

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education
(DLS Control No. 16-179)**

Overview and Legal and Fiscal Impact

The regulations implement the Hearing Aid Loan Bank Program (program), which lends hearing aids to eligible children who have hearing loss and no immediate access to a hearing aid.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Special Instructional Programs: Hearing Aid Loan Bank:
COMAR 13A.05.12.01 through .03

Legal Analysis

Summary of Regulations

The regulations implement the program, which lends hearing aids to eligible children. In order to be eligible, a child must be under the age of 18, reside in Maryland, be identified by an otolaryngologist or a licensed audiologist as having a hearing loss, and have no immediate access to a hearing aid. To participate in the program, a parent or guardian must apply to the Maryland State Department of Education and provide the child's address, date of birth, a copy of the child's hearing evaluation from a licensed audiologist, a copy of the child's medical clearance for hearing aids from an otolaryngologist, and a statement explaining the need for the hearing aid. Unless granted an extension, the period of the loan is for 6 months. The regulations authorize the department to extend the period of the loan for additional 3 month periods after considering the parent or guardian's insurance coverage or medical assistance eligibility, circumstances necessitating the loan of a hearing aid, the parent or guardian's plan for obtaining access to another hearing aid, and the number of previous extensions granted.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-205 and 8-605 of the Education Article as statutory authority for the regulations. Section 2-205 requires the State Board of Education to determine the elementary and secondary educational policies of the State and to implement provisions of the Education Article, including the program. Title 8, Subtitle 6 of the Education Article establishes the program. This subtitle sets forth the criteria for eligibility in the program, the purpose of the program, and the administration of the program. Section 8-605 requires the State board to adopt regulations to implement the program, including regulations that identify the requisite documents that prove eligibility for the program and factors that the program must consider when determining whether to extend a 6-month loan period for an additional 3-month period.

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

Technical Corrections and Special Notes

The Department of Legislative Services contacted the department concerning an apparent inconsistency between the regulations and § 8-604(a) of the Education Article. Section 8-604(a) lists the documents that are required for a hearing aid loan, including a prescription from an otolaryngologist *or* a licensed audiologist. However, regulation .03A states that a copy of a hearing evaluation from a licensed audiologist *and* a copy of a medical clearance for a hearing aid from an otolaryngologist are required for a hearing aid loan. The department responded that this issue was taken into consideration when drafting the regulations, and while either an audiologist or an otolaryngologist can identify hearing loss for purposes of eligibility, documentation from both is required for purposes of being fitted for an appropriate hearing aid. The Department of Legislative Services believes that this is a reasonable interpretation of the enacting statute.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

Chapters 539 and 540 of 2011 (Senate Bill 754/House Bill 1013) established a Hearing Aid Loan Bank Program within the Maryland State Department of Education for children younger than 3 years of age. Chapter 40 of 2016 (House Bill 596) increased the age of eligibility for a hearing aid loan to those younger than age 18. The Maryland State Department of Education advises that the regulations, which implement the Hearing Aid Loan Bank Program, will cost approximately \$49,400 annually to employ an otolaryngologist and to provide and maintain a pool of hearing aids. However, these costs were contained in the fiscal and policy notes for the legislation in 2011 and 2016. As there are no costs in addition to those already identified, the Department of Legislative Services finds that there is no fiscal impact on State or local governments.

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.

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