

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-397)**

Overview and Legal and Fiscal Impact

The regulations make numerous changes to the Maryland AIDS Drug Assistance Program (MADAP), including establishing a new MADAP Temporary Assistance Program and a new Urgent MADAP.

The regulations present no legal issues of concern.

Department of Health and Mental Hygiene (DHMH) special fund expenditures increase by \$910,800 annually beginning in fiscal 2017 due to coverage of copays, coinsurance, and deductibles associated with core medical services for clients in the Maryland AIDS Drug Assistance Program-Plus (MADAP-Plus).

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency Syndrome (AIDS): Maryland AIDS Drug Assistance Program: Temporary Assistance Program:

COMAR 10.18.01.01-.09

Maryland AIDS Drug Assistance Program: Eligibility:

COMAR 10.18.05.01-.09

Maryland AIDS Drug Assistance Program: Services:

COMAR 10.18.06.01, .03-.07 and .09-.12

Maryland AIDS Drug Assistance Program: Health Insurance (MADAP-PLUS):

COMAR 10.18.07.01-.11

Urgent Maryland AIDS Drug Assistance Program:

COMAR 10.18.10.01-.09

Legal Analysis

Background

Funded primarily through a federal Ryan White grant, MADAP pays for health care services, including medications, for eligible individuals infected with HIV. MADAP-PLUS helps eligible individuals who have insurance pay for the cost of the insurance.

Summary of Regulations

The regulations establish a new MADAP Temporary Assistance Program and a new Urgent MADAP, as well as make numerous other changes to MADAP eligibility and services, and MADAP-PLUS.

The MADAP Temporary Assistance Program pays for prescription drugs or other products on the MADAP formulary for individuals who have an application for Medical Assistance or the Medicare Low-Income Subsidy pending and are considered likely to have their application approved. The Department of Health and Mental Hygiene must review and process a MADAP Temporary Assistance Program application by the end of the first business day following receipt. Benefits end on the date that a determination of coverage for the other programs is made.

The Urgent MADAP pays for prescription drugs or other products on the MADAP formulary for individuals who are taking antiretroviral medication and have less than a two-week supply; have an acute medical condition needing immediate access to formulary medication; or are pregnant and need medications to prevent perinatal transmission of HIV. The department must review and process an Urgent MADAP application by the end of the first business day following receipt. Benefits may not last more than 60 days.

The regulations make numerous changes to eligibility requirements for MADAP, including deleting:

- Specific documents needed to establish residency;
- Eligibility for infants who are unborn or born to HIV-infected mothers and who are at-risk for HIV;
- Financial eligibility requirements for core medical services, which are no longer covered benefits;
- A provision making an individual ineligible if the individual has full third-party coverage for MADAP drugs; and
- The priority waiting list for MADAP.

The regulations also make numerous changes to services provided under MADAP, including as noted above, deleting coverage for core medical services and support services. (The coverage for these services was just added in 2014.)

The regulations make numerous changes to MADAP-PLUS. The changes generally are not substantive. To be eligible for MADAP-PLUS, an individual must be enrolled in MADAP. MADAP-PLUS must pay for health and prescription plan premiums and, within the limits established by the department, must pay for copays, coinsurance, and deductible for formulary drugs and may pay for visits associated with core medical services.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

MADAP has no specific statutory authority. The department cites §§ 2-104(b), (i), and (j), 2-105(a) and (b), and 18-102(a) of the Health – General Article as 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 that are within the jurisdiction of the Secretary. Section 2-104(i) authorizes the Secretary to apply for, receive, and spend grants-in-aid by the federal government for use in carrying out the powers and duties of the Secretary or the department. Section 2-104(j) requires any rebates received by the department from MADAP to be distributed to a special nonlapsing fund that is used only to fund MADAP and MADAP-PLUS. Section 2-105 requires the Secretary to establish general policy for, and adopt standards to promote and guide the development of, the physical and mental hygiene services of the State and its subdivisions. Section 18-102(a) requires the Secretary to adopt rules and regulations necessary to prevent the introduction or spread of an infectious or contagious disease that endangers public health in the State.

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

Fiscal Analysis

Department of Health and Mental Hygiene (DHMH) special fund expenditures increase by \$910,800 annually beginning in fiscal 2017 due to coverage of copays, coinsurance, and deductibles associated with core medical services for clients in the Maryland AIDS Drug Assistance Program-Plus (MADAP-Plus).

Agency Estimate of Projected Fiscal Impact

The action (1) establishes regulations for two existing programs: the Maryland AIDS Drug Assistance Program Temporary Assistance Program (MADAP TAP) and Urgent MADAP; (2) aligns existing regulations governing MADAP with current practice and provisions of the federal Patient Protection and Affordable Care Act; and (3) expands services in MADAP-Plus to include coverage of copays, coinsurance, and deductibles associated with core medical services. The department advises that expenditures for MADAP-Plus increase by an estimated \$910,800 annually due to coverage of copays, coinsurance, and deductibles associated with core medical services. Other changes either update existing regulations or reflect current practice. The Department of Legislative Services concurs and notes that, as DHMH plans to launch the new MADAP-Plus services beginning July 1, 2016, special fund expenditures increase beginning in fiscal 2017. The department indicates that State special funds will be used for this purpose.

Impact on Budget

DHMH special fund expenditures for MADAP-Plus increase by \$910,800 annually beginning in fiscal 2017. There is no impact on the State 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.

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