

- (3) *Waiving all or part of the fee for a specific individual; or*
- (4) *Billing the other insurance company and agreeing to accept what other third party pays as payment in full, whether or not the provider bills individuals who lack third party coverage.*

**.07 Authorization Requirements.**

- A. *For services outlined in Regulation .04 of this chapter, the community-based substance use disorder program shall notify the ASO and obtain authorization to provide substance use disorder services from ASO.*
- B. *The ASO agent shall authorize services that are:*
  - (1) *Medically necessary; and*
  - (2) *Of a type, frequency, and duration that are consistent with expected results and cost-effectiveness.*
- C. *No payment shall be rendered for services that have not been authorized.*

**[.05].08 Payment Procedures.**

- A.—C. (text unchanged)
- D. Rates for the services outlined in this regulation shall be as follows:
  - (1) Comprehensive substance [abuse] *use disorder* assessment — \$142;
  - (2) Level I group substance [abuse] *use disorder* counseling — \$39 per session;
  - (3) Level I individual substance [abuse] *use disorder* counseling — \$20 per 15-minute increment with a maximum of six 15-minute increments per day;
  - (4) *Level II.1 Intensive outpatient treatment* — \$125 per diem; [and]
  - [(5) *Methadone maintenance* — See COMAR 10.09.08.04.]
  - (5) *Level II.5 Partial Hospitalization* — \$130 per diem; and
  - (6) *Opioid Maintenance Therapy*— \$80 per participant per week.
- E. In order to bill an individual for *Level II.1 intensive outpatient treatment* as described in §D(4) of this regulation, the per diem *session* shall include a minimum of 2 hours, but more frequently be composed of 3-hour sessions. A maximum of 4 per diems may be billed per week.
- F. *In order to bill an individual for Level II.5 partial hospitalization, the per diem session shall include a minimum of 2 hours. Providers may bill a maximum of 7 per diems per week.*
- G. *The Department shall pay participating opioid maintenance therapy programs as described in §D(6) of this regulation, per patient, per week provided the participant has received at least one face-to-face documented treatment service in the week for which the Program is billed.*

- H. *Services not authorized consistent with COMAR 10.09.80.07C.*
- I. *The Department shall authorize supplemental payment on Medicare claims only if:*
  - (1) *The provider accepts Medicare assignments;*
  - (2) *Medicare makes direct payment to the provider;*
  - (3) *Medicare has determined that the services are medically necessary;*
  - (4) *The services are covered by the Program; and*
  - (5) *Initial billing is made directly to Medicare according to Medicare guidelines.*
- J. *The Department shall make payment on Medicare claims subject to the following provisions:*
  - (1) *Deductible and coinsurance shall be paid in full for services designated as mental health services by Medicare; and*
  - (2) *The Program shall reimburse services not covered by Medicare, but considered medically necessary by the Program, according to the limitations of this chapter.*

**[.07] .10 Cause for Suspension or Removal and Imposition of Sanctions.**

- A.—D. (text unchanged)
- E. *The Department shall give to the provider reasonable written notice of the Department’s intention to impose sanctions. In the notice, the Department shall:*
  - (1) *Establish the:*
    - (a) *Effective date of the proposed action; and*
    - (b) *Reasons for the proposed action; and*
  - (2) *Advise the provider of the right to appeal.*

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.91 Hospital Presumptive Eligibility**

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

**Notice of Proposed Action**

[14-296-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01—09** under a new chapter, **COMAR 10.09.91 Hospital Presumptive Eligibility**.

**Statement of Purpose**

The purpose of this action is to adopt new regulations that comply with the provisions of the Affordable Care Act that relate to the presumptive eligibility by hospitals.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** Hospital presumptive eligibility (HPE) will enable many uninsured individuals to access Medical Assistance coverage for roughly 30 days, until determined eligible or ineligible for full coverage. Medical Assistance will now be responsible for health services that would previously have been paid by the uninsured individual or through the uncompensated care pool. The State anticipates a cost of \$50,000,000 for FFY 2015 and \$37,500,000 for State fiscal year 2015.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$37,500,000
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. The State calculated the federal fiscal impact for Hospital Presumptive Eligibility (HPE) based on the following methodology. Currently, \$1,000,000,000 is allocated for paying hospitals for serving the State's uninsured. The State estimated that 5 percent of this cost (\$50,000,000 total funds) would be transferred to the Medical Assistance Program with the implementation of HPE for federal fiscal year 2015. The fiscal impact would then be \$25,000,000 in State funds and \$25,000,000 in federal funds per year. However, the State will not implement until October 1, 2015 of State FY15. Thus reducing the State's predicted expenditures by 75 percent and producing a cost of \$18,750,000 in State funds and \$18,750,000 in federal funds for a total of \$37,500,000 for the State FY15. This is a conservative estimate of fiscal impact due to the inability to validate any information for HPE applicants.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.reg@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 3, 2014. A public hearing has not been scheduled.

**.01 Purpose and Scope.**

This chapter establishes requirements for the determination of presumptive eligibility by qualified hospitals effective October 1, 2014.

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

**B. Terms Defined.**

(1) "Applicant" means an individual who has applied for presumptive eligibility at a participating hospital.

(2) "Application" means the presumptive eligibility application.

(3) "Authorized representative" has the same meaning as set forth in COMAR 10.01.04.01.

(4) "Department" means the Department of Health and Mental Hygiene which is the single State agency designated to administer the Maryland Medical Assistance Program pursuant to Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

(5) "Determination" means a decision regarding an applicant's presumptive eligibility.

(6) "Federal poverty level" means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. §9902(2).

(7) "Former foster care" means an individual who:

(a) Is younger than 26 years old;

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

(c) Was formerly in a Maryland out-of-home placement, including categorical Medical Assistance:

(i) On attaining age 18 and leaving out-of-home placement; or

(ii) On attaining age 19-21 during extended out-of-home placement under COMAR 07.02.11.04B.

(8) "Hospital" means an institution which:

(a) Falls within the jurisdiction of Health-General Article, Title 19, Subtitle 3, Annotated Code of Maryland; and

(b) Is licensed pursuant to COMAR 10.07.01 or other applicable standards established by the state in which the service is provided.

(9) "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.

(10) "Incarcerated inmate in a public institution" has the meaning stated in COMAR 10.09.24.05-5B.

(11) "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.

(12) "Medicare" means the medical insurance program administered by the federal government under Title XVIII of the Social Security Act, 42, §U.S.C. 1395 et seq.

(13) "Presumptive eligibility" means temporary eligibility for Medical Assistance as determined by participating hospitals in accordance with these regulations.

**.03 Requirements.**

A. A hospital eligible to make presumptive eligibility decisions shall:

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

(2) Sign an agreement prepared by the Department.

B. The agreement required under §A of this regulation shall require that the hospital:

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

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

(3) Submit a list to the Department of hospital employees who will attend presumptive eligibility training developed by the Department;

(4) Prohibit employees who have not attended required trainings and passed a post-training test to make presumptive eligibility decisions; and

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

C. Before assisting an applicant in filing a presumptive eligibility application, the hospital employee shall:

(1) Check the Department's eligibility verification system to make sure the individual is not actively enrolled in the Maryland Medical Assistance Program;

(2) 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;

(3) Determine that the applicant has not:

(a) Had a prior presumptive eligibility period within the last 12 months for the individual other than pregnant women; or

(b) Had a prior presumptive eligibility period during the current pregnancy for a pregnant woman.

D. The hospital employee shall fill out the presumptive eligibility application based on information supplied by the applicant.

E. The hospital employee shall make a presumptive eligibility decision and sign the presumptive eligibility application based on the following information obtained pursuant to COMAR 10.09.91.05:

- (1) Residency;
- (2) Citizenship;
- (3) Family size and composition; and
- (4) Gross family income.

F. The hospital employee shall inform the individual in writing of the hospital's presumptive eligibility decision which includes an explanation of the presumptive eligibility period.

G. The hospital 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.

H. The hospital shall:

- (1) Keep all written and signed presumptive eligibility applications on file for 6 years; and
- (2) Make the file available to the Department upon request.

**.04 Hospital or Hospital Staff Disqualifications.**

A. A hospital qualified to make presumptive eligibility decisions shall:

- (1) Make presumptive eligibility determinations in accordance with established Departmental policies and procedures; and
- (2) Disqualify individual hospital employees who do not follow established Departmental regulations, policies and procedures.

B. Upon a finding that a qualified hospital has failed to meet the requirements of §A of this regulation, the Department shall provide the hospital with additional training or take other reasonable corrective action measures to address the noncompliance.

C. If the remedial measures taken pursuant to §B of this regulation fail to provide a satisfactory resolution, the Department shall disqualify the hospital from making presumptive eligibility determinations.

**.05 Criteria.**

A. An individual, the individual's guardian, or a representative of the individual with personal knowledge shall apply for presumptive eligibility through a participating hospital.

B. An individual, the individual's guardian, or a representative of the individual with personal knowledge who applies for presumptive eligibility shall attest to:

- (1) The citizenship requirements in COMAR 10.09.24.05;
- (2) The residency requirements in COMAR 10.09.24.05-3;
- (3) The individual's pregnancy status;
- (4) The individual's family size; and
- (5) The individual's household's gross monthly income.

**.06 Populations Eligible.**

Presumptive eligibility may be established for the following eligibility groups:

A. Parents and other caretaker relatives whose household income is equal to or less than 133 percent of the federal poverty level;

B. Pregnant women whose income is equal to or less than 250 percent of the federal poverty level;

C. Adults without dependent children who are older than 19 years old and younger than 65 years old, whose household income is equal to or less than 133 percent of the federal poverty level;

D. Children who are younger than 19 years old who are under 300 percent of the federal poverty level; or

E. Former foster care individuals who are younger than 26 years old.

**.07 Limitations.**

An individual may not apply for presumptive eligibility in Maryland if the individual:

A. Is currently enrolled in the Maryland Medical Assistance Program or Medicare;

B. Is an incarcerated inmate in a public institution as defined in COMAR 10.09.24.05-5B;

C. Had a prior presumptive eligibility period during the last 12 months with the exception of pregnant women;

D. Does not meet the residency requirements stated in COMAR 10.09.24.05-3; or

E. Does not meet the citizenship requirements stated in COMAR 10.09.24.05.

**.08 Certification Period.**

A. Presumptive eligibility begins on the day the hospital determines that the individual is presumptively eligible.

B. Presumptive eligibility ends on the earlier of:

(1) The day in which the individual is determined eligible for Medical Assistance; or

(2) The last day of the month following the month in which the hospital determined presumptive eligibility, if:

- (a) An individual is found ineligible for Medical Assistance; or
- (b) An individual failed to apply for Medical Assistance.

C. A non-pregnant individual may be determined presumptively eligible once per a 12-month period.

D. A pregnant individual may be determined presumptively eligible once per pregnancy.

**.09 Presumptive Eligibility Appeal Rights.**

An individual or an organization does not have appeal rights for presumptive eligibility determinations.

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

**Subtitle 32 BOARD OF PHYSICIANS**

**10.32.06 Licensure of Polysomnographic Technologists**

Authority: Health Occupations Article, §§14-205, 14-5C-10, 14-5C-14, and 14-5C-15 Annotated Code of Maryland

**Notice of Proposed Action**

[14-298-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.04** and **.07** under **COMAR 10.32.06 Licensure of Polysomnographic Technologists**. This action was considered at a public meeting held on July 30, 2014, notice of which was given by publication on July 10 through 30, 2014 pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to provide an alternate pathway to licensure, as well as an extension of time to obtain licensure as a polysomnographic technologist if an applicant for licensure has not obtained a license by September 30, 2013, due to specified circumstances. The extension will be granted for a period of no more than 6 months and after February 28, 2015 no more extensions will be granted by the Board. Additionally the regulations repeal the requirement that the Board place a licensed polysomnographic technologist on inactive status under certain circumstances and also repeals obsolete language regarding the reinstatement of licenses of certain polysomnographic technologists.