



STATE OF MARYLAND

DHMH

Office of Health Services
Medical Care Programs

PT 17-05

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM
Personal Care Services Transmittal No. 41
January 28, 2005

To: Personal Care Case Monitoring Agencies
Personal Care Provider Agencies

From: Susan J. Tucker, Executive Director
Office of Health Services – Medical Care Programs

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

Re: Proposed Amendments on Personal Care in the Workplace, Provider Qualifications and Nurse Practitioner or Physician Assistant Approval of Services

ACTION:
Permanent Status

EFFECTIVE DATE: January 31, 2005

PROGRAM CONTACT PERSON:
Marc A. Blowe, Chief
Division of Community
Long Term Care Services
410-767-1444

Amendments to Regulations .01 and .03 – .05 under COMAR 10.09.20 Personal Care Services have been adopted with non-substantive changes. Specifically, these changes were made to clarify the proposed amendments as published in the *Maryland Register*. The non-substantive changes allow private and public agencies to conduct criminal background checks, allow the waiver of the English language requirement and add regulatory language regarding services in the workplace. Attached is a copy of the non-substantive changes printed in the January 31, 2005 issue of the *Maryland Register*.

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The text of the proposed amendments was included in Personal Care Services Transmittal No. 40, dated May 4, 2004 and was published in the *Maryland Register* on Friday April 30, 2004 (Vol. 31, Issue 9).

Attachment

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.20 Personal Care Services

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

Notice of Final Action

[04-108-F]

On December 27, 2004, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01 and .03 — .05 under COMAR 10.09.20 Personal Care Services. This action, which was proposed for adoption in 31:9 Md. R. 728 — 729 (April 30, 2004), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 31, 2005.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .03A(7): After the word "English" language is added that clarifies the Department's intent that the English requirement should not be a categorical requirement that allows no exception regardless of circumstances. Accordingly, this regulation is clarified to permit waiver of the English requirement by agreement of the case monitoring agency, participant, and personal care provider or if the Department determines that a waiver is necessary.

Regulation .03A(12): This change conforms the regulation to current law, which authorizes private agency background checks. It is consistent with the Department's intent that background checks be performed by legally authorized entities in accordance with current law.

Regulation .04C(6): This regulation is amended to clarify the Department's intent regarding the performance of workplace services. The changes clarify that the services should be essential to the recipient's ability to obtain, as well as to maintain, gainful employment. The subsection is also amended to provide further clarification by including a list of specific services.

.03 Conditions for Participation.

A. To participate in the Program, the personal care provider shall:

(1) — (6) (proposed text unchanged)

(7) Be able to *speak*, read, write, and follow directions in English[[:]] unless:

(a) The case monitoring agency, the participant, and the personal care provider uniformly agree to waive the English requirement; or

(b) The Department considers it necessary to waive requirement;

(8) — (11) (proposed text unchanged)

(12) [[Submit to a criminal background investigation conducted by the Criminal Justice Information System. Department of Public Safety and Correctional Services.]] Submit to a criminal background investigation conducted by:

(a) The Criminal Justice Information System, Department of Public Safety and Correctional Services; or

(b) A private agency in accordance with Health-General Article, §19-1901(h), Annotated Code of Maryland.

B. — E. (proposed text unchanged)

.04 Covered Services.

A. — B. (proposed text unchanged)

C. When a recipient is determined to need personal care services because of the need for assistance with activities of daily living, the Program *may* also cover:

(1) — (5) (proposed text unchanged)

(6) Performing services in the workplace directly related to a personal care need and essential to the recipient's ability to obtain or maintain gainful employment[[:]], including:

(a) Interviewing;

(b) Buying work-related material; and

(c) Participating in programs that facilitate job placement skills such as resume development and interviewing techniques.

D. — F. (proposed text unchanged)

S. ANTHONY McCANN

Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Private Duty Nursing

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

Notice of Final Action

[04-262-F]

On December 27, 2004, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01— .06 under COMAR 10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Private Duty Nursing. This action, which was proposed for adoption in 31:20 Md. R. 1491—1495 (October 1, 2004), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 31, 2005.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .01B(27): The definition of "witness" is clarified to reflect the Department's intent that a witness personally verify the provision of services, but that the verification does not need to take place at the time the service was provided.

Regulation .03E(14)(c): The word "summary" is deleted from the phrase "discharge summary plan". This change is made to clarify the Department's intent and eliminate potential confusion. This change conforms this regulation to other regulations in this chapter in which the term "discharge plan" is used to refer to the document that was characterized as the "discharge summary plan" in the proposed regulation.

Regulation .03K: The phrase "nurse's shift is not" is deleted and replaced with the phrase "nurse is not scheduled to work for". This change clarifies the Department's intent,