

**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

Medical Supply and Equipment Transmittal No. 58

July 28, 2005

TO: Disposable Medical Supplies/Durable Medical Equipment Providers

FROM: Susan Tucker, Executive Director
Susan J. Tucker
Office of Health Services

SUBJECT: Adoption of Amendments to Disposable Medical Supplies/Durable Medical Equipment Services

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

ACTION:
Permanent Status

EFFECTIVE DATE: August 1, 2005

COMMENT PERIOD ENDED:
May 31, 2005

PROGRAM CONTACT PERSON:
Jane Sacco, Chief
Division of Community Support Services
410-767-1739

The Secretary of Health and Mental Hygiene has adopted amendments to Regulations .01 and .04-.07 under COMAR 10.09.12 with nonsubstantive changes. The proposed amendments were included with Medical Supply and Equipment Transmittal No. 57, dated May 6, 2005, and were published in the Maryland Register on April 29, 2005 (Vol. 32, Issue 9).

A copy of the nonsubstantive changes as published in the July 22, 2005 issue of the Maryland Register is attached. The Program's Approved List of Items, reflecting changes in reimbursement rates resulting from the amendments, has been mailed under separate cover. The Approved List is also available electronically in an Excel spreadsheet format by contacting Ms. Kim Howard at howardc@dnhm.state.md.us.

If you have any questions regarding this transmittal, please contact the Medical Supplies and Equipment staff specialist at 410-767-1739.

Attachment



Subtitle 18 BOARD FOR PROFESSIONAL LAND SURVEYORS

09.13.06 Minimum Standards of Practice

Authority: Business Occupations and Professions Article, §15-208(b)(4),
Annotated Code of Maryland

Notice of Final Action [05-093-F]

On July 6, 2005, the Board for Professional Land Surveyors adopted amendments to Regulations .01 — .09 and .12, the repeal of existing Regulation .11, and new Regulation .11, under COMAR 09.13.06 Minimum Standards of Practice. This action, which was proposed for adoption in 32:9 Md. R. 854 — 859 (April 29, 2005) has been adopted as proposed.

Effective Date: August 1, 2005.

CHARLES E. MALOY
Chairman
Board for Professional Land Surveyors

Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS — REAL ESTATE APPRAISERS

09.19.05 Code of Ethics

Authority: Business Occupations and Professions Article, §§16-208, 16-216,
16-220, and 16-302(d) and (g), and 16-503(b) and (f),
Annotated Code of Maryland

Notice of Final Action [05-096-F-I]

On June 14, 2005, the Commission of Real Estate Appraisers and Home Inspectors adopted an amendment to Regulation .01 under COMAR 09.19.05 Code of Ethics. This action, which was proposed for adoption in 32:9 Md. R. 859 — 860 (April 29, 2005), has been adopted as proposed.

Effective Date: August 1, 2005.

JOHN R. FOWLER
Chairman
Commission of Real Estate Appraisers
and Home Inspectors

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.03 Pharmacy Services

Authority: Health-General Article, §§2-104(b), 15-103, 15.103.1, 15-105,
and 15-118,
Annotated Code of Maryland

Notice of Final Action [05-097-F]

On July 8, 2005, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .05 under

COMAR 10.09.03 Pharmacy Services. This action, which was proposed for adoption in 32:9 Md. R. 862 (April 29, 2005), has been adopted as proposed.

At this time, the Secretary is withdrawing the proposed amendments to Regulations .06 and .12 under COMAR 10.09.03 Pharmacy Services which were proposed for adoption in 32:9 Md. R. 862 (April 29, 2005).

Effective Date: August 1, 2005.

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.12 Disposable Medical Supplies and Durable Medical Equipment

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129,
Annotated Code of Maryland

Notice of Final Action [05-099-F]

On July 1, 2005, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01 and .04 — .07 under COMAR 10.09.12 Disposable Medical Supplies and Durable Medical Equipment. This action, which was proposed for adoption in 32:9 Md. R. 864 — 869 (April 29, 2005) has been adopted with the nonsubstantive changes shown below.

Effective Date: August 1, 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 the conclusion are as follows:

Regulation .01: Amended to bring the regulation into conformity with a new formulation of the Medical Assistance Program's definition of "medical necessity", which was adopted during the pendency of this regulation. This new formulation clarifies the Program's definition of "medical necessity" and is meant to be applied uniformly. Accordingly, the terms in the regulation that relate to medical necessity are amended to conform to the new definition.

Regulation .04: Amended to remove a reference to limitations on coverage of prosthetic devices, which the Program intended to remove. This change simply clarifies the Program's intent and does not result in any additional burden on, or diminution of the substantive rights of, affected parties.

Regulation .05: Amended to eliminate a specific limitation on the coverage of incontinency pants and disposable underpad. This change simply clarifies the Program's intent and does not result in any additional burden on, or diminution of the substantive rights of, affected parties. This regulation is also amended to eliminate reference to the term "preauthorization". This term was replaced with the more accurate term "prepayment authorization" throughout the regulation, although one reference to "preauthorized" was inadvertently left unchanged in the proposed regulation. This change is simply a clarification consistent with the Program's intent.

Regulation .06: Amended to add a clarification that medical equipment and supplies not listed on the approved list of items require prepayment authorization. This is consistent

with Program intent and practice and does not impose any additional burden on, or diminution of the substantive rights of, affected parties.

.01 Definitions.

- A. (proposed text unchanged)
- B. Terms Defined.

(1) — (3) (proposed text unchanged)

(4) "Disposable medical supplies" means consumable or disposable items with minimal or no potential for reuse which are used to serve a medically necessary purpose and, with the exception of disposable gloves and incontinence supplies, have no practical use in the absence of illness ~~[[or]], injury disability or health condition.~~

(5) "Durable medical equipment" means equipment which satisfies all of the following requirements:

(a) — (c) (proposed text unchanged)

(d) *It has no practical use in the absence of illness ~~[[or]], injury, disability, or health condition.~~*

(6) "Home" means that place of residence occupied by the recipient, including ~~[[a]]~~ an assisted living facility, but other than a hospital, nursing facility, or other medical institution.

(7) — (11) (proposed text unchanged)

(12) "Medically necessary" means that the ~~[[prescribed or ordered item or]]~~ service ~~[[has been determined by the Department to be]]~~ or benefit is:

(a) *Directly related to diagnostic, preventive, curative, palliative, ~~[[or]]~~ rehabilitative, or ameliorative treatment of an illness, injury, ~~[[or]]~~ disability, or health condition;*

(b) *Consistent with current accepted standards of good medical practice;*

(c) (proposed text unchanged)

(d) *Not primarily for the convenience of the ~~[[recipient, the recipient's]]~~ consumer, family, or ~~[[the]]~~ provider.*

(13) — (22) (proposed text unchanged)

.04 Covered Services.

A. The following medically necessary items are covered when ordered by a prescriber:

(1) — (5) (proposed text unchanged)

(6) Replacement of prostheses ~~[[once every year for persons under 19 years old and once every 3 years for persons 19 years old or older]]; and~~

(7) (proposed text unchanged)

B. (proposed text unchanged)

.05 Limitations.

The Program does not cover:

A. Incontinency pants and disposable underpads unless~~[[~~:

(1) For~~]]~~ *for* medical conditions associated with prolonged urinary or bowel incontinence; ~~[[and~~

(2) The physician certifies that coverage is necessary to prevent institutionalization.~~]]~~

B. — J. (proposed text unchanged)

K. Replacement of equipment while the item is still under warranty or before having met the Department's life expectancy schedule unless ~~[[preauthorized]]~~ *prepayment authorization has been obtained;*

L. — M. (proposed text unchanged)

.06 Prepayment Authorization Requirements.

A. *Prepayment authorization* is required for:

(1) — (5) (proposed text unchanged)

(6) All repairs to purchased durable medical equipment exceeding \$500; ~~[[and]]~~

(7) *Durable medical equipment with a purchase price of \$1,000 or more except as specified in §B(1) and (3) of this regulation~~[[.]]; and~~*

~~*(8) Medical equipment and supplies not listed on the approved list of items.*~~

B. — H. (proposed text unchanged)

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.01 Uniform Accounting and Reporting System For Hospitals and Related Institutions

Authority: Health-General Article, §§19-207, 19-212, and 19-215, Annotated Code of Maryland

Notice of Final Action

[05-107-F-1]

On July 6, 2005, the Health Services Cost Review Commission adopted amendments to Regulation .02 under COMAR 10.37.01 **Uniform Accounting and Reporting System for Hospitals and Related Institutions**. This action, which was proposed for adoption in 32:10 Md. R. 936 (May 13, 2005), has been adopted as proposed.

Effective Date: August 1, 2005.

IRVIN W. KUES
Chairman
Health Services Cost Review Commission

Subtitle 45 MARYLAND PHARMACY ASSISTANCE PROGRAM

Notice of Final Action

[05-087-F]

On June 28, 2005, the Secretary of Health and Mental Hygiene adopted the repeal in their entirety of:

(1) Regulations .01 — .12 under COMAR 10.45.01 **Eligibility**; and

(2) Regulations .01 — .10 under COMAR 10.45.02 **Services**.

This action, which was proposed for adoption in 32:9 Md. R. 874 (April 29, 2005), has been adopted as proposed.

Effective Date: August 1, 2005.

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene