

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>
	04/13/2018	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/25/2018

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
05	21	01	.01-.14
05	05	03	.01-.18

3. Name of Promulgating Authority

Department of Housing and Community Development

<b>4. Name of Regulations Coordinator</b>	<b>Telephone Number</b>
Mark S Petrauskas	301-429-7487

**Mailing Address**

7800 Harkins Road

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Lanham	MD	20706

**Email**  
mark.petrauskas@maryland.gov

<b>5. Name of Person to Call About this Document</b>	<b>Telephone No.</b>
Ramona Amin	301-429-7473

**Email Address**  
Ramona.Amin@Maryland.gov

6. Check applicable items:  
 New Regulations

Amendments to Existing Regulations  
Date when existing text was downloaded from COMAR online: .  
 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 Ramona Amin, Assistant Attorney General, (telephone #301-429-7473) on April 11, 2018. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Kenneth C. Holt

**Title**

Secretary

**Telephone No.**

301-429-7452

**Date**

April 12, 2018

**Title 05**  
**DEPARTMENT OF HOUSING AND COMMUNITY**  
**DEVELOPMENT**

**Subtitle 21 HOMELESSNESS SOLUTIONS PROGRAMS**

**05.21.01 Homelessness Solutions Programs**

**Subtitle 05 RENTAL HOUSING PROGRAM**

**05.05.03 Rental Allowance Program**

Authority: 05.21.01: Housing and Community Development Article, §2-102 and §4-1403(g), Annotated Code of Maryland 05.05.03: Housing and Community Development Article, Title 4, Subtitle 14, Annotated Code of Maryland

**Notice of Proposed Action**

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The Secretary of Housing and Community Development proposes to (1) Adopt new COMAR 05.21.01 Homelessness Solutions Programs; and (2) Repeal in their entirety Regulations .01-.18 under COMAR 05.05.03 Rental Allowance Program.

**Statement of Purpose**

The purpose of this action is to adopt new COMAR 05.21.01 Homelessness Solutions Programs and repeal COMAR 05.05.03 Rental Allowance Program pursuant to Chapter 134, Laws of Maryland 2017.

**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 Stuart Campbell, Director, Office of Programs & Regional Development, Department of Housing and Community Development, 7800 Harkins Road, Lanham, MD 20706, or call 301-429-7522, or email to [stuart.campbell@maryland.gov](mailto:stuart.campbell@maryland.gov), or fax to . Comments will be accepted through June 25, 2018. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2019

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 and Special (General Bond Reserve Fund) funds will be used.

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: There is no economic impact because the proposed regulations only impact Department procedures. The changes will not increase the amount of funding available for Program grants and will not increase the cost of applying for grants under the Program.

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

Small businesses are not the recipients of Program grants and do not participate in making grants.

G. Small Business Worksheet:

Attached Document:

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## **Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **Subtitle 21 Homelessness Solutions Programs**

#### **Chapter 01 Homelessness Solutions Programs**

Authority: Housing and Community Development Article, §2-102 and §4-1403(g), Annotated Code of Maryland

##### **.01 Purpose.**

The purpose of this chapter is to prescribe the policies and procedures for providing grants for administering the Homelessness Solutions Programs, including:

The Rental Allowance Program, as set forth in §4-1401 et seq. of the Act;

The Homeless Women – Crisis Shelter Home Program, as set forth in §4-2201 et seq. of the Act;

The Housing Navigator and Aftercare Program, as set forth in §4-2301 et seq. of the Act; and Other homelessness programs that are funded by State, federal or other sources.

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Act" means the Housing and Community Development Article, Annotated Code of Maryland.
- (2) "Application" means an application by a prospective recipient of services.
- (3) "At risk of homelessness" means a household with an annual income below 30% of the area median income and does not have sufficient resources or support networks immediately available to prevent them from becoming homeless.
- (4) "Client" means a recipient of services.
- (5) "Continuum of Care" means the regional or local planning body that coordinates housing and services funding for homeless families and individuals as defined in 24 CFR 578.3.
- (6) "Crisis shelter home" means an emergency shelter that provides assistance in moving households from homelessness into permanent housing and provides shelter, meals, information and referral service, and counseling to households.
- (7) "Department" means the Department of Housing and Community Development, a principal department of the State.
- (8) "Dwelling unit" means a room, an apartment, house, or mobile home.
- (9) "Eligible dwelling unit" means a dwelling unit that:
  - (a) Is subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program; or
  - (b) Meets the dwelling unit standards established by the Secretary in accordance with Housing and Community Development Article, §4-1403, Annotated Code of Maryland.
- (10) "Family shelter" means any shelter that serves children under the age of 18.
- (11) "Grant" means the funds awarded by the Department to a grantee from available program funds.
- (12) "Grant application" means an application for grant funds from the Department.
- (13) "Grantee" means a nonprofit entity or local government that receives a grant from the Department under a program.
- (14) "Homeless" means a household who lacks a fixed, regular, and adequate nighttime residence.
- (15) "Homelessness Solutions Programs" means any of the programs set forth in regulation .01 of this chapter.
- (16) "Household" means an individual or one or more adults and children living together as a family.
- (17) "Housing assistance payments" means rental assistance payments that are used, for a period not to exceed 24 months, to pay:
  - (a) Rent;
  - (b) Security deposits;
  - (c) Utilities; and
  - (d) Housing-related expenses.
- (18) "Local government" means any of the 23 counties of the State, the City of Baltimore, a municipal corporation of the State subject to the provisions of the State Constitution, Article XI-E, or any of their duly authorized agencies, departments or instrumentalities.
- (19) "Nonprofit organization" means a corporation, foundation, or other legal entity that is exempt from federal income tax under §501(c)(3) of the Internal Revenue Code.
- (20) "Program" means any of the Homelessness Solutions Programs.
- (21) "Program agreement" means an agreement or agreements between the Department and a grantee to implement one or more programs.
- (22) "Provider" means an entity that:
  - (a) Is a nonprofit entity, a local government, or a public housing authority; and
  - (b) Contracts with the Department or a grantee to provide services under a program.
- (23) "Resident of the State" means a person who is living in the State voluntarily and not for temporary purposes, with no immediate intention of moving from the State at the time of application.
- (24) "Secretary" means the Secretary of the Department.

**.03 Eligible Grant Applicants.**

A. A grantee shall meet the following minimum requirements:

- (1) Not be currently barred or suspended from any of the Department's programs;
- (2) Have the legal capacity and all necessary legal authority to incur the obligations involved in the grant;
- (3) Be in good standing and qualified to do business in Maryland; and
- (4) Be a continuum of care, a nonprofit organization, or a local government.

B. The Department may give priority to any applicant that is a continuum of care.

**.04 Eligible Recipients and Requirements.**

A. Rental Allowance Program.

- (1) Eligible recipients are:
  - (a) Households with an annual income below 30% of the area median income and are homeless; and
  - (b) Households who are at-risk of homelessness.
- (2) Funds provided under this program must be used for housing assistance payments.
- (3) Housing assistance payments shall be made only on behalf of clients who have rented an eligible dwelling unit and where the lease or sublease is in the name of the client.
- (4) Dwelling units that are not already subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program:
  - (a) Shall be inspected for conformance with the requirements of this regulation; and
  - (b) Shall be maintained by the dwelling unit owner so as to comply with the requirements of this Section.

B. Homeless Women – Crisis Shelter Home Program.

- (1) Eligible recipients are women who are:
  - (a) Homeless; and
  - (b) A resident of the State.
- (2) The crisis shelter home shall provide clients with a temporary residence of not more than 12 weeks.
- (3) The temporary residence may be a room in a hotel or motel.
- (4) Clients shall have cooperative responsibility for housekeeping duties in a crisis shelter home.
  - (a) Housekeeping duties shall be limited to the immediate area where the client sleeps;
  - (b) Additional housekeeping duties shall be voluntary and not a valid reason for termination from the program.
- (5) Crisis shelter homes shall not charge a fee to clients.
- (6) Admission policies of crisis shelter homes shall be accepting of households in need of shelter.

C. Housing Navigator and Aftercare Program.

- (1) Eligible recipients are households who are the recipient of or in the process of applying for temporary cash assistance, as defined in §5-301 of the Human Services Article, Annotated Code of Maryland.
- (2) Funds provided under this program must be used for:
  - (a) Salary and FICA for housing navigators and aftercare case managers;
  - (b) Client-related expenses, including:
    - (i) First and final months' rent;
    - (ii) Transportation for housing searches;
    - (iii) Moving expenses;
    - (iv) Essential furnishings;
    - (v) Storage;
    - (vi) Arrearages;
    - (vii) Credit checks and housing application fees;
    - (viii) Security deposits;
    - (ix) Utility deposits; and
    - (x) Other identified needs;
  - (c) Other items that the Department designates.

D. In addition to the eligible uses set forth in A-C of this regulation, the Department may allow additional uses of funds for costs and expenses related to reducing, eliminating or preventing homelessness that are consistent with the funding source the Department receives for any other programs that serve the homeless.

E. A grantee may grant all or a portion of the funds it receives from the Department to a provider to carry out the program with approval from the Department and in accordance with the terms and conditions of an agreement with the Department.

**.05 Grant Applications.**

- A. Grant applications shall be accepted in one or more rounds to be announced by the Department.
- B. A grant application submitted to the Department shall:
  - (1) Be on standard forms prescribed by the Department;
  - (2) Be submitted by an eligible applicant;
  - (3) Be for an eligible use;
  - (4) Detail the need for homeless services in the applicant's area, including:
    - (a) The proposed plan for addressing those needs;
    - (b) The services for which funding is requested; and
    - (c) The providers who will be receiving funding under the applicant's proposed plan;
  - (5) Provide a budget, acceptable to the Department; that at a minimum shows anticipated project costs and expenses;
  - (6) Contain the organizational documents of the applicant unless applicant is a local government; and
  - (7) Include such other information or documentation that the Department may require.
- C. A grant application may be submitted for one or more programs.
- D. An applicant may file one or more applications in accordance with schedules established by the Department.

E. Each grant application shall be submitted to the Department to determine whether all of the information required under this regulation is contained in the application.

F. The Secretary shall establish a procedure for distributing grant funds that takes into consideration the need to serve eligible clients on a Statewide basis.

G. The Secretary shall, in evaluating grant applications, take into consideration the prospective grantee's or provider's use of evidence-based best practices, and conformity to a low-barrier housing first approach in providing services to clients.

#### **.06 Program Administration.**

A. The Department may establish from time to time detailed program guidelines or manuals containing application schedules, procedures, processing requirements, and other requirements or matters relating to the Programs.

B. The Department shall ensure that program guidelines and application forms are publicly available on its website and at its offices.

C. After a grant has been awarded to a grantee, the Department may:

(1) Commence and pursue any action to protect or enforce any right conferred by law, contract, or other agreement;

(2) Modify any provision of any grant in order to facilitate the successful completion or operation of a program; and

(3) Exercise all powers authorized under the Act that are necessary or desirable for the implementation of the program, including but not limited to, termination of a grant or refusal to make additional disbursements under a grant agreement if the Department finds that the grantee is not complying with any of the requirements of the program or the grant agreement.

D. Any action or decision required or permitted to be taken or made by the Department pursuant to the Act or these regulations may be taken by the Assistant Secretary of the Division of Neighborhood Revitalization.

#### **.07 Delivery of Services.**

A. The provider shall use an application document substantially similar to application documents used for other clients of the provider.

B. The provider shall assess the application document and determine eligibility.

C. The provider or grantee shall create a client-centered case plan for all clients receiving services.

#### **.08 Books and Accounts.**

A. A grantee and its contractors, and subcontractors shall maintain such books, accounts, and records, and shall file with the Department such financial and other reports as the Department may from time to time require.

B. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

C. Books, accounts, and records of designated third parties, contractors, and subcontractors shall be maintained and made available for inspection for three years past the date of termination of the contractual relationship between a provider, contractor or subcontractor and the grantee.

D. Grantees shall submit reports to the Department on the progress or implementation of a project in accordance with an agreement with the Department.

#### **.09 Reports and Forms.**

A. The Department shall provide to the grantee all instructions, data elements, and other components necessary to carry out program requirements.

B. The grantee shall transmit to providers the forms that are applicable to the providers.

C. The grantee shall make reports required by the Department.

D. The grantee shall retain all records relating to services for a period of time defined by the program guide, with a minimum of three years.

E. Confidentiality.

(1) The grantee may not disclose identifying information regarding an applicant or client without written authorization to do so from the applicant or client, except to the Department's employees authorized to monitor or audit the program.

(2) The grantee shall maintain all written records regarding applicants and clients in a secure locked location.

#### **.10 Grievance Procedures**

A. This section applies to grantees and providers identified under Regulation .04E of this chapter.

B. Written grievance procedures.

(1) Grantees and providers shall maintain written grievance procedures for termination and denial of benefits.

(2) The written procedures shall be submitted with grant applications under Regulation .05 of this chapter and must be approved by the Department.

(3) A copy of the written procedures shall be provided to applicants upon application for benefits, and to recipients upon award of benefits.

C. Requirements for grievance procedures. The following are requirements for grievance procedures to be established by any grantee or provider under this section.

(1) Informal hearing for termination of housing subsidy and housing shelter benefits.

(a) Grounds for termination of benefits. The grantee or provider must identify grounds for termination of benefits, which shall be approved by the Department prior to enforcement.

(b) Notice of Termination. Before terminating benefits, the grantee or provider shall provide the recipient with notice and opportunity for an informal hearing. The notice shall include:

(i) The date that termination of benefits will be effective;

(ii) A statement of reasons for the decision to terminate benefits;

(iii) Notification that if the client does not agree with the decision, the client may request an informal hearing for review of the decision;

(iv) The procedures for requesting an informal hearing; and

(v) The deadline for requesting an informal hearing, which must provide no fewer than 14 days for the client to submit such request.

(c) Notice of Hearing. Upon receipt of a timely request for an informal hearing, the grantee or provider shall, within seven days, schedule an informal hearing and provide notice to the client. The notice shall include:

(i) Date of issuance of the notice;

(ii) Date, time, and location of informal hearing (which must be conducted within 14 days after the date of the notice);

(iii) The issue to be heard during the informal hearing;

(iv) Notice that the failure to appear will result in the termination decision being upheld;

(v) The client's right to bring evidence, witnesses, and legal representation to the hearing, at the client's own expense;

(vi) The client's right to review relevant documents in the possession of the grantee or provider, prior to the hearing; and

(vii) Notice that the grantee or provider may request to review relevant documents in the possession of the client prior to the hearing.

(d) Conduct of Hearing.

(i) Any hearing under this section must be conducted by a person who neither made nor approved of the termination decision and is not subordinate to the person that made or approved the termination decision.

(ii) A client shall have the opportunity to provide an opening statement;

(iii) A client shall have the opportunity to present evidence;

(iv) A client shall have the opportunity to question witnesses;

(v) A client shall have the opportunity to examine the documents that are the basis for the termination decision;

(vi) A client shall have the opportunity to request that grantee or provider staff be present to answer questions; and

(vii) A client shall have the opportunity to present legal argument.

(viii) The grantee or provider shall have the same opportunities provided to the client in §C(1)(d)(ii-vii) of this regulation.

(e) Decision.

(i) The person conducting the hearing shall issue a written decision within thirty days after the hearing. Benefits under this section may not be terminated until a decision is issued under this section affirming the termination decision.

(ii) Any decision affirming termination of benefits shall provide information to the client on the procedure for requesting an appeal.

(2) Informal review for termination of other benefits.

(a) Grounds for termination of benefits. The grantee or provider must identify grounds for termination of other benefits, which shall be approved by the Department prior to enforcement.

(b) Notice of termination of benefits. The grantee or provider shall provide clients with notice of termination of benefits and the opportunity for an informal review relating to termination of non-welfare benefits. Benefits may be terminated prior to conduct of the informal review. The notice shall inform the client of the following:

(i) The action being taken, the reasons for such action being taken, and the effective date of such action;

(ii) Notification that if the client does not agree with the decision, the client may request an informal review of the decision;

(iii) The procedures for requesting an informal review of the decision; and

(iv) The time for requesting the informal review of the decision.

(c) Notice of informal review. Upon receipt of a timely request for informal review under this section, the grantee or provider shall provide the client with a notice of scheduling the informal review. The notice shall include:

(i) Date of notice;

(ii) Date, time, and location of informal review;



(iii) The issue to be heard during the informal review and the client's right to present information in support of client's objections; and

(iv) That the failure to appear for the informal review will result in the decision being upheld.

(d) Conduct of informal review. The informal review will be conducted by a person that neither made nor approved of the termination decision and is not subordinate to the person that made or approved the termination decision.

(e) Decision.

(i) The decision resulting from the informal review may be provided orally at the informal review or in writing no later than 30 days after the informal review.

(ii) If the decision resulting from the informal review does not uphold the termination of benefits, and benefits have already been terminated, the grantee or provider shall provide retroactive benefits to cover any loss in benefits during the period between the termination and reinstatement of benefits.

(iii) The decision shall provide information to the client on the procedure for requesting an appeal.

(3) Appeal of grievance decisions.

(a) The client may appeal a decision provided under §C(1)(e) and §C(2)(e) within 30 days after issuance of such decision.

(b) Appeals under this section will be made in writing to the Department.

#### **.11 Nondiscrimination; Drug and Alcohol Free Workplace.**

A. An applicant may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental disability, sexual orientation, gender identity, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program, or in any aspect of employment by any Applicant in connection with any project financed or assisted under the Program.

B. An applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

(1) Titles VI and VII of the Civil Rights Act of 1964, as amended;

(2) Title VIII of the Civil Rights Acts of 1968, as amended;

(3) The Fair Housing Amendments Act of 1988, as amended;

(4) State Government Article, Title 20, Annotated Code of Maryland, as amended;

(5) The Department's Minority Business Enterprise Program, as amended;

(6) The Governor's Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order; and

(7) The Americans with Disabilities Act of 1990, as amended.

C. The provider or grantee may not require the client to participate in religious activities as a condition of receiving services.

D. Family shelters must serve all households regardless of the sex, sexual orientation, gender identity, or age of any members of the family.

E. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties, and between the grantees and other parties.

#### **.12 Waiver.**

The Secretary may waive or vary provisions of this chapter to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

#### **.13 False Statements.**

A. An individual may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Secretary or the Department by an agreement relating to the grant.

B. An individual applying for or benefiting from a grant under the Program may not knowingly make or cause to be made a false statement or report for the purpose of influencing the action of the Secretary or the Department on a grant application or for the purpose of influencing the action of the Secretary or the Department affecting the grant already provided.

C. An individual who violates §A or §B of this regulation is subject to immediate cancellation of the grant provided by the Program and any other penalties authorized by law.

#### **.14 Severability.**

The provisions of these regulations are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these regulations or the application of any provision to any person or circumstance is invalid does not affect the validity of the remaining provisions of the regulations or any other application of these regulations, and the remaining regulations shall have full force and effect as if no judgment had been entered.