

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	02/06/2018	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 3/2/2018**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

32 03 04 .01,.07,.14,.16,.17,.18,.19,.22,.23,.26,.32

**3. Name of Promulgating Authority**

Department of Aging

**4. Name of Regulations Coordinator**  
Andrew J Ross

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**5. Name of Person to Call About this Document**  
Andrew J. Ross

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andrew.ross@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

- Date when existing text was downloaded from COMAR online: 1/31/2018.
- Repeal of Existing Regulations
  - Recodification
  - Incorporation by Reference of Documents Requiring DSD Approval
  - Reproposal of Substantively Different Text:

: Md. R  
 (vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Jeffrey H. Myers, Assistant Attorney General, (telephone #410-767-1110) on February 6, 2018. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Rona E. Kramer

**Title**

Secretary

**Telephone No.**

410-767-1102

**Date**

February 6, 2018

**Subtitle 03 GRANTS AND SUBSIDIES**

**32.03.04 Congregate Housing Services Program**

Authority: Human Services Article, 10-209 and 10-210, Annotated Code of Maryland

**Notice of Proposed Action**

□

The Maryland Department of Aging proposes to amend Regulations .01, .07, .14, .16, .17, .18, .19, .22, .23, .26, and .32 under COMAR 32.03.04 Congregate Housing Services Program

**Statement of Purpose**

The purpose of this action is to change the Congregate Housing Services Program from a contract to a grant process.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Andrew Ross, Chief of Staff, Maryland Department of Aging, 301 West Preston Street, Suite 1007, Baltimore, MD 21201, or call 410-767-1100, or email to [mdoa.executiveoffice@maryland.gov](mailto:mdoa.executiveoffice@maryland.gov), or fax to 410-333-7943. Comments will be accepted through April 2, 2018. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2018

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly: These regulations are administrative and simplify administrative processes for Congregate Housing Services Program providers.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The Congregate Housing Services Program providers are not small businesses.

G. Small Business Worksheet:

Attached Document:

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# **Title 32 MARYLAND DEPARTMENT OF AGING**

## **Subtitle 03 GRANTS AND SUBSIDIES**

### **Chapter 04 Congregate Housing Services Program**

Authority: Human Services Article, 10-209 and 10-210, Annotated Code of Maryland

#### **.01 Definitions**

A. (text unchanged)

B. Terms Defined

(1)—(25) (text unchanged)

[(26) “Purchase of services agreement” means an agreement between a provider and the Department that specifies the contractual obligation of both parties”]

[27] (26) —[32] (31) (text unchanged)

[33] (32) “Subsidy” means the State funds paid by the Department to a provider for providing congregate housing services to a participant in accordance with a [purchase of services agreement] *subsidy services agreement* and this chapter.

(33) “*Subsidy services agreement*” means a grant agreement between a provider and the Department that specifies the obligations of both parties.

**.07 Change of Provider During Term of [Purchase of Services Agreement] *Subsidy Services Agreement*.**

A.—C. (text unchanged)

**.14 Mandatory and Optional Services.**

A. (text unchanged)

B. Meals

(1)—(5) (text unchanged)

(6) A provider or its food service [sub]contractor shall prepare in advance a weekly menu of the meals to be serviced.

(7) If more than one food service [sub]contractor is retained by a provider to prepare meals for participants in a facility, the provider shall assure that menus are coordinated to avoid duplication and to maintain overall nutritional balance.

(8)—(9) (text unchanged)

(10) If a provider [sub]contracts with another entity to provide meal services for the participants, the provider shall solicit competitive bids from qualified food service establishments at least once every 3 years. Competitive bidding may be waived by the Department if the meals are provided by a food service establishment that is under contract with:

(11) If a provider [sub]contracts with another entity to provide meals to participants, the provider shall arrange for participants to meet periodically with the other entity to discuss menus and other concerns.

C.—G. (text unchanged)

**.16 Renewal of Subsidy Award**

A.—B. (text unchanged)

C. The Department and the provider has executed a [purchase of services agreement] *subsidy services agreement* for the next fiscal year; and

D. (text unchanged)

**.17 Award of Subsidies to New Sites**

If funds are made available in the Department's budget to award subsidies to more facilities than the budget supported in the past, the Department shall issue[, in accordance with the State's procurement laws and regulations,] a request for proposals to persons who want to be providers that are eligible to receive subsidies.

**.18 [Purchase of Services Agreement] *Subsidy Services Agreement*.**

A. A provider that is approved by the Department to receive State subsidies shall enter into a written [purchase of services agreement] *subsidy services agreement* with the Department.

B. (text unchanged)

**.19 Administration of Subsidy Award**

A. (text unchanged)

B. For the term of a [purchase of services agreement] *subsidy services agreement*, the Department shall:

C.—G. (text unchanged)

H. If the subsidies advanced to a provider during a fiscal year are less than the amount of subsidies earned, the Department shall pay the subsidy amount due the provider, up to the [contract] *maximum grant* amount of the [purchase of services agreement] *subsidy services agreement*.

I. Not later than 10 days after the end of the third quarter of a fiscal year, a provider may request an amendment to its [purchase of services agreement] *subsidy services agreement* if its projects that the amount of subsidies earned will exceed the [contract] *maximum grant* amount of the [purchase of services agreement] *subsidy services agreement*. If funds are available, the Department may agree to amend the [purchase of services agreement] *subsidy services agreement* for all or part of the projected amount.

J.—K. (text unchanged)

L. The Department shall review a report required by §J or K of this regulation and reconcile the report with the amount of subsidy payments made to the provider during the fiscal year. After the Department has reconciled the subsidy payments, it shall pay any subsidy amount due to the provider, up to the [contract] *maximum grant* amount in the provider's [purchase of services agreement] *subsidy services agreement*.

**.22 Participant Application for Subsidy**

If an individual resides in a facility that has a [purchase of services agreement] *subsidy services agreement* with the Department, the individual may file an application for a subsidy with the provider at the facility on a form provided by the Department. An application for a subsidy may be filed at the same time as an application for eligibility is filed or may be filed after an application for eligibility is filed.

**.23 Participant Eligibility for Subsidy**

- A. An individual in a facility whose provider has a [purchase of services agreement] *subsidy services agreement* for a Standard Congregate Housing Services Plan is eligible to receive a subsidy if:
- (1) (text unchanged)
  - (2) The individual's net monthly income is insufficient to pay the full monthly fee approved by the Department in the [purchase of services agreement] *subsidy services agreement* with the provider;
  - (3)—(5) (text unchanged)
- B. A couple in a facility whose provider has a [purchase of services agreement] *subsidy services agreement* for a Standard Congregate Housing Services Plan shall be eligible to receive a subsidy if:
- (1) (text unchanged)
  - (2) The couple's net monthly income is insufficient to pay the full monthly fee for a couple approved by the Department in the [purchase of services agreement] *subsidy services agreement* with the provider;
  - (3)—(5) (text unchanged)
- C. An individual in a facility whose provider has a [purchase of services agreement] *subsidy services agreement* for an Individualized Congregate Housing Services Plan shall be eligible for a subsidy if:
- D.—G. (text unchanged)

**.26 Determination of Participant Subsidy Amount.**

- A. In the Standard Congregate Housing Services Program, the amount of the subsidy to be paid monthly on behalf of an eligible participant shall equal the difference between the participant's projected monthly income, less approved allowances set forth in §B of this regulation, and the monthly fee for congregate housing services as approved by the Department in the [purchase of services agreement] *subsidy services agreement*.
- B.—C. (text unchanged)

**.28 Notification of Intent Not to Renew [Purchase of Services Agreement] Subsidy Services Agreement.**

- A. If a provider does not intend to seek award of another [purchase of services agreement] *subsidy services agreement* after the current one expires, the provider shall give the Department written notice of that intention at least 120 days before the expiration of the current agreement.
- B. A notice provided to satisfy §A of this regulation shall include:
- (1)—(2) (text unchanged)
  - (3) An assurance that the provider shall provide congregate housing services up to the termination date in the current [purchase of services agreement] *subsidy services agreement*.

**.32 Civil Money Penalties**

- A. Violations Warranting Penalties. The Secretary, or the Secretary's designee, may impose a civil money penalty against a provider of congregate housing for:
- (1) A violation of this chapter or the provider's [purchase of services agreement] *subsidy services agreement* that results in conditions presenting an imminent danger or substantial probability of death or serious physical harm to a participant;
  - (2)—(3) (text unchanged)
- B.—I. (text unchanged)

