service, or the applicant or the client is socially and psychologically isolated. — 1

(6) The applicant or client is not currently receiving in-home aide service from any other agency, or aide service is being discontinued. — 1

(7) An applicant can be discharged from institutional or child foster care only if aide service is provided — 3

(8) The applicant or client or an individual cared for by the applicant or client is in danger of immediate institutionalization or child foster care if aide services are not provided. — 3

(9) The request for service is related to care of children between:

(a) 10—17 years old — 1

(b) 6—9 years old — 2

(c) 5 years old and under — 3

(10) The client, or individual cared for by the client, is in danger of abuse or neglect by the client or other individual:

(a) Mild — 1

(b) Moderate — 2

(c) Severe — 3

(d) High risk for death — 4

(11) The applicant or client has a physical, psychiatric, or cognitive disability, and needs assistance in order to perform activities of daily living:

(a) Mild — 1

(b) Moderate — 2

(c) Severe — 3

(d) Eligible for institutionalization — 4]

.11 Suspension of Services.

A. *The client's in-home aide services can be temporarily suspended for up to four (4) weeks when at least one of the following conditions are presented by the client:*

(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.*

B. *During the suspension period, the client's situation will be re-evaluated at least 15 days prior to the end of the four week period. The client and case manager will receive written notice outlining conditions necessary for the reinstatement of services, condition(s) that will cause termination and the timeframe for either the reinstatement or termination.*

.12 Emergency Suspensions.

A. *The local department may immediately suspend services on an emergency basis if the IHAS supervisor determines that there is an immediate threat to the aide's health, safety, or welfare from:*

(1) *Environmental hazards;*

(2) *A client;*

(3) *A member of the client's household; or*

(4) *An individual regularly present during periods of services.*

B. *The suspension may lead to termination of services if the unsafe conditions cannot be remedied.*

.13 Redetermination and Reconsideration.

A. *The local department shall redetermine every 6 months the client's income and assets and whether the client is required to pay a fee [at least every 6 months].*

B. *The local department shall reconsider the client's need for In-Home Aide Services, which includes[ing] updating the IHAS [any required change in the personal] care plan, and the [complete a current] ranking scale[,] at least every 6 months or sooner if the client's situation has changed significantly.*

C. *Increase in Service.* *The local department may increase the number of hours of service provided to a client based on the reconsideration of the client needs when funds and staff are available or become available. [shall terminate services under any of the following circumstances:]*

(1) *The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .11B of this chapter [Objectives of service have been reached and the IHAS supervisor and case manager agree that service is no longer needed;].*

(2) The notice to the client shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to and the method to request a fair hearing [family, client, or case manager is able to secure the necessary service from an alternative source;

(3) The case manager evaluates the client as no longer in need of IHAS;

(4) The client is deceased;

(5) The client moves to the jurisdiction of another local department;

(6) The client is hospitalized, placed in a long-term care facility, or is receiving community-based waiver program services;

(7) The client is no longer eligible;

(8) The limit in Regulation .07A of this chapter has been reached;

(9) The case manager, with the IHAS supervisor, determines that the service has not been effective in achieving the specific changes in the client's condition or family's situation which were expected to result from providing services;

(10) If an individual on the waiting list has a ranking score of seven or above, the local department shall:

(a) Terminate the client with the lowest score below seven; or

(b) If there is more than one client with the lowest score, terminate the client whose service began first;

(11) If the resources of the local department are insufficient to serve the existing clients, the local department shall terminate the client with the lowest ranking score below seven on the IHAS Ranking Scale, and continue terminating until the remaining clients can be served with the resources available;

(12) The service is suspended for 4 weeks;

(13) The client requests termination;

(14) The client declines IHAS service; or

(15) The client has prevented the IHAS aide from performing tasks agreed upon in the care plan for aide service].

D. *Reductions of Service.* [If a] *The local department may reduce the number of hours of service provided to a client for any of the following reasons:*

(1) *Insufficient departmental funds;*

(2) *Improvement in the client's condition or situation;*

(3) *Loss of program staff; or*

(4) *Receipt of services from other publically or privately funded services or natural supports.*

(a) *The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .11B of this chapter.*

(b) *The notice to the client shall state the decision and the basis for it, cite the regulation supporting it, and explain the applicant's right to and the method to request a fair hearing.*

[terminates service under §C(5) of this regulation, and if the client or individual in the client's care is in danger of immediate institutionalization, child foster care, or death without IHAS, the local department shall notify the new local department immediately in order that IHAS may begin at the earliest possible moment. If the client's new address is near enough, the local department may continue IHAS until the new department begins IHAS.]

E.[D.] *Terminations.*

[Except when the services are suspended on an emergency basis,]

(1) [t] *The local department shall [send notice to the client at least 15 days before taking action which will deny, reduce, suspend, or] terminate services under any of the following circumstances:[] The notice shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to, and the method to request, a fair hearing.]*

(a) *Objectives of service have been reached;*

(b) *The client, client's family, or case manager is able to secure equivalent services from an alternative source or other community-based services;*

(c) *The client is no longer in need of IHAS;*

(d) *The client is deceased;*

(e) *The client moves outside of the local jurisdiction;*

(f) *The client is hospitalized longer than 4 weeks, placed in a long-term care facility for services other than short-term rehabilitation or is receiving community-based Medicaid Waiver program services;*

(g) *The client is no longer eligible;*

(h) *The limit in Regulation .08 of this chapter has been reached;*

(i) *The service has not been effective in achieving the specific changes in the client's condition or family's situation, which were expected to result from providing services;*

(j) *The service is suspended up to four weeks;*

(k) *The client requests termination;*

(l) *The client declines to receive ongoing IHAS services;*

(m) *The behavior of the client or other household members has prevented the aide from performing tasks identified in the IHAS personal care plan or places the aide at risk of harm;*

- (n) *The unresolved environmental issues pose an immediate threat to the health and safety of a care provider or case manager;*
 - (o) *There is insufficient staff or funds to serve the current number of clients;*
 - (p) *The client does not comply with the specific provisions of the IHAS personal care plan and/or the recommendations of the supervising nurse;*
 - (q) *The client demonstrates a pattern of unavailability during scheduled service time;*
 - (r) *The client or the client's representative does not actively participate in goal setting/achievement or*
 - (s) *The client's needs exceed the scope of the program.*
- (2) *Termination under §.13E(1)(o) of this regulation shall be in order of lowest priority to highest priority based on ranking as described in regulation §.05A(2) of this chapter.*
 - (3) *The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .12A of this chapter.*
 - (4) *The notice to the client shall state the decision and the basis for it, and cite the regulations supporting it.*

.14[.09] Appeal Rights and Nondiscrimination.

A. *General Appeals:* The local department shall give written notification of the right to *appeal a decision*, and the procedures for requesting and obtaining a fair hearing, to each applicant or client of IHAS [at the time of application, and if the local department notifies the applicant or client of an action which might deny, delay, suspend, reduce, or terminate service]. The procedures are set forth in COMAR 07.01.[04]13C,D.

B. *Emergency Action Hearing Requests.* *The client has the right to request an Emergency Hearing which is an expedited hearing of the appeal case.*

(1) [All] E [e]mergency action hearing requests shall:

(a) [b]Be filed with the local department within [3]10 days of the certified mailing of the notice of the local department's action[.]; and

(b) [shall] [s]State the name and address of the client, and the effective date of the action *being* appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request.

(3) Oral notification shall be followed by written notification within 24 hours.

(4)[(3)] A hearing shall be conducted within 7 days of the filing date of the hearing request.

(5)[(4)] A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

C. *Discrimination.* The local department may not discriminate in the delivery of service, as required by the nondiscrimination procedures as set forth in COMAR 07.01.03.04A.