**PROPOSAL**

**Maryland Register**

**Issue Date: June 7, 2019**

**Volume 46 • Issue 12 • Page 550-551**

**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.23 Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services**

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

**Notice of Proposed Action**

[19-106-P-I]

     The Secretary of Health proposes to amend Regulations **.01-1**, **.02**, and **.05** under **COMAR 10.09.23 Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services**.

**Statement of Purpose**

The purpose of this action is to:

(1) Update the Audiology, Physical Therapy, and Early Periodic, Screening, Diagnosis and Treatment (EPSDT) Provider Manual incorporated by reference;

(2) Remove a restriction on individuals who may conduct assessments of a child’s home for lead hazards; and

(3) Clarify an existing limitation that the Program does not cover the laboratory analysis of any samples taken from a dwelling.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**Based on preliminary analysis and a given start date of September 1, 2019, the annual economic impact is estimated to be $149,767 ($43,797 cost to State general funds and $105,970 cost to federal funds). The estimated $43,797 cost to State general funds is comprised of:

(1) An estimated general fund $26,597 saving, due to Medicaid drawing this down as federal funds, based on a 57 percent Federal Medical Assistance Percentage (FMAP), for activity that is currently paid for out of MDE State-only funds. It would require an estimated $46,662 shift in annual expenditure from MDE to Medicaid, through billing for environmental assessments routinely performed by MDE each year for Medicaid-enrolled children with an elevated blood lead level of greater or equal to 10 micrograms per deciliter (≥ 10µg/dL);

(2) An estimated general fund $5,994 cost due to Medicaid drawing down a less favorable FMAP for Medicaid compared to CHIP, for environmental assessments that are routinely performed by a DHCD contractor for HSI CHIP SPA Program #1, for Medicaid-enrolled children with an elevated blood lead level ≥ 5µg/dL. It would require an estimated $26,783 shift from CHIP to general Medicaid; and

(3) An estimated State general fund $64,400 cost due to new lead assessments performed on children with an elevated blood lead level of ≥ 5µg/dL. Medicaid will draw down an additional $85,367 federal funds.

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| --- | --- | --- |
|   | Revenue (R+/R-) |   |
| **II. Types of Economic Impact.** | Expenditure(E+/E-) | Magnitude |
|   |  |
|  |  |  |
| A. On issuing agency: | (E+) | $90,458 |
| B. On other State agencies: | (E-) | $46,662 |
| C. On local governments: | NONE |  |
|   |
|   | Benefit (+)Cost (-) | Magnitude |
|   |  |
|  |  |  |
| D. On regulated industries or trade groups: | (+) | $149,767 |
| 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 a start date of September 1, 2019. It is comprised of an estimated $64,400 per year in cost to Medicaid State general funds for new lead environmental assessments, an estimated $20,065 cost per year to Medicaid State general funds for routine MDE inspections, and an estimated $5,994 cost to Medicaid State general funds for the difference between the federal draw-down for Medicaid compared to CHIP for HIS CHIP SPA Program#1 inspections. |
| B. This amount assumes that all MDE environmental assessments for lead hazards in the home, that are performed on behalf of a Medicaid-enrolled child, will be billed to Medicaid i.e. approximately 112 environmental assessments reimbursed at $418.49 each. This estimate is based on a conservative assumption that 50 percent of MDE assessments are performed on children who are enrolled in Medicaid. This amount does not include costs for any substances sent to a laboratory for testing, which are not covered by Medicaid. |
| D. This amount is based on a conservative assumption that new providers will bill Medicaid for environmental assessments on behalf of 25 percent of eligible children with a BLL ≤ 5µg/dL, i.e. approximately 358 environmental assessments reimbursed at $418.49 each. When calculating the number of eligible properties, no assumptions were made on the number of Medicaid children who live in the same household. This amount does not include costs for any substances sent to a laboratory for testing, which are not covered by Medicaid. |

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**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 July 8, 2019. A public hearing has not been scheduled.

Editor’s Note on Incorporation by Reference

     Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Audiology, Physical Therapy, and Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) Provider Manual (Maryland Medical Assistance Program, Effective January 1, 2019, 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 46:1 Md. R. 9 (January 4, 2019), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**.01-1 Incorporation by Reference.**

The Audiology, Physical Therapy, and Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) Provider Manual (Maryland Medical Assistance Program, Effective **[**July 1, 2018**]** *January 1, 2019*) is incorporated by reference.

**.02 Provider Qualifications.**

A.—D. (text unchanged)

E. EPSDT treatment providers that are covered by the Program include:

(1) (text unchanged)

(2) Lead paint risk assessors who are accredited by the Maryland Department of the Environment in accordance with COMAR 26.16.01.16 **[**with enforcement authority to ensure that lead risks are abated**]**;

(3)—(9) (text unchanged)

F. (text unchanged)

**.05 Limitations.**

A.—C. (text unchanged)

D. Environmental lead investigations:

(1)—(2) (text unchanged)

(3) Do not include testing of **[**the water or soil**]** *any substances sent to a laboratory for analysis*.

E. (text unchanged)

ROBERT R. NEALL
Secretary of Health