

MARYLAND REGISTER

**Proposed Action on Regulations**

<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>
		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 19 .01-.17

**3. Name of Promulgating Authority**

Department of Human Resources

**4. Name of Regulations Coordinator**

Andrea Garvey

**Telephone Number**

410-260-7787

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45 Calvert Street

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

Valerie Colmore

**Telephone No.**

410-767-7475

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valerie.colmore@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: September 1, 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.**

410-767-6586

**Date**

October 26, 2015

**Title 07**  
**DEPARTMENT OF HUMAN RESOURCES**

**Subtitle 02 SOCIAL SERVICES ADMINISTRATION**

**07.02.19 Certified Adult Residential Environment (CARE) Program**

Authority: Human Services Article, §§6-508—6-513; Health-General Article, §§19-1801—19-1806, Annotated Code of Maryland (Agency Note: Federal Regulatory Reference: 45 CFR Part 1397)

**Notice of Proposed Action**

[]

The Secretary of Human Resources proposes to amend Regulations .01–.08, .10, .12–.14, and .16 under COMAR 07.02.19 Certified Adult Residential Environment (CARE) Program.

**Statement of Purpose**

The purpose of this action is to clarify eligibility and allow a minimal expansion of the program.

**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 only serves individuals with disabilities. It was created to provide a supported housing option for adults living with a disability.

**Opportunity for Public Comment**

Comments may be sent to Valarie 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](mailto: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:

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

G. Small Business Worksheet:

Attached Document:

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## **Title 07 DEPARTMENT OF HUMAN RESOURCES**

### **Subtitle 02 SOCIAL SERVICES ADMINISTRATION**

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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](mailto:andrea.garvey@maryland.gov), or fax to 410-333-0637. A public hearing has not been scheduled.

#### **.01 Scope and Purpose.**

The Certified Adult Residential Environment (CARE) Program, also known as Project Home, is a voluntary program that:

- A. Develops, certifies, and monitors protective CARE housing for individuals with disabilities;
- B. Provides case management services to residents living in CARE housing; and
- C. Provides a long-term or permanent housing setting for a stable population of individuals with disabilities using an Adult Foster Family Model of Care *and is not a tenant/landlord housing arrangement.*

#### **.02 Definitions.**

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
  - (1) "Administration" means the Social Services Administration of the Department of Human Resources.
  - (2) "Adult Foster Family Model of Care" means a program of care where:
    - (a) An adult with a disability is cared for as a member of the care provider's family;
    - (b) Care is provided in the provider's home; and
    - (c) The provider functions as the resident's family as specified in Regulation .10 of this chapter.
  - (3) "Adult Protective Services (APS)" means the program under COMAR 07.02[6].16[4] which protects vulnerable adults who are subject to abuse, neglect, exploitation, or self-neglect.
  - (4) "*Behavioral health impairment*" means a substance abuse, mental health or addictive disorder or a combination of these disorders.
  - (5)[(4)] CARE Home.
    - (a) "CARE home" means a certified adult residential environment home that provides a resident with a supportive housing arrangement, help in accessing community resources, and protective oversight.
    - (b) "CARE home" includes a:

(i) Private home [which] is *where* the provider[s] resides[nce], 24 hours a day, 7 days a week and serves a maximum of four residents;

(ii) Supervised home which is not the provider's residence but may have live-in staff and serves not more than four residents, if certified prior to January 1, 2007; or

(iii) Group home which may be the provider's residence, may have live-in staff, and serves five to eight residents, if certified prior to January 1, 2007.

(6)[(5)] "Case manager" means a local department of social services social worker or family services caseworker who provides a range of services that includes:

- (a) Assessing the resident's needs;
- (b) Defining goals with the resident;
- (c) Planning for and linking the resident to needed services and resources;
- (d) Monitoring the delivery of services; and
- (e) Advocating for the development and delivery of service to the resident.

(7)[(6)] "Individual with a disability" means an individual who is 18 years old or older and has a physical, medical, or [mental] *behavioral health* impairment which:

- (a) Prevents the individual from carrying out the necessary tasks of independent living; and
- (b) Is not so severe or complex as to require specialized professional intervention from the CARE provider.

(8)[(7)] "Institutionalized individual" means an inpatient at a psychiatric hospital, rehabilitation hospital, nursing home, or similar setting.

(9) "*Licensed Health Care Provider*" has the same meaning as §4-301 of the *Health Occupations Article*.

(10)[(8)] "Linking" means the process of referring a resident to a specific service as part of a plan to meet the resident's needs and ensuring service delivery.

(11)[(9)] "Local department" means the department of social services in a county or Baltimore City or the Montgomery County Department of Health and Human Services.

(12)[(10)] "Protective oversight" means a service of the CARE provider which includes the following:

- (a) Daily awareness of the resident's functioning and whereabouts;
- (b) Requests to appropriate professionals for help in responding to an emergency situation;
- (c) Supervision of, [r] teaching *and assisting with* [of] activities of daily living [to] *for* a resident;
- (d) Provision of supportive services to a resident as defined in the resident's Individualized Service Plan Agreement; and

(e) Encouragement of a resident toward independence and appropriate activity to facilitate the resident's ability to plan and make decisions.

(13)[(11)] Provider.

(a) "Provider" means the individual whom a local department certifies for operation of a CARE home. A *Provider* [but] is not *considered* an employee of the local department.

(b) A provider may not accept payment for care of a resident other than that allowed in COMAR 07.03.07 as a reimbursement for the cost of care or any supplement established by federal, State, or local government.

(c) A provider functions as a caregiver in an adult foster family model of care.

(d) "Provider" does not mean the provider of:

- (i) Psychiatric treatment; or
- (ii) Specialized professional intervention.

(14)[(12)] "Public Assistance to Adults (PAA)" means the funding to help cover the cost of the CARE placement for eligible individuals as specified under COMAR 07.03.07.

(15)[(13)] "Relative" means a spouse, parent, son, daughter, grandparent, grandchild, stepparent, stepchild, brother, or sister, *domestic partner* or anyone who is related to an individual by blood, adoption, or marriage.

(16)[(14)] "Resident" means an individual who:

- (a) Resides in a CARE home;
- (b) Requires the services of a CARE home; and
- (c) Is not a relative of the provider.

(17)[(15)] "Resident of Maryland" means an individual who at the time of application is physically present in the State, and has no immediate plans to leave Maryland for residence in another state.

(18)[(16)] "Individualized service plan agreement" means a written plan which describes:

- (a) A resident's service goals; and
- (b) The provider's services for the resident and method of providing the services.

(19)[(17)] "Service slot" means the resources, including funding and case management capacity, necessary to provide residential services for an individual with disabilities in a CARE home.

(20)[(18)] "Service team" means the case manager, provider, resident, and representatives of other agencies and disciplines who have a role in providing services to the resident.

(21)[(19)] "Specialized professional intervention" means health, nursing, social, psychological, or psychiatric services provided by an individual licensed in his or her profession by this State or another state.

(22)[(20)] "Supportive housing arrangement" in an adult foster family model of care means a housing arrangement that provides an individual with:

- (a) Room and board;
- (b) Assistance with the activities of daily living that are fundamental for self care (such as bathing, dressing, and eating) or instrumental activities of daily living that are not necessary for fundamental functioning (such as preparing meals, grocery shopping, and managing money);
- (c) Protective oversight; and
- (d) Assistance with medication administration, which means a client having the ability to take medication at the correct time, in the correct route, and in the correct dosage as prescribed by an authorized prescriber with the support of a provider or provider backup who can offer physical assistance and reminders.

**.03 Eligibility for CARE Services.**

- A. An individual is eligible for CARE services if the individual:
  - (1) Is a resident of Maryland;
  - (2) Is an individual with a disability;
  - (3) Is 18 years old or older;
  - (4) Has no appropriate and willing relative who will provide a community placement;
  - (5) Does not require the provider to take responsibility for services beyond the capacity of the CARE program's adult foster care model of housing, including health services, treatment regimens, and interventions that require specialized professional intervention;
  - (6) Needs the CARE services provided in the CARE home;
  - (7) Agrees to pay the cost of placement from personal resources or through public assistance;[ and]
  - (8) Is not a relative of the provider[.]; *and*
  - (9) *Does not pose a risk or danger to him or herself and/or others.*
- B. Fee Consideration.
  - (1) Case management service is available without regard to income for a resident placed by the CARE program.
  - (2) A resident's income may determine whether the resident will be charged for certain supportive services provided or purchased by the local department.

**.04 Application for Services.**

- A. The local department shall screen an applicant's completed application for CARE services on forms prescribed by the Administration. *A complete application comprises the following information [that include]:*
  - (1) *A completed Project Home application form.*
  - (2) A health history and the applicant's most recent health assessments; and
  - (3)[(2)] Consent forms signed by the applicant for the release of information to the local department by:
    - (a) Appropriate health professionals; and
    - (b) Legitimate sources of financial information.
- B.[If after screening the application,] *If the applicant has been [the applicant is] found not eligible, the local department shall send written notice to the applicant which shall include the reason for the decision.*
- C. If a service slot is not available for an eligible applicant, the local department shall:
  - (1) Rank the applicant according to §E(1) of this regulation; and
  - (2) Notify the applicant in writing within 30 days of receipt of the *complete* application that the applicant:
    - (a) Has been placed on a waiting list; and
    - (b) May be eligible for referral to other services through the local department.
- D. [After screening the completed application, i]*If an applicant is found eligible and a service slot is available the local department shall assign a case manager to:*
  - (1) Complete a comprehensive assessment of the applicant's capacities and needs in a community living situation;
  - (2) Establish the level of care required by the applicant by considering the following characteristics of the applicant:
    - (a) Illnesses and disabilities which may require medical or corrective treatment;
    - (b) Ability to perform physical self-maintenance activities;
    - (c) Ability to perform basic activities of daily life; and
    - (d) Level of cognitive functioning, emotional and behavioral controls, and social competence;
  - (3) Determine the amount of income and other resources available to pay for placement;
  - (4) Determine the availability of an appropriate CARE home;
  - (5) Decide with the applicant whether CARE service is appropriate;
  - (6) Send a written notice to the applicant, within 30 days of the case manager's assignment of the case, of the application decision which shall include:
    - (a) For acceptance:
      - (i) Decision;
      - (ii) Reason for the decision;

- (iii) Level of care to be provided;
- (iv) Fact that an appropriate CARE home is or is not available, or that the applicant agreed that the local department shall seek a placement for the applicant in another jurisdiction; and
- (v) The resident's right to appeal any part of the decision as provided in COMAR 07.01.04, and the method for obtaining a fair hearing; or
- (b) For denial:
  - (i) Decision;
  - (ii) Reason for the decision;
  - (iii) Specific regulation supporting the decision; and
  - (iv) Applicant's right to appeal the decision as provided in COMAR 07.01.04 and the method for obtaining a fair hearing; and

(7) If the local department is unable to place an eligible applicant, refer to §E(1) of this regulation.

E. Priority for Service.

- (1) Based on the applicant's situation at the time of application, an applicant is ranked on the following descending point system:
  - (a) Applicant is in an abusive situation, or is under public guardianship (15 points);
  - (b) Applicant is at high risk of institutional placement or continued institutional placement without supervised housing (15 points);
  - (c) Relative caregiver is 60 years old or older (15 points);
  - (d) Applicant is dependent on an unreliable or overburdened caregiver for daily needs (10 points);
  - (e) Applicant is homeless or facing homelessness and is unable to use independent housing (10 points);
  - (f) Relative caregiver suffers from a physical or mental disability that is a barrier to caring for the applicant or the caregiver is caring for another disabled family member (10 points);
  - (g) Applicant's income is below the poverty level (10 points);
  - (h) Applicant is lacking family or community supports necessary for coping with daily living (5 points);
  - (i) Applicant is a recipient of Supplemental Security Income (SSI) (5 points); or
  - (j) Applicant's income is below the State median income as specified in COMAR 07.02.04.08[11] (5 points).
- (2) Applicants who have equal points under §E(1) of this regulation and are equally appropriate for an available slot shall be offered service in the order in which the local department received the applications for service.

**.05 Delivery of CARE Services by the Case Manager.**

A. Selection of a CARE Home.

- (1) The case manager shall identify an appropriate CARE home and, with the applicant and the provider, make a placement plan.
- (2) The selection of an appropriate CARE home shall include consideration of the following:
  - (a) The possibility of a same room assignment for both *spouses* [husband and wife] if both require CARE services;
  - (b) Whether the CARE home can accommodate the needs of the applicant;
  - (c) The location of the CARE home, and whether the CARE home is in:
    - (i) The geographic area requested by the applicant;
    - (ii) The community where the applicant has established supports; or
    - (iii) A community which can provide access to specialized resources that the applicant wants or needs; and
  - (d) Whether the care available from the provider is:
    - (i) Sufficient to supervise the resident; and
    - (ii) The least restrictive setting which meets the resident's needs.
- (3) If the CARE home is located outside the jurisdiction served by the local department:
  - (a) The local department in the jurisdiction where the home is located shall assign a case manager; and
  - (b) The new case manager shall work cooperatively with the original case manager to serve the applicant until:
    - (i) Placement is made; and
    - (ii) The case is transferred to the local department in the jurisdiction where the home is located.

B. Completed Application for Public Assistance to Adults (PAA). The case manager shall:

- (1) If needed, ensure that an application for PAA is made by, or on behalf of, the applicant;
- (2) Provide confirmation to the local department PAA worker of the placement plan including date, address of CARE home, and level of care; and
- (3) Obtain a decision on eligibility for assistance.

C. Development of an Individualized Service Plan Agreement. The case manager, in consultation with the resident and service team, shall develop a service plan which includes the following:

- (1) The specific goals to be accomplished by the resident;
- (2) A list of the services needed to meet the goals as determined by the resident, the case manager, provider, and the service team;

(3) The specific plan for completing the tasks to meet the service needs of the resident, including identifying the individual, either the service team member or the resident, who will perform the task;

(4) A time line for completing tasks;

(5) The expected frequency of contact between the case manager and the resident; and

(6) The schedule for the local department to:

(a) Monitor the delivery of service;

(b) Redetermine eligibility for service; and

(c) Reassess the resident's needs.

D. Facilitation of Placement. Before placing the applicant in the CARE home, the case manager shall establish a residential agreement with the applicant and provider which shall determine the:

(1) Method and amount of payment;

(2) Level and type of service to be provided by the CARE home; and

(3) Provider's specific house rules.

E. Facilitation of Agency Linkage. The case manager shall:

(1) Complete referrals to services specified in the individualized service plan agreement following the resident's placement in the CARE home; and

(2) Follow-up on referrals as needed, until the delivery of service begins.

F. Monitoring the Implementation of the Individualized Service Plan Agreement. The case manager, with the resident, shall monitor the service plan through contact with the provider and others providing services, to ensure delivery and coordination of services and activities as specified in the service plan.

G. Reconsideration of the Individualized Service Plan Agreement.

(1) Reconsideration of the individualized service plan agreement shall occur:

(a) Within 90 days after placement, and at least every 6 months thereafter; or

(b) As required in Regulation .06B of this chapter.

(2) At the time of reconsideration, the case manager with the resident and service team shall:

(a) Reassess the resident's service needs; and

(b) Revise the individualized service plan agreement as needed.

H. Advocating on Behalf of the Resident. The case manager:

(1) Shall explore all possible community resources to provide needed services to the resident; and

(2) May convey unmet needs and barriers to service delivery in writing to the local department's program supervisors or administrators.

I. Coordination of Resident Entitlements. The case manager shall coordinate all applications or reapplication activities necessary to ensure that the resident receives or retains federal and State benefits.

J. Referral to Adult Protective Services (APS). The case manager shall report in writing to the local department's APS any instances of suspected abuse, neglect, self-neglect, or exploitation of a resident.

K. Arrangement of a New CARE Placement.

(1) The case manager, with the resident, shall arrange a new CARE placement when the:

(a) Resident or the provider requests a change because difficulties in the placement cannot be resolved;

(b) Local department finds the CARE home to be in violation of the requirements of this chapter, and revokes or does not recertify the home; or

(c) Case manager has determined that the current provider is unable to provide adequately for the resident's needs and safety.

(2) Time Requirements of Local Department. The local department shall:

(a) Pursue a new placement and provide appropriate transition planning and service for the resident within 30 days of the request or the decision to change the placement; or

(b) In case of emergency, attempt to move the resident immediately.

(3) Placement in Another Jurisdiction.

(a) If the resident moves or intends to move to another local jurisdiction, the case manager shall consult with the local department serving the other local jurisdiction.

(b) If the other local department has an appropriate and available placement and a case management capacity to serve the resident, the other local department shall assign a case manager to work cooperatively with the resident's current case manager to arrange placement.

(c) If the new placement is arranged, the case shall be transferred to the local department in the jurisdiction where the new home is located.

L. Maintaining Contact With the Resident and Provider.

(1) The case manager shall have face-to-face visits individually with the resident and with the resident and provider together.

(2) The case manager shall visit the resident:

(a) At least every 2 weeks in the following circumstances:

(i) During the first 3 months after placement;

(ii) During the first month following the assignment of a new case manager; and

- (iii) When the resident's case plan does not include contact at least every 2 weeks with other service providers or appropriate friends or relatives; or
- (b) At least once a month under all other circumstances.
  - (i) *If a different schedule is warranted, the case manager shall request a schedule change for approval by the Supervisor after the resident has been in placement for 90 days. Under no circumstances shall the resident be seen less than every two months.*
  - (c) The resident must be seen at least every two months.
- (3) During each 6-month period, the case manager shall visit the resident and the provider together in the CARE home at least once.
- (4) The case manager, with the supervisor's documented approval, may alter the required visitation schedule if the resident's situation requires or permits it.

**.06 Redetermination, Reconsideration, and Termination.**

- A. Redetermination. The case manager shall redetermine eligibility and level of care:
  - (1) Within 30 days after the local department obtains information about changes in the resident's circumstances which may affect the resident's eligibility; and
  - (2) Annually.
- B. Reconsideration.
  - (1) A reconsideration of a resident's case plan shall include:
    - (a) Reassessment of the resident's needs and goals;
    - (b) Evaluation of services provided; and
    - (c) Progress towards meeting the goals set out in the case plan.
  - (2) The case manager shall reconsider a case plan:
    - (a) If there is a significant change in the resident's circumstances which may affect the type or amount of service the resident needs; and
    - (b) Not less frequently than 90 days after placement, and thereafter at least every 6 months.
- C. Termination.
  - (1) The local department shall terminate CARE services when at least one of the following situations exists:
    - (a) The resident is no longer eligible;
    - (b) The resident, if competent to make the decision, requests termination or the resident's guardian requests termination;
    - (c) The resident is unwilling to use available services and the service team can propose no further plan which is acceptable to the resident;
    - (d) The resident is no longer residing in a CARE home and the local department has no plan to arrange a CARE placement;
    - (e) The resident's conduct poses a risk to the safety or well-being of self, of the provider, or of other residents in the home; [or]
    - (f) The provider has requested removal of the resident and the local department is unable to provide another appropriate placement; [.] *or*
    - (g) *The resident refuses to reimburse the provider for service.*
  - (2) When the local department terminates CARE services, the local department shall:
    - (a) Refer the resident to the local department's Social Services to Adults (SSTA) program if the resident requests case management services; and
    - (b) At least 15 days before termination, provide written notice to the resident which shall include the:
      - (i) Decision to terminate the service;
      - (ii) Reason for the decision;
      - (iii) Regulation supporting the decision; and
      - (iv) Resident's right to appeal the decision and the method of obtaining a fair hearing.
  - (3) Following termination of CARE services, the case manager shall provide for one month:
    - (a) Follow-up services; and
    - (b) Appropriate referrals to other community services including other services within the local department.
- D. Immediate Suspension of Services to Resident.
  - (1) If the conduct of the resident poses a threat to the safety or well-being of the provider or the residents in the home, the local department may, without giving 15 days notice, immediately suspend services to the resident for a period not to exceed 30 days. Within 72 hours of the suspension, the local department shall advise the resident in writing of the:
    - (a) Grounds for the action taken; and
    - (b) Resident's right to appeal the suspension.
  - (2) If the CARE Home Certificate is revoked or the case manager determines that the CARE Provider can no longer meet the needs of the resident and the resident refuses another CARE home placement, then the local department may terminate services to the resident.

(3) At the end of the suspension period, the local department shall either reinstate or terminate services. If the local department terminates services, it shall provide the resident with a notice of the termination at least 15 days before the effective date of termination.

**.07 Certification Requirements for CARE Homes.**

A. A provider and the CARE home operated by the provider shall meet standards set forth in this regulation, and have a separate certification for each site at which the provider applicant proposes to house CARE residents.

B. The provider or incorporated provider's designee shall:

- (1) Be 21 years old or older;
- (2) Document that the provider applicant has sufficient financial resources to establish and operate the CARE home;
- (3) Document the provider applicant's place of residence;[.]
- (4) Have three satisfactory nonrelative character references;
- (5) Have no criminal record or Adult Protective Services or Child Protective Services history that indicates behavior potentially harmful to residents;
- (6) Have no household member 18 years old or older and not receiving CARE services who has a criminal record or history indicating potentially harmful behavior to residents;
- (7) Be willing to work with the local department and other appropriate agencies for the well-being of the resident;
- (8) Exhibit a genuine interest in the welfare of the resident and perform the provider responsibilities appropriate to meet the resident's physical and social needs;
- (9) Participate in CARE training programs as required by the local department or the Administration; [and]
- (10) *Submit a medical statement, from a licensed medical care provider, indicating that the applicant has the physical and mental capacity to provide care to residents; and*
- (11)[(10)] Sign a provider agreement stating that the provider shall:
  - (a) Accept as full reimbursement for care for a resident placed by the CARE program, an amount equal to the rates established in COMAR 07.03.07, and any supplement established or administered by federal, State, or local government;
  - (b) Reimburse the resident for any payment the resident made for care not received due to the resident's removal from placement by the case manager for cause due to actions of the provider; and
  - (c) Maintain and make available to the local department, upon request, records pertaining to expenditures on behalf of the resident residing in the CARE home.

C. *Providers must have at least one backup provider, or backup/substitute staff, who*[If the provider is a corporation or an individual who utilizes paid or volunteer staff, including any backup(s) or substitute staff, staff who work with residents] shall:

- (1) Be 21 years old or older, or 18 through 20 years old and supervised by a staff member 21 years old or older;
- (2) Have no criminal record or Adult Protective Services or Child Protective Services history that indicates behavior potentially harmful to residents;
- (3) Have three satisfactory nonrelative character references;
- (4) Be willing to work for the well-being of the resident with the local department staff and other agencies involved;
- (5) Exhibit a genuine interest in the welfare of the resident and be willing to perform provider responsibilities appropriate to meet the resident's physical and social needs; [and]
- (6) Attend required CARE training as determined by the local department [if the primary provider does not live in the CARE home.], *and;*
- (7) *Submit a medical statement, from a licensed medical care provider, indicating that the backup provider(s) and/or staff has the physical and mental capacity to provide care to residents.*

D. Requirements of a CARE Home. The CARE home shall:

- (1) Be owned, held, leased, or otherwise controlled by the provider;
- (2) Pass health and fire safety inspections conducted by local health and fire departments or fire marshals, unless the inspections are not available in the local jurisdiction of the residence;
- (3) Contain not more than three separate supervised apartment units if an individual home is divided into apartments, unless the supervised apartment units were certified prior to January 1, 2007, in which case the home may be certified as a CARE home with more than three separate supervised apartments;
- (4) Provide not more than double occupancy per bedroom for residents;
- (5) Provide a minimum of 70 square feet for single occupancy bedrooms and 60 square feet per bed for double occupancy for residents;
- (6) Have sleeping areas not used for any other purpose;
- (7) When a basement is used as a bedroom, it shall be finished, adequately heated and lighted, have a window and fire egress and be enclosed for privacy;
- (8) Provide grab rails in bathrooms and stairways;
- (9) Provide a minimum temperature of 68° Fahrenheit in rooms used by residents;

- (10) Have toilets, lavatories, baths, and showers adequate in number, location, and size to accommodate the needs of residents and other household members;
- (11) When the condition of the resident requires it, have bathroom facilities on any floor where the resident is permitted;
- (12) Have an adequate water supply, with well water tested and approved by the local health authorities;
- (13) Provide an outside fire escape for a resident bedroom located on the third floor or higher;
- (14) Have a minimum of one operable:
  - (a) Smoke detector per floor;
  - (b) Fire extinguisher rated for use against chemical and electrical fires that is readily accessible on each floor where residents are permitted *and near hazardous areas*; [and]
    - (c) *A carbon monoxide alarm in homes where there is fossil fuel such as natural gas, propane, fuel oil and pellet stoves; and*
    - (d)[(c)] *Land-line t[T]elephone that is accessible to the resident;*
- (15) Post by each *land-line* telephone the emergency telephone numbers for the police and fire department, and any backup support person;
- (16) Have safe and functioning systems for:
  - (a) Heating and cooling;
  - (b) Hot and cold running water;
  - (c) Sewage;
  - (d) Electricity;
  - (e) Cooking;
  - (f) Refrigeration;
  - (g) Artificial and natural light; and
  - (h) Ventilation;
- (17) Have clean and adequately furnished bedrooms and separate beds for each resident which include:
  - (a) An individual bed, which may not be a rollaway cot or folding bed, for each resident;
  - (b) Adequate closet and drawer space;
  - (c) Linens for bedroom and bathroom; and
  - (d) An adequate source of light for reading and other use in bedroom and in common areas;
- (18) Have sufficient dishes, glassware, plates, and flatware to provide each resident with a complete set of eating utensils;
- (19) Have cleaning supplies, toilet paper, and soap available for use by the residents;
- (20) Have at least one comfortably furnished living room and a common dining area available for residents' use; and
- (21) Have a safe place to keep residents' valuables such as a locked box.

**.08 Application Process for Providers.**

A. A person who wishes to operate a CARE home shall apply at the local department and submit a completed application on a form prescribed by the Administration.

B. Processing of Application by the Local Department.

(1) Except under circumstances set forth in Regulation .16 of this chapter, the local department shall evaluate the provider applicant and the residence through the following activities:

- (a) Visit to the residence and an interview with the provider applicant;
- (b) Review with law enforcement authorities any criminal record of:
  - (i) The provider applicant;
  - (ii) Any household member 18 years old or older who will reside in the CARE home but not as a recipient of CARE services; and
  - (iii) Any *backup provider(s)*[staff] who will care for residents;
- (c) Contact, and evaluate the responses of, three references listed on the application regarding the applicant's suitability to be a CARE provider, including references who have:
  - (i) Work experience directly related to the duties or requirements of the CARE provider or contact with the employers of the provider applicant; and
  - (ii) Previously been licensed or certified by a State agency or [an out-of-State agency]*a state agency from a state other than Maryland*;
- (d) Review the qualifications, including age, references, and criminal records of all *backup provider(s)*[staff] who will care for residents;
- (e) Determine the number of residents that may be cared for in the home;
- (f) Determine the level of care available from the provider to compute the rate of payment as set forth in COMAR 07.03.07;
- (g) Obtain and review required health and fire inspection reports;

(h) Arrange for CARE training for the provider applicant, *and the backup provider(s)*, that is provided by the local department or the Administration; and

(i) Sign the provider agreement.

(2) If an application is incomplete, the local department shall send a written notification to the provider applicant which shall include a:

(a) List of missing or incomplete documentation; and

(b) Statement that if the completed application is not received by the local department within 30 days from the date of the notice, the local department shall deny the application according to §D of this regulation.

C. Notice of Decision.

(1) Within 90 days of the start of the evaluation process as set forth in §B of this regulation, the local department shall notify the provider applicant in writing of the decision regarding the application.

(2) If the decision is to certify the provider applicant, the notice shall include the:

(a) Decision;

(b) Certificate to operate as a CARE home;

(c) Expiration date of the certificate;

(d) Number of CARE residents permitted in the home;

(e) Level of care available from the provider;

(f) Statement that the local department may make unannounced inspection visits; and

(g) Information of the provider applicant's right to appeal the decision as provided in COMAR 07.01.04 and of the method for obtaining a fair hearing.

(3) Temporary Certification.

(a) The local department may issue or extend a temporary certificate if the residence does not fully comply with the regulations if the deficiencies:

(i) Do not constitute a life, safety, or health hazard; and

(ii) Can be corrected within 90 days of the temporary certificate date.

(b) The notice of the decision to issue a temporary certificate shall include:

(i) Decision;

(ii) Temporary certificate to operate the CARE home for 90 days;

(iii) Expiration date of the certificate;

(iv) Deficiencies to be corrected;

(v) Statement of notice that certification as a CARE home is available when the deficiencies are corrected;

and

(vi) Information indicated in §C(2)(d)—(g) of this regulation.

(4) If the decision is to deny the application, the notice shall include the:

(a) Decision;

(b) Reason for the decision;

(c) Specific regulation supporting the decision; and

(d) Information of the applicant's right to appeal the decision and method for obtaining a fair hearing.

D. The local department shall deny the application if the:

(1) Residence does not meet the requirements specified in Regulation .07 of this chapter; or

(2) Applicant:

(a) Prevents the local department from completing its responsibility for determining whether to issue a certification;

(b) Fails to complete the application within the time set forth in §B(1) of this regulation;

(c) Has not corrected the deficiencies that prevented more than temporary certification as specified in §C(3) of this regulation;

(d) Withdraws the application; or

(e) Provided false information on the application or during the evaluation process.

#### **.09 Local Department Responsibilities to the Provider.**

Local department responsibilities to the provider include:

A. Referral to training offered by the Administration;

B. Consultation and supportive services;

C. Assistance to formulate realistic house rules;

D. Technical advice to meet the standards of the CARE program; and

E. An annual review of the CARE home and provider and subsequent written notice of recertification or disapproval of certification.

#### **.10 Provider Responsibilities.**

A. Level of Care.

- (1) A CARE home shall provide a level of care based on the provider's ability to:
  - (a) Respond to the resident's need for supervision;
  - (b) Teach activities of daily living;
  - (c) Provide personal care services and encouragement; and
  - (d) Facilitate the resident's decision making and planning.
- (2) The level of care and services provided to an individual resident shall be:
  - (a) Specified in the residential service agreement;
  - (b) Based on the initial or most recent assessment of the intensity of the services needed by the resident;
  - (c) Determined by the case manager using the assessment form provided by the Administration; and
  - (d) Provided by the care provider according to the service plan developed by the case manager, and based on the applicant's needs described in the applicant's assessment form.
- (3) Four Levels of Care, as Determined by the Case Manager's Assessment.
  - (a) Level A is minimal supervision, assistance, and personal care, where the provider shall:
    - (i) Perform brief interventions in the applicant's self-care routine; and
    - (ii) Carry out general supportive oversight.
  - (b) Level B is moderate supervision, assistance, and personal care, where the provider shall:
    - (i) Perform substantial or frequent interventions in the applicant's self-care routine; and
    - (ii) Provide general supervision and oversight of the applicant's activities.
  - (c) Level C is extensive supervision, assistance, and personal care, where the provider:
    - (i) Shall perform substantial or frequent interventions in the applicant's self-care routine;
    - (ii) May implement a plan of teaching elements of activities of daily living; and
    - (iii) Shall provide supportive supervision and oversight of the applicant's activities.
  - (d) Level D is specialized and intense supervision, assistance, and personal care, where the provider:
    - (i) Shall perform very frequent interventions in the applicant's self-care routine;
    - (ii) May implement a plan of teaching elements of activities of daily living; and
    - (iii) Shall provide supportive supervision and oversight of the resident's activities.
- B. Other Provider Responsibilities. The provider shall:
  - (1) Designate and utilize a backup support approved by the local department to provide care in emergency situations or in the provider's extended absence;
  - (2) Provide the resident with three balanced meals per day or other special diet prescribed by the resident's health care provider;
  - (3) *Provide resident with sufficient, weather appropriate, clothing to maintain hygiene;*
  - (4)[(3)] Maintain all of the home's equipment and supplies in a safe and functioning condition;
  - (5)[(4)] If the provider permits smoking, designate a smoking area;
  - (6)[(5)] Post the CARE home certification in the area of the residence visible to residents and visitors;
  - (7)[(6)] Establish a fire escape plan, instruct each resident about the plan upon arrival in the home, and practice the plan with all residents at least every 3 months;
  - (8)[(7)] Maintain records on each resident that include:
    - (a) Dates of placement and discharge;
    - (b) Payment sources and amount;
    - (c) Individualized service plan agreement; and
    - (d) Emergency data;
  - (9)[(8)] Provide an area in the home where the resident may have visitors with a reasonable amount of privacy;
  - (10)[(9)] In collaboration with the case manager and resident, establish a written resident-provider agreement which includes the:
    - (a) Method and amount of payment;
    - (b) Level and type of service to be provided; and
    - (c) Provider's house rules;
  - (11)[(10)] Except in an emergency, provide at least 30 days notice to the resident and resident's case manager if change in placement is required;
  - (12)[(11)] Notify the local department or case manager within 24 hours of any:
    - (a) Unusual incident or accident involving a resident or provider such as serious illness, accident, death, significant change in behavior, or move; or
    - (b) Planned or unplanned absence from the home; [and]
  - (13)[(12)] Notify the local department *at least 9[3]0 days before relocating the home [or making any other change affecting certification]; and[.]*
  - (14) *Notify the local department at least 30 days before making any other changes affecting certification.*

**.11 Limitations on the Certificate.**

- A. A certificate may not be transferred to another residence or provider.

**B. Time Limitation.**

- (1) A certificate is valid for 1 year from the date of issuance.
- (2) A temporary certificate is valid for 90 days from the date of issuance.

**C. Level of Care.** A residence certified for:

- (1) Level D may have applicants at Levels A, B, C, or D;
- (2) Level C may have only applicants at Level A, B, or C;
- (3) Level B may have only applicants at Level A or B; or
- (4) Level A shall have only applicants at Level A.

**D. Number of Residents.**

- (1) A provider may not provide care for more than the number of CARE residents stated on the certificate.
- (2) A CARE home may have not more than:
  - (a) Four CARE residents in a provider's home;
  - (b) Four CARE residents, exclusive of staff, for a supervised apartment, unless the supervised apartment was certified prior to January 1, 2007 in which case it may be a CARE home with more than four residents; or
  - (c) Eight CARE residents, exclusive of staff, for a group home, unless the group home was certified prior to January 1, 2007 in which case it may be a CARE home with more than eight CARE residents.

E. Non-CARE Residents. A provider may not provide care to a non-CARE resident. All residents not a member of the provider's family shall be placed there by the Project Home Program.

**.12 Recertification.**

**A. The local department shall initiate the process to recertify the CARE home:**

- (1) Within 30 days after the local department obtains information about changes in the provider's circumstances or the residence which affect the certification; and
- (2) At least once a year.

**B. Application for Recertification.**

- (1) The local department shall send the provider an application:
  - (a) Within 10 days after obtaining the provider's information about a change; or
  - (b) At least 60 days before the certificate expires.
- (2) When the local department's recertification visit precedes the expiration date of the certificate, the provider may complete the application at the face-to-face recertification visit.
- (3) The recertification application notice shall include an application due date to allow the local department to make its decision within the required time limits.

**C. Evaluation of Recertification Application.** Upon receipt of the application, the local department shall:

- (1) Visit the residence and interview the provider to discuss any changes in circumstances;
- (2) Review status of criminal record for:
  - (a) A household member over 18 years old, who resides in the CARE home, but is not a CARE resident; and
  - (b) [Staff] *Backup providers(s), and staff where appropriate*, who care for residents;
- (3) Contact if possible, all case managers who worked with residents in the home during the current certification year and evaluate their assessment of the home;
- (4) Request and review reports of health and fire inspections if needed and available;
- (5) Review the qualification of [staff] *backup providers(s), and staff where appropriate*;
- (6) Arrange for any required CARE training for the provider and staff;
- (7) Determine the number of CARE residents the home may care for and the level of care to be provided; and
- (8) Advise the provider in writing within 90 days of the beginning of the recertification process of the decision to deny or recertify as set forth in Regulation .08C of this chapter.

**.13 Probationary Period.**

**A. The local department may place the provider on probationary status:**

- (1) Upon finding that a violation requires immediate action to protect the health, safety, or welfare of a resident in the provider's care; and
- (2) For not more than 60 days from the date of the *department's knowledge of the violation*.

**B. Probation Notice.**

- (1) The local department shall notify the provider of the probationary status in writing within 10 days of the local department's knowledge of a violation.
- (2) The probation notice shall include the:
  - (a) Reason for probationary status;
  - (b) Regulation on which it is based;
  - (c) Provider's right to appeal the decision and the method for requesting a fair hearing; and
  - (d) Statement that probationary status may lead to revocation of certification if the violation is not corrected within [60 days of the date of] the probation *period* [notice].

C. On or before the date ending the probationary period, the local department shall remove the probationary status, extend the probationary status, or revoke the certificate.

D. During the probationary period, the local department shall obtain the approval of the director or designee of the local department before placing a new applicant in the CARE home.

#### **.14 Revocation.**

A. The local department may revoke a certificate if:

(1) The provider or the CARE home fails to meet certification requirements as stated in Regulation .07 of this chapter;

(2) The provider *fails to disclose pertinent information related to certification* or provides false information to the local department;

(3) Conditions in the home represent a threat to the health, safety, or welfare of a resident;

(4) The provider requests that the certificate be revoked;

(5) The provider fails to submit required information by the due date on the recertification application to the local department; or

(6) The provider fails to abide by the provider agreement or any set of written procedures required by the local department.

B. The local department shall inform the provider in writing of its decision to revoke certification at least 15 days before the proposed action. The notice shall include the:

(1) Decision;

(2) Reason for revocation;

(3) Regulation supporting the decision; and

(4) Provider's right to appeal the decision and the method of obtaining a fair hearing.

#### **.15 Enforcement.**

A. If the provider's certificate expires or is revoked, the local department shall send a written notice, if appropriate, to:

(1) All residents of the home;

(2) Individuals responsible for residents' placement in the home including:

(a) The families or guardians of residents; or

(b) Representative payees of SSI beneficiaries; and

(3) DHMH, Office of Health Care Quality.

B. The written notice from the local department shall include:

(1) Notice that the certificate is revoked or expired;

(2) A description of the violation;

(3) An offer to assist in the resident's relocation to another approved home or other living arrangement; and

(4) Notice that the local department shall terminate benefit payment to a PAA recipient if the recipient is not living in a certified home.

#### **.16 Limits on Program.**

A. The delivery of case management services and the certification of CARE homes are subject to the limitation of available funds and staff.

B. For CARE applicants who cannot be served due to insufficient funds or staff, the local department shall:

(1) Maintain a waiting list; and

(2) Serve eligible applicants in the order in which they are ranked in accordance with Regulation .04E[D] of this chapter.

C. For provider applicants who cannot be studied for certification due to insufficient staff or the absence of need for additional homes, the local department shall:

(1) Maintain a waiting list; and

(2) Study applicants in the order in which they applied, unless special needs of resident applicants awaiting placement can be met only by later provider applicants with specific services.

D. The local department shall provide written notice of the waiting list status to applicants for service and provider applicants.

#### **.17 Fair Hearings and Nondiscrimination.**

A. The resident, a representative acting on behalf of the resident, or the provider may request a fair hearing as provided in COMAR 07.01.04.

B. The local department and provider are subject to the prohibition against discrimination as stated in COMAR 07.01.03.

