



STATE OF MARYLAND

**DHMH**Office of Health Services  
Medical Care Programs**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

**MARYLAND MEDICAL ASSISTANCE PROGRAM**  
**Nursing Home Transmittal No. 189**

June 30, 2004

**TO:** Nursing Home Administrators

**FROM:** Susan J. Tucker, Executive Director  
*Susan J. Tucker*  
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 Services Regulations

**ACTION:**  
Proposed Regulations

**PROPOSED EFFECTIVE DATE:**

**WRITTEN COMMENTS TO:**  
Michele Phinney  
201 W. Preston Street, Room 521  
Baltimore, Maryland 21201  
(410) 767- 6499

**PROGRAM CONTACT PERSON:**  
Stephen E. Hiltner, Supervisor  
Nursing Home Program  
(410) 767-1447

**COMMENT PERIOD EXPIRES:** August 9, 2004

The Maryland Medical Assistance Program is proposing amendments to Regulation .16 under COMAR 10.09.10 Nursing Facility Services.

These amendments will reduce the nursing portion of the reimbursement rate for administrative days to 70% of the light care nursing rate, consistent with the Fiscal Year 2005 budget. The amendments, as published in the Maryland Register, are attached. Any questions regarding this transmittal should be directed to the Nursing Home Section of the Division of Long Term Care Services at (410) 767-1444.

Attachment

cc: Nursing Home Liaison Committee



(ii) \$1 for prescriptions for generic drugs and brand name drugs on the preferred drug list.

(6) — (9) (text unchanged)

D. — E. (text unchanged)

**.07 Payment Procedures.**

A. — G. (text unchanged)

**H. Determination of Allowable Cost.**

(1) — (2) (text unchanged)

(3) Notwithstanding the provisions of §H(1)(a) of this regulation, when a prescriber [certifies in his own handwriting that, in his judgment, a specific brand is medically necessary,] files an official report of an adverse event or product problem regarding a generic drug product with the United States Food and Drug Administration, the estimated acquisition cost of the [specified brand] alternative equivalent brand name product shall be the allowable cost.

(4) — (6) (text unchanged)

**I. Payment for covered services to a pharmacy shall be made as follows:**

(1) — (7) (text unchanged)

(8) The professional fee for covered services rendered on or after July 1, 2004, other than compounded home intravenous therapy, to a pharmacy for recipients residing in nursing homes, shall be:

(a) [\$5.65] \$4.69 for generic drugs and for drugs on the preferred drug list; and

(b) [\$4.65] \$3.69 for brand name drugs not on the preferred drug list.

(9) Except as provided in §I(8) of this regulation, the professional fee for covered services rendered on or after July 1, 2004, other than compounded home intravenous therapy, to a pharmacy, shall be:

(a) [\$4.69] \$3.69 for generic drugs and for drugs on the preferred drug list; and

(b) [\$3.69] \$2.69 for brand name drugs not on the preferred drug list.

J. — L. (text unchanged)

NELSON J. SABATINI  
Secretary of Health and Mental Hygiene

**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**

[04-169-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .16 under COMAR 10.09.10 Nursing Facility Services.

**Statement of Purpose**

The purpose of this action is to reduce the Medical Assistance reimbursement rate for administrative days, consistent with the Fiscal Year 2005 budget. When a nursing facility resident is found to no longer qualify for nursing facility level of care, the Medical Assistance Program continues to reimburse the provider for administrative days as long as the provider can document efforts to help the resident transition to a more appropriate setting. Currently, the reimbursement rate for administrative days is the same rate that would have been paid if the resident met the level of care standard.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** These amendments will achieve the savings required by the Fiscal Year 2005 budget by reducing the nursing portion of the administrative day rate to 70 percent of the facility's light care nursing rate.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: Medical Assistance Program	(E-)	\$196,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups: Nursing home providers	(-)	\$196,000
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 reimburses for approximately 7,300 administrative days per year. Under the proposed amendments, the administrative day rate will decrease by an estimated average of \$26.85 per day during Fiscal Year 2005. Fifty percent of this amount is State General Funds.

D. Nursing facility reimbursement for administrative days will decrease by approximately \$26.85 per day, as indicated in A, above.

**Economic Impact on Small Businesses**

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

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by August 9, 2004.

**.16 Selected Costs — Allowable.**

The following costs are allowable in establishing interim and final per diem payment rates:

A. — D. (text unchanged)

E. Administrative Days. [The] For services provided on or after July 1, 2004, the Department will reimburse at the interim per diem rates for Administrative and Routine, Other Patient Care, and Capital cost centers, and at the standard rate for each procedure received and for [the ADL classification of the patient] 70 percent of the light care rate less patient resources for administrative days, documented on forms designated by the Department, which satisfy the conditions listed below:

(1) — (2) (text unchanged)

(3) When the recipient is at an inappropriate level of care but cannot be moved, and the following conditions are met:

(a) — (b) (text unchanged)

(c) Reevaluation by the attending physician of the recipient's inability to be moved and appropriate documentation of it in the recipient's record have been made at least every 60 days. [In these cases, the recipient will be maintained at the most recent level of care.]

F. (text unchanged)

NELSON J. SABATINI  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.11 Maryland Children's Health Program**

Authority: Health-General Article, §§2-104(b), 15-301, and 15-301.1, Annotated Code of Maryland; Ch. 202, Acts of 2003

**Notice of Proposed Action**  
[04-173-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .03, and .10 under **COMAR 10.09.11 Maryland Children's Health Program**.

**Statement of Purpose**

The purpose of this action is to increase the maximum income-qualifying limit for Maryland Children's Health Program (MCHP) eligibility from 185 percent to 200 percent federal poverty level (FPL). Effective July 1, 2004, children in families with income between 185 percent and 200 percent FPL will no longer pay a monthly premium to continue health care coverage.

**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.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dohmh.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by August 9, 2004.

**.01 Purpose and Scope.**

A. (text unchanged)

B. Eligibility for the Maryland Children's Health Program may be established for:

(1) (text unchanged)

(2) Children younger than 19 years old whose family income is equal to or less than [185] 200 percent of the federal poverty level.

**.03 Coverage Groups.**

The following individuals may be determined eligible for the Maryland Children's Health Program:

A. (text unchanged)

B. Children younger than 19 years old and whose family income is equal to or less than [185] 200 percent of the federal poverty level.

**.10 Determining Financial Eligibility.**

An applicant is financially eligible for the Maryland Children's Health Program if, for the period under consideration, the applicant's countable net family income as determined under Regulation .07 of this chapter does not exceed:

A. [185] 200 percent of the federal poverty level for a family size equal to the size of the family for child applicants younger than 19 years old; and

B. (text unchanged)

NELSON J. SABATINI  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.43 Maryland Children's Health Program (MCHP) Premium**

Authority: Health-General Article, §§2-104(b) and 15-301.1, Annotated Code of Maryland; Ch. 202, Acts of 2003

**Notice of Proposed Action**  
[04-174-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02, .03, .09, and .13 under **COMAR 10.09.43 Maryland Children's Health Program (MCHP) Premium**.

**Statement of Purpose**

The purpose of this action is to discontinue the enrollment freeze in MCHP Premium for children in families with income above 200 percent of the federal poverty level (FPL) but not greater than 300 percent effective July 1, 2004. The amendment also changes the income standard for MCHP Premium from 185 percent to 200 percent FPL.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** It is estimated that discontinuing the MCHP Premium monthly premium requirement for families with income between 185 percent and 200 percent of the federal poverty level (FPL) would cost the Medical Assistance Program approximately \$1,000,000 general funds in Fiscal Year 2005 (\$500,000 for 6 months) due to MCHP enrollment growth and the lost of premium revenue. In addition, it is estimated that discontinuing the enrollment freeze for MCHP Premium for enrollees in families with income between 200 percent and 300 percent of the FPL would cost approximately \$50,000 general funds in Fiscal Year 2005 (\$25,000 for 6 months) due to increased enrollment.

**II. Types of Economic Impact.**

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		\$288,000 (GF)
	(R-)		\$260,000 (GF)
B. On other State agencies:	(E+)		Minimal
C. On local governments:	(E+)		Minimal