MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

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State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Lillian M. Lowery, Ed.D.

DATE: December 17, 2012

SUBJECT: COMAR 13A.11.01, .02, .06 and .08 (AMEND)
Programs for Adults with Disabilities
ADOPTION

PURPOSE:

The purpose of this action is to request adoption of amendments to COMAR 13A.11.01, .02, .06 and .08, Programs for Adults with Disabilities.

HISTORICAL BACKGROUND:

Amendments in Chapter .01, Vocational Rehabilitation Services have been proposed to: 1) update the sliding scale used to determine financial participation of eligible individuals in cost of services, and 2) update and incorporate by reference the Division's fee schedule.

DORS has a financial need policy which requires that consumers who have the ability to pay contribute to the cost of certain rehabilitation services, unless the consumer is a recipient of Social Security disability benefits. The consumer's contribution is based on a sliding scale which takes into account family income and the number of dependents. It is based on the Poverty Guidelines established annually by the United States Department of Health and Human Services.

The Division has a fee schedule which includes general fees for medical and rehabilitation services, fees paid to community rehabilitation programs for approved rehabilitation services, and fees which DORS charges for services provided at the Workforce & Technology Center.

Amendments in Chapter .02, Maryland Disability Employment Tax Credit have been proposed consistent with legislation passed by the 2012 Maryland General Assembly regarding extension of this tax credit.

Amendments in Chapter .06, Records of Services, have been made to correct an inaccurate reference.

Amendments in Chapter .08, Workforce and Technology Center, have been proposed to provide technical updates and clarification regarding administration and service provision.

EXECUTIVE SUMMARY:

To comply with the Federal Regulations and the Rehabilitation Act Amendments of 1998 and to implement other technical changes and clarifications, revisions are being proposed in the following chapters:

Changes in Chapter 01, Vocational Rehabilitation Services

Regulation .03-1 Incorporation by Reference

- The Division of Rehabilitation Services Fee Schedule, Rehabilitation Services Manual V (RSM V) has been updated as of June 2012. Updates reflect changes in fees paid by the Division for services for applicants and eligible individuals, and fees charged by the Division for services provided by its Workforce and Technology Center.

- One of the primary changes in the fee schedule is an increase in fees paid by the Division for Career Assessment Services. These fees have not been updated for approximately ten years. This service is important in establishing employment options for individuals with significant disabilities from which to develop the consumer's Individualized Plan for Employment.

- The other main change in the fee schedule is the inclusion of benefits counseling services. These are provided to individuals who receive Social Security Disability payments, so they will understand the impact of working on their benefits as well as the work incentives that make it attractive to work.

Regulation .15 Financial Participation Schedule.

- The sliding scale has been updated consistent with the 2012 Poverty Guidelines of the U.S. Department of Health and Human Services.

Changes in Chapter 02, Maryland Disability Employment Tax Credit

Regulation .06 Limitations on Claim of Credit by Employers

- Revisions have been made consistent with the 2012 Maryland General Assembly's extension of the Maryland Disability Employment Tax Credit.

Changes in Chapter 06, Records of Services

Regulation .16 Retention of Records of Services

- Revisions have been made to correct the reference to the Health-General Article §4-403.

Changes in Chapter 08, Workforce & Technology Center

Regulation .05 Admission Decision and Appeal Process

- Revisions have been made to clarify that while WTC staff notify applicants and referral sources of pending admissions, applicants who are denied admission are provided written information about the denial, to include appeal rights.

Regulation .12, Client Orientation

- Revisions have been made to clarify the written information provided to consumers upon admission to the Workforce and Technology Center.

Regulation .14, Career Assessment Services

- Revisions have been made to clarify the timeframe for completion of the report for consumers completing Career Assessment Services at the Workforce and Technology Center.

Fiscal Impact. There will be a modest fiscal impact by these regulations.

While the Tax Credit regulations have been updated, MSDE DORS only processes documentation for this credit; state regulations of the Maryland Department of Labor, Licensing and Regulation would speak to the cost of the credits.

The Division will mitigate the impact of increased cost of career assessment services by assuring that the appropriate service is requested and provided rather than having the majority of requests for the longest and most expensive service.

It is anticipated that funding for benefits counseling services will be in large measure offset by the Social Security Administration reimbursing DORS for the cost of services provided to individuals who receive Social Security Disability Insurance and Supplemental Security Income who later earn substantial gainful employment for a period of time and leave the Social Security roles.

Impact on Individuals with Disabilities. There will be a modest impact on individuals with disabilities. The small minority of individuals who are required to contribute financially to the cost of services may see a small change in that amount. Certain individuals may be able to achieve employment with employers interested in hiring them and taking advantage of the Maryland Disability Employment Tax Credit.

The impact on DORS consumers who are provided benefits counseling would be very positive in that they would learn about the many work incentives available to them so that they can seriously consider working up to their potential and possibly discontinuing benefits. While staying on benefits gives individuals with disabilities a secure income, it often relegates them to a lifestyle barely above the poverty level. Benefits counseling promotes independence, self-sufficiency and employment.

The proposed regulations were published in the Maryland Register on October 5, 2012 (Attachment 1). The public comment period began October 5 and ended November 5, 2012. No comments were received.

ACTION:

I request adoption of the proposed amendments.

Attachment

(2) If the insurer writes less than 5,000 policies in the State, the insurer shall report lapses and terminations on either:

(a) Administration Form FR-13, Notice of Cancellation or Termination of Policy—Maryland; or

(b) Magnetic media or electronically in a format prescribed by the Administration.

(3) If the insurer writes 5,000 or more policies in the State, the insurer shall transmit lapses and terminations via magnetic media or electronically in a format prescribed by the Administration.

B. In addition to those final lapses and terminations defined in Regulation .02B(3)(b)—(e) of this chapter, the Maryland Automobile Insurance Fund shall report those final lapses and terminations defined in Regulation .02B(3)(h) of this chapter.]

(1) Except as provided in §A(2) of this regulation, insurance companies shall immediately report, in an electronic format determined by the Administration:

(a) New policies;

(b) Lapses;

(c) Terminations;

(d) Reinstatements, and

(e) Policy changes as specified under §B of this regulation.

(2) Insurance companies shall report, in an electronic format determined by the Administration, fleet policy coverage changes every 30 days, to include:

(a) Company additions or deletions; and

(b) Policy number changes.

(3) If an insurance company does not have any new polices, lapses, terminations, reinstatements, or policy changes as specified under §B of this regulation, the insurance company shall submit a report of no business by the close of business on the last business day of the month.

[C.] *B. Except as provided in §A(2) of this regulation* [Notifications] *notifications* of *new policies,* lapses [and], terminations, *and reinstatements* by an insurer *shall* include:

(1) [A type code, as defined in Regulation.02B(3)(b)—(e) of this chapter, explaining the reason for the termination or lapse of coverage;

(2)] The name of the insured;

[(3)] *(2)*—[(6)] *(5)* (text unchanged)

[(7)] *(6)* The *current* policy number;

[(8)] *(7)* (text unchanged)

[(9)] *(8) If applicable:*

(a) The cancellation date of the policy*; and*

(b) A type code, in a format required by the Administration, explaining the reason for the termination or lapse of coverage.

[D.] *C.* Rejected Notifications.

(1) The Administration shall reject notifications of *new policies,* [lapse] *lapses* [and], terminations, *and reinstatements* which do not include all of the items specified in [§C] *§B* of this regulation.

(2) The insurer shall resubmit notifications rejected under the provisions of [§D(1)] *§C(1)* of this regulation to the Administration [within 30 days] *as soon as practicable.*

[E. Except as set forth in §B of this regulation, final lapses and terminations, as defined in Regulation .02B(3)(f)—(g) of this chapter, do not need to be reported to the Administration.]

[F.] *D.* The insurer shall provide, at each occurrence when the required security will terminate or be canceled, timely notification to the insured of the penalties that may be imposed by the [Motor Vehicle] Administration in accordance with Transportation Article, §17-106, Annotated Code of Maryland, for their failure to return evidence of registration when the required security has ended and is not replaced. The notice shall include the following statements:

(1)—(2) (text unchanged)

E. Insurance companies shall report, maintain, and update contact information, in a format required by the Administration, for the purpose of establishing and maintaining a database containing the proper address for providing notice to an insurer under Transportation Article §21–10A–04, Annotated Code of Maryland.

JOHN T. KUO
Administrator
Motor Vehicle Administration

Title 13A
STATE BOARD OF EDUCATION

Subtitle 11 PROGRAMS FOR ADULTS WITH DISABILITIES

Notice of Proposed Action

[12-253-P-I]

The Maryland State Board of Education proposes to:

(1) Amend Regulations **.03-1** and **.15** under **COMAR 13A.11.01 Vocational Rehabilitation Services;**

(2) Amend Regulation **.06** under **COMAR 13A.11.02 Maryland Disability Employment Tax Credit;**

(3) Amend Regulation **.16** under **COMAR 13A.11.06 Records of Services;** and

(4) Amend Regulations **.05, .12,** and **.14** under **COMAR 13A.11.08 Workforce and Technology Center.**

This action was considered at the Maryland State Board of Education meeting on July 24, 2012.

Statement of Purpose

The purpose of this action is to update the sliding scale used to determine financial participation of eligible individuals in cost of services, update the fee schedule that is incorporated by reference, update the limitations on claim of credit by employers, correct an inaccurate reference, and provide technical updates and clarification regarding administration and service provisions.

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. Revisions are necessary for the Division of Rehabilitative Services (DORS) financial participation schedule to be consistent with the U.S. Department of Health and Human Services Poverty Guidelines updated annually. Revisions are also necessary for DORS to be able to provide efficient and effective services to consumers.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
Increased cost for CAS & Benefits counseling	(E+)	$538,000
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	
Increased revenue to CAS & Benefits counseling	(+)	$538,000
F. Direct and indirect effects on public:	NONE	

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

A. DORS anticipates approximately $538,000 more of costs due to increase in fees for CAS and Benefits Planning.

E. CAS Providers and Benefits counselors will see an increase in revenue consistent with fee increase.

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 an impact on individuals with disabilities as follows:

The Division of Rehabilitation Services provides services to individuals with disabilities through the Vocational Rehabilitation Programs. Individuals with disabilities have more choice in providers of quality Career Assessment Services which can have a significant impact in planning the Individualized Plan for Employment and achieving employment. DORS consumers have an opportunity to receive personalized benefits counseling services resulting in a better understanding of the value of employment and incentives to achieve employment and discontinue public benefits.

Changes in the DORS Fee Schedule have been made consistent with updates in the Medicare Fee Schedule, Baltimore Metro; updated rates will not have an economic effect on individuals with disabilities. Updates in the sliding scale may have a minor impact on the very small percentage of individuals with disabilities receiving DORS services who are required to participate in the cost of services. Other changes are technical updates and clarifications that do not impact consumers of DORS services.

Opportunity for Public Comment

Comments may be sent to Polly Huston, Director, Office of Program and Community Support, Maryland Division of Rehabilitation Services, 2301 Argonne Drive, Baltimore, MD 21218, or call 410-554-9437 TTY: 410-554-9437, or email to phuston@dors.state.md.us. Comments will be accepted through November 5, 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 December 11, 2012, at 200 West Baltimore Street, Baltimore, Maryland 21201.

13A.11.01 Vocational Rehabilitation Services

Authority: Education Article, §§21-301—21-306 and 21-402—21-404, Annotated Code of Maryland

.03-1 Incorporation by Reference.

A. (text unchanged)

B. Documents Incorporated.

(1) Division of Rehabilitation Services Fee Schedule, Rehabilitation Services Manual V (RSM V) (Maryland State Department of Education, updated through [May 2009] *June 2012*).

(2) (text unchanged)

.15 Financial Participation Schedule.

(table proposed for repeal)

Annual Amount of Individual/Family Financial Participation								
Available Income	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*
$23,000 and below	*$ 0*	*$ 0*	*$ 0*	*$ 0*	*$ 0*	*$ 0*	*$ 0*	*$ 0*
$23,001—$27,000	*219*	*0*	*0*	*0*	*0*	*0*	*0*	*0*
$27,001—$31,000	*363*	*254*	*0*	*0*	*0*	*0*	*0*	*0*
$31,001—$35,000	*536*	*413*	*0*	*0*	*0*	*0*	*0*	*0*
$35,001—$39,000	*740*	*602*	*324*	*0*	*0*	*0*	*0*	*0*
$39,001—$43,000	*974*	*820*	*513*	*0*	*0*	*0*	*0*	*0*
$43,001—$47,000	*1,238*	*1,069*	*731*	*394*	*0*	*0*	*0*	*0*
$47,001—$51,000	*1,531*	*1,348*	*980*	*613*	*0*	*0*	*0*	*0*
$51,001—$55,000	*1,855*	*1,656*	*1,259*	*861*	*464*	*0*	*0*	*0*
$55,001—$59,000	*2,209*	*1,995*	*1,568*	*1,140*	*713*	*0*	*0*	*0*
$59,001—$63,000	*2,593*	*2,364*	*1,906*	*1,449*	*991*	*534*	*0*	*0*
$63,001—$67,000	*3,006*	*2,762*	*2,275*	*1,787*	*1,300*	*813*	*0*	*0*

$67,001—$71,000	*3,450*	*3,191*	*2,674*	*2,156*	*1,639*	*1,121*	*604*	*0*
$71,001—$75,000	*3,924*	*3,650*	*3,103*	*2,555*	*2,008*	*1,460*	*913*	*0*
$75,001—$79,000	*4,428*	*4,139*	*3,561*	*2,984*	*2,406*	*1,829*	*1,251*	*674*
$79,001—$83,000	*4,961*	*4,658*	*4,050*	*3,443*	*2,835*	*2,228*	*1,620*	*1,013*
$83,001—$87,000	*5,525*	*5,206*	*4,567*	*3,931*	*3,294*	*2,656*	*2,019*	*1,381*
*$87,001+ **	*6.5%*	*6.125%*	*5.375%*	*4.625%*	*3.875%*	*3.125%*	*2.375%*	*1.625%*
** To determine amount of individual/family participation when the available income is above $87,000, multiply the individual/family income times the percentage. The Financial Participation Scale is based on 2012 Poverty Guidelines of the U.S. Department of Health and Human Services.*								

13A.11.02 Maryland Disability Employment Tax Credit

Authority: Education Article, §21-309, Annotated Code of Maryland

.06 Limitations on Claim of Credit by Employers.

A. The Maryland disability employment tax credit shall be applicable to all taxable years beginning after December 31, 1996[, but before January 1, 2013].

B. An employer may claim the credit only for employees hired on or after October 1, 1997[, but before July 1, 2010].

C. — E. (text unchanged)

[F. A business entity may not claim the credit if the business entity is claiming a tax credit for the same employee under Article 88A, §54, Annotated Code of Maryland.]

[G.] *F.* (text unchanged)

13A.11.06 Records of Services

Authority: Education Article, §§21-304—21-306 and 21-308, Annotated Code of Maryland

.16 Retention of Records of Services.

Records of services shall be maintained for a minimum of 3 years following the closure of a record of services, and then destroyed, except for records held by the Workforce and Technology Center and those approved by the Social Security Administration for reimbursement, which shall maintain records for a minimum of 5 years pursuant to Health-General Article, [§4-305] *§4-403*, Annotated Code of Maryland.

13A.11.08 Workforce and Technology Center

Authority: Education Article, §§21-301—21-304, Annotated Code of Maryland

.05 Admission Decision and Appeal Process.

A. [The admission office] *WTC staff* shall notify the applicant and referral source [in writing] of the [pending] *scheduled* admission [decision]. If the applicant is being denied admission, the admission committee shall *respond in writing and*:

(1) — (3) (text unchanged)

B. — C. (text unchanged)

.12 Client Orientation.

A. (text unchanged)

B. The Center's *Consumer Handbook and Admission Packet which includes the* rules and regulations shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client's representative, shall acknowledge receipt of a copy of the regulations and procedures associated with participation in a program of services at the Center by signing the document.

C. — D. (text unchanged)

E. The *Center's Consumer Handbook and Admission Packet which includes the* Consumer Bill of Rights shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client's representative, shall acknowledge receipt of a copy of the Consumer Bill of Rights and confirm that they have been provided the opportunity for clarification of their rights at the Center and of the methods and procedures available to present a complaint, seek review or appeal of any decisions involving the provision or denial of services, or address any other matter which may be of concern while enrolled in the Center, by signing the document.

.14 Career Assessment Services.

A. — G. (text unchanged)

H. *Career Assessment Services staff person will provide preliminary information about the assessment results at the conclusion of the service.* A written[, functional] evaluation report shall be prepared for each client served in career assessment, [interpreted to the client,] and disseminated [in a timely fashion] to [the case manager and] the referral source *within 14 working days of discharge from the Center*. The evaluation report may be disclosed to other appropriate agencies or individuals only in accordance with the standards of Regulation .17 of this chapter.

LILLIAN M. LOWERY, Ed.D.
State Superintendent of Schools