

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Human Resources  
(DLS Control No. 15-329)**

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**Overview and Legal and Fiscal Impact**

The regulations clarify eligibility requirements for and allow for the expansion of services through the Respite Care Program.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Human Resources:**

Social Services Administration: Respite Care Services: COMAR 07.02.18.01-.14

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**Legal Analysis**

**Summary of Regulations**

The regulations clarify that the purpose of the Respite Care Program is to provide short-term, periodic, and temporary care and that the Program is not an entitlement program. The regulations also define “foster home”, “informal caregiver”, and “licensed health care provider” and clarify that “total income” means the sum of income received by the consumer, or the family of a consumer, if the consumer is under 18 years of age, eligible for respite care services minus medical expenses.

The regulations provide that, except for an individual with developmental or functional disability living in a foster home, families or informal caregivers who receive no respite support from other public or private agencies or programs will have priority in receiving Department of Human Resources respite care services funding. The regulations repeal the requirement that a family or an individual with a developmental or functional disability receiving a subsidy pay a fee.

The regulations alter the application process to require a local department to refer applicants to the department’s respite care provider in their area or to another appropriate provider if the local department does not provide the services. The regulations add a requirement that a completed application include other current state or county services used by the consumer. In addition, the regulations repeal the requirement that a provider deny an application if the applicant’s need for care exceeds the level of care available through the provider.

Respite care services may not be provided if all the consumer's eligible hours have been exhausted or by anyone living in the same household as the consumer. In addition, the regulations add a requirement that a provider shall terminate services if the applicant, consumer or informal caregiver has provided fraudulent information, inappropriate information or withheld information impacting the eligibility for service or misused the subsidy. The requirement that a provider terminate services if the individual with a developmental or functional disability requires a level of care that exceeds the level of care available through the provider is repealed by the regulations.

### **Legal Issues**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The department cites Title 7, Subtitle 2 of the Human Services Article as statutory authority for the regulations. The subtitle establishes the Respite Care for Individuals with Developmental or Functional Disabilities program. Specifically, § 7-205 requires the department to adopt regulations governing respite care services including mandatory standards and sliding fee schedules.

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

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs and notes that, while the regulations allow for a minimal expansion of program services, they also state that the respite care program is not an entitlement program. Accordingly, any minimal expansion of program services can be accommodated within existing budgeted resources.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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