**PROPOSAL**

**Maryland Register**

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**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**Notice of Proposed Action**

[19-102-P]

The Secretary of Health proposes to:

(1) Amend Regulations **.01—.03** and **.05**, repeal existing Regulations **.09** and **.13**, amend and recodify existing Regulations **.11**, **.14**, and **.15** to be Regulations **.10**, **.12**, and **.13**, respectively, and recodify existing Regulations **.12** and **.16—.20** to be Regulations **.11** and **.14—.18**, respectively, under **COMAR 10.09.89 1915(i) Intensive Behavioral Health****Services for Children, Youth, and Families**; and

(2) Amend Regulations **.02**, **.03**, **.07**, **.09**, **.12**, and **.13** under **COMAR 10.09.90****Mental Health Case Management: Care Coordination for Children and Youth**.

**Statement of Purpose**

The purpose of this action is to update regulations governing 1915(i) and case management services to coincide with the Department’s 1915(i) waiver renewal submission. Specifically, the proposed actions improve and expand eligibility criteria to meet the original utilization goal of the 1915(i) waiver, remove specific supplemental services from the 1915(i) program to align with actual practice in Maryland, and update terminology to reflect current practice.

**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.

**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.

**10.09.89 1915(i) Intensive Behavioral Health Services for Children, Youth, and Families**

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

**.01 Scope.**

The purpose of this chapter is to implement a home and community-based services benefit for children and youth with serious emotional disturbances (SED) and their families, authorized under a 1915(i) Medicaid State Plan Amendment. Eligible participants are served by care coordination organizations through a **[**wraparound**]** *care coordination*service delivery model that utilizes child and family teams to create and implement individualized plans of care that are driven by the strengths and needs of the participants and their families.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(13) (text unchanged)

*(14) “Diagnostic Criteria (DC) 0-5” means a system for diagnosing mental health and developmental disorders in infants and toddlers.*

**[**(14)**]** *(15)*—**[**(23)**]** *(24)* (text unchanged)

**[**(24) Mobile crisis response and stabilization services (MCRS)” has the meaning stated in Regulation .13 of this chapter.**]**

(25)—(38)(text unchanged)

**[**(39) “Wraparound” means a service delivery model that uses a collaborative process in which the CFT assists in the development and implementation of an individualized plan of care with specified outcomes.**]**

**.03 Participant Eligibility.**

A.—B. (text unchanged)

C. The applicant shall reside in a home-and community-based setting that is:

(1) (text unchanged)

(2) Not any of the following excluded settings:

(a)—(b) (text unchanged)

(c) Residential program for adults with serious mental illness licensed under COMAR **[**10.21.22**]** *10.63*; or

(d) Group residential facility licensed under COMAR **[**14.31.05.07**]** *10.63*.

D.*Consent.*

*(1)***[**The**]***For individuals younger than 16 years old, the* family or medical guardian of the participant shall give consent *for the individual*to participate in the 1915(i)**[**, with consent given by the participant upon reaching age 18.**]***;*

*(2) For individuals 16 years old or older, the individual shall give consent to participate in the 1915(i).*

E. The applicant shall:

(1) Have a face-to-face psychiatric evaluation completed or updated within 30 days of submission of the enrollment application to the ASO that:

(a) Assigns a Diagnostic and Statistical Manual (DSM) behavioral health diagnosis *or Diagnostic Criteria (DC) 0-5 diagnosis;*

(b)—(c) (text unchanged)

(2) (text unchanged)

F.—L. (text unchanged)

**.05 1915(i) Model.**

A. The 1915(i) shall provide community-based treatment to children with SED**[**through a wraparound service delivery process**]** *or co-occurring diagnosis through the care coordination model*.

B.—E. (text unchanged)

**[.11] *.10* Covered Services — Respite Services.**

Respite services:

A.—C. (text unchanged)

D. Are provided by organizations that shall:

(1) Meet the requirements of COMAR **[**10.21.27**]** *10.63.03.15*;

(2)—(4) (text unchanged)

E. (text unchanged)

**[.14] *.12* Covered Services — Intensive In-Home Services.**

A. (text unchanged)

B. Types of IIHS Providers. The Department may approve two types of IIHS providers:

(1) Evidence-Based Practice (EBP)-IIHS providers, to include providers of **[**Functional Family Therapy (FFT) and other**]** EBPs as determined by the Department; and

(2) (text unchanged)

C. **[**A**]** *An*EBP-IIHS provider shall have a certificate or letter from the national or intermediate surveyor or developer of the particular evidence-based practice to demonstrate that the EBP-IIHS provider meets all requirements for **[**FFT or other**]** Department-approved EBP-IIHS, to include participating in all fidelity monitoring activities.

D.—F. (text unchanged)

**[.15] *.13* Limitations.**

A.—B. (text unchanged)

C. The Program may not reimburse more than the following:

(1)—(3) (text unchanged)

(4) 2 types per day of expressive and experiential behavioral services; *or*

**[**(5) $2,000 per participant per State Fiscal Year for customized goods and services;**]**

**[**(6)**]***(5)*(text unchanged)

D.—G. (text unchanged)

**[**H. Unallowable costs for customized goods and services include, but are not limited to the following:

(1) Alcoholic beverages;

(2) Bad debts;

(3) Contributions and donations;

(4) Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement;

(5) Entertainment costs;

(6) Incentive compensation to employees;

(7) Personal use by employees of organization-furnished automobiles, including transportation to and from work;

(8) Fines and penalties;

(9) Goods or services for personal use;

(10) Interest on borrowed capital/lines of credit;

(11) Costs of organized fundraising;

(12) Costs of investment counsel/management;

(13) Lobbying; or

(14) Renovation/remodeling and capital projects.**]**

**[**I.**]** *H.* (text unchanged)

**10.09.90 Mental Health Case Management: Care Coordination for Children and Youth**

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

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(12) (text unchanged)

(13) “Minor” means a child or adolescent younger than **[**18**]** *16*years old.

(14)—(22) (text unchanged)

**.03 Participant Eligibility.**

A. (text unchanged)

B. The participant:

(1) Shall:

(a) Meet the diagnostic requirements of being either **[**a**]**:

(i) **[**Minor**]** *An individual younger than 18 years old*with a serious emotional disturbance or co-occurring disorder; or

(ii) **[**Young**]** *A young* adult with a serious emotional disturbance or co-occurring disorder enrolled in care coordination services continuously under this chapter since reaching age 18; and

(b) (text unchanged)

(2) (text unchanged)

C. (text unchanged)

**.07 Participant Eligibility — Level III — Intensive Care Coordination.**

A. The participant shall meet at least one of the following conditions:

(1)—(2) (text unchanged)

(3) The participant meets the following conditions:

(a) The participant has a behavioral health disorder amenable to active clinical treatment, **[**resulting from**]***diagnosed through*a face-to-face **[**psychiatric evaluation**]** *psychosocial assessment by a licensed mental health professional*;

(b) (text unchanged)

(c) A comprehensive psychosocial assessment performed by a licensed mental health professional finds that the **[**minor**]** *participant* exhibits a significant impairment in functioning, representing potential serious harm to self or others, across settings, including the home, school, or community;

(d) The psychosocial assessment supports the completion of the Early Childhood Service Intensity Instrument (ECSII) for youth ages 0—5 or the Child and Adolescent Service Intensity Instrument (CASII) for youth ages 6—21, by which the participant receives a score of:

(i) **[**4 or 5**]** *3* on the ECSII; or

(ii) **[**5 or 6**]** *3 or higher* on the CASII;

(e) Youth with a score of *3,* *4, or*5 on the CASII also shall meet the conditions outlined in §B of this regulation; and

(f) Youth with a score of *3 or*4 on the ECSII also shall meet the conditions outlined in §C of this regulation.

B. Youth with a score of *3, 4, or*5 on the CASII shall meet one of the following criteria to be eligible based on their impaired functioning and service intensity level:

(1) Transitioning from a residential treatment center; or

(2) Living in the community**[**:

(a) Be at least 13**]***, be 6 through 21* years old*,* and have:

**[**(i)**]** *(a)* **[**3**]** *Any combinations* *of 2*or more inpatient psychiatric hospitalizations *or emergency room visits*in the past 12 months; or

**[**(ii)**]** *(b)* Been in an RTC within the past 90 calendar days**[**; or**]***.*

**[**(b) Be 6 through 12 years old and have:

(i) 2 or more inpatient psychiatric hospitalizations in the past 12 months; or

(ii) Been in an RTC within the past 90 calendar days.**]**

C. Youth who are younger than 6 years old who have a score of a *3 or*4 on the ECSII shall either:

(1) (text unchanged)

(2) If living in the community, have **[**two**]** *one* ormore psychiatric inpatient hospitalizations *or emergency room visits* in the past 12 months.

**.09 Conditions for Provider Participation — Eligibility.**

A. (text unchanged)

B. Specific Requirements. A CCO:

(1) (text unchanged)

(2) Shall employ appropriately qualified individuals as care coordinators, and care coordinator supervisors with relevant work experience, including experience with the populations of focus, including but not limited to:

(a) **[**Minors**]** *Youth younger than 18 years old*with a serious emotional disturbance or co-occurring disorder; and

(b) (text unchanged)

(3)—(6) (text unchanged)

(7) For 1915(i) participants:

(a) (text unchanged)

(b) Shall arrange for the participant and family to meet with the intensive in-home service (IIHS) **[**or mobile crisis response service (MCRS) provider, or both,**]** to develop the initial crisis plan within 1 week of enrollment in the 1915(i);

(8)—(20) (text unchanged)

**.12 Covered Services — Plan of Care.**

A. The POC shall contain, at minimum:

(1)—(6) (text unchanged)

(7) Signatures of the participant and family indicating that the participant and family have:

(a) (text unchanged)

(b) Had choice in the selection of services, providers, and interventions when possible, in the **[**wraparound**]** *care coordination*process of building the POC; and

(8) (text unchanged)

B. (text unchanged)

**.13 Covered Services — Child and Family Team Meetings.**

The CCO shall:

A.—C. (text unchanged)

D. Ensure that the care coordinator:

(1)—(2) (text unchanged)

(3) At the first meeting:

(a)—(b) (text unchanged)

(c) For 1915(i) participants, provides an overview of the **[**wraparound**]***care coordination*process.

ROBERT R. NEALLSecretary of Health