



STATE OF MARYLAND

DHMHOffice of Health Services
Medical Care Programs**Maryland Department of Health and Mental Hygiene**

201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – Nelson J. Sabatini, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM**Nursing Home Transmittal No. 188****June 14, 2004**

TO: Nursing Home Administrators

FROM: Susan J. Tucker, Executive Director
Office of Health Services

NOTE: Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.

RE: Amendments to Nursing Facility Services Regulations – Interim Working Capital Fund

ACTION:
Proposed Regulations

PROPOSED EFFECTIVE DATE:
July 1, 2004

WRITTEN COMMENTS TO:
Michele Phinney,
201 W. Preston Street, Room 521
Baltimore, Maryland 21201
(410) 767- 6499

PROGRAM CONTACT PERSON:
Stephen E. Hiltner, Supervisor
Nursing Home Program
(410) 767-1447

COMMENT PERIOD EXPIRES: June 28, 2004

The Maryland Medical Assistance Program proposes to amend Regulations .01, and .15 and adopt new Regulation .07-1 under COMAR 10.09.10 Nursing Facility Services. These provisions are currently in effect under emergency status approved by the Joint Committee on Administrative, Executive & Legislative Review.

The amendments, as published in the *Maryland Register*, are enclosed in this mailing. Also enclosed is a letter, specific to your facility, pertaining to a request for an allotment from the Interim Working Capital Fund. Any questions regarding this transmittal should be directed to the Nursing Home Section of the Division of Long Term Care Services at 410 767-1444.

Attachments
cc: Nursing Home Liaison Committee



.10 Vehicles.

A. The Service may restrict the use of bicycles, mountain bikes, and animals on certain forest roads and trails on Chesapeake Forest Lands.

B. Except by written permit from the Service, the use of any all-terrain vehicle or off-highway vehicle is prohibited on Chesapeake Forest Lands.

C. Vehicles may not be parked so they block access to any gate or road on Chesapeake Forest Lands.

.11 Advertising.

Unless a permit is obtained from the Service, an individual may not erect or post a sign, notice, or literature on Chesapeake Forest Lands.

.12 Encroachment.

A. Private encroachments are prohibited on Chesapeake Forest Lands.

B. Encroachments include, but are not limited to:

- (1) Fences;
- (2) Walls;
- (3) Dog runs;
- (4) Dog houses;
- (5) Storage structures;
- (6) Driveways;
- (7) Compost piles;
- (8) Swimming pools;
- (9) Tree houses;
- (10) Play houses;
- (11) Woodpiles;
- (12) Gardens;
- (13) Play equipment;
- (14) Television or radio reception devices; and
- (15) Other devices, structures, refuse, or material.

C. RONALD FRANKS
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.18 Ocean City — Back Bay Areas

Authority: Natural Resources Article, §8-704,
Annotated Code of Maryland

Notice of Proposed Action
[04-121-P]

The Secretary of Natural Resources proposes to amend Regulation .04 under COMAR 08.18.18 Ocean City — Back Bay Areas.

Statement of Purpose

The purpose of this action is to change the existing all time speed limit line at the south end of Ocean City at the inlet across to Assateague Island, along the shore, to the Southern entrance to the West Ocean City Harbor. This change is necessary for safety to reduce the speed of vessels operating in this very congested area during the boating season.

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.

Opportunity for Public Comment

Comments may be sent to Captain David Street, Natural Resources Police, 1804 West Street, Suite 300, Annapolis, Maryland 21401, or call (410) 260-3280, or fax to (410) 260-260-3292, or email to dstreet@dnr.state.md.us. Comments must be received by June 28, 2004.

.04 Isle of Wight Bay

Isle of Wight Bay encompasses the area from a line beginning at a 38°19' [34.05] 33.8"N., Long. 75°05'27. [06] 7"W. (sea wall near Oceanic Fishing Pier) and running [316] 234° True to a point on the opposite shore, Lat. 38°19' [45.90] 26.9"N., Long. 75°05' [41.82] 39.9"W. [then upstream] (north end of Assateague Island), then running westerly along the shore to a point Lat. 38°19' 26.5"N., Long. 75°05' 55.7"W., and running 339° True to Lat. 38°19' 36.8"N., Long 75°06' 00.8"W., then easterly and northerly along the shore including creeks, inlets, and tributaries to a point Lat. 38°20' 02.25"N., Long. 75°05' 48.60"W. (west end of U.S. Route 50 bridge), then easterly 109° True to a point Lat. 38°19' 58.55"N., Long. 75°05' 34.44"W., then upstream 018° True to a point Lat. 38°20' 08.23"N., Long. 75°05' 30.36"W., then easterly 108° True to a point on shore, Lat. 38°20' 05.20"N., Long. 75°05' 18.79"W. (Second Street), then southerly following the shoreline to point of beginning, including all tributaries. This area has a 6-knot (6.9 MPH) speed limit, during the boating season only, which is April 15 through October 15.

C. RONALD FRANKS
Secretary of Natural Resources

**Title 10
DEPARTMENT OF
HEALTH AND MENTAL HYGIENE**

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105,
Annotated Code of Maryland

Notice of Proposed Action
[04-124-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .15 and adopt new Regulation .07-1 under COMAR 10.09.10 Nursing Facility Services.

Statement of Purpose

The purpose of this action is to provide temporary financial assistance to nursing facilities while State agencies collaborate to improve the timeliness of Medicaid eligibility determinations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This action will create the mechanism through which providers may access working capital. The Medical Assistance Program will have a revenue loss of \$150,000 which will benefit nursing home providers as explained in Section III, below.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: Medical Assistance Program	(R-)	\$150,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
Nursing home providers	(+)	\$150,000
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. The Program intends to provide approximately \$12,500,000 in working capital in fiscal year 2005. These funds would be repaid to the Program by May 1, 2006. An estimated \$150,000 will represent lost interest costs to the State during fiscal year 2005. One hundred percent of these amounts are State General Funds.

D. Working capital loans to nursing home providers will total approximately \$12,500,000, with a time value of \$150,000, as indicated in A.

Economic Impact on Small Businesses

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

Thirty-six nursing homes, which qualify as small businesses, are expected to account for 550,000 patient days during the period July 1, 2004 through June 30, 2005. Based on the time value of their working capital funds, nursing homes that qualify as small businesses will benefit by \$14,190.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhmh.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by June 28, 2004.

.01 Definitions

A. (text unchanged)

B. Terms Defined.

(1) — (21) (text unchanged)

(21-1) "Interim Working Capital Fund" means funding made available to providers on a temporary basis that shall be repaid to the Department.

(22) — (53) (text unchanged)

.07-1 Interim Working Capital Fund.

A. A provider may request an allotment from the Interim Working Capital Fund if the facility for which an allotment is requested has not had any of the following deficiencies cited in any survey conducted by the Office of Health Care Quality during the calendar year preceding the calculation

of the allotment, using the scope and severity matrix found in the Centers for Medicare and Medicaid Services State Operations Manual for Survey and Certification, Part 7, §7400E:

(1) Two or more "G" level deficiencies; or

(2) One or more "H" or higher level deficiencies.

B. A provider operating a facility with any of the deficiencies described in §A of this regulation may be eligible for an allotment if the facility has undergone an arm's length change of ownership, as determined by the Department, since the latest survey that resulted in the deficiencies.

C. The Department may deny an allotment from the Interim Working Capital Fund if the Department, based on sufficient information, concludes that the requesting provider is not able to repay the allotment on a timely basis.

D. Notwithstanding the provisions of Regulation .07C(8) of this chapter, allotments shall be available, on request, after May 1, 2004.

E. The maximum allotment for any provider shall be 0.015 times the total Medicaid payments to that provider in State fiscal year 2003.

F. Recalculation.

(1) In March 2005, the Department shall recalculate the maximum allotment based on Medicaid payments for State fiscal year 2004.

(2) If the recalculated maximum allotment is:

(a) Less than the amount the provider carried over from the prior year, the provider shall repay the difference to the Department within 30 days of the date the Department provides notice that a repayment is due; or

(b) Greater than the amount carried over from the prior year, the provider may request the difference from the Department.

G. Revocation.

(1) The Department may revoke the allotment based on:

(a) Quality of care violations;

(b) Changes in business practice that are detrimental to Medicaid recipients;

(c) Impending bankruptcy; or

(d) Other good cause shown.

(2) If the Department revokes the allotment, the provider shall repay the total allotment to the Department within 15 days of the notice of revocation.

H. In order to obtain an allotment, the provider shall agree that it holds the allotment in constructive trust for the State subject to recoupment or immediate payment on demand by the State.

I. The Interim Working Capital Fund expires on May 1, 2006. Providers shall repay all outstanding funds to the Department by May 1, 2006. The Department may grant repayment extensions of not longer than 60 days under extraordinary circumstances.

.15 Change of Ownership.

A. (text unchanged)

B. The new owner shall:

(1) Notify the Medical Assistance Program of the intent to purchase an existing facility or controlling interest in it, and the desire to enroll in the Program, not less than 30 days before the date of the change of ownership; [and]

(2) Enter into a provider agreement with the Department before being assigned new interim per diem rates; and

(3) Notwithstanding §A(2) of this regulation, assume any debt owed by the current owner to the Interim Working Capital Fund under Regulation .07-1 of this chapter.

C. — E. (text unchanged)

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.03 Maryland Long-Term Care Survey

Authority: Health-General Article, §§19-109(a)(1) and (7) and 19-116(b)(1) and (2), Annotated Code of Maryland

Notice of Proposed Action
[04-123-P]

The Maryland Health Care Commission proposes to amend Regulations .01 and .02 under **COMAR 10.24.03 Maryland Long-Term Care Survey**. This action was considered by the Commission at an open meeting held on April 15, 2004, notice of which was given through publication in the Maryland Register, under State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update the regulations to be in compliance with the current processes of the Long-Term Care Survey.

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.

Opportunity for Public Comment

Comments may be sent to Barbara McLean, Executive Director, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215-2299, or call (410) 764-3460, or fax to (410) 358-1236 or email to BMClean@mhcc.state.md.us. These comments must be received by 4:30 p.m., June 28, 2004.

Open Meeting

Action on the proposed amendments will be considered by the Commission at a public meeting to be held on July 15, 2004 at 1 p.m., at 4160 Patterson Avenue, Baltimore, Maryland 21215.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Maryland Long-Term Care Survey" means any written request for data from the Maryland Health [Resources Planning] Care Commission to long-term care providers. This data may include:

(a) — (g) (text unchanged)

.02 Collection and Submission of Data.

A. Long-term care providers, on a periodic basis as requested, shall submit accurate, timely, and complete data required by the Commission for:

- (1) The development of methodologies and planning; and
- (2) Maintenance of the nursing home performance evaluation guide [on a periodic basis as requested].

B. The Commission shall:

(1) Annually survey providers of comprehensive care, extended care, chronic hospital care, and [domiciliary care] assisted living; and

(2) (text unchanged)

C. Providers shall:

(1) Assign to each patient/client an identification number consisting of the last six digits of the patient/client Social Security number;

(2) Retain] retain a listing of all patient/client codes, as applicable, and a copy of the survey for 5 years to permit the Commission to follow up on unclear responses.

D. — E. (text unchanged)

DONALD E. WILSON, M.D.
Chairman
Maryland Health Care Commission

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.05 Licensure by Waiver of Practical Clinical Examination for Dentists

Authority: Health-Occupations Article, §4-306, Annotated Code of Maryland

Notice of Proposed Action
[04-127-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .04 under **COMAR 10.44.05 Licensure by Waiver of Practical Clinical Examination for Dentists**. This action was considered by the Board of Dental Examiners at a public meeting held on April 7, 2004, notice of which was given by publication in 31:6 Md. R. 546 (March 19, 2004), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to delete the requirement that a dentist, holding an active license in another state, who seeks licensure by waiver of practical clinical examination in Maryland, submit to the Maryland Board a report from the peer review or ethics committee of the other state's professional association attesting to their professional status.

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.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhmh.