

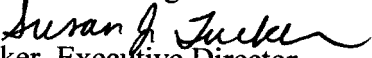


Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – Nelson J. Sabatini, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM
Personal Care Services Transmittal No. 40
May 4, 2004

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: Proposed Amendments

WRITTEN COMMENTS TO:
Michele Phinney
201 W. Preston Street, Rm 521
Baltimore, Maryland 21201
Fax 410-333-7687 or call
410-767-6499

PROGRAM CONTACT PERSON:
Mark A. Leeds, Director
Long Term Care and Community
Support Services Administration
410-767-6770

COMMENT PERIOD EXPIRES: June 1, 2004

The Maryland Medical Assistance Program is proposing to amend Regulations .01 and .03 – .05 under COMAR 10.09.20 Personal Care Services. These amendments are intended to make Medicaid personal care services available in the workplace. This change will help the Department meet a benchmark that qualifies the State to receive continuing federal funding through the Ticket to Work Infrastructure Grant. In addition, amendments are proposed to revise provider qualifications (Criminal Background Investigation requirement and limitation; and English language requirement) and to allow nurse practitioners or physician assistants to authorize personal care services.

The proposed amendments, as published in the *Maryland Register*, are attached.



III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Board has received 96 complete applications which will be considered for the list now being prepared. The existing regulation requires that all existing applications be renewed to be considered for a subsequent list. If two apprentices are selected within a 1 year period, 94 individuals would be eligible to renew their applications at a cost of \$25 each. If a \$25 application currently "buys" 2 years on a list, each year costs \$12.50. Therefore, the additional cost to each applicant would be that amount.

Economic Impact on Small Businesses

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

Opportunity for Public Comment

Comments may be sent to Pamela Edwards, Acting Executive Director, Board of Pilots, 500 North Calvert Street, 3rd Floor, Baltimore, Maryland 21202, or call (410) 230-6263, or fax to (410) 333-0021, or email to baypilot@dllr.state.md.us. Comments must be received by 5 p.m. on June 30, 2004. No public hearing has been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Pilots during a public meeting to be held at 10:30 a.m., on Friday, October 8, 2004, at 500 North Calvert Street, Baltimore, Maryland 21202.

.03 Selection of Apprentice Pilots.

A. — F. (text unchanged)

G. Maintenance of the List.

(1) (3) (text unchanged)

(4) A list of qualified applicants compiled before October 1, 2004, shall be maintained for 1 year.

(5) (text unchanged)

JERALD B. BURIE
Chairman
Board of Pilots

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 Proposed Action

[04-108-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .03 — .05 under COMAR 10.09.20 Personal Care Services.

Statement of Purpose

The purpose of this action is to make Medicaid personal care services available in the workplace. This change will help the Department meet a benchmark that qualifies the State to receive continuing federal funding through the Ticket to Work Infrastructure Grant. The amendments also

revise provider qualifications and allow a nurse practitioner or physician assistant to authorize personal care services.

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.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by June 1, 2004.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (8) (text unchanged)

(8-1) "Gainful employment" means work where income or wages are reported to the Internal Revenue Service.

(9) — (30) (text unchanged)

(31) "Workplace" means the physical location where a recipient engages in gainful employment.

.03 Conditions for Participation.

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

(1) — (6) (text unchanged)

(7) Be able to *speak*, read, write, and follow directions in English;

(8) — (11) (text unchanged)

(12) [Agree to submit] *Submit* to a criminal background investigation conducted by the [Maryland State Police] *Criminal Justice Information System, Department of Public Safety and Correctional Services.*

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

(1) — (3) (text unchanged)

(4) Designate an individual who shall represent the agency in its interactions with the Department and with the case monitoring agency and who shall:

(a) — (b) (text unchanged)

(c) Supervise the personal care aide by visiting the aide in the recipient's home or at the recipient's workplace, at a minimum of 30-day intervals, to evaluate the interactions and relationship between the recipient and the personal care aide and to assess the aide's performance and ability to give the required service,

(d) — (e) (text unchanged)

(5) — (6) (text unchanged)

C. — D. (text unchanged)

E. To participate in the Program, the recipient shall:

(1) — (2) (text unchanged)

(3) Have orders for personal care services from the recipient's personal physician, *physician assistant*, or *nurse practitioner* based on a [physician] visit within 6 months of the date of assessment;

(4) — (6) (text unchanged)

.04 Covered Services.

A. — B. (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 [will] *may* also cover:

(1) — (3) (text unchanged)

(4) Personal hygiene and grooming, including oral and denture care, shaving, and care of skin, nails, and hair[.];

(5) *Accompanying the recipient to and from the workplace; and*

(6) *Performing services in the workplace directly related to a personal care need and essential to the recipient's ability to maintain gainful employment.*

D. The Program covers the following services rendered by case monitoring agencies:

(1) — (6) (text unchanged)

(7) Making home and workplace visits according to §D-1 of this regulation;

(8) — (11) (text unchanged)

D-1. Home and Workplace Visits.

(1) — (2) (text unchanged)

(3) The case monitoring agency shall use the home or workplace visit to assist the recipient's condition and quality of personal care by reviewing the:

(a) — (d) (text unchanged)

E. — F. (text unchanged)

.05 Limitations.

A. The Program does not cover the following services:

(1) [Services] *Unless meeting the conditions of §F of this regulation, services provided by a case monitor or personal care aide who: [has]*

(a) *Has been convicted of, [a felony, crime of violence, theft, or moral turpitude] received probation before judgment for, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude or theft; or*

(b) *Has any other criminal history that indicates behavior which is potentially harmful to participants;*

(2) Skilled services performed by persons with professional training other than those services provided under Regulation .04D [and G] of this chapter;

(3) — (7) (text unchanged)

B. — C. (text unchanged)

D. No reimbursement is made through this program for expenses incurred while escorting recipients of personal care services [to]:

(1) *To obtain medical diagnosis or treatment; or*

(2) *To or from the recipient's workplace.*

E. (text unchanged)

F. *If requested by the care monitor applicant or personal care aide applicant, the Department may waive the provisions of §A(1) of this regulation if the applicant demonstrates that:*

(1) *The conviction, probation before judgment, or plea of nolo contendere for a felony or any crime involving moral turpitude or theft was entered more than 10 years before the date of the provider application; and*

(2) *The criminal history does not indicate behavior which is potentially harmful to participants.*

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 22 DEVELOPMENTAL DISABILITIES
10.22.17 Fee Payment System for Licensed Residential and Day Programs

Authority Health-General Article, §§2-104(b), 7-306.1, 7-310(c), 15-105, 15-107, and 16-201,
Annotated Code of Maryland

Notice of Proposed Action
[04-103-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .10 under COMAR 10.22.17 Fee Payment System for Licensed Residential and Day Programs.

Statement of Purpose

The purpose of this action is to allow the Department to submit claims for federal reimbursement for certain days of residential services when a consumer is absent.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. **Summary of Economic Impact.** This proposed action increases the federal reimbursement for residential services through the Home and Community Based waiver from the Centers for Medicare and Medicaid Services (CMS).

II. **Types of Economic Impact.**

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)		\$3,121,910
B. On other State agencies:	NONE		
C. On local governments:	NONE		
	Benefit (+)	Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE		
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 represents 12 months of increased federal revenue and is calculated by taking 50 percent of the total number of approved absence days paid to providers in FY03, not exceeding 33 days per recipient of residential services, multiplied by the FY04 per diem rates.

Economic Impact on Small Businesses

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

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by June 1, 2004.