**FINAL AND PROPOSAL**

**FINAL AAP**

**Maryland Register**

**Issue Date: May 8, 2020**

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**Title 10  
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.07 Medical Day Care Services**

Authority: Health-General Article, §§2-104(b), 15-105, and 15-111, Annotated Code of Maryland

**Notice of Final Action**

[20-036-F]

On April 28, 2020, the Secretary of Health adopted amendments to Regulations **.03**, **.05**, and **.08** under **COMAR 10.09.07 Medical Day Care Services**. This action, which was proposed for adoption in 47:2 Md. R. 92—93 (January 17, 2020), has been adopted as proposed.

**Effective Date: May 18, 2020.**

ROBERT R. NEALL  
Secretary of Health

**PROPOSAL**

**Maryland Register**

**Issue Date: January 17, 2020**

**Volume 47 • Issue 2 • Page 92-93**

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Authority: Health-General Article, §§2-104(b), 15-105, and 15-111, Annotated Code of Maryland

**Notice of Proposed Action**

[20-036-P]

The Secretary of Health proposes to amend Regulations **.03**, **.05**, and **.08** under **COMAR 10.09.07 Medical Day Care Services**.

**Statement of Purpose**

The purpose of this action is to:

(1) Clarify medical day care provider requirements for the care planning process;

(2) Change instances of the term “physician” to “primary care providers”; and

(3) Update the medical day care service per diem rate in accordance with the Fiscal Year (FY) 2020 State budget.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**The Fiscal Year (FY) 2020 budget includes a 3 percent rate increase for medical day care providers. The total impact for FY 2020 is $4,353,816.

|  |  |  |
| --- | --- | --- |
|  | Revenue (R+/R-) |  |
| **II. Types of Economic Impact.** | Expenditure  (E+/E-) | Magnitude |
|  |  | |
|  |  |  |
| A. On issuing agency: | (E+) | $4,353,816 |
| B. On other State agencies: | NONE |  |
| C. On local governments: | NONE |  |
|  | | |
|  | Benefit (+) Cost (-) | Magnitude |
|  |  | |
|  |  |  |
| D. On regulated industries or trade groups: | (+) | $4,353,816 |
| 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. This amount assumes:  (1) Estimated impacts are based on FY 2018 utilization (1,814,090 claims). Medical day care service utilization will remain consistent.  (2) The FY 2020 per diem rate, $82.24, is calculated using the FY 2019 per diem rate, $79.84, plus a 3 percent increase. The difference between the FY 2020 and FY 2019 per diem rates is $2.40.  (3) In FY 2020, the total magnitude of the rate increase on Medicaid expenditures for medical day care services is $4,353,816. This is equal to the difference between projected FY 2020 expenditures and FY 2019 expenditures ($2.40), multiplied by FY 2018 utilization (1,814,090 claims).  (4) This amount is subject to 50 percent federal match ($2,176,908 federal funds and $2,176,908 general funds). | | |
| 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.

Small businesses enrolled in the Program as medical day care providers will benefit from the rate increase. Additionally, their multidisciplinary teams will be required to adhere to the new requirement to obtain the participant’s or participant’s representative’s signature to document their approval of the individual plan of care.

**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 February 18, 2020. A public hearing has not been scheduled.

**.03 Conditions for Participation.**

Requirements for providing medical day care services are that the providers shall:

A.—L. (text unchanged)

M. Establish a multidisciplinary team who shall:

(1)—(2) (text unchanged)

(3) Develop an individual plan of care in conjunction with the service plan; **[**and**]**

(4) Review and update with the participant or participant’s representative, the individual plan of care semi-annually*,* or more frequently when a significant change in condition is identified or reported; *and*

*(5) Obtain the signature of the participant or the participant’s representative to document their approval of the individual plan of care semi-annually, or more frequently when a significant change in condition is identified or reported.*

N.—O. (text unchanged)

**.05 Covered Services.**

A. The Program reimburses for a day of care which includes the following services:

(1)—(2) (text unchanged)

(3) Physical therapy services, performed by or under supervision of a licensed physical therapist, which meet the following conditions:

(a) Are of a diagnostic, rehabilitative, therapeutic, or maintenance nature, and are provided with the expectation based on the assessment made by the **[**physician**]***primary care provider*, that a participant will improve significantly in a reasonable and generally predictable period of time, or are necessary for the establishment of a safe and effective maintenance program required in connection with a specific disease state;

(b) Are directly related to the **[**physician's**]***primary care provider’s* written plan of care which specifies:

(i)—(iv) (text unchanged)

(c)—(d) (text unchanged)

(4) Occupational therapy services, performed by an occupational therapist, that meet the following conditions:

(a) (text unchanged)

(b) The services are directly related to the **[**physician's**]***primary care provider’s* written plan of care which specifies the treatment to be rendered, the frequency and duration of treatment, and the expected results of treatment;

(c)—(d) (text unchanged)

(5)—(9) (text unchanged)

B. (text unchanged)

**.08 Payment Procedures.**

A.—C. (text unchanged)

D. Per Diem Rate.

(1) Payment to a provider of medical day care services shall be on a per diem basis. The per diem rate is **[**$79.84**]***$82.24* effective **[**July 1, 2018**]***July 1,**2019*.

(2) The per diem rate shall increase on July 1 of each year by **[**3**]** *4* percent, subject to the limitations of the State budget.

E.—F. (text unchanged)

ROBERT R. NEALL  
Secretary of Health