

MARYLAND REGISTER

Proposed Action on Regulations

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1. Desired date of publication in Maryland Register: 10/23/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

10 09 37 03-1

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator Telephone Number
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6. Check applicable items:

- X- New Regulations
- _ Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: .
- _ Repeal of Existing Regulations
- _ Recodification

Notice of Proposed Action

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The Secretary of Health proposes to adopt new Regulation .03-1 under COMAR 10.09.37 Family Planning Program Eligibility.

Statement of Purpose

The purpose of this action is to implement presumptive eligibility requirements for the Maryland Medicaid Family Planning Program, in accordance with Senate Bill 774 Maryland Medical Assistance Program – Family Planning Services, 2018, Finance.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action implements presumptive eligibility for the Family Planning Program. In FY 2021, the total impact for FY 2021 is \$1,934,216.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$1,934,216
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$1,934,216
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. (1) Individuals may begin applying for Family Planning Program presumptive eligibility on October 1, 2020.

(2) The Department estimates that 25 percent of 41,041 (or 10,260) potentially eligible individuals who visit Title X clinics are likely to apply for Family Planning services through the presumptive eligibility program. The average annual cost to provide family planning services is \$251.36 per person.

(3) The magnitude of economic impact is subject to a 50 percent federal match (\$967,108 federal and \$967,108 general).

D. See A. above.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

Maryland Medicaid providers who furnish family planning services are likely to benefit from the influx of individuals determined presumptively eligible to receive services through the Family Planning Program. The Department estimates it will cost \$1,934,216 to provide family planning services to individuals it has identified as potentially eligible for PE. Maryland Medicaid providers are likely to benefit because they will be able to bill for family planning services rendered to these individuals.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 TTY: 800-735-2258, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 23, 2020. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2021

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: 50 percent federal funds, 50 percent general funds

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:

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

G. Small Business Worksheet:

Attached Document:

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 09 Medical Care Programs

10.09.37 Family Planning Program Eligibility

Authority: Health-General Article, §§2-104(b), 15-103(a), and 15-140, Annotated Code of Maryland

.03-1 Family Planning Program Presumptive Eligibility.

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Term Defined.

(a) "Applicant" means an individual who has applied for presumptive eligibility at a participating Title X clinic.

(b) "Application" means the presumptive eligibility application.

(c) "Authorized representative" has the same meaning as set forth in COMAR 10.01.04.01.

(d) "Determination" means a decision regarding an applicant's presumptive eligibility.

(e) "Former foster care" means an individual who:

(i) Is younger than 26 years old;

(ii) Is not eligible and enrolled for coverage under a mandatory Medical Assistance group other than childless adult; and

(ii) Was formerly in a Maryland out-of-home placement, including categorical Medical Assistance, upon attaining age 18 and leaving out-of-home placement or upon attaining age 19—21 during extended out-of-home placement under COMAR 07.02.11.04B.

(f) "Income" means property or a service received by an individual in cash or in-kind, which can be applied directly, or by sale or conversion, to meet basic needs for food, shelter, and medical expenses.

(g) "Medical Assistance" means the program administered by the State under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for eligible individuals.

(h) "Presumptive eligibility" means temporary eligibility for Family Planning Program services as determined by Title X clinics in accordance with this regulation.

(i) "Title X clinic" means an entity that provides family planning services with Title X funds under a written agreement with a grantee or another subrecipient.

B. Requirements.

(1) A Title X clinic qualified to make presumptive eligibility decisions shall:

(a) Participate as a Medical Assistance Program provider in good standing; and

(b) Sign an agreement prepared by the Department.

(2) The agreement required under §B(1)(b) of this regulation shall require that the Title X clinic:

(a) Comply with Departmental policies and procedures supplied by the Department at the time of application and training;

(b) Meet accuracy and timeliness standards established by the Department;

(c) Submit a list to the Department of Title X clinic employees who will attend presumptive eligibility training developed by the Department;

(d) Prohibit employees who have not attended required trainings and passed a post-training test from making presumptive eligibility decisions; and

(e) Report all requested information on a form designated by the Department.

(3) Before assisting an applicant in filing a presumptive eligibility application, the Title X clinic employee shall:

(a) Check the Department's eligibility verification system to make sure the individual is not actively enrolled in the Medical Assistance Program;

(b) Provide information concerning the full Medical Assistance application process to the individual applying for presumptive eligibility and assist or refer the applicant to an individual who can assist the applicant in completing a full Medical Assistance application;

(c) Determine that the applicant:

- (i) Has not had a prior family planning presumptive eligibility period within the last 12 months;
- (ii) Is not pregnant;
- (iii) Is not actively enrolled in the Medical Assistance Program; or
- (iv) Is not enrolled in Medicare.

(4) The Title X clinic employee shall fill out the presumptive eligibility application based on information supplied by the applicant.

(5) The Title X clinic employee shall make a presumptive eligibility decision and sign the presumptive eligibility application by applying §D of this regulation and the following information obtained pursuant to §C of this regulation:

- (a) Residency;
- (b) Citizenship;
- (c) Family size and composition; and
- (d) Gross family income.

(6) The Title X clinic employee shall inform the individual in writing of the Title X clinic's presumptive eligibility decision which includes an explanation of the presumptive eligibility period.

(7) The Title X clinic shall submit the presumptive eligibility application to the Department on the date of application completion to allow the individual to have temporary Medical Assistance coverage.

(8) The Title X clinic shall:

- (a) Keep all written and signed presumptive eligibility applications on file for 6 years; and
- (b) Make the file available to the Department upon request.

C. Presumptive Eligibility Criteria.

(1) An individual shall apply for presumptive eligibility through a participating Title X Clinic.

(2) An individual who applies for presumptive eligibility shall attest to:

- (a) The citizenship requirements in COMAR 10.09.24.05;
- (b) The residency requirements in COMAR 10.09.24.05-3;
- (c) The individual's pregnancy status;
- (d) The individual's family size; and
- (e) The individual's household's gross monthly income.

D. Presumptive eligibility may be established for individuals who meet the Family Planning Program eligibility requirements in COMAR 10.09.37.03.

E. Limitations.

Presumptive eligibility may not be granted to an individual who:

- (1) Is pregnant;
- (2) Is currently enrolled in the Medical Assistance Program or Medicare;
- (3) Had a prior presumptive eligibility period during the last 12 months;
- (4) Does not meet the incomes requirements stated in COMAR 10.09.37.03;
- (5) Does not meet the residency requirements stated in COMAR 10.09.24.05-3; or
- (6) Does not meet the citizenship requirements stated in COMAR 10.09.24.05.

F. Coverage Span.

(1) Presumptive eligibility begins on the day the presumptive eligibility worker determines the individual is presumptively eligible.

(2) Presumptive eligibility ends on the earlier of:

- (a) The day the individual is determined eligible for Medical Assistance; or
- (b) The last day of the month following the month in which the Title X clinic determined presumptive eligibility, if an individual:

- (i) Is found ineligible for Medical Assistance; or
- (ii) Failed to apply for Medical Assistance.

G. Presumptive Eligibility Appeal Rights.

An individual or an organization does not have appeal rights for presumptive eligibility determinations.

ROBERT R. NEALL

Secretary of Health