

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 15-387)**

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**Overview and Legal and Fiscal Impact**

The regulations reflect changes in the waiver authority for the Medicaid Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder (Autism Waiver) approved by the federal Centers for Medicare and Medicaid Services. The regulations update conditions for participation for service coordinators, establish risk assessment as a part of waiver reassessment for all waiver participants, and remove obsolete references to a 504 Written Individualized Plan.

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: Service Coordination for Children with Disabilities:  
COMAR 10.09.52.01-.04-2 and .06

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**Legal Analysis**

**Summary of Regulations**

In COMAR 10.09.52.01, the regulations repeal the obsolete definition of “504 Written Individualized Plan 504 (WIP)” and obsolete references to “504 WIP”. The regulations update a cross reference incorporating the definition of “autism”.

The regulations repeal obsolete references to “504 WIP” under COMAR 10.09.52.02, .03, .04, and .06.

The regulations amend COMAR 10.09.52.03B(5)(e) to require a diagnosis of autism spectrum disorder every three years or more, as requested by the Maryland State Department of Education (MSDE). The regulations add a requirement for service coordinators under section C(7). The new provision requires a service coordinator for Autism Waiver participants to attend one statewide training for Autism Waiver service coordinators per fiscal year. The regulations amend the training requirement under section C(6) to be an initial training requirement.

Under COMAR 10.09.52.04-1D(5), the regulations repeal a provision requiring the inclusion in a waiver participant's initial or revised waiver plan of care form estimated unit costs and monthly costs for evaluating waiver services.

Under COMAR 10.09.52.04-2A(2)(c), the regulations change a requirement that written notification of enrollment be provided to a waiver participant to a requirement to inform MSDE of an applicant's ineligibility for the Autism Waiver. Under section C(2), the regulations repeal requirements to provide written notification to a waiver participant of the Department of Health and Mental Hygiene's approval or denial of continued waiver enrollment and written notification of a participant's termination from the waiver. The regulations add new waiver reassessment covered services under section C(2) and require risk assessments and written notice to MSDE of a participant's ineligibility for the Autism Waiver.

The regulations repeal sections H and I under COMAR 10.09.52.06 and add a new section H, which establishes provider payment rates.

### **Legal Issues**

The regulations present no legal issues of concern.

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

The department cites §§ 2-104(b), 15-103, and 15-105 of the Health – General Article as statutory authority for the regulation. 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.

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 regulations reflect changes in the waiver authority for the Medicaid Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder (Autism Waiver) approved by the federal Centers for Medicare and Medicaid Services. Specifically, the regulations update conditions for participation for service coordinators, establish risk assessment as a part of waiver reassessment for all waiver participants, and remove obsolete references to a 504 Written Individualized Plan (504 WIP). The department advises that, as there

is no funding required to implement risk assessments, the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

### **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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