



STATE OF MARYLAND

DHMH

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

PT 23 - 06

Office of Health Services
Medical Care Programs

**MARYLAND MEDICAL ASSISTANCE PROGRAM
Nursing Home Transmittal No. 199**

February 8, 2006

TO: Nursing Home Administrators

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

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

RE: Proposed Amendments to Nursing Facility Regulations; Extension of Expiration Date for the Nursing Home Interim Working Capital Fund

ACTION:
Proposed Regulations (Permanent Status)

EFFECTIVE DATE:
MAY 1, 2006

COMMENTS TO:
Michele Phinney, 201 West Preston Street
Room 521, Baltimore, Maryland 21201
(410) 767 - 6499, 1-877- 4MD-DHMH, ext 6499
fax: 410 333-7687, email: regs@dhhm.state.md.us

PROGRAM CONTACT PERSON
Stephen E. Hiltner
410 767 - 1447

COMMENT PERIOD EXPIRES: 2/21/06

The Maryland Medical Assistance Program is proposing amendments to Regulation .07-1 under COMAR 10.09.10 Nursing Facility Services. The proposed amendments will extend the expiration date for the Nursing Home Interim Working Capital Fund from May 1, 2006 to May 1, 2007.

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

cc: Nursing Home Liaison Committee



Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

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

Notice of Proposed Action

[06-018-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .07-1 under COMAR 10.09.10 Nursing Facility Services.

Statement of Purpose

The purpose of this action is to delay the expiration date of the Nursing Home Interim Working Capital Fund from May 1, 2006 to May 1, 2007.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This action extends the life of the program through which nursing facilities may access working capital. The Medical Assistance Program will have a revenue loss of \$300,000, which will benefit nursing home providers as explained in Section III, below.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: Medical Assistance Program	(R-)	\$300,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups: Nursing home providers	(+)	\$300,000
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 Program intends to provide approximately \$7,000,000 in working capital for the period May 1, 2006, through April 30, 2007. These funds would be repaid to the Program by May 1, 2007. An estimated \$300,000 will represent lost interest revenues to the State during the 1 year period beginning May 1, 2006. One hundred percent of these amounts are State General Funds.

D. Working capital loans to nursing home providers will total approximately \$7,000,000, with a time value of \$300,000, as indicated in A, above.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Thirty-six nursing homes, which qualify as small businesses, are expected to account for 550,000 patient days during the period May 1, 2006, through April 30, 2007. Based on the time value of their working capital funds, nursing homes that qualify as small businesses will benefit by \$28,000.

(d) Requires evidence of the coverage be submitted to the Office of Planning and Capital Financing, 201 West Preston Street, Baltimore, Maryland 21201.

(3) Upon completion of a project, the grantee shall maintain, for 30 years, an all-risk insurance policy that:

(a) Provides coverage for an amount at least equal to the replacement cost of the facility;

(b) Names the State as a loss payee;

(c) Protects the State's interest in the project;

(d) Requires notification of the Office of Planning and Capital Financing, 201 West Preston Street, Baltimore, Maryland 21201 of any:

(i) Cancellation of policy;

(ii) Material loss covered by the policy; or

(iii) Material changes in the policy.

(4) The grantee shall maintain and submit evidence of this insurance annually, for a period of 30 years, to the Office of Planning and Capital Financing and to the State Treasurer's Office, Insurance Division.

C. During the entire period of work on the project and for a period of 30 years after the project has been completed or acquired, the Department may audit the business records of the applicant and the applicant's agents, contractors, heirs, or assigns.

D. Extension of Time for Completion, and Other Changes.

(1) The applicant shall notify the Secretary promptly and in any event, not later than 30 days after the applicant knew or should have reasonably have known that the applicant is unable to encumber funds:

(a) In the manner approved by the Secretary; or

(b) Within 2 years of the appropriation of the State Grant by the Maryland legislature.

(2) For good cause the Secretary may grant a request by the applicant for a change in the manner or time for encumbrance of funds, including an extension of time.

(3) Upon a demonstration of good cause for an extension of time, the Secretary may grant an extension of an additional 180 days to encumber funds.

E. Expenditures. State funds may not be released until the applicant:

(1) Has recorded a notice of the State's Right of Recovery, as approved by the Secretary, in the land records of the county or Baltimore City in which the property is located; and

(2) Is in compliance with this chapter and all applicable federal and State laws.

F. Penalties. If the grantee does not comply with this chapter and all other applicable State and federal laws, the Secretary may:

(1) Refuse to consider the grantee for any future funding under the Act;

(2) Require an audit of the grantee;

(3) Notify the Department's Office of Health Care Quality; and

(4) Take other action as appropriate.

.11 Right of Recovery.

In the event of default under the terms of the Act and this chapter, a federally qualified health center financed pursuant to this chapter is subject to the State's right of recovery as set forth in the Act.

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene

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 W. Preston Street, Room 521, Baltimore, Maryland 21201, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499, or fax to (410) 333-7687, or email to regs@dhmh.state.md.us. Comments will be accepted through February 21, 2006.

.07-1 Interim Working Capital Fund.

A. — E. (text unchanged)

F. Recalculation.

(1) In March 2005 and March 2006, the Department shall recalculate the maximum allotment based on Medicaid payments for State fiscal [year] years 2004 and 2005, respectively.

(2) (text unchanged)

G. — H. (text unchanged)

I. The Interim Working Capital Fund expires on May 1, [2006] 2007. Providers shall repay all outstanding funds to the Department by May 1, [2006] 2007. The Department may grant repayment extensions of not longer than 60 days under extraordinary circumstances.

S. ANTHONY McCANN

Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.24 Medical Assistance Eligibility

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

Notice of Proposed Action

[06-015-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .10 under COMAR 10.09.24 Medical Assistance Eligibility.

Statement of Purpose

The purpose of this action is to clarify State Medical Assistance policy regarding applicable limits on post-eligibility deductions from long-term care recipients' available income for incurred, unpaid expenses for necessary medical services not covered under the Medical Assistance State Plan. This amendment conforms the Medical Assistance regulations to a State Plan Amendment already approved by the federal Centers for Medicare and Medicaid Services.

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.** This regulation requires the Maryland Medical Assistance program to pay for certain unpaid medical expenses incurred by the applicant during the 3 months prior to eligibility. DHMH has estimated the potential cost to be \$23,000,000.

II. Types of Economic Impact.

	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$23,000,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Unquantifiable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	\$23,000,000

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

A. Although the potential cost to the State is \$23,000,000, we receive a federal match (\$11,500,000 — general funds, \$11,500,000 — federal funds). Calculated as approximately 4,754 non-covered months × 30.5 days per month × \$159.18 average FY 2006 Medical Assistance Nursing Fund payment per day.

D. Long-Term Care facilities (regulated industries) will benefit from Medical Assistance not including these bills when determining an applicant's eligibility.

F. The public will benefit from Medical Assistance not including these bills when determining an applicant's eligibility.

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 W. Preston Street, Room 521, Baltimore, Maryland 21201, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499, or fax to (410) 333-7687, or email to regs@dhmh.state.md.us. Comments will be accepted through February 21, 2006.

.10 Determining Financial Eligibility for Institutionalized Persons.

A. — C. (text unchanged)

D. Current Eligibility.

(1) (text unchanged)

(2) Determination of Available Income. The following amounts shall be deducted from total income in the following order:

(a) — (e) (text unchanged)

(f) The following incurred medical expenses that are not subject to payment by a third party:

(i) Medicare and other health insurance premiums, deductibles or co-insurance charges; [and]

(ii) [Necessary] For eligibility determinations before August 1, 2005, necessary medical care or remedial service recognized under State law but not covered under the State Plan[.]; and

(iii) For eligibility determinations on or after August 1, 2005, necessary medical care or remedial service recognized under State law but not subject to Medical Assistance reimbursement.