

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 17 .01-.09

**3. Name of Promulgating Authority**

Department of Human Resources

**4. Name of Regulations Coordinator**

Andrea Garvey

**Telephone Number**

410-260-7787

**Mailing Address**

45 Calvert Street

**City State Zip Code**

Annapolis MD 21401

**Email**

andrea.garvey@maryland.gov

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

Valerie Colmore

**Telephone No.**

410-767-7475

**Email Address**

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.**

410-260-7787

**Date**

October 26, 2015

**Title 07**  
**DEPARTMENT OF HUMAN RESOURCES**  
**Subtitle 02 SOCIAL SERVICES ADMINISTRATION**

**07.02.17 Adult Foster Care**

Authority: Human Services Article, §§4-205 and 4-207, Annotated Code of Maryland  
(Agency Note: Federal Regulatory Reference, 45 CFR Part 229)

**Notice of Proposed Action**

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The Secretary of Human Resources proposes to amend Regulations .03-.04 and .06-.08 under COMAR 07.02.17 Adult Foster Care Program.

**Statement of Purpose**

The purpose of this action is to clarify eligibility for the program, allow a minimal expansion of services, create consistency in program procedures ensuring improved monitoring of the program, and to increase opportunities for additional referrals from other programs.

**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 aged adults and individuals with a disability through supportive services in a community living environment.

**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](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:

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:

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

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

#### **Chapter 17 Adult Foster Care**

Authority: Human Services Article, §§4-205 and 4-207, Annotated Code of Maryland (Agency Note: Federal Regulatory Reference, 45 CFR Part 229)

#### **Notice of Proposed Action**

The Secretary of Human Resources proposes to amend Regulations **.03-.04 and .06-.08 under COMAR 07.02.17 Adult Foster Care Program.**

#### **Statement of Purpose**

The purpose of this action is to propose amendments that will clarify eligibility for the program, allow a minimal expansion of services, create consistency in program procedures ensuring improved monitoring of the program, and to increase opportunities for additional referrals from other programs.

#### **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 aged adults and individuals with a disability through supportive services in a community living environment.

### **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 Purpose.**

These regulations establish standards for adult foster care and procedures for enforcement of those standards. They apply to all adult foster care programs offered by local departments of social services. Adult Foster Care Programs are optional to the local departments.

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

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

B. Terms Defined.

(1) "Adult Foster Care" means a program that provides a family setting in the community for an aged adult or an adult with disabilities who requires:

- (a) Protective oversight;
- (b) Assistance with the activities of daily living; and
- (c) Room and board.

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

(3) "Protective oversight" means a service of the Adult Foster Care provider which includes the following:

- (a) Daily awareness of a foster adult's functioning and whereabouts;
- (b) Crisis intervention;
- (c) Supervision of medication, nutrition, and money management;
- (d) Coordination of medical care services delivered in and out of the foster home; and
- (e) 24-hour responsibility for the foster adult's welfare while in the foster home.

#### **.03 Eligibility for Adult Foster Care.**

A. The foster adult shall:

- (1) Be 18 years old or older;
- (2) Be *an individual with a* [unable to live alone because of age or physical or mental] disability;
- (3) Be able to benefit from the service;
- (4) Have a need for the support and interaction of family living; *and*
- (5) Provide a medical *and behavioral health* history to allow proper care and supervision.

B. The local department may establish financial eligibility based on the foster adult's income or age or other factors if required by the terms of any source of funding for the local department's program.

**.04 Local Department Responsibilities to the Foster Adult.**

A. Application Process. The local department shall:

- (1) Accept applications from the adult, a relative, or a guardian or other representative;
- (2) Determine the eligibility of applicants;
- (3) Assess the applicant's needs and capacities;
- (4) Decide with the applicant whether the service is appropriate;
- (5) Refer the applicant to a suitable resource if the decision is that foster care is not appropriate; *and*
- (6) Develop a service plan for each eligible applicant.

B. The Service Plan. The service plan shall specify:

- (1) A suitable placement approval as meeting all requirements of these regulations;
- (2) Any necessary assistance with making the placement;
- (3) Any supportive services needed during the placement; *and*
- (4) The way in which the provider will be paid.

C. Local Department Continuing Responsibility. The local department shall:

- (1) Maintain continuing contact with the foster adult and caregiver;
- (2) Encourage relatives of the foster adult to participate in the planning and placement;
- (3) Intervene if a crisis arises;
- (4) Review the foster adult's case at least every 6 months and modify the service plan as necessary;
- (5) Maintain a file of eligible applicants needing placement; *and*
- (6) Maintain a file of available approved adult foster homes.

**.05 Requirements for Adult Foster Care Providers.**

The adult foster care provider shall:

- A. Have adequate income and financial stability to provide a reasonable standard of living for the foster family;
- B. Have the skills, knowledge, and ability to provide adequate care for foster adults;
- C. Cooperate with the local department in the enforcement of these regulations and any other program requirements;
- D. Communicate as needed with the local department, relatives, and community resources concerning the foster adult's condition;
- E. Have the maturity, patience, and warmth to respond to the foster adult's emotional needs;
- F. Be 21 years old or older;
- G. Provide for required supervision and care when the caregiver is absent from the home; *and*
- H. Provide three satisfactory non-relative character references.

**.06 Local Department Responsibility to the Provider.**

The local department shall:

A. Review applications from those desiring to be considered as adult foster care providers.

B. [Study] Review and approve or disapprove all applications within [6]90 days, after *the local department has received all required documentation. If it is determined that there will be a delay in the approval or disapproval of the application, the local department will advise the applicant, in writing, within 5 working days of the reason for the delay* [all written material that the local department requires has been received. The local department shall advise the applicant in writing of the reason for any delay in completing a home study or for the approval or disapproval of the application within 60 days].

[E]. Conduct a home study if a foster adult is already in the home when an application to be a provider is made. Due consideration is given to the importance of maintaining the home for the adult involved. If the home cannot be approved, the local department shall notify both the foster adult and the caregiver and offer them assistance to meet the standards or inform them of the possible alternatives and of the consequences of continuing in an unapproved home.

D[C]. Conduct an annual review of the foster care home and advise the caregiver in writing of continued approval or disapproval.

E[D]. Offer consultation and supportive services to caregivers.

**.07 Standards for Adult Foster Home Approval and Reapproval.**

The local department shall require:

A. A written approval from the local health department of the water supply (well) and waste disposal. A home using a municipal water and sewer system may be exempt from this requirement.

B. Documentation that the home meets the requirement, if any, of the local fire marshal.

C. A clean, well maintained and structurally sound home. The local department may consult with a local building inspector if there is question about possible structural defects.

D. Sleeping and living quarters for foster adults which have:

- (1) Appropriate modified access for foster adults whose special physical needs require it (in most cases, foster adults require a first floor and, preferably, a ground level room);
- (2) Adequate opportunity for privacy in sleeping and living quarters for each foster adult;
- (3) Grab rails and other special equipment in accordance with individual needs;
- (4) Storage for clothing and personal possessions, and, if possible, some of the foster adult's own furniture;
- (5) Adequate protection and supervision;
- (6) Accessibility to family living spaces, which the foster adults are expected to share as a part of the family's life style; and
- (7) Adequate household supplies.

E. A limit of [three] *four* foster adults at a time [and a limit of not more than one adult when the adult requires care equal to Intermediate B Care]. The local department shall assess the needs of each foster adult as well as the capacities of the provider and the home before making a placement.

F. That the foster home meets requirements and be approved by the local department before taking an adult in the home.

#### **.08 Enforcement.**

A. Upon discovery of a violation of these regulations, the local department shall give the home written notice of the nature of the violation and shall set a time period, not to exceed 90 days, within which the violation is to be corrected.

B. At the end of the period, if the *home* [facility] has failed to correct the violation, the local department shall send to all the foster adults in the home a notice that contains:

- (1) A written description of the violation;
- (2) An offer to aid in relocation to an approved home or other living arrangement;
- (3) A warning that in 60 days the local department will notify the Social Security Administration of the violation and that the Social Security Administration may reduce the amount of the SSI benefits of any foster adult still in the home.

C. If, after the expiration of the 60-day period for relocation of the adults, the violation remains uncorrected, the local department shall notify the Social Security Administration of the violation and of the date the relocation period ended.

D. The local department may not assist in the placement of a foster adult in any home not in full compliance with the standards for Adult Foster Homes approval.

#### **.09 Appeal.**

A. Appeals for a fair hearing and the conduct of the hearing are according to the fair hearing regulations in COMAR 07.01.04.

B. The local department shall give written and oral notification of the right and methods of requesting and obtaining a fair hearing to each applicant for, and to each recipient of, adult foster care services at application and whenever the local department notifies the applicant or recipient of any pending action that may deny, suspend, reduce, or terminate this service.