

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-356)**

Overview and Legal and Fiscal Impact

The regulations make several changes to School Health-Related Services or Health-Related Early Intervention Services under Early and Periodic Screening, Diagnostic and Treatment services, or EPSDT.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Medical Care Programs: EPSDT School Health-Related Services or Health-Related Early Intervention Services: COMAR 10.09.50.01-.05 and .07

Legal Analysis

Background

The Medicaid program's benefit for children and adolescents is known as EPSDT. EPSDT provides a comprehensive array of prevention, diagnostic, and treatment services for low-income infants, children and adolescents under age 21, as specified in Section 1905(r) of the Social Security Act. The EPSDT benefit is more robust than the Medicaid benefit for adults and is designed to assure that children receive early detection and care, so that health problems are averted or diagnosed and treated as early as possible. School Health-Related Services and Health-Related Early Intervention Services are provided by local school systems, local lead agencies, State-operated education agencies, or State-supported education agencies. The State share of the reimbursement is provided by the Maryland State Department of Education.

Summary of Regulations

The regulations make several changes to School Health-Related Services or Health-Related Early Intervention Services under EPSDT. Notably, the regulations alter the covered services, deleting coverage for counseling services, psychiatric evaluations, and social work services. According to the Department of Health and Mental Hygiene, these services will be covered as psychological services, under a change in the definition of those services. The regulations change

the definition of “psychological services” to mean the delivery of services by a licensed mental health professional. The existing definition requires services to be delivered by a psychologist.

Also under the covered services regulation, therapeutic behavior services must be delivered in accordance with, not just as described in, a participant’s individualized education program or individualized family service plan. The regulations delete a requirement that therapeutic behavior services be delivered up to 24 hours a day, 7 days a week.

The regulations alter the conditions of participation, by requiring a provider to maintain certain minimum documentation of all services provided. The regulations also delete payment procedures for reimbursement of behavior services. Finally, the regulations add, delete, and alter definitions.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104(b), 15-103, and 15-124 as statutory authority for the regulations. Section 2-104(b) gives the Secretary of Health and Mental Hygiene authority 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 15-124 relates to the Maryland Pharmacy Assistance Program and is not relevant to the regulations. With that exception, the statutory 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 regulations clarify and update definitions and licensure requirements for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) school health-related services or health-related early intervention services. The department advises that the regulations have no impact on State or local governments as there are no changes to services or reimbursement rates. The Department of Legislative Services agrees.

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 agrees.

Contact Information

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