



**MEDICAL CARE POLICY ADMINISTRATION
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

201 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201

Parris N. Glendening
Governor

George C. Benjamin, M.D.
Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM
Vision Care Services Transmittal No. 23
October 12, 1999

TO: Vision Care Providers

FROM: Joseph M. Millstone *JMM*
Director

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

RE: Proposed Amendments to COMAR 10.09.14 Vision Care Services

ACTION:
Proposed Regulations

EFFECTIVE DATE:

WRITTEN COMMENTS TO:
Michele Phinney, 201 W. Preston Street,
Baltimore, Maryland 21201
FAX (410) 767-6489 or (410) 767-6499

PROGRAM CONTACT PERSON:
Robert Zielaskiewicz
(410) 767-1481

COMMENT PERIOD EXPIRES: October 25, 1999

The Maryland Medical Assistance Program proposes to amend Regulations .01, and .03 - .07 under COMAR 10.09.14 Vision Care Services. The purpose of these amendments is to comply with Executive Order 01.01.1996.04 which requires a regulatory review every eight years, the Administrative Simplification provisions of the federal Health Insurance Portability Act of

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1996, and the Maryland laws and regulations governing the practice of optometry. In addition, these amendments replace local billing codes and billing forms with CPT-4 codes and the HCFA-1500.

The proposed amendments, as they are published in the Maryland Register, Vol. 26, Issue 20, September 24, 1999, are attached to this transmittal

Attachment

JMM:rz

.01 Definitions.**A.** (text unchanged)**B. Terms Defined****(1)** (text unchanged)

(2) "Incompetence" means [the physical or mental incapacity or inability to perform normally recognized duties as a professional land surveyor or property line surveyor.]:

(a) Physical or mental incapacity; or

(b) Engaging in conduct which evidences a lack of proficiency, learning, ability, skill, or fitness necessary to perform regular duties, tasks, and functions of a professional land surveyor or property line surveyor in a reasonably effective, professional, and competent manner

(3) (text unchanged)

CHARLES MALOY
Chairman

Board for Professional Land Surveyors

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.14 Vision Care Services

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

Notice of Proposed Action

[99-291-P-1]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .03 — .07 under COMAR 10.09.14 Vision Care Services.

Statement of Purpose

The purpose of these amendments is to make the regulations consistent with the Maryland laws and regulations governing the practice of optometry, and to allow providers to bill the Program using nationally recognized CPT procedure codes and the HCFA-1500 billing form.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed regulation, but the proposed regulation is not more restrictive or stringent.

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 on the proposed action may be sent to Michele Phinney, Regulations Coordinator, O'Connor Building, 201 West Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 767-6489, or call (410) 767-6499. These comments must be received by October 25, 1999.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the "Vision Care Services Provider Fee Manual, Revision 1999" has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 26:14 Md. R. 1076 (July 2, 1999). The document may also be inspected at the office of the Division of State Documents, 1700 Margaret Avenue, Annapolis, Maryland.

.01 Definitions.

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

B. Terms Defined.**[A.] (1)** (text unchanged)

(2) "Board" means the State Board of Examiners in Optometry.

[B.] (3) (text unchanged)

(4) "Diagnostically certified optometrist" means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under Health Occupations Article, §11-404, Annotated Code of Maryland.

[B-1.] (5) — [B-2.] (6) (text unchanged)**[C. Eye Examination.**

(1) "Eye examination" means a series of tests and measurements used to determine the extent of visual impairment or the correction required to improve visual acuity.

(2) "Eye examination" includes as a minimum:

(a) History;**(b)** Visual analysis;**(c)** Ophthalmoscopy of internal eye;**(d)** Tonometry when indicated;**(e)** Gross visual field testing as indicated;**(f)** Muscle balance;**(g)** Other tests when indicated by above;**(h)** Progress evaluations when indicated.]**[D.] (7) — [H.] (11)** (text unchanged)**(12) Optometric Examination.**

(a) "Optometric examination" means a series of tests and measurements used to determine the extent of visual impairment, or the correction required to improve visual acuity, performed by a licensed optometrist.

(b) "Optometric examination" includes as a minimum:

(i) Reviewing a patient's history, past prescriptions, and specifications when available;**(ii)** Visual analysis;**(iii)** Ophthalmoscopy of internal eye;

(iv) Tonometry without anesthetic when indicated or for a patient 40 years old or older;

(v) Muscle balance examination;**(vi)** Gross visual field testing when indicated;

(vii) Writing of lens formula and other prescription data when needed, as well as specific instructions for future care;

(viii) Other tests when indicated by §B(12)(b)(i) — (vii) of this regulation; and

(ix) Subsequent progress evaluations when indicated.

[I.] (13) "Optometrist" means [a Doctor of Optometry, (O.D.)] an individual who is licensed by the Board to practice optometry [in] or by the state in which the service is rendered.

[J.] (14) "Optometry" means the science [and art of] of optics or vision care, as defined in Health Occupations Article, §§10-101(f) §10-101(g), Annotated Code of Maryland.

[K.] (15) (text unchanged)

(16) Practice Optometry.

(a) "Practice optometry" means, subject to Health Occupations Article, §§11-404 and 11-404.2, Annotated Code of Maryland, to use any means known in the science of optics or eye care, except surgery, to:

(i) Detect, diagnose, and treat any optical or diseased condition in the human eye;

(ii) Prescribe eyeglasses or lenses to correct any optical or visual condition in the human eye;

(iii) Give advice or direction on the fitness or adaptation of eyeglasses or lenses to an individual for the correction or relief of a condition for which eyeglasses or lenses are worn; and

(iv) Use, or permit the use of an instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.

(b) "Practice optometry" includes, subject to Health Occupations Article, §§11-404 and 11-404.2, Annotated Code of Maryland:

(i) The administration of topical ocular diagnostic pharmaceutical agents;

(ii) The administration and prescription of therapeutic pharmaceutical agents; and

(iii) The removal of superficial foreign bodies from the cornea and conjunctiva.

[L.] (17) — [T.] (25) (text unchanged)

(26) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to administer or prescribe therapeutic pharmaceutical agents or remove superficial foreign bodies from a human eye, adnexa, or lacrimal system to the extent permitted under Health Occupations Article, §11-404.2, Annotated Code of Maryland.

[U.] (27) (text unchanged)

.03 Conditions for Participation.

To participate in the Program, the provider shall:

A. — C. (text unchanged)

D. Maintain adequate records for a minimum of [5] 6 years and make them available, upon request, to the Department or its designee;

E. — H. (text unchanged)

I. Place no restriction on a recipient's right to select providers of [his] the recipient's choice;

J. Agree that if the Program denies payment or requests repayment on the basis that an otherwise covered service was not medically necessary, [he] the provider may not seek payment for that service from the recipient;

K. Agree that if the Program denies payment due to late billing, [he] the provider may not seek payment from the recipient.

.04 Covered Services.

A. The program covers the following vision care services [as a result of a full or partial EPSDT screen]:

[A. Eye examinations:]

(1) A maximum of one optometric examination every 2 years for recipients 21 years old or older and a maximum of one every year for recipients younger than 21 years old, to

determine the extent of visual impairment or the correction required to improve visual acuity, unless the time limitations are waived by the Department, based on medical necessity[.];

[B. Eyeglasses:

(1) Eyeglasses which have first quality, impact resistant lenses, except in cases where prescription requirements cannot be met with impact resistant lenses, and frames which are made of fire-resistant, first-quality material;]

(2) Subject to [§B(3)] §B, a maximum of one pair of eyeglasses every [2 years] year, unless the time limitations are waived by the Department, based on medical necessity;

[§(3) In order to be entitled to receive eyeglasses, a recipient shall meet at least one of the following conditions:

(a) The recipient requires a diopter change of at least 0.50;

(b) The recipient requires a diopter correction of less than 0.50 and this has been preauthorized according to Regulation .06 based on medical necessity;

(c) The recipient's present eyeglasses have been damaged to the extent that they affect visual performance, or are no longer usable due to a change in head size or anatomy;

(d) The recipient's present eyeglasses have been lost or stolen.]

[C.] (3) Examination and eyeglasses for a recipient with a medical condition, other than normal physiological change necessitating a change in eyeglasses (before the normal time limits specified in §§A and B[above,] of this regulation have been met) when a preauthorization has been procured[.];

[D.] (4) Visually necessary optometric care rendered by an optometrist when these services are:

[(1)] (a) Provided by the optometrist or [his] a licensed employee;

[(2)] (b) Related to the patient's health needs as diagnostic, preventive, curative, palliative, or rehabilitative services; and

[(3)] (c) Adequately described in the patient's record[.]; and

[E.] (5) Optician services when [they] the services are:

[(1)] (a) Provided by the optician, optometrist, or ophthalmologist, or by an employee under [his] the optician's, optometrist's, or ophthalmologist's supervision and control;

[(2)] (b) — [(3)] (c) (text unchanged)

B. Eyeglasses.

(1) The eyeglasses under §A(2) of this regulation shall have first quality, impact resistant lenses, except in cases where prescription requirements cannot be met with impact resistant lenses. Frames shall be made of fire-resistant, first-quality material.

(2) In order to be entitled to receive eyeglasses under §A(2) of this regulation, a recipient shall meet at least one of the following conditions:

(a) The recipient requires a diopter change of at least 0.50;

(b) The recipient requires a diopter correction of less than 0.50 and this has been preauthorized according to Regulation .06 based on medical necessity;

(c) The recipient's present eyeglasses have been damaged to the extent that they affect visual performance, or are no longer usable due to a change in head size or anatomy; or

(d) The recipient's present eyeglasses have been lost or

.05 Limitations.

A. The following are not covered:

[A.] (1) — [H.] (8) (text unchanged)

B. An optometrist certified by the Board as qualified to administer diagnostic pharmaceutical agents may use the following agents in strengths not greater than the strengths indicated:

(1) Agents directly or indirectly affecting the pupil of the eye, including the mydriatics and cycloplegics listed below:

- (a) Phenylephrine hydrochloride (2.5 percent);
- (b) Hydroxyamphetamine hydrobromide (1 percent);
- (c) Cyptopentolate hydrochloride (0.5 — 2 percent);
- (d) Tropicamide (0.5 and 1 percent);
- (e) Cyptopentolate hydrochloride (0.2 percent) with

Phenylephrine hydrochloride (1 percent);

(f) Dapiprazole hydrochloride (0.5 percent); and

(g) Hydroxyamphetamine hydrobromide (1 percent) and Tropicamide (0.25 percent); and

(2) Agents directly or indirectly affecting the sensitivity of the cornea including the:

(a) Topical anesthetics listed below:

- (i) Proparacaine hydrochloride (0.5 percent), and
- (ii) Tetracaine hydrochloride (0.5 percent); and

(b) Diagnostic topical anesthetic and dye combinations listed below:

(i) Benoxinate hydrochloride (0.4 percent) — Fluorescein sodium (0.25 percent), and

(ii) Proparacaine hydrochloride (0.5 percent) — Fluorescein sodium (0.25 percent).

C. An optometrist certified by the Board as qualified to administer and prescribe topical therapeutic pharmaceutical agents is limited to:

(1) Ocular antihistamines, decongestants, and combinations of them, excluding steroids;

(2) Ocular anti-allergy pharmaceutical agents;

(3) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;

(4) Anti-inflammatory agents, excluding steroids;

(5) Ocular lubricants and artificial tears;

(6) Tropicamide;

(7) Homatropine;

(8) Nonprescription drugs that are commercially available; and

(9) Primary open-angle glaucoma medications, in accordance with a written treatment plan developed jointly between the optometrist and an ophthalmologist.

.06 Preauthorization Requirements.

A. The following services require written preauthorization:

[(1) All eye examinations;

(2) Eyeglasses;]

(1) Optometric examinations to determine the extent of visual impairment or the correction required to improve visual acuity before expiration of the normal time limitations;

(2) Replacement of eyeglasses due to medical necessity or because the eyeglasses were lost, stolen, or damaged before expiration of the normal time limitations;

(3) — (6) (text unchanged)

[(7) Progress evaluations;]

[(8)] (7) (text unchanged)

[(9)] (8) (text unchanged)

B. — D. (text unchanged)

.07 Payment Procedures.

A. — C. (text unchanged)

D. The [fee schedule] *Vision Care Services Provider Fee Manual, Revision 1999*, is contained in the *Medical Assistance Provider Fee Manual*, dated October 1, 1986, all the provisions of which are incorporated by reference [with the following amendments:

(1) Vision Care Procedure Codes and Fee Schedule Supplement No. 1;

(2) Vision Care Procedure Codes and Fee Schedule Supplement No. 2].

E. — F. (text unchanged)

G. Payments on Medicare claims [for cataract patients] are authorized if:

(1) — (5) (text unchanged)

H. Supplemental payment on Medicare claims [for cataract patients] is made subject to the following provisions:

(1) — (3) (text unchanged)

I. The provider may not bill the Department for:

(1) — (3) (text unchanged)

(4) Services which are provided at no charge to the general public[.]; and

(5) Providing a copy of a recipient's patient record when requested by another licensed provider on behalf of the recipient.

J. — K. (text unchanged)

L. Payment for contact lenses is made as follows:

[(1) If the prescriber dispenses contact lenses, payment for contact lenses is intended to include materials, examination, fitting, dispensing, and 6 months follow-up care;

(2) If the prescriber does not dispense contact lenses, payment to the prescriber is intended to include initial examination and 6 months follow-up care, including at least one visit to insure the adequacy of the lenses. In these cases, payment to the dispensing provider is intended to include materials and fitting.]

(1) For the prescription, fitting, training, and adaptation of contact lenses which includes the:

(a) Specification of optical and physical characteristics,

(b) Fitting of lenses to the wearer,

(c) Training of the wearer,

(d) Incidental revision of the lenses during training, and

(e) Adaptation of the lenses to the wearer;

(2) For the supply of contact lenses; and

(3) For the follow-up of successfully fitted extended wear lenses.

M. (text unchanged)

GEORGES C. BENJAMIN, M.D.
Secretary of Health and Mental Hygiene

~~Subtitle 10 LABORATORIES~~

~~Subtitle 50 TISSUE BANKS~~

~~Notice of Proposed Action~~

~~[99-1]~~

~~The Secretary of Health and Mental Hygiene proposes to:~~

- ~~(1) Repeal Regulations .01 — .20 under COMAR 10.10.01 Medical Laboratories in Maryland;~~
- ~~(2) Repeal Regulations .01 — .19 under COMAR 10.10.04 Cholesterol Testing;~~