

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-355)**

Overview and Legal and Fiscal Impact

The regulations update the payment rates for targeted case management services, alter the process for service authorization, and limit waiting list coordination services and transition coordination services to individuals who meet the Development Disabilities Administration's (DDA) definition of an individual with a developmental disability. Individuals who do not meet the criteria for determination of a developmental disability, but instead are eligible only for individual support services, will have waiting list coordination and transition coordination services discontinued.

The regulations present no legal issues of concern.

Expenditures for the Developmental Disabilities Administration (DDA) decrease by a net of \$135,637 in fiscal 2016 due to the combined impact of a rate increase for targeted case management services and discontinuation of waiting list coordination and transition coordination services for individuals who qualify for individual support services only. Federal fund revenues increase by a net of \$87,429. This impact is assumed in the fiscal 2016 budget. In fiscal 2017, DDA expenditures decrease by a net of \$1,528,576 (75% general funds, 25% federal funds), which reflects the ongoing rate increase and the full-year impact of discontinuation of specified services. Federal fund revenues also increase accordingly.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Medical Care Programs: Targeted Case Management for People with Intellectual and Developmental Disabilities: COMAR 10.09.48.03 and .08

Legal Analysis

Summary of Regulations

COMAR 10.09.48.03 establishes participant eligibility for DDA services. The regulations alter service eligibility for waiting list coordination services and transition coordination services

to limit those services to individuals who are determined to have a developmental disability as set forth in COMAR 10.22.12.03B(9)¹.

COMAR 10.22.12.03B(9) states: “ ‘Developmental disability’ means a severe, chronic disability of an individual that:

- (a) Is attributable to a physical or mental impairment other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;
- (b) Is manifested before the individual becomes 22 years old;
- (c) Is likely to continue indefinitely;
- (d) Results in an inability to live independently without external support or continuing and regular assistance; and
- (e) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.”

The regulations also update the payment rates for targeted case management services under COMAR 10.09.48.08B. The regulations repeal the limits for community coordination services, transition services, and waiting list coordination services. The regulations add a new requirement that providers receive preauthorization for a specified number of units of service.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 2-104(b), 15-103, and 15-105 of the Health – General Article as statutory authority for the regulations. Section 2-104(b) authorizes the Secretary of Health and Mental Hygiene to adopt rules and regulations to carry out the provisions of law within the jurisdiction of the Secretary. Section 15-103 establishes the Maryland Medical Assistance Program and requires the Secretary to administer the program, including adopting regulations. Section 15-105(b) requires the department to adopt rules and regulations for the reimbursement of providers for services under the Medicaid program.

In the Statement of Purpose, the department also cites §§ 7-401 and 7-403(c) of the Health – General Article. Section 7-401 requires the Secretary to adopt regulations for allocation of services and acceptance of individuals for services from DDA and requires separate rules and regulations for individuals without a developmental disability who are eligible for individual support services. Section 7-403(c) provides that individuals who have a severe, chronic disability that is attributable to a physical or mental impairment other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments and that is likely to continue indefinitely, are eligible for individual support services. “Individual support services” are defined

¹COMAR 10.22.12.03B(9) defines “developmental disability” consistent with § 7-101(f) of the Health – General Article. However, it is actually under COMAR 10.22.12.05 where the determination of developmental disability is made.

under § 7-101(j) of the Health – General Article as “an array of services that are designed to increase or maintain an individual’s ability to live alone or in a family setting”.

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

Fiscal Analysis

Expenditures for the Developmental Disabilities Administration (DDA) decrease by a net of \$135,637 in fiscal 2016 due to the combined impact of a rate increase for targeted case management services and discontinuation of waiting list coordination and transition coordination services for individuals who qualify for individual support services only. Federal fund revenues increase by a net of \$87,429. This impact is assumed in the fiscal 2016 budget. In fiscal 2017, DDA expenditures decrease by a net of \$1,528,576 (75% general funds, 25% federal funds), which reflects the ongoing rate increase and the full-year impact of discontinuation of specified services. Federal fund revenues also increase accordingly.

Agency Estimate of Projected Fiscal Impact

The regulations (1) increase rates for targeted case management services; (2) discontinue waiting list coordination and transition coordination services for individuals who qualify for individual support services only; and (3) establish a new methodology for service unit preauthorization. The department advises that the rate increase results in additional fiscal 2016 expenditures of \$1,257,302 (55.6% general funds, 44.4% federal funds). Conversely, discontinuation of waiting list coordination and transition coordination services for specified individuals reduces fiscal 2016 expenditures by \$1,392,939 (66.2% general funds, 33.8% federal funds) for the second half of fiscal 2016 only. The net impact of these two actions is a reduction in expenditures of \$135,367 (a \$233,066 general fund reduction and an \$87,429 federal fund increase). Federal fund revenues increase accordingly. Changing the methodology used to calculate service unit preauthorization is not anticipated to have a fiscal impact. The Department of Legislative Services concurs with these estimates.

Under these two actions, 12 local health departments will receive \$200,068 in increased revenues from the rate increase, offset by \$196,142 in reduced revenues for the discontinuation of waiting list coordination and transition coordination services for specified individuals. The net impact on these local health departments is a revenue increase of \$3,926 in fiscal 2016.

In fiscal 2017, DDA expenditures decrease by a net of \$1,528,576 (75% general funds, 25% federal funds), which reflects an increase of \$1,257,302 for the ongoing rate increase and a decrease of \$2,785,878 for the full-year impact of discontinuing specified services. Local health department revenues decline by an estimated \$192,216.

Impact on Budget

The fiscal 2016 budget includes funds to implement the rate increase and anticipates the discontinuation of waiting list coordination and transition coordination services being provided to individuals who are determined to have a disability that qualifies them for individual support services only. Thus, there is no impact on the State operating or capital budget for fiscal 2016.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a meaningful impact on providers of targeted case management services due to both the increase in the payment rate as well as the discontinuation of specified services. Specifically, the department estimates that payments in fiscal 2016 to nonlocal government providers increase by \$1,057,234 due to the rate increase but decrease by \$1,196,797 due to discontinuation of services; the net change in payments to all nonlocal government providers is anticipated to be a decrease of \$139,563. The impact is greater in fiscal 2017 – with a net decrease in payments of \$1,336,360 – due to the ongoing rate increase, offset by the full-year impact of the discontinuation of services. The Department of Legislative Services concurs but notes that the extent to which small businesses will be impacted by the net reduction in expenditures cannot be reliably estimated.

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