MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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TO: Members of the Maryland State Board of Education

FROM: Lillian M. Lowery, Ed.D.

DATE: August 28, 2012

SUBJECT: COMAR 13A.05.09.02 (ADOPTION)
Programs for Homeless Children

PURPOSE:

To request adoption of COMAR 13A.05.09.02, Programs for Homeless Children.

HISTORICAL BACKGROUND:

The McKinney-Vento Act of 2002 addresses the educational rights of homeless children/youth. The Act includes provisions for homeless children/youth to stay in their home school (school of origin) to ensure school stability if it is deemed to be in the child's best interest.

The McKinney-Vento Act is implemented in State regulations, COMAR 13A.05.09.01 - .07. Pursuant to COMAR 13A.05.09.02B(4), a "homeless student" includes a "child awaiting foster care placement." Currently, COMAR 13A.05.09.02B(2) only recognizes certain children committed to the care and custody of the Department of Social Services as a "child awaiting foster care placement". Yet the Juvenile Court also commits children to the care and custody of the Department of Juvenile Services (DJS) for placement in foster care homes and facilities. Such commitments do not include children in secure facilities. Presently, children and youth committed to DJS who are placed in foster care homes and facilities are not entitled to the same McKinney-Vento school stability provisions as children under the care and custody of DSS who are placed in foster homes or facilities.

EXECUTIVE SUMMARY:

The proposed amendment adds some children in the custody of the DJS to the definition of "child awaiting foster care placement" so that those children would be considered homeless students under COMAR 13A.05.09.02B(4). As such, these children/youths will be entitled to the same school stability provisions set forth in the McKinney-Vento Act as other homeless students.

The proposed amendment was published in the Maryland Register, Volume 39, Issue 13, on Friday, June 29, 2012. (ATTACHMENT). No comments were received during the public comment period.

ACTION:

Request the adoption of COMAR 13A.05.09.02, Programs for Homeless Children.

Attachment

(ii) Be made available for use by the recipient of prescription monitoring data should the request for disclosure be authorized.

(2) If the Technical Advisory Committee has not provided clinical guidance and interpretation within 10 business days of submission of the request, the Department may:

(a) Proceed as if the Technical Advisory Committee does not have clinical guidance or interpretation to provide regarding the request at issue; and

(b) Respond to the original request for disclosure.

(3) The Department shall establish procedures, which may include but not be limited to secure electronic messaging, for the timely disclosure of prescription monitoring data to the Technical Advisory Committee and the receipt of responses from the Technical Advisory Committee to ensure that the review process is conducted with all possible expediency.

(4) For all purposes, including but not limited to confidentiality, security, redisclosure, and admissibility as evidence, the reports of the Technical Advisory Committee shall be considered as one and the same with the prescription monitoring data upon which the Committee's reports are based.

.05 Notice to Patients.

A. Dispenser.

(1) Any dispenser who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public at the place where the prescription is delivered to the dispenser.

(2) The sign shall disclose to the public that the dispenser may access prescription monitoring data on a patient for whom a prescription for a monitored prescription drug is presented.

(3) In lieu of posting a sign, the dispenser may provide such notice in written material provided to the patient.

B. Prescriber.

(1) Any prescriber who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access prescription monitoring data on a patient.

(2) In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient.

.06 Confidentiality.

A. Prescription monitoring data are confidential, privileged, not subject to discovery, subpoena, or other means of legal compulsion in civil litigation, and are not public records.

B. The Program shall ensure that confidential or privileged patient information be kept confidential and that records or information protected by a privilege between a health care provider and a patient, or otherwise required by law to be held confidential, be filed in a manner that, except as otherwise provided in Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .04 of this chapter, does not disclose the identity of the person protected.

C. The Program shall periodically conduct an audit review of prescription monitoring data and disclosure requests to ensure compliance with §B of this regulation.

.07 Penalties and Sanctions.

A. Civil Penalties. A dispenser who knowingly fails to submit prescription monitoring data to the Program as required by Regulation .03 of this chapter shall be subject to a civil penalty not exceeding $500 for each failure to submit required information.

B. Criminal Penalties. A person who knowingly discloses, uses, obtains, or attempts to obtain by fraud or deceit prescription monitoring data in violation of in Health-General Article, §21-2A, Annotated Code of Maryland, shall be guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $10,000 or both.

C. Administrative Sanctions. A prescriber or dispenser who knowingly discloses or uses prescription monitoring data in violation of Health-General Article, §21-2A, Annotated Code of Maryland shall be subject to disciplinary action by the appropriate licensing entity.

.08 General Provisions.

A. The Program shall make available the information technology necessary for dispensers to report prescription monitoring data to the Program.

B. The Program may not impose any fees or other assessments on prescribers or dispensers to support the operation of the Program.

C. A prescriber or dispenser:

(1) Is not required or obligated to access or use the prescription monitoring data available under the Program; and

(2) When acting in good faith, is not subject to liability or disciplinary action arising solely from:

(a) Requesting or receiving, or failing to request or receive, prescription monitoring data from the Program; or

(b) Acting, or failing to act, on the basis of prescription monitoring data provided by the Program.

D. Redisclosure of prescription monitoring data received under Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .04 of this chapter is prohibited unless intended to facilitate the treatment of a patient and is consistent with all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records.

E. The Program shall retain prescription monitoring data for 3 years from the date of receipt.

F. A member of the Technical Advisory Committee:

(1) Shall serve for a term of 3 years from the date of appointment; and

(2) May be reappointed at the discretion of the Secretary.

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

Title 13A
STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

13A.05.09 Programs for Homeless Children

Authority: Education Article, §§2-205 and 7-301, Annotated Code of Maryland

Notice of Proposed Action

[11-309-R]

The Maryland State Board of Education proposes to amend Regulation **.02** under **COMAR 13A.05.09 Programs for Homeless Children**. Because substantive changes have been made to the original proposal as published in 38:23 Md. R. 1459 (November 4, 2011), this action is being reproposed at this time. This action was considered at the Maryland State Board of Education meeting on April 24, 2012.

Statement of Purpose

The purpose of this action is to add children to the custody of the Department of Juvenile Services to the definition of "child awaiting foster care placement" so that they will be considered homeless students and thus be entitled to the same school stability provisions set forth in the McKinney-Vento Act as other homeless children.

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.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John McGinnis, Pupil Personnel/Social Work Specialist, Division of Student, Family and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0295 (TTY 410-333-6442), or email to jmcginnis@msde.state.md.us, or fax to 410-333-8148. Comments will be accepted through July 15, 2012. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on August 28, 2012, at 200 West Baltimore Street, Baltimore, Maryland 21201.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. ***Helvetica Bold Italic*** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

.02 Definitions.

A. (originally proposed text unchanged)

B. Terms Defined.

(1) (originally proposed text unchanged)

(2) *Child Awaiting Foster Care Placement.*

(a) "Child awaiting foster care placement" means:

(i) A child placed out of the child's home pursuant to a shelter care order by the Department of Social Services *or the Department of Juvenile Services*; [[[or]]]

(ii) A child placed out of the child's home pursuant to a voluntary placement agreement documented by the Department of Social Services[[[.]]]; ***or***

[[[(b)]]] ***(iii)*** [[[*"Child awaiting foster care placement" includes a*]]] ***A child committed to or*** *placed in* the care and custody of the Department of Social Services *or the Department of Juvenile Services,* ***and*** who is placed into a temporary, short-term placement of not longer than 90 school days, such as in [[[:]]]

[[[(i) An]]] ***an*** emergency or shelter facility[[[;]]],

[[[(ii) A]]] ***a*** diagnostic center[[[;]]],

[[[(iii) A]]] ***a*** psychiatric respite facility[[[;]]],

[[[(iv) An]]] ***an*** emergency foster home[[[;]]], or

[[[(v) Another]]] ***another*** temporary, short-term placement *not described in* [[[*§B(2)(c)*]]] ***§B(2)(b)*** *of this regulation.*

[[[*(c)*]]] ***(b)*** *"Child awaiting foster care placement" does not include a child* ***committed to or placed in the care and custody of the Department of Juvenile Services and who is*** *placed into* [[[*a*]]] ***any of the following*** *temporary, short-term* [[[*placement such as in*]]] ***placements:***

(i) — *(v)* (originally proposed text unchanged)

(3) — (9) (originally proposed text unchanged)

BERNARD J. SADUSKY, Ed.D.
Interim State Superintendent of Schools

Title 14
INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY AGENCY

14.01.02 General Regulations

Authority: State Government Article, §§9-110 and *9-1A-04*, Annotated Code of Maryland

Notice of Proposed Action

[12-149-P]

The Maryland State Lottery Agency proposes to amend Regulation **.11** under **COMAR 14.01.02 General Regulations**. This action was considered at the Maryland State Lottery Commission open meeting held on May 17, 2012, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update regulations to more accurately describe the operational procedures and requirements of the Lottery.

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.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Blvd., Suite 330, Baltimore, Maryland 21230 , or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through July 30, 2012. A public hearing has not been scheduled.

.11 Petition for Declaratory Rulings [by Agency].

A. (text unchanged)

B. Form. The petition shall:

(1) [be] *Be* in writing and specifically state the declaratory ruling sought[.];