



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Kathryn H. Selle, AELR Committee Counsel
John J. Joyce, AELR Committee Counsel
Kathleen P. Kennedy, AELR Committee Counsel

Date: August 21, 2020

Re: **Synopses of Regulations received from 8/7/2020 through 8/20/2020**

Enclosed please find synopses of regulations received by the Joint Committee on Administrative, Executive, and Legislative Review (AELR) during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

/cr

cc: Jake Weissmann
Alexandra M. Hughes

Elections, State Board of

Emergency Regulation

DLS Control No. 20-094

Board of Elections:

Early Voting:

Early Voting Centers: COMAR 33.17.02.01 - .02

According to the board, the proposed emergency changes allow a local board to establish a new early voting center if the number of active, registered voters increased in an amount that would have crossed the threshold for a new early voting center in the time since the number of early voting centers was determined (either months prior to the primary election). This issue was brought to the State Board at its July 23, 2020 meeting by a local board of elections, and was adopted by the State Board at its August 5, 2020 meeting. Prior to adopting these proposed emergency regulations, the members of the Board first passed a motion to suspend the requirements of EL § 10-301.1(c), which requires each early voting center to be designated “no later than six months before a primary election.” The board has the authority to do this under the Governor’s emergency delegation of suspension authority to agencies with regard to deadlines, timeframes, etc., in the statutes they administer, as outlined in the Governor’s Emergency Order dated June 19, 2020. As this was not brought to the State Board until July, there is not enough time to adopt these regulations under the normal promulgation process.

Emergency Regulations

DLS Control No. 20-096

Board of Elections:

Meetings and Training:

Judges’ Manuals and Training: COMAR 33.02.03.04

Canvassing: Definitions; General Provisions: COMAR 33.08.01.02

Absentee Ballots: Issuance and Return: COMAR 33.11.03.06 and .08

Early Voting: Election Judges: COMAR 33.17.05.01

According to the board, the proposed emergency amendments are all necessary to conduct the 2020 General Election in accordance with CDC social distancing guidelines. The amendments to Subtitles 8, 11, and 17 are identical to emergency regulations that the State Board adopted and AELR approved for the June primary election. The amendment to Subtitle 2 is also necessary to allow for social distancing during the pandemic. Due to the short turnaround from the primary election to the general election, there is not time to pass these regulations under the normal promulgation schedule.

Comptroller of the Treasury

Proposed Regulation

DLS Control No. 20-092

Comptroller of the Treasury:

Alcohol and Tobacco Tax:

Alcoholic Beverages: COMAR 03.02.01.05

According to the office, the purpose of this action is to update and rename a regulation dealing with price filings and containers of alcoholic beverages for sale.

Labor, Maryland Department of

Proposed Regulation

DLS Control No. 20-091

Maryland Department of Labor:

Commissioner of Financial Regulation:

Credit and Other Regulation: COMAR 09.03.10.05

According to the department, the purpose of this action is to enhance consumer rights and protections, provide the form which Mobile Home Retailers must use to provide a written statement to Prospective Consumer Borrowers containing certain disclosures and other information, as well as the procedure for filing a complaint with the commissioner.

Insurance Administration, Maryland

Proposed Regulation

DLS Control No. 20-093

Maryland Insurance Administration:

Insurance Producers and Other Insurance Professionals:

Managing General Agents: COMAR 31.03.19.01

According to the administration, the purpose of this action is to adopt new Regulation .01 under new COMAR Chapter 31.03.19 Managing General Agent. Specifically, § 8-207 of the Insurance Article states that the Insurance Commissioner may by regulation require a managing general agent to carry certain errors and omissions and surety coverage. This regulation implements these requirements.

Emergency/Proposed Regulations

DLS Control No. 20-095

Maryland Insurance Administration:

General Regulations:

Emergency Powers: COMAR 31.01.02.02 , .03, .06

According to the administration, based on the fact that the COVID-19 emergency has continued longer than anticipated and the continued state of emergency in Maryland, the Maryland Insurance Administration is implementing emergency regulations along with permanent regulations addressing several issues dealing with the diagnosis, treatment, and testing for a specified illness, in this case the Administration would activate the regulations through Bulletin to aid in the COVID-19 pandemic. If this emergency action is not approved before the permanent regulations go into effect then the current emergency regulations providing that carriers cannot charge consumers cost sharing, including co-payments, deductibles, and co-payments for the testing, diagnosis, and treatment will expire and carriers may start to require consumers to pay for these services prior to the permanent regulations going into effect.

Specifically, this action will amend regulations .02, .03, and .06 under COMAR 31.01.02 Emergency Powers. This regulation will establish additional emergency powers of the Commissioner related to health insurance coverage requirements for a specified illness for which a state of emergency is declared.

Additionally changes are being made to regulations .02 and .06 to ensure that Medicaid enrollees do not inadvertently lose their right to a guaranteed issue period for enrollment in a Medicare Supplement policy without medical underwriting. Under current Maryland law (§ 15-909 of the Insurance Article), there is a six-month period following the date an individual first enrolls in Medicare (the guaranteed issue period) during which an individual may apply for a Medicare supplement policy and be guaranteed acceptance by the carrier, regardless of health status. After the guaranteed issue period, an individual may still apply for a Medicare supplement policy, but they are subject to medical underwriting and may be denied coverage by the carrier.

Due to certain federal and state requirements, a Medicare supplement carrier generally may not issue a Medicare supplement policy to a Medicaid enrollee. Prior to the pandemic, when a Medicaid enrollee enrolled in Medicare Part B, the Medicaid coverage automatically terminated, and the individual could enroll in a Medicare supplement policy during the guaranteed issue period. For the duration of the national Public Health Emergency for COVID-19, however, the federal government is prohibiting states from terminating Medicaid coverage based on an individual's enrollment in Medicare. If Medicaid terminations resume after the national Public Health Emergency exists for longer than six months, individuals terminated from Medicaid may no longer be eligible for the guaranteed issue period for enrollment in a Medicare supplement period. If such an individual is not able to pass medical underwriting, they will be unable to purchase a Medicare supplement policy through no fault of their own.