**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**Notice of Proposed Action**

[19-012-P]

The Secretary of Health proposes to amend:

(1) Regulations **.01** and **.03—.06** under **COMAR****10.09.07 Medical Day Care Services**; and

(2) Regulations **.01**, **.03**, and **.06** under **COMAR****10.09.61 Medical Day Care Services Waiver**.

**Statement of Purpose**

The purpose of this action is to allow nurse practitioners and physician assistants, as well as physicians, to act as primary care providers and issue medical orders for medical day care services. The proposal also revises social worker duties and clarifies that providers may not bill for services for a number of participants that exceeds the provider’s licensed capacity on a given day.

**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 an impact on individuals with disabilities as follows: Access to services for individuals with disabilities may be facilitated by allowing greater flexibility to identify a primary care provider who can issue medical orders.

**Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 19, 2019. A public hearing has not been scheduled.

**10.09.07 Medical Day Care Services**

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-111, Annotated Code of Maryland

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

*(4) “Community Settings Questionnaire” means the participant survey, completed annually or when a participant changes medical day care centers or sites, that is part of the State’s strategy to validate provider compliance with federal requirements on home and community based settings.*

**[**(4)**]***(5)*—**[**(22**]** *(23)* (text unchanged)

**[**(23)**]** *(24)* “Plan of care” means a written plan established by the multidisciplinary team in accordance with COMAR 10.12.04.22, based upon a **[**physician**]** *medical* order and an assessment of the participant’s health status and special care requirements.

**[**(24)**]** *(25)* (text unchanged)

*(26) “Primary care provider” means a physician, physician assistant, or nurse practitioner who is the primary coordinator of care for the participant.*

**[**(25)**]***(27)*—**[**(35)**]** *(37)* (text unchanged)

**.03 Conditions for Participation.**

Requirements for providing medical day care services are that the providers shall:

A.—G. (text unchanged)

H. Maintain medical records for each participant which shall include, as a minimum, the following:

(1)—(3) (text unchanged)

(4) **[**Physician**]** *Medical* orders for all services rendered which may include, but is not limited to, the:

(a)—(c) (text unchanged)

(5)—(7) (text unchanged)

I. Have an emergency plan for each participant which includes, as a minimum, an easily located file on each participant, listing:

(1) The name and telephone number of the participant’s [personal physician**]** *primary care provider*;

(2) (text unchanged)

(3) All allergies identified by the participant or the participant’s **[**personal physician**]** *primary care provider*;

(4)—(5) (text unchanged)

J.—O. (text unchanged)

**.04 Staffing Requirements.**

A. (text unchanged)

B. The medical day care center shall also have:

(1) (text unchanged)

(2) A full-time, part-time, or contractual medical director who:

(a) (text unchanged)

(b) May function as the **[**physician**]***primary care provider* for those participants who do not have a **[**personal physician**]***primary care provider*, consult with staff regarding a participant’s condition and medical needs, and assist with the development of the medical day care center’s health care policies.

C. (text unchanged)

**.05 Covered Services.**

A. The Program reimburses for a day of care which includes the following services:

(1) Health care services supervised by the director, medical director, or health director, which emphasize primary prevention, early diagnosis and treatment, rehabilitation and continuity of care, including the following:

(a)—(b) (text unchanged)

(c) Consultation with the participant’s **[**personal physician**]***primary care provider*; and

(d) (text unchanged)

(2)—(6) (text unchanged)

(7) Social work services performed by a licensed, certified social worker or licensed social work associate which include:

(a) (text unchanged)

(b) Ongoing services to include:

(i)—(vii) (text unchanged)

(viii) Writing notes in the participant’s records that reflect the social work activities performed; **[**and**]**

(ix) (text unchanged)

*(x) Assisting participants with completing the Community Settings Questionnaire; and*

(c) (text unchanged)

(8)—(9) (text unchanged)

B. (text unchanged)

**.06 Limitations.**

A. (text unchanged)

B. Covered services do not include:

(1)—(2) (text unchanged)

*(3) Services for a number of participants that exceeds the provider’s licensed capacity on a given day;*

**[**(3)**]***(4)*—**[**(4)**]***(5)*(text unchanged)

**10.09.61 Medical Day Care Services Waiver**

Authority: Health-General Article, §§2-104(b), 15-103, and 15-111, Annotated Code of Maryland

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(12) (text unchanged)

**[**(13) “Personal physician” means an individual who:

(a) Is licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland; and

(b) Accepts primary medical responsibility for a recipient.**]**

**[**(14)**]***(13)* “Plan of care” means a written plan established by the multidisciplinary team in accordance with COMAR 10.12.04.22 and based on:

(a) A **[**physician**]** *medical*order; and

(b) (text unchanged)

*(14) “Primary care provider” means a physician, physician assistant, or nurse practitioner who is the primary coordinator of care for the participant.*

(15)—(23) (text unchanged)

**.03 Participant Eligibility.**

A. Medical Eligibility.

(1)—(2) (text unchanged)

(3) For the purpose of enrollment, the assessment of the applicant’s need for nursing facility services is valid for **[**90 days**]** *1 year*.

(4)—(5) (text unchanged)

B. Technical Eligibility. An individual shall be determined by the Department or its designee to be eligible for waiver services if the individual:

(1)—(2) (text unchanged)

(3) Has a service plan that:

(a) Recommends medical day care services at least one time per week based on a **[**physician’s**]***medical* order;

(b)—(e) (text unchanged)

(4)—(7) (text unchanged)

**.06 Conditions for Provider Participation.**

A. (text unchanged)

B. Providers shall maintain a service plan for each participant that includes:

(1)—(2) (text unchanged)

(3) Name and telephone number of the participant’s **[**personal physician**]***primary care provider* and of any managed care organization with which the participant is enrolled;

(4)—(9) (text unchanged)

ROBERT R. NEALL
Secretary of Health