



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Georgeanne Carter, AELR Committee Counsel
Kathleen P. Kennedy, AELR Committee Counsel
Kelvin V. Lucas, AELR Committee Counsel

Date: January 12, 2024

Re: **Synopses of Regulations received from 12/1/2023 through 1/11/2024**

Enclosed please find synopses of regulations received by the Joint Committee on Administrative, Executive, and Legislative Review (AELR) during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

GC:KPK:KVL/mjp

cc: Sally Robb
Jeremy Baker

Assessments and Taxation, Department of

Proposed Regulation

DLS Control No. 23-315

Department of Assessments and Taxation:

Assessment Administration:

Appeal Hearings: COMAR 18.01.02.03

According to the department, the purpose of this action is to specify what must be submitted to the Department and when for a representative to be recognized throughout a first-level real property assessment appeal.

Proposed Regulation

DLS Control No. 23-317

Department of Assessments and Taxation: Exemptions:

Disabled Veteran, Surviving Spouse, Disabled Active Duty Service Member:

COMAR 18.06.03.01

According to the department, the purpose of this action is to define the term “legal residence” in Tax-Property Article, §7-208 to be identical to and consistent with “principal residence” as that term is used in other departmental statutes and regulations, to specify what the Department may request for proof of residence and to clarify that an applicant under §7-208 can have only one legal or principal residence.

Housing and Community Development, Department of

Proposed Regulations

DLS Control No. 23-329

Department of Housing and Community Development:

Revitalization Programs:

Business Façade Improvement Program: COMAR 05.20.06.01 – .09

According to the department, the purpose of this action is to describe policies and procedures for program administration under the Business Façade Improvement Program.

Department of Human Services

Emergency Regulation

DLS Control No. 23-355

Department of Human Services:

Social Services Administration Private Child Placement Agencies:

License for Private Child Placement Agencies: COMAR 07.05.01.14

According to the department, this regulation alters the educational requirements for child placement workers in private child placement agencies.

Transportation, Department of

Proposed Regulations

DLS Control No. 23-326

Department of Transportation:

Motor Vehicle Administration--Motorcycle Safety Program:

Motorcycle Safety Training Centers: COMAR 11.20.01.01 – .33

According to the department, the purpose of this action is to update, clarify, and repeal obsolete and outdated regulations regarding procedures for the approval and operation of motorcycle safety training centers as authorized under Transportation Article, §16-604, Annotated Code of Maryland.

Proposed Regulations

DLS Control No. 23-330

Department of Transportation:

Motor Vehicle Administration — Vehicle Inspections:

General Inspection: COMAR 11.14.01.01 – .18

Safety Standards for Passenger Cars, Taxicabs, Light Trucks, Vans, Multipurpose Passenger Vehicles, and Type II School Vehicles: COMAR 11.14.02.01 – .29

According to the department, the purpose of this action is to repeal the existing chapters of regulations regarding the licensing of vehicle inspection stations, and the registration of inspection mechanics, and adopt new chapters to address changes in vehicle technologies, vehicle inspection test tools and equipment, and to separate, organize, and clarify the existing regulations regarding vehicle equipment safety inspection. The new proposed chapters remove unnecessary and obsolete language, updates references, addresses changes in automotive standards and emerging technologies, and incorporates current policy and procedures for the licensing and regulatory oversight of Maryland Vehicle Safety Inspection program by the Maryland Department of State Police Automotive Safety Enforcement Division (ASED).

This action also establishes the licensing of inspection mechanics independent of an inspection station license. This will allow persons to be examined and licensed as vehicle

inspection mechanics prior to employment at inspection stations and will facilitate the transfer of inspection mechanics from one station to another without unnecessary delay and interruption of employment.

In addition, the proposed new regulations make provision for the inspection of vehicles which have been properly modified for operation by persons with special needs. ASED will provide an examination of specially modified vehicles and the related documentation at no cost to persons with special needs. ASED personnel will then provide a form that identifies the properly modified equipment, which will be presented to inspection stations and inspection mechanics to allow vehicle safety inspections to be performed and certified with certain authorized exemptions to regulated vehicle equipment.

Finally, the proposal addresses auxiliary equipment installed on vehicles that potentially risk person, property, or environmental hazards which is not currently regulated and makes provisions for current and emerging automotive technologies for vehicle safety that are not currently regulated such as supplemental restraint systems, anti-lock brakes and traction control, and stability systems. eliminates requirements for obsolete or ineffective test equipment and tools, and allows the current test equipment and tools used in the automotive industry to be approved for use during vehicle safety inspections.

Higher Education Labor Relations Board, State

Proposed Regulations

DLS Control No. 23-331

Independent Agencies:

State Higher Education Labor Relations Board:

Definitions: COMAR 14.30.01.01

General: COMAR 14.30.02.01 – .05

Executive Director: COMAR 14.30.03.01 and .02

Petitions: COMAR 14.30.04.01 – .12

Elections: COMAR 14.30.05.01 – .17

Denial or Revocation of Certification: COMAR 14.30.06.01 and .02

Unfair Labor Practices: COMAR 14.30.07.01 – .04

Permissible Labor-Related Activities: COMAR 14.30.08.01 – .26

Collective Bargaining: COMAR 14.30.09.01 – .03

Impasse Procedures: COMAR 14.30.10.01 – .24

Hearings: COMAR 14.30.11.01 – .27

Procedures Governing Employee Information: COMAR 14.30.12.01 – .05

According to the board, the purpose of this action is to create a new regulatory structure for this agency in which terms are defined, procedures are clarified, filings and investigation procedures are explained, and Board authority and jurisdiction are described in more detail.

Maryland Department of Health

Proposed Regulations

DLS Control No. 23-316

Maryland Department of Health:

Board of Occupational Therapy Practice:

Dry Needling: COMAR 10.46.09.01 – .04

According to the department, the purpose of this action is to establish:

- (1) Guidelines for the provision of dry needling as an intervention performed by licensed occupational therapists who are certified hand therapists; and
- (2) The minimum education and training requirements for licensed occupational therapists who are certified hand therapists to perform dry needling.

Proposed Regulations

DLS Control No. 23-318

Maryland Department of Health:

Board of Pharmacy:

Pharmacist Prescribing of a Nicotine Replacement Therapy Medication: COMAR 10.34.42.01 – .03

According to the department, the regulations specify the conditions under which a pharmacist may prescribe and dispense nicotine replacement therapy medication, establish standard procedures that a pharmacist must use to prescribe and dispense the medication, and establish procedures for a pharmacist to refer a patient to a primary care practitioner for treatment.

Proposed Regulations

DLS Control No. 23-319

Maryland Department of Health:

Sanitation:

Public Swimming Pools and Spas: COMAR 10.17.01.01 – .55

According to the department, the purpose of this action is to reorganize COMAR 10.17.01 to more clearly delineate between regulations which pertain to the operation and maintenance of public swimming pools and spas and regulations concerning the construction and design of these facilities. These changes are necessary due to the pending adoption of the International Swimming Pool and Spa Code (ISPSC) by the Maryland Department of Labor under HB 303 (2022).

Proposed Regulations

DLS Control No. 23-320

Maryland Department of Health:

Medical Care Programs:

Maryland Children's Health Program: COMAR 10.09.11.11

Medical Assistance Eligibility: COMAR 10.09.24.02, .07, .12

Maryland Children's Health Program (MCHP) Premium:

COMAR 10.09.43.10 and .13

According to the department, (1) Establish an Express Lane Eligibility (ELE) program to streamline and expedite enrollment of eligible individuals in the Maryland Medicaid Assistance Program and MCHP in accordance with Ch. 282 (S.B. 26), Acts of 2023, Maryland Medical Assistance Program, Maryland Children's Health Program, and Social Services Programs – Eligibility and Enrollment and Workgroup on Low–Income Utility Assistance.

(2) Provide continuous eligibility for individuals under the age of 19 and enrolled in Medicaid or CHIP in accordance with the Consolidated Appropriations Act, 2023 (CAA).

(3) Update the regulations to no longer disenroll children during their continuous eligibility period due to non-payment of premiums under the MCHP Premium program, a continuation of the practice under the COVID-19 Public Health Emergency.

Proposed Regulations

DLS Control No. 23-321

Maryland Department of Health:

Food:

Food and Drink Processing and Transportation:

COMAR 10.15.04.01 – .11 and .14 – .25

According to the department, the purpose of this action is to revise COMAR 10.15.04 to update the organization and terminology of this chapter for ease of use for industry, staff, and the general public.

Revisions were also necessary to align with current practice and national and federal guidelines, including some set forth in the FSMA. New record keeping requirements and risk-based preventive controls have been implemented industry wide, and language has been added to outline these items. Updated labeling regulations were required to include sesame, the ninth major food allergen to be required on food labeling. Updated training and education requirements for managers and employees were added to align with general provisions required by current federal regulations.

The definition for a Food Processing Plant was adjusted to match the terminology used for licensing categories and to exclude prepackaged ready-to-eat snack foods that do not require temperature control for safety, packaged ice, and food transfer stations where food is not stored. This aligns with federal workloads and eliminates regulation of certain low-risk food storage businesses. Modified requirements that apply to facilities solely engaged in the storage of unexposed packaged foods were added to align with new federal regulations. Inspection frequency

has been updated to allow field inspectors to spend more time at each inspection and align Maryland inspection frequencies closer to national averages, which were found to be much less frequent than current Maryland requirements.

Proposed Regulations

DLS Control No. 23-322

Maryland Department of Health: Hospitals:

Assisted Living Programs: COMAR 10.07.14.01 – .65

According to the department, the purpose of this action is to set minimum, reasonable standards for licensure of assisted living programs in Maryland. This chapter is intended to maximize independence and promote the principles of individuality, personal dignity, freedom of choice, and fairness for all individuals residing in assisted living programs while establishing reasonable standards to promote individuals' health and safety.

Proposed Regulations

DLS Control No. 23-323

Maryland Department of Health: Medical Care Programs:

Pharmacists: COMAR 10.09.21.02 – .06

According to the department, the purpose of this action is to allow pharmacists to be reimbursed for all services within the pharmacist's lawful scope of practice, in accordance with Ch. 300 (S.B. 678), Acts of 2023, Health Insurance - Reimbursement for Services Rendered by a Pharmacist.

Proposed Regulations

DLS Control No. 23-324

Maryland Department of Health: Food:

Production, Processing, Transportation, Storage, and Distribution of Grade A Milk:

COMAR 10.15.06.02, .03, .05, .10, and .11

According to the department, the purpose of this action is to accommodate the industry's request to allow for increased time between pickups from Maryland dairy farms, which will ultimately benefit those farms that have upgraded their milk tank storage size; it will also align Maryland regulations with federal guidance and surrounding states' standards. The action will allow production and associated shelf-life labeling of extended shelf-life dairy products ("ultra-pasteurized"). Finally, the action will correct grammatical errors, add a definition and reference table for the term "pasteurized," and fix an erroneous instance of referring to "milk facilities" to "milk plants."

Proposed Regulations

DLS Control No. 23-325

Maryland Department of Health: Medical Care Programs:

Nursing Facility Services: COMAR 10.09.10.07 and .08

According to the department, the purpose of this action is to: (1) Update the budget adjustment factor for FY 2024; and (2) Extend the sunset date for the Interim Working Capital Fund for 1 year and allow additional time for repayment.

Proposed Regulations

DLS Control No. 23-327

Maryland Department of Health:

Medical Care Programs:

Maryland HealthChoice Program: Definitions: COMAR 10.67.01.01

Benefits: COMAR 10.67.06.26

According to the department, the purpose of this action is to establish regulations governing the provision of the collaborative care model in accordance with Ch. 285 (H.B. 0048), Acts of 2023, implement the collaborative care model (CoCM) statewide

Proposed Regulations

DLS Control No. 23-328

Maryland Department of Health:

Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency Syndrome (AIDS):

Maryland AIDS Drug Assistance Program: Eligibility: COMAR 10.18.05.01 – .03

Maryland AIDS Drug Assistance Program: Services:

COMAR 10.18.06.05, .08, and .10

According to the department, the purpose of this action is to align COMAR 10.18.05 and COMAR 10.18.06 with Health Resources & Services Administration (HRSA) Policy Clarification Notice 21-02 (PCN 21-02). This proposal will minimize the administrative burden on Maryland AIDS Drug Assistance Program (MADAP) case managers and enhance continuity of care and treatment services for MADAP recipients. Specifically, the amendments to COMAR 10.18.05 eliminate: 1) the 6-month recertification requirement for program eligibility; and 2) the requirement for proof of HIV status to be submitted by the applicant's health care practitioner on the MADAP medical form. The amendments to 10.18.06 eliminate the preauthorization form required for certain pharmacy services and update incorrect terms.

Proposed Regulations

DLS Control No. 23-332

Maryland Department of Health: Dangerous Devices and Substances:

Controlled Dangerous Substances: COMAR 10.19.03.01 – .20

According to the department, the purpose of this action is to evaluate COMAR 10.19.03 for the purpose of satisfying the requirement of State Government Article, §10-130—10-139, Annotated Code of Maryland, to update the regulations per statutory changes, and to reorganize and clarify existing language.

Proposed Regulations

DLS Control No. 23-333

Maryland Department of Health:

Community-Based Behavioral Health Programs and Services:

Outpatient Civil Commitment (OCC) Pilot Program:

COMAR 10.63.07.02, .03, .05, and .11

According to the department, the purpose of this action is to revise the outpatient civil commitment (OCC) pilot program to allow an eligible individual or an immediate family member of an eligible individual to request for the individual to be voluntarily enrolled into the outpatient civil commitment pilot program.

Proposed Regulations

DLS Control No. 23-334

Maryland Department of Health:

Medical Care Programs:

Programs of All-Inclusive Care for the Elderly (PACE):

COMAR 10.09.44.01, .15, .21, and .23

According to the department, the purpose of this action is to list the annual provider rates to be paid to PACE providers pursuant to the State Plan Amendment approved by the Centers for Medicare and Medicaid Services (CMS) and add reporting requirements and sanctions for PACE providers to regulations.

Proposed Regulations

DLS Control No. 23-335

Maryland Department of Health:

Medical Care Programs:

Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder: COMAR 10.09.56.02, .04, .10, .14, .14-1, .15, .16, .17, .19, .21, and .22

According to the department, the purpose of this action is to update regulations to reflect changes to the approved CMS waiver document. Additionally, the proposed action will update the fee schedule for autism waiver providers, effective July 1, 2023.

Proposed Regulation

DLS Control No. 23-337

Maryland Department of Health:

Postmortem Examiners Commission:

Medical Examiner Cases: COMAR 10.35.01.20

According to the department, this regulation increases body transportation reimbursement fees and the minimum payment per transport to the Office of the Chief Medical Examiner (office).

Proposed Regulations

DLS Control No. 23-340

Maryland Department of Health:

Medical Care Programs:

Establishment, Operation, and Authority for Health Maintenance Organizations -

Medical Assistance: COMAR 10.09.16.01 – .12

According to the department, the purpose of this action is to (1) Implement Maryland Medicaid's coverage of behavioral health crisis services, (2) Establish mobile crisis team and behavioral health crisis stabilization center services; and (3) Codify the coverage, requirements, and reimbursement procedures for these two new benefits.

Proposed Regulation

DLS Control No. 23-341

Maryland Department of Health: Medical Care Programs:

Targeted Case Management for People with Intellectual and Developmental

Disabilities: COMAR 10.09.48.08

According to the department, the purpose of this action is to increase the reimbursement rate for Developmental Disabilities Administration (DDA) targeted case management (TCM) providers by 4 percent for Fiscal Year (FY) 2024.

Proposed Regulations

DLS Control No. 23-342

Maryland Department of Health:

Community-Based Behavioral Health Programs and Services:

Programs Required to be Accredited in Order to be Licensed to Provide

Community-Based Behavioral Health: COMAR 10.63.02.02

Descriptions and Criteria for Programs and Services Required to have an

Accreditation-Based License: COMAR 10.63.03.20 and .21

According to the department, the purpose of this action is to (1) Implement Maryland Medicaid's coverage of behavioral health crisis services, (2) Establish mobile crisis team and behavioral health crisis stabilization center services; and (3) Codify the coverage, requirements, and reimbursement procedures for these two new benefits.

Proposed Regulations

DLS Control No. 23-343

Maryland Department of Health: Maryland HealthChoice Program:

Eligibility and Enrollment: COMAR 10.67.02.01

Managed Care Organizations: COMAR 10.67.04.03-1, 03-2, .15, .19, and .19-4

Access: COMAR 10.67.05.02

Benefits: COMAR 10.67.06.26-1

Benefits: COMAR 10.67.06.26-3

Benefits: COMAR 10.67.06.27

Benefits: COMAR 10.67.06.30

Non-Capitated Covered Services: COMAR 10.67.08.03

According to the department, the purpose of this action is to (1) Update reporting requirements for mManaged cCare oOrganizations (MCOs); (2) Align regulations with the Ch. 28 (H.B. 1080/SB778), Acts of 2022, Maryland Medical Assistance Program – Children and Pregnant Women (Healthy Babies Equity Act) and Ch. 303 (HB6/S.B. 1580), Acts of 2022, Maryland Medical Assistance Program – Dental Coverage for Adults by removing the condition that recipients cannot be enrolled in managed care during the postpartum period and indicating new dental coverage for adults in Medicaid through the fee-for-service carve-out; (3) Update very low birth weight payment requirements to align with federal requirements; (4) Repeal the rural access incentive and replace with health equity incentive; and (5) Require MCO coverage of fertility preservation procedures and expand coverage of gender-affirming treatments in alignment with the Ch. 253 (H.B. 0283/SB0460), Act of 2023, Trans Health Equity Act.

Proposed Regulations

DLS Control No. 23-345

Maryland Department of Health:

Medical Care Programs:

General Medical Assistance Provider Participation Criteria:

COMAR 10.09.36.01 and.04

According to the department, the purpose of this action is to update existing regulations to better align them with globally applicable payment procedures for participation in the Maryland Medicaid Program.

Proposed Regulation

DLS Control No. 23-347

Maryland Department of Health: Medical Care Programs:

Health Homes: COMAR 10.09.33.09

According to the department, the purpose of this action is to update the listed provider reimbursement rate to the 3 percent increased rate, effective for Fiscal Year 2024, pursuant to House Bill 200 Fiscal Year 2024 Budget (2023).

Proposed Regulation

DLS Control No. 23-348

Maryland Department of Health:

Medical Care Programs:

Home and Community-Based Services Waiver for Individuals with Brain Injury:

COMAR 10.09.46.12

According to the department, the purpose of this action is to update the Brain Injury Waiver services fee schedule.

Proposed Regulation

DLS Control No. 23-349

Maryland Department of Health:

Medical Care Programs:

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

COMAR 10.09.89.14

According to the department, the purpose of this action is to update the listed provider reimbursement rate to the 3 percent increased rate, effective for Fiscal Year 2024, pursuant to Ch. 101 (H.B. 200), Acts of 2023, Fiscal Year 2024 Budget.

Emergency/Proposed Regulations

DLS Control No. 23-353

Maryland Department of Health:

Medical Care Programs:

Maryland Medicaid Managed Care Program: Rare and Expensive Case

Management: COMAR 10.09.69.02, .11, and .12

According to the department, these regulations clarify coverage requirements for optional shift nursing services (private duty nursing services) under the Rare and Expensive Case Management Program.

Emergency/Proposed Regulations

DLS Control No. 23-354

Maryland Department of Health:

Medical Care Programs:

Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for

Individuals Younger than 21 Years Old: COMAR 10.09.53.04 and .05

According to the department, the purpose of this action is to clarify covered private duty nursing (PDN) services when provided to participants younger than 21 years old eligible for early and periodic screening, diagnosis, and treatment (EPSDT) services.

Institute for Emergency Medical Services Systems, Maryland

Proposed Regulations

DLS Control No. 23-314

Maryland Institute for Emergency Medical Services Systems:

Commercial Ambulance Services:

Definitions: COMAR 30.09.01.02

Specialty Care Transport Services: COMAR 30.09.14.04

According to the institute, the purpose of this action is to standardize language relating to specialty care paramedics and clarify staffing requirements for specialty care transport services based upon the medical needs of patients.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 23-352

Maryland Insurance Administration: Health Insurance - General:

Disability Benefit Claims Procedures: COMAR 31.10.30.03 – .05

According to the administration, the purpose of this action is to amend COMAR 31.10.30 Disability Benefit Claims Procedure to be consistent with recent federal regulation changes, in accordance with Insurance Article §15-1010, Annotated Code of Maryland. This action adds insurer requirements for the establishment of a claim and the appeal procedures. This action also adds insurer requirements for the timing and content of notice of adverse benefit determination and of an appeal determination.

Education, State Board of

Proposed Regulations

DLS Control No. 23-308

State Board of Education: Child Care Centers:

Child Supervision: COMAR 13A.16.08.03

Safety: COMAR 13A.16.10.02

Child Care—Letters of Compliance: **Safety:** COMAR 13A.17.10.02

According to the board, the purpose of this action is to alter the group size, staffing, and first aid and CPR requirements to provide child care centers and letter of compliance facilities additional flexibility when staffing their school age programs.