**PROPOSAL**

**Maryland Register**

**Issue Date: October 23, 2020**

**Volume 47 • Issue 22 • Page 939-941**

**Title 10  
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.37 Family Planning Program Eligibility**

Authority: Health-General Article, §§2-104(b), 15-103(a), and 15-140, Annotated Code of Maryland

**Notice of Proposed Action**

[20-165-P]

     The Secretary of Health proposes to adopt new Regulation **.03-1** under **COMAR 10.09.37 Family Planning Program Eligibility**.

**Statement of Purpose**

The purpose of this action is to implement presumptive eligibility requirements for the Maryland Medicaid Family Planning Program, in accordance with Ch. 465 (S.B. 774), Acts of 2018.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**The proposed action implements presumptive eligibility for the Family Planning Program. The total impact for FY 2021 is $1,934,216.

|  |  |  |
| --- | --- | --- |
|  | Revenue (R+/R-) |  |
| **II. Types of Economic Impact.** | Expenditure  (E+/E-) | Magnitude |
|  |  | |
|  |  |  |
| A. On issuing agency: | (E+) | $1,934,216 |
| B. On other State agencies: | NONE |  |
| C. On local governments: | NONE |  |
|  | | |
|  | Benefit (+) Cost (-) | Magnitude |
|  |  | |
|  |  |  |
| D. On regulated industries or trade groups: | (+) | $1,934,216 |
| 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. and D. Individuals may begin applying for Family Planning Program presumptive eligibility on October 1, 2020.  The Department estimates that 25 percent of 41,041 (or 10,260) potentially eligible individuals who visit Maryland family planning clinics are likely to apply for Maryland Medicaid Family Planning services through the presumptive eligibility program. The average annual cost to provide family planning services is $251.36 per person.  The magnitude of economic impact is subject to a 50 percent federal match ($967,108 federal and $967,108 general). | | |

**Economic Impact on Small Businesses**

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

Maryland Medicaid providers who furnish family planning services are likely to benefit from the influx of individuals determined presumptively eligible to receive services through the Family Planning Program. The Department estimates it will cost $1,934,216 to provide family planning services to individuals it has identified as potentially eligible for PE. Maryland Medicaid providers are likely to benefit because they will be able to bill for family planning services rendered to these individuals.

**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 November 23, 2020. A public hearing has not been scheduled.

***.03-1 Family Planning Program Presumptive Eligibility.***

*A. Definitions.*

*(1) In this regulation, the following terms have the meanings indicated.*

*(2) Terms Defined.*

*(a) “Applicant” means an individual who has applied for presumptive eligibility at a participating family planning clinic.*

*(b) “Application” means the presumptive eligibility application.*

*(c) “Authorized representative” has the meaning stated in COMAR 10.01.04.01.*

*(d) “Determination” means a decision regarding an applicant’s presumptive eligibility.*

*(e) “Family planning clinic” means an entity that:*

*(i) Provides family planning services under a written agreement with the Maryland Department of Health, Prevention and Health Promotion Administration; and*

*(ii) Is approved to perform family planning presumptive eligibility determinations.*

*(f) “Former foster care” means an individual who:*

*(i) Is younger than 26 years old;*

*(ii) Is not eligible and enrolled for coverage under a mandatory Medical Assistance group other than childless adult; and*

*(iii) Was formerly in a Maryland out-of-home placement, including categorical Medical Assistance, upon attaining age 18 and leaving out-of-home placement or upon attaining age 19—21 during extended out-of-home placement under COMAR 07.02.11.04B.*

*(g) “Income” means property or a service received by an individual in cash or in-kind, which can be applied directly, or by sale or conversion, to meet basic needs for food, shelter, and medical expenses.*

*(h) “Maryland Family Planning Program Delegate Service Site” means an entity that provides family planning services under a written agreement with the Department.*

*(i) “Medical Assistance” means the program administered by the State under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for eligible individuals.*

*(j) “Presumptive eligibility” means temporary eligibility for Family Planning Program services as determined by family planning clinics in accordance with this regulation.*

*B. Requirements.*

*(1) A family planning clinic qualified to make presumptive eligibility decisions shall:*

*(a) Participate as a Medical Assistance Program provider in good standing; and*

*(b) Sign an agreement prepared by the Department.*

*(2) The agreement under §B(1)(b) of this regulation shall require that the family planning clinic:*

*(a) Comply with Departmental policies and procedures supplied by the Department at the time of application and training;*

*(b) Meet accuracy and timeliness standards established by the Department;*

*(c) Submit a list to the Department of family planning clinic employees who will attend presumptive eligibility training developed by the Department;*

*(d) Prohibit employees who have not attended required trainings and passed a post-training test from making presumptive eligibility decisions; and*

*(e) Report all requested information on a form designated by the Department.*

*(3) Before assisting an applicant in filing a presumptive eligibility application, the family planning clinic employee shall:*

*(a) Check the Department’s eligibility verification system to make sure the individual is not actively enrolled in the Medical Assistance Program;*

*(b) Provide information concerning the full Medical Assistance application process to the individual applying for presumptive eligibility and assist or refer the applicant to an individual who can assist the applicant in completing a full Medical Assistance application; and3e*

*(c) Determine that the applicant:*

*(i) Has not had a prior family planning presumptive eligibility period within the last 12 months;*

*(ii) Is not pregnant;*

*(iii) Is not actively enrolled in the Medical Assistance Program; or*

*(iv) Is not enrolled in Medicare.*

*(4) The family planning clinic employee shall fill out the presumptive eligibility application based on information supplied by the applicant.*

*(5) The family planning clinic employee shall make a presumptive eligibility decision and sign the presumptive eligibility application by applying §D of this regulation and the following information obtained pursuant to §C of this regulation:*

*(a) Residency;*

*(b) Citizenship;*

*(c) Family size and composition; and*

*(d) Gross family income.*

*(6) The family planning clinic employee shall inform the individual in writing of the family planning clinic’s presumptive eligibility decision, which shall include an explanation of the presumptive eligibility period.*

*(7) The family planning clinic shall submit the presumptive eligibility application to the Department on the date of application completion to allow the individual to have temporary Medical Assistance coverage.*

*(8) The family planning clinic shall:*

*(a) Keep all written and signed presumptive eligibility applications on file for 6 years; and*

*(b) Make the file available to the Department upon request.*

*C. Presumptive Eligibility Criteria.*

*(1) An individual shall apply for presumptive eligibility through a participating family planning clinic.*

*(2) An individual who applies for presumptive eligibility shall attest to:*

*(a) The citizenship requirements in COMAR 10.09.24.05;*

*(b) The residency requirements in COMAR 10.09.24.05-3;*

*(c) The individual’s pregnancy status;*

*(d) The individual’s family size; and*

*(e) The gross monthly income of the individual’s household.*

*D. Presumptive eligibility may be established for individuals who meet the Family Planning Program eligibility requirements in Regulation .03 of this chapter.*

*E. Limitations. Presumptive eligibility may not be granted to an individual who:*

*(1) Is pregnant;*

*(2) Is currently enrolled in the Medical Assistance Program or Medicare;*

*(3) Had a prior presumptive eligibility period during the last 12 months;*

*(4) Does not meet the income requirements stated in Regulation .03 of this chapter ;*

*(5) Does not meet the residency requirements stated in COMAR 10.09.24.05-3; or*

*(6) Does not meet the citizenship requirements stated in COMAR 10.09.24.05.*

*F. Coverage Span.*

*(1) Presumptive eligibility begins on the day the presumptive eligibility worker determines the individual is presumptively eligible.*

*(2) Presumptive eligibility ends on the earlier of:*

*(a) The day the individual is determined eligible for Medical Assistance; or*

*(b) The last day of the month following the month in which the family planning clinic determined presumptive eligibility, if an individual:*

*(i) Is found ineligible for Medical Assistance; or*

*(ii) Failed to apply for Medical Assistance.*

*G. Presumptive Eligibility Appeal Rights. An individual or an organization does not have appeal rights for presumptive eligibility determinations.*

ROBERT R. NEALL  
Secretary of Health