

Maryland Register

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IN THIS ISSUE

Governor
Judiciary
Regulations
Special Documents
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before October 22, 2018, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of October 22, 2018.

Gail S. Klakring
Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
- Agency Hearing and Meeting Notices
- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: COMAR 10.08.01.03 refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the Maryland Register by an Editor's Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the Maryland Register published each year. For further information, call 410-974-2486.

HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at <http://www.dsd.state.md.us/PDF/CumulativeTable.pdf>. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see "Opportunity for Public Comment" at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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Lawrence J. Hogan, Jr., Governor; **John C. Wobensmith,** Secretary of State; **Gail S. Klakring,** Administrator; **Mary D. MacDonald,** Senior Editor, Maryland Register and COMAR; **Elizabeth Ramsey,** Editor, COMAR Online, and Subscription Manager; **Tami Cathell,** Help Desk, COMAR and Maryland Register Online.

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Illustrations by Carolyn Anderson, Dept. of General Services

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Contents

1061

Closing Dates for the Maryland Register

Schedule of Closing Dates and Issue Dates for the Maryland Register	1063
---	------

COMAR Research Aids

Table of Pending Proposals	1064
----------------------------------	------

Index of COMAR Titles Affected in This Issue

COMAR Title Number and Name	Page
01 Executive Department	1073
09 Department of Labor, Licensing, and Regulation ...	1070, 1077
10 Maryland Department of Health	1077
11 Department of Transportation	1070, 1082
13A State Board of Education	1071, 1083
13B Maryland Higher Education Commission	1071
14 Independent Agencies	1088
18 Department of Assessments and Taxation	1071
19A State Ethic Commission	1072
22 State Retirement and Pension System	1111
31 Maryland Insurance Administration	1119
36 Maryland State Lottery and Gaming Control Agency	1062

PERSONS WITH DISABILITIES

Individuals with disabilities who desire assistance in using the publications and services of the Division of State Documents are encouraged to call (410) 974-2486, or (800) 633-9657, or FAX to (410) 974-2546, or through Maryland Relay.

The Governor

EXECUTIVE ORDER 01.01.2018.26	1067
EXECUTIVE ORDER 01.01.2018.27	1068

The Judiciary

COURT OF APPEALS OF MARYLAND	
ATTORNEYS TO BE ADMITTED TO THE BAR	1069

Final Action on Regulations

09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

RACING COMMISSION	
Thoroughbred Rules	1070
Harness Racing	1070

11 DEPARTMENT OF TRANSPORTATION

MARYLAND AVIATION ADMINISTRATION	
Maryland Air Terminal Assistance Program	1070
STATE HIGHWAY ADMINISTRATION	
Commercial-Industrial or Subdivision Street Permits (All Entrance Permits Other than Residential)	1070

13A STATE BOARD OF EDUCATION

CHILD AND FAMILY DAY CARE	
Child Care Subsidy Program	1071

13B MARYLAND HIGHER EDUCATION COMMISSION

ACADEMIC REGULATIONS	
Financial Guarantees and the Maryland Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education	1071

FINANCIAL AID

Student Loan Debt Relief Tax Credit	1071
---	------

18 DEPARTMENT OF ASSESSMENTS AND TAXATION

BUSINESS ORGANIZATIONS	
Acceptance of Documents	1071
Expedited Filing Service	1072
Administration of Trade Names	1072

19A STATE ETHICS COMMISSION

PROCEDURES	
General Provisions	1072

Proposed Action on Regulations

01 EXECUTIVE DEPARTMENT

SECRETARY OF STATE	
Maryland Safe at Home Address Confidentiality Program	1073

09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

BOARD OF COSMETOLOGISTS	
General Regulations	1077

10 MARYLAND DEPARTMENT OF HEALTH

MEDICAL CARE PROGRAMS	
Medical Day Care Services	1077
Community Personal Assistance Services	1077
Home Care for Disabled Children Under a Model Waiver	1077
Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old	1077
Home and Community-Based Options Waiver	1077
Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder	1077
Community First Choice	1077
Nursing Facility Services	1080

MARYLAND HEALTH CARE COMMISSION

State Health Plan for Facilities and Services: Specialized Health Care Services — Cardiac Surgery and Percutaneous Coronary Intervention Services	1081
---	------

11 DEPARTMENT OF TRANSPORTATION

TRANSPORTATION SERVICE HUMAN RESOURCES SYSTEM	
Leave Benefits	1082

13A STATE BOARD OF EDUCATION

STATE SCHOOL ADMINISTRATION	
Appeals to the State Board of Education	1083
CERTIFICATION	
General Provisions	1087
General Provisions	1087

14 INDEPENDENT AGENCIES

MARYLAND HEALTH BENEFIT EXCHANGE	
General Provisions	1088
Eligibility Standards for Enrollment in a Qualified Health Plan, Eligibility Standards for APTC and CSR, and Eligibility Standards for Enrollment in a Catastrophic Qualified Health Plan in the Individual Exchange	1089
Termination, Cancellation, and Rescission of Qualified Health Plan	1099
Carrier Certification Standards	1102
Plan Certification Standards	1105
State Reinsurance Program	1109

22 STATE RETIREMENT AND PENSION SYSTEM

GENERAL REGULATIONS	
Definitions and General Provisions	1111
Domestic Relations Orders	1112
Average Final Compensation	1113

Contents

1062

Proof of Date of Birth	1116
Designation of Beneficiary	1116
Refund of Accumulated Contributions	1117
COMPLIANCE WITH THE INTERNAL REVENUE CODE	
Code Compliance	1118
31 MARYLAND INSURANCE ADMINISTRATION	
HEALTH INSURANCE — GENERAL	
Standards for Medicare Supplement Policies	1119
36 MARYLAND STATE LOTTERY AND GAMING	
CONTROL AGENCY	
GENERAL PROVISIONS	
General	1128
Administrative Procedures	1128
Voluntary Exclusion and Responsible Gaming	1128
LOTTERY PROVISIONS	
General	1128
Retailer Licensing	1128
Retailer Requirements	1128
Common Provisions for All Lottery Games	1128
Specific Game Provisions	1128
Claims Procedures	1128
Unclaimed Lottery Prizes	1128
Voluntary Assignment of Monetary Prizes	1128
GAMING PROVISIONS	
General	1128
TABLE GAMES	
Table Game Equipment	1128
ONLINE FANTASY COMPETITION	
Fantasy Competition	1128

Special Documents

DEPARTMENT OF THE ENVIRONMENT	
SUSQUEHANNA RIVER BASIN COMMISSION	
Projects Approved for Consumptive Uses of Water	1144
Projects Rescinded for Consumptive Uses of Water	1144
MARYLAND HEALTH CARE COMMISSION	
MEDICAL CARE DATA BASE (MCDB) DATA	
SUBMISSION MANUAL	1145

General Notices

CHESAPEAKE BAY TRUST	
Public Meeting	1146
MARYLAND COLLECTION AGENCY LICENSING BOARD	
Public Meeting	1146
COMPTROLLER OF THE TREASURY/ADMINISTRATION AND FINANCE	
Reduction of Bond Authorization Announcement	1146
COMMISSION ON CRIMINAL SENTENCING POLICY	
Public Hearing	1146
Public Meeting	1146
MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)	
Call for Applications from Facilities Wishing to Be Considered for Designation as Freestanding Emergency Medical Facilities	1146
MARYLAND DEPARTMENT OF HEALTH	
Public Hearing	1146
MARYLAND DEPARTMENT OF HEALTH/ TASK FORCE TO STUDY ACCESS TO HOME HEALTH CARE FOR CHILDREN AND ADULTS	
Public Meeting	1147

DEPARTMENT OF INFORMATION TECHNOLOGY	
Public Meeting	1147
Public Meeting	1147
MARYLAND DEPARTMENT LABOR, LICENSING, AND REGULATION, SECONDHAND PRECIOUS METAL OBJECT DEALER AND PAWNBROKER LICENSING PROGRAM	
Public Hearing	1147
MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION	
Public Meeting	1148
MARYLAND COMMISSION ON ARTISTIC PROPERTY	
Public Meeting	1148
MARYLAND HEALTH CARE COMMISSION	
Public Meeting	1148
BOARD OF OCCUPATIONAL THERAPY PRACTICE	
Public Meeting	1148
RACING COMMISSION	
Public Meeting	1148
BOARD OF WELL DRILLERS	
Public Meeting	1148
DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING/MARYLAND APPRENTICESHIP AND TRAINING COUNCIL	
Public Notice	1148

COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.dsd.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title “Maryland Documents”. This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. “Maryland Documents” also includes local publications.

Anyone wishing to receive “Maryland Documents” should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

CLOSING DATES AND ISSUE DATES through July 2019

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
2018			
November 26***	November 5	November 14	November 9**
December 7	November 19	November 28	November 26
December 21	December 3	December 12	December 10
2019			
January 4	December 17	December 26	December 24
January 18	December 31	January 9	January 7
February 1	January 14	January 23	January 18**
February 15	January 28	February 6	February 4
March 1	February 11	February 20	February 15**
March 15	February 25	March 6	March 4
March 29	March 11	March 20	March 18
April 12	March 25	April 3	April 1
April 26	April 8	April 17	April 15
May 10	April 22	May 1	April 29
May 24	May 6	May 15	May 13
June 7	May 20	May 29	May 24**
June 21	June 3	June 12	June 10
July 5	June 17	June 26	June 24
July 19	July 1	July 10	July 22

* Due date for documents containing 8 to 18 pages — 48 hours before date shown; due date for documents exceeding 18 pages — 1 week before date shown

NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9-POINT, SINGLE-SPACED FORMAT. THE REVISED PAGE COUNT REFLECTS THIS FORMATTING.

** Note closing date changes

*** Note issue date changes

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.

09.12.01.01D(2)(c)(iii)
 Title Subtitle Chapter Regulation Subsection Paragraph Subparagraph

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at www.dsd.state.md.us.

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by “(err)”. Regulations referencing a document incorporated by reference are followed by “(ibr)”. None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

01 EXECUTIVE DEPARTMENT

01.02.11.01—,10,,14,,16—,22 • 45:23 Md. R. 1073 (11-9-18)

03 COMPTROLLER OF THE TREASURY

03.03.05.04 • 45:18 Md. R. 835 (8-31-18)

03.06.01.33 • 45:19 Md. R. 867 (9-14-18)

04 DEPARTMENT OF GENERAL SERVICES

04.05.01.08 • 45:2 Md. R. 71 (1-19-18)

04.05.02.02 • 45:2 Md. R. 71 (1-19-18)

08 DEPARTMENT OF NATURAL RESOURCES

08.02.04.05 • 45:22 Md. R. 1029 (10-26-18)

08.02.21.03 • 45:20 Md. R. 922 (9-28-18)

08.02.26.03 • 45:22 Md. R. 1030 (10-26-18)

09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

09.01.13.01 • 45:22 Md. R. 1030 (10-26-18)

09.08.07.01,,02 • 45:20 Md. R. 923 (9-28-18)

09.09.03.01 • 45:21 Md. R. 977 (10-12-18)

09.11.01.12 • 45:21 Md. R. 978 (10-12-18)

09.13.01.09 • 45:20 Md. R. 924 (9-28-18)

09.15.02.09,,10 • 45:21 Md. R. 978 (10-12-18)

09.16.01.12 • 45:22 Md. R. 1031 (10-26-18)

09.17.01.04 • 45:21 Md. R. 979 (10-12-18)

09.19.03.03 • 45:21 Md. R. 979 (10-12-18)

09.19.12.02 • 45:21 Md. R. 979 (10-12-18)

09.20.03.03 • 45:21 Md. R. 980 (10-12-18)

09.22.01.16 • 45:23 Md. R. 1077 (11-9-18)

09.23.03.11 • 45:20 Md. R. 924 (9-28-18)

09.24.01.06 • 45:21 Md. R. 980 (10-12-18)

09.25.03.01 • 45:21 Md. R. 981 (10-12-18)

09.32.01.05 • 45:19 Md. R. 869 (9-14-18)

09.34.01.11,,13 • 45:21 Md. R. 982 (10-12-18)

09.35.04.10 • 45:21 Md. R. 982 (10-12-18)

09.36.01.02 • 45:21 Md. R. 983 (10-12-18)

09.36.04.02—,04 • 45:21 Md. R. 983 (10-12-18)

09.38.01.05 • 45:21 Md. R. 983 (10-12-18)

09.39.02.01 • 45:21 Md. R. 984 (10-12-18)

09.40.02.01 • 45:21 Md. R. 985 (10-12-18)

10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 (2nd volume)

10.09.02.07 • 45:20 Md. R. 925 (9-28-18) (ibr)

10.09.03.01 • 45:19 Md. R. 869 (9-14-18)

10.09.06.04,,06,,09 • 45:20 Md. R. 926 (9-28-18)

10.09.07.08 • 45:23 Md. R. 1077 (11-9-18)

10.09.10.07,,08,,11,,13 • 45:23 Md. R. 1080 (11-9-18)

10.09.20.01,,04—,06,,10,,13 • 45:21 Md. R. 985 (10-12-18)

10.09.20.14 • 45:23 Md. R. 1077 (11-9-18)

10.09.21.01—,08 • 45:19 Md. R. 869 (9-14-18)

10.09.23.01-1,,02,,04,,06 • 45:19 Md. R. 871 (9-14-18) (ibr)

10.09.24.04-1 • 45:19 Md. R. 872 (9-14-18)

10.09.27.06 • 45:23 Md. R. 1077 (11-9-18)

10.09.36.01,,03,,08,,09 • 45:1 Md. R. 21 (1-5-18)

45:10 Md. R. 503 (5-11-18) (err)

10.09.37.02—,04,,08,,09,,11 • 45:19 Md. R. 872 (9-14-18)

10.09.48.08 • 45:19 Md. R. 876 (9-14-18)

10.09.52.04-2 • 45:19 Md. R. 877 (9-14-18)

10.09.53.07 • 45:23 Md. R. 1077 (11-9-18)

10.09.54.22 • 45:23 Md. R. 1077 (11-9-18)

10.09.56.22 • 45:23 Md. R. 1077 (11-9-18)

10.09.58.01—,07 • 45:19 Md. R. 872 (9-14-18)

10.09.59.04,,07 • 45:19 Md. R. 877 (9-14-18)

10.09.62.01 • 45:20 Md. R. 927 (9-28-18)

10.09.63.06 • 45:20 Md. R. 927 (9-28-18)

10.09.64.05 • 45:20 Md. R. 927 (9-28-18)

10.09.65.03 • 45:20 Md. R. 935 (9-28-18)

10.09.65.05,.12,.15,.19-5 • 45:20 Md. R. 927 (9-28-18)
 10.09.66.04,.05,.05-1,.06,.07,.09 • 45:20 Md. R. 927 (9-28-18)
 10.09.67.30 • 45:20 Md. R. 927 (9-28-18)
 10.09.68.01 • 45:20 Md. R. 927 (9-28-18)
 10.09.71.01,.02-1,.03,.03-2,.04,.05 • 45:20 Md. R. 927 (9-28-18)
 10.09.72.01—.06 • 45:20 Md. R. 927 (9-28-18)
 10.09.73.01,.02 • 45:20 Md. R. 927 (9-28-18)
 10.09.75.05 • 45:20 Md. R. 927 (9-28-18)
 10.09.84.24 • 45:23 Md. R. 1077 (11-9-18)
 10.09.86.08 • 45:20 Md. R. 927 (9-28-18)
 10.09.95.07 • 45:19 Md. R. 878 (9-14-18)

Subtitles 10 — 22 (3rd Volume)

10.13.03.01—.04 • 45:13 Md. R. 675 (6-22-18)
 10.15.03.02,.25,.28 • 45:21 Md. R. 986 (10-12-18)
 10.21.04.01—.12 • 45:7 Md. R. 357 (3-30-18)
 10.21.16.01—.16 • 45:7 Md. R. 357 (3-30-18)
 10.21.17.01—.17 • 45:7 Md. R. 357 (3-30-18)
 10.21.18.01—.13 • 45:7 Md. R. 357 (3-30-18)
 10.21.19.01—.11 • 45:7 Md. R. 357 (3-30-18)
 10.21.20.01—.11 • 45:7 Md. R. 357 (3-30-18)
 10.21.21.01—.13 • 45:7 Md. R. 357 (3-30-18)
 10.21.22.01—.12 • 45:7 Md. R. 357 (3-30-18)
 10.21.25.03-2,.05—.13 • 45:7 Md. R. 357 (3-30-18)
 10.21.26.01—.12 • 45:7 Md. R. 357 (3-30-18)
 10.21.27.01—.08 • 45:7 Md. R. 357 (3-30-18)
 10.21.28.01—.12 • 45:7 Md. R. 357 (3-30-18)
 10.21.29.01—.09 • 45:7 Md. R. 357 (3-30-18)
 10.22.16.03 • 45:13 Md. R. 676 (6-22-18)

Subtitles 23 — 36 (4th Volume)

10.24.17.01 • 45:23 Md. R. 1081 (11-9-18) (ibr)
 10.32.09.02 • 45:19 Md. R. 879 (9-14-18)
 10.34.32.03 • 45:19 Md. R. 879 (9-14-18)
 10.35.01.19 • 45:21 Md. R. 988 (10-12-18)
 10.36.10.01—.04 • 45:2 Md. R. 114 (1-19-18)

Subtitles 37—66 (5th Volume)

10.42.01.01,.02,.04—.18 • 45:21 Md. R. 989 (10-12-18)
 10.42.02.02—.06 • 45:21 Md. R. 989 (10-12-18)
 10.42.08.01—.11 • 45:21 Md. R. 989 (10-12-18)
 10.42.09.01,.04,.07 • 45:21 Md. R. 989 (10-12-18)
 10.47.02.01—.11 • 45:7 Md. R. 357 (3-30-18)
 10.47.03.01—.07 • 45:7 Md. R. 357 (3-30-18)
 10.47.04.01—.08 • 45:7 Md. R. 357 (3-30-18)
 10.47.05.01—.05 • 45:7 Md. R. 357 (3-30-18)
 10.57.02.04,.05 • 45:21 Md. R. 998 (10-12-18)
 10.57.03.05,.06 • 45:21 Md. R. 998 (10-12-18)
 10.58.01.03 • 45:19 Md. R. 880 (9-14-18)
 10.58.07.02—.04,.06—.20 • 45:19 Md. R. 885 (9-14-18)
 10.58.11.03 • 45:19 Md. R. 880 (9-14-18)
 10.58.17.01—.09 • 45:19 Md. R. 880 (9-14-18)
 10.63.08.01—.14 • 44:23 Md. R. 1108 (11-13-17)
 10.65.01.06,.07,.16 • 45:22 Md. R. 1031 (10-26-18)

11 DEPARTMENT OF TRANSPORTATION

Subtitles 01—10

11.02.03.10 • 45:23 Md. R. 1082 (11-9-18)
 11.06.02.08 • 45:15 Md. R. 737 (7-20-18)
 11.06.03.01,.02 • 45:9 Md. R. 469 (4-27-18)

11.07.03.03 • 45:15 Md. R. 738 (7-20-18)
 11.07.03.05 • 45:15 Md. R. 738 (7-20-18)

Subtitles 11—23 (MVA)

11.17.09.04,.05 • 45:21 Md. R. 999 (10-12-18)

12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

12.04.01.01,.04 • 45:20 Md. R. 936 (9-28-18)
 45:22 Md. R. 1033 (10-26-18) (err)
 12.10.10.19 • 45:14 Md. R. 706 (7-6-18)

13A STATE BOARD OF EDUCATION

13A.01.05.01—.12 • 45:23 Md. R. 1083 (11-9-18)
 13A.03.02.08 • 45:20 Md. R. 937 (9-28-18)
 13A.06.07.01,.06—.08,.10 • 45:19 Md. R. 895 (9-14-18)
 13A.06.09.01—.05 • 45:20 Md. R. 938 (9-28-18)
 13A.12.01.05 • 45:23 Md. R. 1087 (11-9-18)
 13A.12.01.08-1 • 45:23 Md. R. 1087 (11-9-18)

13B MARYLAND HIGHER EDUCATION COMMISSION

13B.08.23.01—.11 • 45:22 Md. R. 1033 (10-26-18)

14 INDEPENDENT AGENCIES

14.35.01.02 • 45:23 Md. R. 1088 (11-9-18)
 14.35.07.01—.21 • 45:23 Md. R. 1089 (11-9-18)
 14.35.14.01—.10 • 45:23 Md. R. 1099 (11-9-18)
 14.35.15.01—.11 • 45:23 Md. R. 1102 (11-9-18)
 14.35.16.01—.12 • 45:23 Md. R. 1105 (11-9-18)
 14.35.17.01—.09 • 45:23 Md. R. 1109 (11-9-18)

15 DEPARTMENT OF AGRICULTURE

15.01.15.01—.05 • 45:16 Md. R. 781 (8-3-18)
 15.01.16.01—.07 • 45:20 Md. R. 939 (9-28-18)
 15.14.09.03—.05 • 45:20 Md. R. 941 (9-28-18)
 15.14.13.03,.05,.12 • 45:20 Md. R. 942 (9-28-18)
 15.14.15.01—.05 • 45:21 Md. R. 1001 (10-12-18)
 15.15.13.03,.05 • 45:7 Md. R. 380 (3-30-18)

17 DEPARTMENT OF BUDGET AND MANAGEMENT

17.04.11.29 • 45:21 Md. R. 1002 (10-12-18)

18 DEPARTMENT OF ASSESSMENTS AND TAXATION

18.10.01.01 • 45:19 Md. R. 897 (9-14-18)
 18.10.03.01,.03 • 45:19 Md. R. 898 (9-14-18)
 18.11.01.01 • 45:19 Md. R. 898 (9-14-18)
 18.12.01.01 • 45:19 Md. R. 899 (9-14-18)
 18.15.01.01—.03 • 45:19 Md. R. 899 (9-14-18)
 18.15.02.01,.05 • 45:19 Md. R. 899 (9-14-18)

21 STATE PROCUREMENT REGULATIONS

21.01.02.01 • 45:20 Md. R. 942 (9-28-18)
 21.01.03.01 • 45:20 Md. R. 942 (9-28-18)
 21.02.01.05 • 45:20 Md. R. 942 (9-28-18)
 21.02.05.04 • 45:20 Md. R. 942 (9-28-18)
 21.05.01.01,.02,.05 • 45:20 Md. R. 942 (9-28-18)

PENDING PROPOSALS

1066

21.05.02.04,.05 • 45:20 Md. R. 942 (9-28-18)
21.05.03.01—.03 • 45:20 Md. R. 942 (9-28-18)
21.05.06.01 • 45:20 Md. R. 942 (9-28-18)
21.05.07.01,.04,.05 • 45:20 Md. R. 942 (9-28-18)
21.05.08 • 45:20 Md. R. 942 (9-28-18)
21.05.09.04,.05,.08 • 45:20 Md. R. 942 (9-28-18)
21.05.13.01—.07 • 45:20 Md. R. 942 (9-28-18)
21.07.01.19,.25 • 45:20 Md. R. 942 (9-28-18)
21.07.02.10 • 45:20 Md. R. 942 (9-28-18)
21.07.03.07,.08 • 45:20 Md. R. 942 (9-28-18)
21.10.04.04 • 45:20 Md. R. 942 (9-28-18)
21.11.01.01,.04—.06 • 45:20 Md. R. 942 (9-28-18)
21.11.03.10,.12,.12-1 • 45:20 Md. R. 942 (9-28-18)
21.11.05.01,.04,.07 • 45:20 Md. R. 942 (9-28-18)
21.11.13.01 • 45:20 Md. R. 942 (9-28-18)
21.13.01.17 • 45:20 Md. R. 942 (9-28-18)
45:21 Md. R. 1008 (10-12-18) (err)

22 STATE RETIREMENT AND PENSION SYSTEM

22.01.01.01,.02 • 45:23 Md. R. 1111 (11-9-18)
22.01.03.02,.03,.05,.07 • 45:23 Md. R. 1112 (11-9-18)
22.01.04.02—.05 • 45:23 Md. R. 1113 (11-9-18)
22.01.05.01,.02 • 45:23 Md. R. 1116 (11-9-18)
22.01.07.02,.03 • 45:23 Md. R. 1116 (11-9-18)
22.01.08.01—.03 • 45:23 Md. R. 1117 (11-9-18)
22.07.02.05 • 45:23 Md. R. 1118 (11-9-18)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 08—12 (Part 2)

26.04.02.01,.05 • 45:3 Md. R. 167 (2-2-18)
26.09.01.01—.05 • 45:22 Md. R. 1036 (10-26-18) (ibr)
26.09.02.03,.04,.06,.07,.11 • 45:22 Md. R. 1036 (10-26-18)
26.09.03.01—.09 • 45:22 Md. R. 1036 (10-26-18)
26.09.04.06 • 45:22 Md. R. 1036 (10-26-18)
26.11.01.01 • 45:17 Md. R. 809 (8-17-18)
26.11.08.01,.02,.04,.05,.07,.08-1,.08-2 • 45:17 Md. R. 809 (8-17-18)
26.11.09.08 • 45:17 Md. R. 809 (8-17-18)

31 MARYLAND INSURANCE ADMINISTRATION

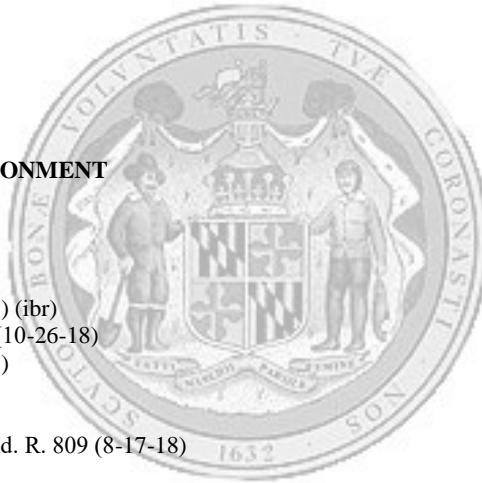
31.03.13.02 • 45:14 Md. R. 708 (7-6-18)
31.05.11.02,.08,.13—.18 • 45:14 Md. R. 708 (7-6-18)
31.08.15.04,.05 • 45:10 Md. R. 518 (5-11-18)
31.09.16.01—.12 • 45:7 Md. R. 389 (3-30-18)
45:15 Md. R. 752 (7-20-18)
31.10.06.02,.28,.30,.31 • 45:23 Md. R. 1119 (11-9-18)
31.10.16.05 • 45:15 Md. R. 752 (7-20-18)
31.14.02.03,.08,.09 • 45:11 Md. R. 595 (5-25-18)
31.15.03.05 • 45:17 Md. R. 814 (8-17-18)

33 STATE BOARD OF ELECTIONS

33.13.01.01 • 45:21 Md. R. 1003 (10-12-18)
33.13.07.01,.02 • 45:21 Md. R. 1003 (10-12-18)
33.13.10.02 • 45:21 Md. R. 1003 (10-12-18)
33.13.15.13 • 45:21 Md. R. 1003 (10-12-18)
33.13.17.01,.02 • 45:21 Md. R. 1003 (10-12-18)
33.13.19.01—.04 • 45:21 Md. R. 1003 (10-12-18)
33.13.20.01,.02 • 45:21 Md. R. 1003 (10-12-18)
33.13.22.01—.07 • 45:21 Md. R. 1003 (10-12-18)

36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

36.01.01.01,.03—.06 • 45:23 Md. R. 1128 (11-9-18)
36.01.02.01—.06 • 45:23 Md. R. 1128 (11-9-18)
36.01.03.01—.07 • 45:23 Md. R. 1128 (11-9-18)
36.02.01.01 • 45:23 Md. R. 1128 (11-9-18)
36.02.02.01,.02,.05,.06,.10 • 45:23 Md. R. 1128 (11-9-18)
36.02.03.01—.11 • 45:23 Md. R. 1128 (11-9-18)
36.02.04.02—.05 • 45:23 Md. R. 1128 (11-9-18)
36.02.05.01,.02 • 45:23 Md. R. 1128 (11-9-18)
36.02.06.01,.04-.06,.08,.11,.12,.15,
.18 • 45:23 Md. R. 1128 (11-9-18)
36.02.07.02 • 45:23 Md. R. 1128 (11-9-18)
36.02.08.01—.04,.06—.08 • 45:23 Md. R. 1128 (11-9-18)
36.03.01.02 • 45:23 Md. R. 1128 (11-9-18)
36.05.02.15 • 45:23 Md. R. 1128 (11-9-18)
36.09.01.01—.15 • 45:23 Md. R. 1128 (11-9-18)



The Governor

EXECUTIVE ORDER 01.01.2018.26

Governor's Commission on Suicide Prevention (Amends Executive Order 01.01.2009.13)

WHEREAS, Suicide is a preventable public-health problem;

WHEREAS, In 2016, suicide ranked as the 11th-leading cause of death in Maryland;

WHEREAS, In 2016, 581 Marylanders died by suicide, a rate of 9.3 per 100,000 people — a 6.8 percent increase from the suicide rate in 2015;

WHEREAS, Suicidal behavior is complex, as risk factors vary with age, gender, and ethnicity and may occur in combination or change in time;

WHEREAS, Ninety percent of people who die from suicide have depression, a substance-abuse disorder, or other mental disorders;

WHEREAS, In 2009, Maryland established the Governor's Commission on Suicide Prevention;

WHEREAS, The Behavioral Health Administration publishes an annual State Behavioral Health Plan that incorporates suicide prevention objectives and indicators; and

WHEREAS, Updating the Commission's makeup and responsibilities will better enable it to respond to rising suicide rates;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. The Governor's Commission on Suicide Prevention shall continue and be constituted as follows:

1. The Commission consists of the following Executive Branch members, with all designees approved by the Secretary of Health:

a. The Deputy Secretary for Behavioral Health or the Deputy Secretary's designee;

b. The Deputy Secretary for Public Health Services or the Deputy Secretary's designee;

c. The Secretary of the Department of Juvenile Services or the Secretary's designee;

d. The Secretary of the Department of Public Safety and Correctional Services or the Secretary's designee;

e. The Secretary of the Department of Aging or the Secretary's designee;

f. The Secretary of the Department of Veterans Affairs or the Secretary's designee;

g. The Executive Director of the Governor's Office for Children or the Executive Director's designee; and

h. The Secretary of the Department of Disabilities or the Secretary's designee.

2. The State Superintendent of Schools shall be invited to be an ex officio member or submit a designee as an ex officio member.

3. The President of the Maryland Senate and Speaker of the Maryland House of Delegates shall each be invited to appoint a member of their respective chambers to serve as an ex officio member.

4. The following organizations shall also be invited to designate a representative as an ex officio member:

a. The Mental Health Association of Maryland;

b. The National Organization for People of Color Against Suicide; and

c. The Maryland Addictions Directors Council.

5. The Maryland Association of County Health Officials shall be invited to select a local health officer to serve as an ex officio member.

6. Governor's Appointments.

a. The following members shall be appointed by the Governor for no more than two consecutive four-year terms:

i. One representative of the faith community;

ii. One representative of the academic community;

iii. One representative of a suicide-prevention group;

iv. One active or former member of the U.S. Armed

Forces;

v. One member of either police, local corrections, or fire and rescue services;

vi. One member of the LGBTQ community;

vii. One young adult between the ages of 18 and 25;

viii. One representative of the substance-abuse recovery community;

ix. One survivor of a suicide attempt;

x. One family member of an individual who died by suicide;

xi. One representative of the American Indian community;

xii. One representative of the Asian Pacific American community; and

xiii. One representative of the Hispanic or Latino community.

b. High-School Member.

i. The Governor shall appoint a high-school student in his or her junior or senior year as a member.

ii. The High-School Member is appointed for a term of one academic year.

iii. The High-School Member may be reappointed, while he or she is still in high school, to a second term ending in the July following his or her graduation.

c. The Governor's Appointments serve at the Governor's pleasure.

d. In the event of a vacancy among the Governor's Appointments, the Governor shall appoint a successor to fill the remainder of the term.

7. Chair and Vice-Chair.

a. The Governor shall designate a Chair from among the members.

b. The Chair serves in that position at the pleasure of the Governor.

c. The Commission may designate a Vice Chair from the remaining membership.

B. The Commission shall be staffed by the Maryland Department of Health as determined by the Secretary of Health.

C. The Commission shall:

1. Assess suicide's economic and social costs, and impact on the health and wellbeing of Maryland citizens;

2. Establish a list of existing support systems for survivors, attempters, and their families;

3. Develop a comprehensive, coordinated, and strategic plan for suicide prevention, intervention, and post-suicide services across the State;

4. Identify the resources needed to adequately provide those services; and

5. Promote the delivery of those services by local and State agencies through collaborative efforts that ensure effective and efficient use of local and State resources.

D. State Plan.

1. The Commission shall prepare a two-year plan that establishes, for the organization, delivery, and funding of suicide prevention, intervention, and post-suicide services:

- a. Emerging needs;
- b. Priorities and strategies;
- c. Promising practices and programs;
- d. Recommendations for coordination and collaboration among State agencies; and
- e. Training.

2. The plan shall be developed in consideration of the priorities and strategies in plans established by local jurisdictions.

3. The plan shall be submitted to the Governor by December 1, 2018, and biennially thereafter, with interim updates provided as deemed appropriate.

E. Meetings.

1. The Commission shall meet at least four times a year.

2. The Chair may schedule additional work sessions as necessary.

3. A majority of members of the Commission shall constitute a quorum for the transaction of any business.

F. The Commission may adopt such procedures as may be necessary to ensure the orderly transaction of business, including the creation of committees or task forces.

G. Members of the Commission may not receive any compensation for their services, but may be reimbursed for reasonable expenses incurred in the performance of their duties, in accordance with the Standard State Travel Regulations and as provided in the State budget.

H. The Chair may, with the consent of the Commission, designate additional individuals — including interested citizens, educators, or specialists with relevant expertise — to serve on any committee or task force.

I. The Commission may consult with State units to obtain technical assistance and advice as it deems necessary to fulfill its duties.

J. All Executive Branch units subject to the supervision and direction of the Governor shall cooperate with and assist the Commission in fulfilling its duties.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 11th Day of October, 2018.

LAWRENCE J. HOGAN, JR.
Governor

ATTEST:

JOHN C. WOBENSMITH
Secretary of State

[18-23-19]

EXECUTIVE ORDER 01.01.2018.27

Renewal of Executive Order 01.01.2017.02 (Executive Order Regarding the Heroin, Opioid, and Fentanyl Overdose Crisis Declaration of Emergency)

WHEREAS, I, Lawrence J. Hogan, Jr., Governor of the State of Maryland, issued Executive Order 01.01.2017.02 due to the heroin, opioid, and fentanyl overdose crisis (the “Crisis”); and

WHEREAS, The emergency conditions relating to the Crisis continue to exist.

NOW THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, DECLARE THAT THE STATE OF EMERGENCY CONTINUES TO EXIST PERTAINING TO THE NEED TO CONTROL AND ELIMINATE THE HEROIN, OPIOID, AND FENTANYL OVERDOSE CRISIS AND HEREBY RENEW EXECUTIVE ORDER 01.01.2017.02, EFFECTIVE FROM OCTOBER 23, 2018, AND SHALL EXPIRE ON NOVEMBER 22, 2018, UNLESS SOONER TERMINATED OR EXTENDED IN WRITING BY ME.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 22nd Day of October, 2018.

LAWRENCE J. HOGAN, JR.
Governor

ATTEST:

JOHN C. WOBENSMITH
Secretary of State

[18-23-20]

The Judiciary

COURT OF APPEALS OF MARYLAND ATTORNEYS TO BE ADMITTED TO THE BAR

Annapolis, Maryland
October 26, 2018

The State Board of Law Examiners, after careful consideration of their qualifications, has by report to the Court recommended that the applicants named on Exhibit A attached hereto be admitted to the Bar, conditioned upon successful completion of the Orientation Program pursuant to Maryland Rule 19-210(e). As to certain applicants named in an attachment to the Report, the favorable recommendation also is conditioned upon the outcome of proceedings pending under Maryland Rule 19-213(g).

It is thereupon the 26th day of October, 2018, by the Court of Appeals of Maryland ORDERED that the Board's recommendation be ratified subject to the conditions therein stated on the 26th day of November, 2018, unless exceptions to the Board's recommendation of any applicant be filed on or before said date, provided a copy of this Order be published at least one time in the Maryland Register before such ratification.

MARY ELLEN BARBERA
Chief Judge, Court of Appeals of Maryland

Filed: October 26, 2018

SUZANNE C. JOHNSON
Acting Clerk, Court of Appeals of Maryland

EXHIBIT A OUT-OF-STATE ATTORNEY EXAMINATION JULY 2018

Abrams, Hanna
Allan, Natanya Holland
Anaman, Amma Afum
Barkat, Sheraz
Beard, Lori Lynn
Beaumont, Roya Vasseghi
Bowen, Megan Kate
Buzzetta, Walter John
Chang, Weon hyuck
Cohn, Jacob Charles
Concannon, Serafina
Concepcion, Theresa Luz
Connors, Brendan Halvor Ekern
Cox, Christopher Callaway
Dorfman, Tracie Marie
Dorsainvil, Cynthia
Dunlap, Jeffrey Paul
Edwards, Matthew Worth
Egan, Kimberly Katherine
Farrant, Jaime
Feig, Erik Matthew
Gazis, James Anthony
Gershon, Michael David
Gold, Jonathan Curtis
Hallett, Alex Christopher
Hammack, Scott Michael

Heithoff, Lee Michael
Hurlburt, Alisa DeLos
Johnson, Elduise Joyce
Jordan, Kevin M
Karibjanian, George Daniel
Katz, Nicholas Charles
Kelley, Christina Marie
Keng, Pearl Pei
Khalsa, Sat Nam Singh
Klein, Jason Daniel
Koosed, Brian David
LaRose, Catherine Anne
Law, Pauline Yin Shan
Lederer, Gerard Lavery
Lee, Diana Jacobs
Levy, Robert Marc
Lichtstein, Jeffrey Marc
Maddox, Jerrod Michael
Malamud, Matthew Brandon
Marcuse, Deborah Kristine
McCarthy, Matthew Jordan
McCudden, Mary Margaret
McMurray, Jeana Publico
McNutt, John Joseph
Mellady, Matthew Wayne
Moore, Jr, John Garland
Noll, Nicole Anne
Oketunji, Olufisayo Pelumi
Oravetz, Justin William
Pettigrew, Joseph Allan
Planzer, Steven Ching
Prior, Jr., Eugene Joseph
Procino-Wells, Michele
Quasebarth, Christopher Conrad
Rahbar, Michelle Ann
Ramani, Lakshmi Sarma
Rasmussen, Barbara Anne
Roberson, Julia Helen
Robertson, Krista Nikole
Roeser, Marla Chidsey
Sassoon, Isaac
Schwartz, Adam Brett
Selby, Karen Michelle
Shillingford, Khardeen Ideona
Smith, Robert Knop
Sussler, Philip Lyford
Taiwo, Olakunle O. Joseph
Tatelbaum, Mark Frederick
Tomevi, Justin Alexander
Tregea, Steven Ronald
Troy, Daniel Eytan
Valencia, Angel Juan
Van Eaton, Joseph Leonard
Velez, Katrina Marie
Warshawsky, John
Webster, Aen Walker
Wynne, Kathleen Ann
Zdrahal, Katerina
Zentz, Robert William

[18-23-22]

Final Action on Regulations

Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- Single underline, italic indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- [[Double brackets]] indicate text deleted at the time of final action.

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.01 Thoroughbred Rules

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland

Notice of Final Action

[18-206-F]

On October 25, 2018, the Maryland Racing Commission adopted amendments to Regulations **.17**, **.28**, and **.88** under **COMAR 09.10.01 Thoroughbred Rules**. This action, which was proposed for adoption in 45:17 Md. R. 806—807 (August 17, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

J. MICHAEL HOPKINS
Executive Director
Racing Commission

Subtitle 10 RACING COMMISSION

09.10.02 Harness Racing

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland

Notice of Final Action

[18-207-F]

On October 25, 2018, the Maryland Racing Commission adopted amendments to Regulations **.43**, **.53**, and **.53-1** under **COMAR 09.10.02 Harness Racing**. This action, which was proposed for adoption in 45:17 Md. R. 807 (August 17, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

J. MICHAEL HOPKINS
Executive Director
Racing Commission

Title 11

DEPARTMENT OF TRANSPORTATION

Subtitle 03 MARYLAND AVIATION ADMINISTRATION

11.03.07 Maryland Air Terminal Assistance Program

Authority: Transportation Article, §5-208, Annotated Code of Maryland

Notice of Final Action

[18-230-F]

On October 30, 2018, the Maryland Aviation Administration adopted the repeal of Regulations **.01—****.06** under **COMAR 11.03.07 Maryland Air Terminal Assistance Program**. This action, which was proposed for adoption in 45:19 Md. R. 894 (September 14, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

RICKY D. SMITH, SR.
Executive Director
Maryland Aviation Administration

Subtitle 04 STATE HIGHWAY ADMINISTRATION

11.04.05 Commercial-Industrial or Subdivision Street Permits (All Entrance Permits Other than Residential)

Authority: Transportation Article, §§2-103(b)(2), 8-202(b)(2)(i), 8-203(a), 8-204(b), (c), and (i), 8-625, 8-626, 8-629, 8-630, and 8-646, Annotated Code of Maryland

Notice of Final Action

[18-116-F]

On July 13, 2018, the Administrator of the State Highway Administration adopted amendments to Regulations **.01**, **.02**, and **.06** under **COMAR 11.04.05 Commercial-Industrial or Subdivision Street Permits (All Entrance Permits Other than Residential)**. This action, which was proposed for adoption in 45:10 Md. R. 510—511 (May 11, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

GREGORY L. SLATER
Administrator
State Highway Administration

Title 13A STATE BOARD OF EDUCATION

Subtitle 14 CHILD AND FAMILY DAY CARE

13A.14.06 Child Care Subsidy Program

Authority: *Education Article, §2-303 and Title 9.5, Annotated Code of Maryland*

Agency Note: Federal Regulatory Reference — Child Care and Development Fund 45 CFR 98.50

Notice of Final Action [18-194-F]

On October 23, 2018, the Maryland State Board of Education adopted amendments to Regulation .03 under **COMAR 13A.14.06 Child Care Subsidy Program**. This action, which was proposed for adoption in 45:17 Md. R. 808 (August 17, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.06 Financial Guarantees and the Maryland Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education

Authority: *Education Article, §§11-105(u) and 11-203, Annotated Code of Maryland*

Notice of Final Action [18-212-F]

On October 24, 2018, the Maryland Higher Education Commission adopted amendments to Regulations .05 and .06 under **COMAR 13B.02.06 Financial Guarantees and the Maryland Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education**. This action, which was proposed for adoption in 45:18 Md. R. 836—837 (August 31, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

JAMES D. FIELDER, JR., Ph.D.
Secretary of Higher Education

Subtitle 08 FINANCIAL AID

13B.08.17 Student Loan Debt Relief Tax Credit

Authority: *Education Article, §11-105(u); Tax-General Article, §10-740; Annotated Code of Maryland*

Notice of Final Action [18-211-F]

On October 24, 2018, the Maryland Higher Education Commission adopted amendments to Regulations .01—.05 under **COMAR 13B.08.17 Student Loan Debt Relief Tax Credit**. This action, which was proposed for adoption in 45:18 Md. R. 837—838 (August 31, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

JAMES D. FIELDER, JR., Ph.D.
Secretary of Higher Education

Title 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

Subtitle 04 BUSINESS ORGANIZATIONS

18.04.07 Acceptance of Documents

Authority: *Commercial Law Article, §21-117; Corporations and Associations Article, §§1-102, 1-203, and 1-406; Tax-Property Article, §2-201; Annotated Code of Maryland*

Notice of Final Action [18-216-F]

On October 18, 2018, the Director of Assessments and Taxation adopted amendments to Regulations .02 and .03 under **COMAR 18.04.07 Acceptance of Documents**. This action, which was proposed for adoption in 45:18 Md. R. 844 (August 31, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

MICHAEL HIGGS
Director of Assessments and Taxation

Subtitle 04 BUSINESS ORGANIZATIONS

18.04.08 Expedited Filing Service

Authority: Corporations and Associations Article, §1-203.2; Tax-Property Article, §2-201; Annotated Code of Maryland

Notice of Final Action

[18-217-F]

On October 18, 2018, the Director of Assessments and Taxation adopted the repeal of existing Regulation .05 and amendments to and the recodification of existing Regulation .06 to be Regulation .05 under **COMAR 18.04.08 Expedited Filing Service**. This action, which was proposed for adoption in 45:18 Md. R. 844—845 (August 31, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

MICHAEL HIGGS

Director of Assessments and Taxation

Subtitle 04 BUSINESS ORGANIZATIONS

18.04.10 Administration of Trade Names

Authority: Corporations and Associations Article, §1-406; Tax-Property Article, §2-201; Annotated Code of Maryland

Notice of Final Action

[18-220-F]

On October 19, 2018, the Director of Assessments and Taxation adopted amendments to Regulations .01 and .03—~~.05~~ under **COMAR 18.04.10 Administration of Trade Names**. This action, which was proposed for adoption in 45:18 Md. R. 845 (August 31, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

MICHAEL HIGGS

Director of Assessments and Taxation

Title 19A STATE ETHICS COMMISSION

Subtitle 01 PROCEDURES

19A.01.01 General Provisions

Authority: General Provisions Article, §§5-206 and 5-606, Annotated Code of Maryland

Notice of Final Action

[18-203-F]

On October 25, 2018, the Maryland State Ethics Commission adopted amendments to Regulation .04 under **COMAR 19A.01.01 General Provisions**. This action, which was proposed for adoption in 45:16 Md. R. 785 (August 3, 2018), has been adopted as proposed.

Effective Date: November 19, 2018.

MICHAEL W. LORD

Executive Director
State Ethics Commission

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 01

EXECUTIVE DEPARTMENT

Subtitle 02 SECRETARY OF STATE

01.02.11 Maryland Safe at Home Address Confidentiality Program

Authority: Family Law Article, §§4-519—[4-530] 4-531; *Real Property Article*, §§3-112—3-120; and *State Government Article*, §§7-301—7-313; Annotated Code of Maryland

Notice of Proposed Action

[18-283-P]

The Secretary of State proposes to amend Regulations **.01—.10** and **.14**, and adopt new Regulations **.16—.22** under **COMAR 01.02.11 Maryland Safe at Home Address Confidentiality Program**.

Statement of Purpose

The purpose of this action is to inform the process by which a participant in the Address Confidentiality Program may request the shielding of real property records. It specifies certain forms to be used to identify a participant and request the use of the substitute address or the shielding of real property records. It outlines the procedure and obligation of State and local government agencies upon receipt of a shielding request, details the request and procedure for authorized disclosure of a shielded deed, and enables the termination of shielding if an individual ceases to participate in the Program. Another purpose of this action is to enable this chapter to govern the Human Trafficking Address Confidentiality Program and to clarify that victims of human trafficking are eligible for Program participation. The proposed action requires any person to use a participant's substitute address and prohibits the disclosure of a participant's identity information except under certain circumstances as detailed by this action. It identifies what is acceptable as written notification of Program participation and details the obligation of any person who receives written notification of Program participation. Another purpose of this action is to better protect victims by requiring applicants to apply for participation through an application

assistant registered with the Program, by requiring participants to inform the Program if address confidentiality is compromised, and by encouraging participants to withdraw from the Program if it ceases to provide protection. The proposed action updates the processes by which participants interact with the Motor Vehicle Administration and the State Board of Elections. It clarifies what location information participants shall disclose when filing State income tax returns. It also outlines the receipt and forwarding of service of process by the Program on behalf of participants.

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 Brittany Luzader, Human Trafficking Program Specialist, Address Confidentiality Program, Office of the Secretary of State, 16 Francis Street, Annapolis, MD 21401, or call 410-974-2679, or email to brittany.luzader@maryland.gov. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Purpose.

A. The purpose of the Maryland Safe at Home Address Confidentiality Program is to:

(1) Allow a victim of domestic violence *or human trafficking* to have a State or local government agency *and private entities* use a substitute address in place of an actual address;

(2) Enable State and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence *or human trafficking*; [and]

(3) Enable interagency cooperation in providing address confidentiality for victims of domestic violence *or human trafficking*; and

(4) *Enable a Program participant to use an address designated by the Secretary as a substitute address.*

B. (text unchanged)

C. This chapter [does not require or prohibit the use of the substitute address by nongovernmental entities. Acceptance of the substitute address is at the discretion of that entity.] *requires the use of a participant's substitute address designated by the Secretary and prohibits disclosure of a participant's identity information as defined in Real Property Article, §3-114 (e), Annotated Code of Maryland, by both governmental and nongovernmental entities. The Secretary[, however, will] shall forward all first-class, registered, and certified mail received by the Secretary for a participant.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Application assistant" means an employee or volunteer:

(a) Of a federal, State, or local agency, or of a nongovernmental program, that provides counseling, referral, shelter, or other services to victims of domestic violence *or human trafficking*; and

(b) (text unchanged)

(2)—(4) (text unchanged)

(5) "Notice of ACP Participation" means the form prescribed by the Secretary in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, to identify an individual as a participant, request the use of the participant's substitute address, and prohibit disclosure of a participant's identity information.

[(5)] (6) (text unchanged)

[(6)] (7) "Program" means both the:

(a) Maryland Safe at Home Address Confidentiality Program established under Family Law Article, §§4-519—[4-530] 4-531, Annotated Code of Maryland; and

(b) *Human Trafficking Address Confidentiality Program established under State Government Article, §§7-301—7-313, Annotated Code of Maryland.*

(8) "Real Property ACP Notice" means the form prescribed by the Secretary in accordance with Real Property Article, §3-115, Annotated Code of Maryland, to request the shielding of real property records.

[(7)] (9)—[(8)] (10) (text unchanged)

[(9)] (11) "Victim of domestic violence" means an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent, deliberate, severe, and demonstrable physical injury from a current or former intimate partner or individual with whom the person has lived.

(12) "Victim of human trafficking" means an individual who has been recruited, harbored, transported, provided, or obtained for labor, services, or a sexual act through the use of force, fraud, or coercion.

.03 Who May Apply.

Beginning October 1, 2006, an individual may apply to participate in the Program. To be designated as a participant in the Program, the individual shall:

A. (text unchanged)

B. Be a [past,] present[, or future resident of Maryland;

C.—D. (text unchanged)

E. Have recently relocated or intend to relocate within 30 days from the date of application to an address unknown to the abuser[; and, at the time of application, not readily accessible to the general public, according to the discretion of the Secretary; and

F. (text unchanged)

.04 Motor Vehicle Administration.

To request that the Motor Vehicle Administration use the substitute address, [an applicant] *a participant* shall [complete the form provided by the Secretary] *schedule an appointment with the Motor Vehicle Administration's Customer Service Ombudsman or other designated contact for participants.*

.05 Application Assistants.

A. (text unchanged)

B. The registration of an applicant assistant is valid [for 2 years] *indefinitely* unless withdrawn, suspended, or terminated.

C.—F. (text unchanged)

.06 Documentation.

A. [If the] *The* application of a victim of domestic violence *or human trafficking* [is being] *shall be* supported by documentation under Family Law Article, [§4-522(b)(2)[(ii) or (iii)] §4-522(b)(2), or State Government Article, §7-304(b)(2), Annotated Code of Maryland, and [is being] facilitated by an application assistant registered with the Secretary[, the signature of the application assistant on the application form is sufficient documentation].

B. If the application is being facilitated by an individual [affiliated with a person under Family Law Article, §4-522(b), Annotated Code of Maryland,] not registered *as an application assistant* with the Secretary, the Secretary shall contact the individual to register the individual as an application assistant.

[C. If the application is being filed on the applicant's own behalf, or with the assistance of an individual not on the Secretary's list of application assistants, the documentation required under Family Law Article, §4-522(b)(2), Annotated Code of Maryland, shall be provided.]

.07 Authorization Card.

A. Within [5] 10 working days of receipt of a completed and signed application, the Secretary shall approve or deny the applicant as a participant [and issue the participant an authorization card].

B. If an application is approved, an authorization card shall be issued within 5 working days after the application is approved. The Secretary shall issue an authorization card to each victim of domestic violence named on the application form. The authorization card shall include:

(1)—(4) (text unchanged)

(5) The expiration date; [and]

(6) The [toll free] phone number of the Program[.]; and

(7) *A list of the Program requirements for the purposes of a notification under Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland.*

C. If an [authorization card] *applicant* is denied, the Secretary shall notify the applicant of the denial and the reasons for the denial within 5 working days of the denial.

D. Use of Authorization Card.

(1) A participant may request that a State or local agency *or any person* use the substitute address [provided] *designated* by the Secretary as the participant's [mailing] address.

(2) The participant shall show the participant's authorization card to the agency employee responsible for the record *or to any person* and request use of the substitute address.

(3) Agency personnel *or any person*:

(a)—(b) (text unchanged)

(4) The agency *or person* shall accept the substitute address unless there is a waiver granted for a specific participant by the Secretary.

(5) Agency personnel *or any person*:

(a) May not question the participant regarding the details of the participant's inclusion in the Program; [and]

(b) [Shall accept the designation of the Secretary.] *May not require a participant to submit any address that could be used to physically locate the participant either instead of or in addition to the substitute address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the participant's physical location;*

(c) *May not require any additional proof of Program participation other than the Notice of ACP Participation in accordance with Family Law Article, §4-526 (b)(2), or State Government Article, §7-308(b)(2), Annotated Code of Maryland;*

(d) *May not charge any fee to comply with this chapter; and*

(e) *Shall accept the substitute address as the address of the participant.*

(6) *A current and valid authorization card presented to agency personnel or any person shall be acceptable as a form to put an agency or a person on notice of Program participation in accordance with Family Law Article, §4-529, or State Government Article, §7-311, Annotated Code of Maryland.*

E. (text unchanged)

.08 Renewal of Application.

A.—C. (text unchanged)

D. *The Secretary may not renew an applicant if, at the time of renewal, the Secretary determines that the applicant's actual address is readily accessible to the general public.*

.09 Change of Name, Address, or Telephone Number.

A.—B. (text unchanged)

C. *A participant may change the participant's address [or telephone number] in accordance with Family Law Article, §4-524, or State Government Article, §7-306, Annotated Code of Maryland, by filing a form provided by the Secretary.*

D. *A participant may change the participant's telephone number in accordance with Family Law Article, §4-524, or State Government Article, §7-306, Annotated Code of Maryland, by notifying the Secretary by telephone or by filing a form provided by the Secretary.*

.10 Withdrawal from Program.

A.—B. (text unchanged)

C. *A participant shall advise the Secretary and the participant's application assistant as soon as possible on suspicion or knowledge that the actual address is known to the abuser or readily accessible to the general public.*

D. *On receipt of information from the participant or any other person that the actual address is known to the abuser or readily accessible to the general public, the Secretary may investigate by contacting the participant or the application assistant that assisted the participant, or both.*

E. *A participant is encouraged to submit a request for withdrawal from the Program if:*

(1) *The participant is no longer eligible for Program participation; or*

(2) *The Secretary determines that a participant's actual address is readily accessible to the general public and the participant does not intend to relocate within 30 days to an address unknown to the abuser and not readily accessible to the general public.*

.14 Board of Elections.

Under Family Law Article, §4-527, and State Government Article, §7-309, Annotated Code of Maryland, a participant's residential address must be used for voter registration purposes. The local board may not disclose a participant's address except as described in Family Law Article, §4-527, or State Government Article, §7-309, Annotated Code of Maryland. A participant may request a local board of elections or the State Board of Elections to keep the address confidential under COMAR 33.04.02.02C. [To apply, the participant

shall submit to the State Board its form and a photocopy of the participant's authorization card]. *To register to vote as a participant, the participant shall contact the State Board directly to identify as a participant. The State Board shall verify Program participation and voting precinct with the Secretary.*

.16 Service of Process.

A. *Under Family Law Article, §4-530(b), and State Government Article, §7-312(b), Annotated Code of Maryland, service of process on a participant, by a person or an agency that has received notice that the individual is a participant, shall be made:*

(1) *In person on the participant; or*

(2) *By mail on the Secretary.*

B. *On receipt of service of process by mail, the Secretary shall:*

(1) *Notify the participant; and*

(2) *Forward process by mail to the participant.*

.17 State Income Tax.

If a participant uses the substitute address when filing a State income tax return, the participant shall disclose the actual Maryland county and actual city, town, or taxing area.

.18 Obligation on Receipt of Notice of Program Participation.

A. *An agency or person who receives notification of Program participation in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, shall adhere to the requirements under Regulation .07 of this chapter.*

B. *Written notification acceptable as a form to put an agency or a person on notice under Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, includes any one of the following as long as they state the requirements of the Program and that the individual is a participant:*

(1) *Notice of ACP Participation;*

(2) *Current and valid authorization card;*

(3) *A copy of the welcome letter issued to the participant on designation as a participant; or*

(4) *Written communication from the Secretary identifying an individual as a participant.*

C. *The Notice of ACP Participation shall be on the form that the Secretary prescribes and shall include the:*

(1) *Full legal name of the participant;*

(2) *Participant's ACP number;*

(3) *Substitute address designated by the Secretary as the participant's address;*

(4) *Program requirements in accordance with Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland;*

(5) *Telephone number of the Program; and*

(6) *Signature of the participant.*

D. *The Notice of ACP Participation satisfies the request that a bank, a credit union, any other depository institution, or any other financial institution within the meaning of Financial Institutions Article, §1-101, Annotated Code of Maryland, may require under Family Law Article, §4-526(b)(2), or State Government Article, §7-308(b)(2), Annotated Code of Maryland.*

E. *An agency or person who receives notification of Program participation in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, may not knowingly disclose the participant's name, home address, work address, or school address unless the:*

(1) *Person to whom the address is disclosed also lives, works, or goes to school at the disclosed address; or*

(2) *Participant has provided written consent to the disclosure of the participant's name, home address, work address, or school address for the purpose for which the disclosure will be made.*

F. An agency or person on notice and authorized to disclose the name, home address, work address, or school address of a participant by the participant's consent under Family Law Article, §4-529(c)(1)(ii), or State Government Article, §7-311(c)(1)(ii), Annotated Code of Maryland, shall limit disclosure to only those disclosures that are necessary for the purpose for which the consent is provided.

G. On disclosure under Family Law Article, §4-529(c), or State Government Article, §7-311(c), Annotated Code of Maryland, an agency or person on notice shall forward the notification of Program participation to the agency or person to whom the disclosure is made in order to put that agency or person on notice.

H. An agency or person on notice is presumed to have specific knowledge that the address and other identity information belongs to a participant.

I. An agency or person on notice shall use the participant's substitute address for mailed correspondence.

J. Consent of the participant as set forth in Family Law Article, §4-529(c), and State Government Article, §7-311(c), Annotated Code of Maryland, is required before an agency or person on notice may use the participant's actual address on internal records or electronic databases that may be sold, transferred, or shared with third parties.

.19 Procedure to Request Shielding of Real Property Records.

A. To request the shielding of real property records, a participant shall notify the Secretary of initial consideration to purchase property before applying for financing or initiating the transaction, or, if the property was acquired without financing, immediately after acquiring an ownership interest in the real property.

B. On request for shielding, the Secretary shall provide the following forms to the participant:

(1) Notice of ACP Participation in accordance with Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland; and

(2) Real Property ACP Notice required under Real Property Article, §3-115(b)(2), Annotated Code of Maryland.

C. A participant or any agent of the participant shall submit a copy of the Notice of ACP Participation to any person involved in the real property transaction, including, but not limited to, the following:

- (1) Attorney;
- (2) Realtor;
- (3) Mortgage broker;
- (4) Lender;
- (5) Title company; and
- (6) Home owner's association.

D. On receipt of a Notice of ACP Participation or Real Property ACP Notice, any person involved in the real property transaction shall adhere to the requirements under Regulations .07 and .18 of this chapter.

E. A participant or any agent of the participant shall submit a copy of the Real Property ACP Notice with the deed or other instrument to be recorded and the intake sheet required under Real Property Article, §3-104, Annotated Code of Maryland, to both the:

- (1) Appropriate county finance office; and
- (2) Clerk of the circuit court.

F. A participant shall submit to the Secretary a copy of any Real Property ACP Notice submitted under Real Property Article, §3-115(b), Annotated Code of Maryland.

G. If a participant intends to request the shielding of real property records, the participant may not submit any instrument for recordation electronically.

H. A participant shall use a separate Real Property ACP Notice for each property in which the participant acquires an ownership interest.

.20 Obligation on Receipt of Real Property ACP Notice.

A. On receipt of a Real Property ACP Notice:

(1) State and local agencies shall follow the established procedure in accordance with Real Property Article, §§3-115 and 3-117, Annotated Code of Maryland; and

(2) A clerk of the circuit court shall provide a copy of any Real Property ACP Notice received under Real Property Article, §3-115, Annotated Code of Maryland, to both the:

- (a) State Department of Assessments and Taxation; and
- (b) Maryland State Archives.

B. All State and local agencies shall use the participant's substitute address for all mailed correspondence.

C. Restriction on Disclosures.

(1) Except as provided in Real Property Article, §3-116(b) and (c), Annotated Code of Maryland, a clerk of the circuit court and any State or local agency that receives a Real Property ACP Notice under Real Property Article, §3-115, Annotated Code of Maryland, may not disclose the participant's identity information in conjunction with the property identified in the Notice.

(2) A participant's identity information may be disclosed in conjunction with a property identified in a Real Property ACP Notice if:

- (a) The participant consents to the disclosure for a specific purpose identified in a writing acknowledged by the participant;
 - (b) The information is subject to disclosure in accordance with a court order; or
 - (c) The Secretary authorizes the disclosure in accordance with Real Property Article, §3-118, Annotated Code of Maryland.
- (3) Prohibition on disclosure shall continue until:
- (a) The participant consents to the termination of the Real Property ACP Notice in a writing acknowledged by the participant;
 - (b) The Real Property ACP Notice is terminated in accordance with a court order;
 - (c) The participant no longer holds a record interest in the property identified in the Real Property ACP Notice; or
 - (d) The Secretary gives written notice to the clerk of the circuit court that the individual named in the Real Property ACP Notice is no longer a participant.

.21 Termination of Shielding on Program Cancellation.

If an individual who has requested the shielding of property records in accordance with Real Property Article, §3-115, Annotated Code of Maryland, ceases to be a participant;

A. The Secretary shall give written notice to the clerk of the appropriate circuit court and the Maryland State Archives within 30 days after the individual ceases to participate in the Program; and

B. The clerk of the circuit court and the Maryland State Archives shall cease shielding all real property records relating to the property identified in the Real Property ACP Notice.

.22 Authorized Disclosure for Title Examination.

A. On request, the Secretary may authorize the disclosure of real property records that have been shielded under Real Property Article, §3-116, Annotated Code of Maryland, for the purpose of performing a bona fide title examination.

B. A request under Real Property Article, §3-118, Annotated Code of Maryland, shall include:

- (1) The name, title, address, and affiliated organization, if applicable, of the individual requesting the disclosure;
- (2) The individual's purpose for requesting the disclosure;
- (3) The individual's relationship, if any, to the participant;
- (4) A legal description of the property subject to the title examination;
- (5) A statement that any information disclosed to the individual shall be treated as confidential and shall be used and disclosed only for the purpose identified in the request;

(6) *The individual's signature; and*

(7) *Any other information required by the Secretary to respond to the request.*

C. *On receipt of a request under Real Property Article, §3-118, Annotated Code of Maryland, the Secretary shall provide a written response approving or denying the request within 2 business days.*

D. *The Secretary shall approve a properly completed request under Real Property Article, §3-118, Annotated Code of Maryland, if:*

(1) *The Secretary confirms that the property subject to the title examination is the property identified in the Real Property ACP Notice of a current participant; and*

(2) *The Secretary determines that the request is for the purpose of performing a bona fide title examination.*

JOHN C. WOBENSMITH
Secretary of State

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 22 BOARD OF COSMETOLOGISTS

09.22.01 General Regulations

Authority: Business Occupations and Professions Article, Title 5, Annotated Code of Maryland

Notice of Proposed Action [18-311-P]

The Board of Cosmetologists proposes to adopt new Regulation **.16 under COMAR 09.22.01 General Regulations**. This action was considered at a public meeting of the Board held on September 24, 2018, notice of which was provided by posting on the Board of Cosmetologists' website pursuant to General Provisions Article, §3-302(c)(3)(ii), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish by regulation an applicant's or licensee's obligation to respond in writing within 30 days to a written communication from the Board, to inform the applicant or licensee of the ramifications for failure to respond to a written communication from the Board, and to require an applicant or licensee to notify the Board in writing of a change of address

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 Erica Lewis, Acting Executive Director, Board of Cosmetologists, Department of Labor, Licensing and

Regulation, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6193, or email to erica.lewis@maryland.gov, or fax to 410-333-6314. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Cosmetologists during a public meeting to be held on January 7, 2019, at 500 North Calvert Street, Third Floor Conference Room, Baltimore, Maryland 21202.

.16 Failure to Respond.

A. *An applicant or licensee shall respond in writing to a written communication from the Board within 30 days of the date of mailing.*

B. *The Board shall send a written communication by first-class mail to the last address furnished to the Board by an applicant or licensee.*

C. *It is a responsibility of an applicant or licensee to notify the Board in writing if there has been a change in the applicant's or licensee's address.*

D. *Failure to respond as required by this regulation may be considered by the Board to be a violation of Business Occupations and Professions Article, §5-314(a)(1)(viii), Annotated Code of Maryland.*

ERICA LEWIS
Acting Executive Director
Board of Cosmetologists

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Proposed Action [18-291-P]

The Secretary of Health proposes to amend:

(1) Regulation **.08 under COMAR 10.09.07 Medical Day Care Services;**

(2) Regulation **.14 under COMAR 10.09.20 Community Personal Assistance Services;**

(3) Regulation **.06 under COMAR 10.09.27 Home Care for Disabled Children Under a Model Waiver;**

(4) Regulation **.07 under COMAR 10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old;**

(5) Regulation **.22 under COMAR 10.09.54 Home and Community-Based Options Waiver;**

(6) Regulation **.22 under COMAR 10.09.56 Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder;** and

(7) Regulation **.24 under COMAR 10.09.84 Community First Choice.**

Statement of Purpose

The purpose of this action is to implement a 3 percent rate increase for services under these chapters in accordance with S.B. 185 (Ch. 570, Acts of 2018, FY 19 Budget Bill) and to update the indexing methodology for subsequent rate increases. This action will also implement consistent policies for maintaining fee schedules and revise an incorrect citation.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action will increase expenditures by the State based on the difference between the rate increase under existing regulatory provisions and the 3 percent increase provided in the budget.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$1,834,314
B. On other State agencies:		
Maryland State Dept. of Education	(E+)	\$ 118,650
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$1,952,964
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. Under existing regulations, medical day care providers would receive a 2.9 percent increase based on the increase in medical care component of the July 2017 Consumer Price Index for all Urban Consumers (CPI-U), Washington-Baltimore, from the U.S. Department of Labor, Bureau of Labor Statistics, for a total FY 2019 expenditure of \$127,882,452. The 3 percent increase will result in a total expenditure of \$128,006,731, a difference of \$124,279.

Providers under the Community Personal Assistance Services program would receive an increase based on the CPI-U, capped at 2.5 percent, for a total expenditure of \$4,926,062. The 3 percent increase will result in a total expenditure of \$4,950,091, a difference of \$24,029.

Providers of nursing services under the Model Waiver and EPSDT would receive a 2.9 percent increase based on the CPI-U, for a total expenditure of \$110,048,093. The 3 percent increase will result in a total expenditure of \$110,155,039, a difference of \$106,946.

Providers under the Home and Community-Based Options Waiver would receive an increase based on the CPI-U, capped at 2.5 percent, for a total expenditure of \$24,313,901. The 3 percent increase will result in a total expenditure of \$24,432,505, a difference of \$118,604.

Providers under the Community First Choice program would receive an increase based on the CPI-U, capped at 2.5 percent, for a total expenditure of \$299,393,365. The 3 percent increase will result in a total expenditure of \$300,853,821, a difference of \$1,460,456.

The sum of these impacts is \$1,834,314.

B. Providers of Autism Waiver services would receive an increase based on the CPI-U, capped at 2.5 percent, for a total expenditure of \$24,323,250. The 3 percent increase will result in a total expenditure of \$24,441,911, a difference of \$118,650.

D. Providers of home and community-based services will receive

an additional rate increase totaling \$1,952,962 during Fiscal Year 2019 under the provisions of the proposed action, as described in Section IIIA and B.

Economic Impact on Small Businesses

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

Many of the providers of home and community-based services under these chapters are small businesses that will benefit from additional rate increases under the provisions of the proposed action.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

Individuals with disabilities receive services provided under these chapters and will benefit to the extent that improved funding will enable providers to maintain quality services.

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 December 10, 2018. 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

.08 Payment Procedures.

A.—C. (text unchanged)

D. Per Diem Rate.

(1) Payment to a provider of medical day care services shall be on a per diem basis. The per diem rate is [\$75.99] \$79.84 effective July 1, [2016] 2018.

[(2) Effective July 1, 2017, subject to the limitations of the State's budget, the per diem rate shall be adjusted annually by the percentage of the annual increase in the previous July Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics.

(3) Any increase in the per diem rate for medical day care services as determined under §D(2) of this regulation may not be greater than 5 percent.]

(2) *The per diem rate shall increase on July 1 of each year by 3 percent, subject to the limitations of the State budget.*

E.—F. (text unchanged)

10.09.20 Community Personal Assistance Services

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

.14 Payment Procedures.

A.—D. (text unchanged)

E. *Effective July 1, 2018, for personal assistance services up to 12 hours per day, payment will be made in 15-minute units of service. For individuals who are determined to need more than 12 hours of personal assistance per day, a daily rate for the service will be paid.*

[E.] F. Rates.

(1) (text unchanged)

(2) [The] *Effective July 1, 2018, the Program's rates as specified in the Department's fee schedule shall increase on July 1 of*

each year *by 3 percent*, subject to the limitations of the State budget[, by the lesser of:

(a) 2.5 percent; or

(b) The percentage of the annual increase in the previous July Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics].

10.09.27 Home Care for Disabled Children Under a Model Waiver

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

.06 Payment Procedures.

A. [Request for Payment.

(1)] Payment procedures as set forth in COMAR 10.09.36 apply.

[(2) Requests for payment shall include all units of service, as specified in §C of this regulation.

(3) The nursing provider shall bill the Program the provider's customary charge to the general public.

(4) Home care case management providers shall bill the Program as specified in §C(2) of this regulation.

(5) The principal physician provider shall bill the Program the provider's customary charge to the general public.

(6) The home health aide and certified nursing assistant provider shall bill the Program the provider's customary charge to the general public.

(7) Medical day care service providers shall bill the Program as specified in COMAR 10.09.07.

(8) If the service is free to individuals not covered by Medicaid:

(a) The provider:

(i) May charge the Program; and

(ii) Shall be reimbursed in accordance with §C of this regulation; and

(b) The provider's reimbursement is not limited to the provider's customary charge.]

[B.] — [D.] (proposed for repeal)

B. *Payments.*

(1) *Payments shall be made directly to a qualified provider.*

(2) *Providers shall be paid the lesser of:*

(a) *The provider's customary charge to the general public unless the service is free to individuals not covered by Medicaid; or*

(b) *The rate established according to the fee schedule published by the Department.*

C. *Rates.*

(1) *The Department shall publish a fee schedule for services covered under this chapter that shall be publicly available and updated at least annually or upon any changes made by the Department.*

(2) *Effective July 1, 2018, the Program's rates as specified in the Department's fee schedule shall increase on July 1 of each year by 3 percent, subject to the limitations of the State budget.*

10.09.53 Early and Periodic Screening, Diagnosis, and Treatment: Nursing Services for Individuals Younger than 21 Years Old

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

.07 Payment Procedures.

A. (text unchanged)

[B.] — [E.] (proposed for repeal)

B. *Payments.*

(1) *Payments shall be made directly to a qualified provider.*

(2) *Providers shall be paid the lesser of:*

(a) *The provider's customary charge to the general public unless the service is free to individuals not covered by Medicaid; or*

(b) *The rate established according to the fee schedule published by the Department.*

C. *Rates.*

(1) *The Department shall publish a fee schedule for services covered under this chapter that shall be publicly available and updated at least annually or upon any changes made by the Department.*

(2) *Effective July 1, 2018, the Program's rates as specified in the Department's fee schedule shall increase on July 1 of each year by 3 percent, subject to the limitations of the State budget.*

[F.] D. (text unchanged)

10.09.54 Home and Community-Based Options Waiver

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-132, Annotated Code of Maryland

.22 Payment Procedures.

A.—C. (text unchanged)

D. *Rates.*

(1) (text unchanged)

(2) [The] *Effective July 1, 2018, the Program's rates as specified in the Department's fee schedule shall increase on July 1 of each year by 3 percent*, subject to the limitations of the State budget[, by the lesser of:

(a) 2.5 percent; or

(b) The percentage of the annual increase in the previous July Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics].

10.09.56 Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-130, Annotated Code of Maryland

.22 Payment Procedures.

A.—C. (text unchanged)

D. *Payments.*

(1) (text unchanged)

[(2) The Program shall pay according to the following fee-for-service schedule:

(a) Residential habilitation services and retainer payments: reimbursed at one of the following all-inclusive, maximum rates for a participant:

(i) \$201.70 per unit for the regular level of service; or

(ii) \$403.42 per unit for the intensive level of service;

(b) Therapeutic integration services: reimbursed at the maximum rate of \$12.23 per unit;

(c) Intensive therapeutic integration services: reimbursed at the maximum rate of \$15.28 per unit;

(d) Intensive individual support services: reimbursed at the maximum rate of \$15.28 per unit;

(e) Respite care: reimbursed at the maximum rate of \$11.94 per unit;

(f) Family consultation: reimbursed at the maximum rate of \$50.17 per unit;

(g) Adult life planning services: reimbursed at the maximum rate of \$50.17 per unit;

(h) Environmental accessibility adaptations: reimbursed at the amount billed by the provider, which shall be the lesser of the:

(i) Amount authorized by the State Department of Education; or

(ii) Actual cost of the job.

(3) The program shall only pay for services at the lesser of:

(a) The fee for service schedule; or

(b) The actual cost.]

(2) *Providers shall be paid the lesser of:*

(a) *The provider's customary charge to the general public unless the service is free to individuals not covered by Medicaid; or*

(b) *The rate established according to the fee schedule published by the Department.*

E. Rates.

(1) *The Department shall publish a fee schedule for services covered under this chapter that shall be publicly available and updated at least annually or upon any changes made by the Department.*

[(4)] (2) [The] *Effective July 1, 2018, the Program's rates as specified in [§D(2)(a)—(g) of this regulation shall be effective January 1, 2015 and] the Department's fee schedule shall increase on July 1 of each year by 3 percent, subject to the limitations of the State budget[, by the lesser of:*

(a) 2.5 percent; or

(b) The change from March to March in the medical care component of the Consumer Price Index for all urban consumers (CPI-U) for the Washington-Baltimore area].

10.09.84 Community First Choice

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

.24 Payment Procedures.

A.—E. (text unchanged)

F. Rates.

(1) (text unchanged)

(2) [The] *Effective July 1, 2018, the Program's rates for covered services under Regulations .14—,16, [.18E] .18D, .19, and .20 of this chapter shall increase on July 1 of each year by 3 percent, subject to the limitations of the State budget[, by the lesser of:*

(a) 2.5 percent; or

(b) The percentage of the annual increase in the previous July Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics].

ROBERT R. NEALL
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, 19-14B-01, and 19-310.1, Annotated Code of Maryland

Notice of Proposed Action

[18-312-P]

The Secretary of Health proposes to amend Regulations .07, .08, .11, and .13 under **COMAR 10.09.10 Nursing Facility Services**.

Statement of Purpose

The purpose of this action is to implement a 3 percent rate increase for nursing facility services in accordance with the State's budget for Fiscal Year 2019. In addition, the Interim Working Capital Fund will be extended for 1 year.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed amendments will implement a 3 percent rate increase for Fiscal Year 2019. This will be achieved by adjusting reimbursement provisions in order to limit the net increase to 3 percent. In addition, working capital advances will result in loss of potential interest income to the State.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:		
(1)	(E-)	\$33,209,354
(2)	(R-)	\$188,911
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:		
(1) Nursing home providers	(-)	\$33,209,354
(2) Nursing home providers	(+)	\$188,911
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(1). The average reimbursement for nursing facility services will increase by 3 percent in Fiscal Year 2019. Under the provisions of this amendment, the rate represents a reduction of \$5.91 per day compared with the rate that providers would otherwise receive. Based on a projected 5,619,180 days of care in Fiscal Year 2019, this reduction represents a savings to the State of \$33,209,354. This amount is 50 percent federal funds and 50 percent General Funds.

A(2). The interim working capital fund will provide a projected \$12,195,644 to providers during Fiscal Year 2019, resulting in loss of potential interest income of \$188,911 based on a rate of return of 1.549 percent. This amount is 100 percent General Funds.

D(1). Reimbursement for nursing facilities will be reduced by \$33,209,354 based on the net impact of the reimbursement adjustments in this proposal, although the average per diem rate will increase by 3 percent during Fiscal Year 2019 as described in Section IIIA(1).

D(2). Providers will benefit from the State's loss of potential interest income in the amount of \$188,911 due to providing working capital advances.

Economic Impact on Small Businesses

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

Seven nursing homes, which qualify as small businesses, are expected to account for 42,490 Medicaid days during Fiscal Year 2019. At an average rate reduction of \$5.91 per day, the impact on small businesses is estimated as a decrease in revenue of \$251,116. The amount of benefit to small businesses due to the interim working capital fund is indeterminable.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed action affects payments for services used by individuals with disabilities, but is not expected to have an impact on availability or access to services.

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 December 10, 2018. A public hearing has not been scheduled.

.07 Prospective Rates.

A.—F. (text unchanged)

G. Final facility rates for the period July 1, [2017] 2018 through June 30, [2018] 2019 shall be each nursing facility's quarterly rate, exclusive of the amount identified in Regulation .13A(2) of this chapter, reduced by the budget adjustment factor of [9.652] 2.387 percent, plus the Nursing Facility Quality Assessment add-on identified in Regulation .11E of this chapter and the ventilator care add-on amount identified in Regulation .13A(2) of this chapter when applicable.

.08 Interim Working Capital Fund.

A.—G. (text unchanged)

H. The Interim Working Capital Fund expires on May 1, [2018] 2019. Providers shall repay all outstanding funds to the Department by May 1, [2018] 2019. The Department may grant repayment extensions of not longer than 60 days under extraordinary circumstances.

.11 Rate Calculation — Capital Costs.

A. (text unchanged)

B. Final Capital Cost.

(1) The determination of a provider's allowable final Capital per diem rate for the cost items under §A of this regulation is calculated as follows:

(a)—(f) (text unchanged)

(g) Apply a maximum appraised value per bed of [\$110,000] \$120,000;

(h)—(m) (text unchanged)

(2) (text unchanged)

C.—E. (text unchanged)

.13 Ventilator Care Nursing Facilities.

Nursing facilities with licensed nursing facility beds, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as follows:

A. Services for residents receiving ventilator care shall be reimbursed as follows:

(1) (text unchanged)

(2) An amount of [\$280] \$285 shall be added to the total prospective rate;

B.—F. (text unchanged)

ROBERT R. NEALL

Secretary of Health

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.17 State Health Plan for Facilities and Services: Specialized Health Care Services — Cardiac Surgery and Percutaneous Coronary Intervention Services

Authority: Health-General Article, §§19-109(a)(1), 19-109(a)(3), 19-118, 19-120, and 19-120.1, Annotated Code of Maryland

Notice of Proposed Action

[18-290-P-I]

The Maryland Health Care Commission proposes to repeal existing Regulation .01 and adopt new Regulation .01 under **COMAR 10.24.17 State Health Plan for Facilities and Services: Specialized Health Care Services—Cardiac Surgery and Percutaneous Coronary Intervention Services**. At this time, the Maryland Health Care Commission is withdrawing the repeal of existing Regulation .01 and adoption of new Regulation .01 under **COMAR 10.24.17 State Health Plan for Facilities and Services: Specialized Health Care Services—Cardiac Surgery and Percutaneous Coronary Intervention Services** which was published in 45:11 Md. R. 589—590 (May 25, 2018). This action was considered by the Commission at an open meeting held on September 20, 2018, notice of which was given through publication in the Maryland Register, in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to: incorporate changes to the data collection requirements for hospitals with percutaneous coronary intervention (PCI) services that treat high risk patients; update the definition of cardiac surgery; revise the patient outcome metrics for PCI and cardiac surgery services; modify the financial feasibility standard for Certificate of Need reviews; update information pertaining to the payment model for Maryland hospitals; update information regarding the trends and availability of PCI and cardiac surgery services; and make minor changes to clarify standards for Certificates of Ongoing Performance.

COMAR 10.24.17 was last updated in 2015. Current Maryland Health Care Commission (MHCC) regulations require that hospitals use the ACTION Registry®-GWTGTM (ACTION-GWTG Registry) data collection tool for select high-risk PCI patients. The ACTION-

GWTC Registry was jointly operated by the American College of Cardiology (ACC) and the American Heart Association (AHA). In April 2017, the ACC and the AHA announced the immediate dissolution of their partnership on the ACTION-GWTC Registry and developed separate registries. The proposed regulations delete references to the ACTION-GWTC Registry and do not require hospitals to participate in the resulting separate data registries. The regulations require Maryland hospitals to continue to participate in data collection through the NCDR CathPCI registry.

The payment model for hospitals in Maryland has continued to evolve since the last update of COMAR 10.24.17 (effective November 9, 2015), and the description of the payment model in the regulations has been updated to account for recent changes. Some standards that reference hospital budget agreements with the Health Services Cost Review Commission have also been updated to account for changes in the payment model for Maryland hospitals.

With the addition of a new primary PCI program in 2017, access to these services has improved. The description of access to these services has been updated, based on analysis by the Maryland Institute for Emergency Medical Services Systems. Updated information on volume trends for both PCI services and cardiac surgery services has also been included.

The revisions to the definition of cardiac surgery include changes to the procedure codes (known as ICD-9 and ICD-10 codes) used in the identification of cardiac surgery cases based on discussion with the MHCC's Cardiac Service Advisory Committee (CSAC), a standing advisory committee established pursuant to COMAR 10.24.17 that provides advice to Commission staff regarding specialized cardiovascular services. The term "cardiac surgery" replaces references to "open heart surgery" because use of the term "cardiac surgery" is more accurate.

In addition, the proposed regulations revise the patient outcome metrics for PCI services because the information required to calculate the current patient outcome metrics is not timely available. After considering the advice of its CSAC, the Commission adopted a primary benchmark based on national data along with a second benchmark based on statewide data if obtained within a specified time frame. The benchmark for all-cause 30-day risk-adjusted mortality rates for cardiac surgery programs has been revised to refer to a national benchmark because the statewide average cannot be readily generated by the contractor for the Society of Thoracic Surgeons (STS), and use of a national benchmark is supported by stakeholders and available through STS. The financial feasibility standard for Certificate of Need reviews has also been revised in order to be compatible with announced policies regarding the payment model for Maryland hospitals. The standard for institutional resources included in Section .07D of the State Health Plan for Facilities and Services: Specialized Health Care Services — Cardiac Surgery and Percutaneous Coronary Intervention Services has been revised to clarify the requirements, including reporting on lapses in service availability. Other additional minor corrections and clarifying changes have been made.

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 Eileen Fleck, Chief, Acute Care Policy and Planning, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, or call 410-764-3287, or email to eileen.fleck@maryland.gov, or fax to 410-358-1236. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Health Care Commission during a public meeting to be held on Thursday, December 20, 2018 at 1:00 p.m., at 4160 Patterson Avenue, Baltimore, Maryland 21215.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the State Health Plan for Facilities and Services: Specialized Health Care Services — Cardiac Surgery and Percutaneous Coronary Intervention Services has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 45:1 Md. R. 8 (January 5, 2018), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

The State Health Plan for Facilities and Services: Specialized Health Care Services — Cardiac Surgery and Percutaneous Coronary Intervention Services is incorporated by reference.

ROBERT E. MOFFIT, Ph.D.
Chair

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 02 TRANSPORTATION SERVICE HUMAN RESOURCES SYSTEM

11.02.03 Leave Benefits

Authority: State Personnel and Pensions Article, §9-1108; Transportation Article, §§2-102 and 2-103.4; Annotated Code of Maryland

Notice of Proposed Action

[18-309-P]

The Secretary of Transportation proposes to amend Regulation .10 under COMAR 11.02.03 Leave Benefits.

Statement of Purpose

The purpose of this action is to comply with S.B. 859 of 2018 (State Employees — Parental Leave). In accordance with S.B. 859, the amendments to COMAR 11.02.03.10 allow an employee who is the primary caregiver of the employee's child to request up to 60 days of paid parental leave within 6 months of the birth of a child or the adoption of a child younger than 6 years old. An eligible employee must first exhaust all personal and annual leave before

being granted additional paid parental leave to attain a total of up to 60 days of paid leave.

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 Christian Skipper, Regulations and Records Manager, Maryland Department of Transportation, 7201 Corporate Center Drive, Hanover, MD 21076, or call 410-865-1154, or email to cskipper1@mdot.state.md.us. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.10 Other Forms of Leave with Pay

A. When an employee has obtained appropriate supervisory approval and provided such documentation as may be required, leave with pay shall be authorized for the situations set forth in §§B [and C] — D of this regulation.

B. — C. (text unchanged)

D. *Parental Leave. An employee who is the primary caregiver responsible for the care and nurturing of the employee's child may, upon request, be granted up to 60 days of paid parental leave within 6 months following the birth of a child or adoption of a child younger than 6 years old. The employee shall exhaust all annual and personal leave before the employee may request parental leave to attain a total of 60 days of paid leave after the birth or adoption of a child.*

PETE K. RAHN
Secretary of Transportation

Title 13A STATE BOARD OF EDUCATION

Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.05 Appeals to the State Board of Education

Authority: Education Article, §§2-205, 4-205, 6-202, and 7-305; State Government Article, §§10-122 and 10-201 et seq.; Annotated Code of Maryland

Notice of Proposed Action

[18-289-P]

The Maryland State Board of Education proposes to amend Regulations .01—.04 and .07—.11, adopt new Regulations .05 and .12, amend and recodify existing Regulation .05 to be Regulation .06, and repeal existing Regulation .06 under **COMAR 13A.01.05 Appeals to the State Board of Education**. This action was considered by the State Board during their August 28, 2018, meeting.

Statement of Purpose

The purpose of this action is to amend the procedures to file appeals with the State Board; to remove library employee appeals to the State Board due to the creation of an independent State Library Board; to add procedures to govern the removal from office of local board members; to make changes in nomenclature and page limits on filings; and to rearrange certain sections of the regulations.

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 Mary L. Gable, Asst. State Superintendent, Division of Student Support, Academic Enrichment, and Educational Policy, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0472 (TTY 410-333-6442), or email to mary.gable@maryland.gov, or fax to 410-333-0880. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on January 22, 2019, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

[(5) "File" means the delivery of papers to the administrative office of the State Board on or before the papers are due, or depositing the papers in the United States mail before the date the papers are due.]

(5) "File" means:

(a) *In regard to an initial appeal, petition for declaratory ruling, or request for removal of a local board member:*

(i) *Delivery of the papers to the State Board in hard copy on or before the date the papers are due; or*

(ii) *Depositing the papers in the United States mail as registered or certified mail or Express Mail, or deposited with a delivery service, such as Fed Ex, UPS, or DHL, that provides verifiable tracking of the item from the point of origin before the date the papers are due.*

(b) *In regard to all other motions, memoranda, and responses:*

(i) *Delivery of the papers to the State Board in hard copy on or before the date papers are due;*

(ii) *Depositing the papers in the United States mail or with a delivery service on or before the date the papers are due; or*

(iii) *Submitting the papers electronically to the State Board.*

(6) "Local board" means the board of education of a county including the Baltimore City Board of School Commissioners[, and where applicable, a board of trustees of a public library system].

(7)—(10) (text unchanged)

.02 [Appeal Contents] Appeals.

A. Contents. The request for an appeal shall:

- (1) Specify the party or parties taking the appeal, *along with current regular mail and email addresses*;
- (2)—(6) (text unchanged)
- (7) Include any supporting documents, exhibits, and affidavits; [and]
- (8) Include, if possible, a copy of the order and opinion from which the appeal is sought[.]; *and*
- (9) *Be no longer than 15 pages, excluding attachments.*

B. Deadlines.

(1) Appeals.

(a) An appeal shall be [taken] *filed* within 30 calendar days of the decision of the local board or other individual or entity which issued the decision on appeal.

(b) (text unchanged)

(2) The day of the decision [of the local board] may not be included in computing any period of time prescribed by these regulations.

(3) [For appeals taken on or after April 1, 2011, an] *An* appeal shall be deemed to have been [transmitted] *filed* within the 30-day period of time permitted under §B(1) of this regulation if, before the expiration of the time, it has been:

(a)—(b) (text unchanged)

(4) (text unchanged)

[(5) Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after service upon the party of a notice or other paper and service is made by mail, 3 days shall be added to the prescribed period.]

(5) *Appeals will not be accepted in electronic format.*

C. (text unchanged)

[D. Petition for Declaratory Ruling.

(1) A party may file a petition for declaratory ruling by the State Board on the interpretation of a public school law or regulation of the State Board that is material to an existing case or controversy.

(2) The procedures in this chapter apply to the review of a petition for declaratory ruling.]

.03 Response to Appeals.

A. Time for Response. Within 20 days after *the State Board sends* a copy of the appeal [has been sent] *to the local superintendent*, the respondent shall file [an answer] *a memorandum in response to the appeal* or a motion *to dismiss*, whichever is appropriate.

[B. Answer.

(1) An answer shall be in short and plain terms and shall contain responses to the statements in the request for appeal.

(2) Unless a basis exists for filing a motion to dismiss, an answer shall be filed for an appeal from a certificated employee suspension or dismissal, and from a school consolidation, school redistricting, or school closing appeal.]

[C.] B. Motion to Dismiss.

(1) A motion to dismiss shall specifically state the facts and reasons upon which the motion is based that may include, but are not limited to, the following:

(a) The [county] *local* board has not made a final decision;

(b)—(e) (text unchanged)

(2) The State Board may, on its own motion, or on motion filed by any party, dismiss an appeal for one or more of the reasons listed in [§C(1)] *§B(1)* of this regulation.

[D.] C. [Motion for Summary Affirmance.] *Memorandum in Response to the Appeal.*

(1) [A motion for summary affirmance may be filed if there are no genuine issues of material fact and the respondent is entitled to affirmance as a matter of law.] *The respondent may file a memorandum in response to the appeal.*

(2) [A] *The* memorandum [in support of or in opposition to a motion for summary affirmance] shall contain the following:

(a) A *concise* statement of the [issues] *questions* presented for review;

(b) A statement of the facts *material to those questions*;

(c) [An argument which includes] *An argument on each question, including citations of authority*, reference to relevant legal principles, and [State Board decisions.] *reference to pages of the record and exhibits relied on*, if any;

(d)—(e) (text unchanged)

(3) *The appellant may file a response to the memorandum, and the local board may file a reply to the response.*

(4) *The State Board may decide the appeal on the merits based on the filings.*

[E.] D. Record.

(1) The local board shall [transmit] *file* the record of the local proceedings with the local board's response.

(2) Transcript.

(a)—(b) (text unchanged)

(c) The transcript shall be filed promptly *with the State Board.*

(3) (text unchanged)

(4) Waiver of Transcription Costs.

(a) An individual appellant who by reason of indigence is unable to pay the cost of transcription may file a request for waiver of the costs[.], *with the State Superintendent.*

(b)—(d) (text unchanged)

(e) A waiver of transcription costs shall only be [applicable] *available* to an individual appellant and not to a group or other entity.

.04 General Procedures.

A. Amendment of Appeal or Other Pleading.

(1) The State Board upon its own initiative or upon [application] *the request* of a party may order a party to make a more definite statement of the appeal.

(2) (text unchanged)

B. Requests to Shorten or Extend Time Requirements.

(1) Upon the written request of a party *or on its own initiative*, the State Board for good cause shown may shorten or extend the time limitations set forth in this chapter.

(2) *The State Board may not extend the time period for filing an appeal from the decision of the local board or for filing an application for reconsideration of a State Board decision [may not be extended] except in the case of fraud, lack of notice of the decision, or other extraordinary circumstances.*

C. (text unchanged)

D. Representation of Parties.

(1) (text unchanged)

(2) [An individual] *A party*, or counsel if a party is represented by counsel, shall be responsible for the:

(a) Filing *and receipt* of [pleadings,] motions, [or other papers] *memoranda, and responses*;

(b) (text unchanged)

(c) Filing *and receipt* of [objections,] exceptions, [and other motions] *if applicable*; and

(d) (text unchanged)

(3) *In cases with multiple parties, the State Board may request the parties to select one or more lead appellants to file responses and documents on behalf of all appellants and to receive responses and documents on behalf of all appellants.*

E. Filing Motions, Memoranda, and [Other Pleadings] Responses.

(1) Motions, memoranda, and [other pleadings] *responses* shall be filed with the State Board with a written certification that copies were furnished to all other parties.

(2) Except as provided in §E(3), (4), and (5) of this regulation, responses to any motion or [other pleading, other than the request for appeal.] *memorandum* shall be filed within 15 days of the filing of the motion or memorandum, and any reply to the response shall be filed within 10 days [after] of the date on which the response is filed.

(3) [The State Board or its designee may modify the time schedule for the filing of motions and other pleadings upon timely notice to all parties.] *If the motion, memorandum, or response is provided to the opposing party by mail, 3 days shall be added to the prescribed period for filing a response or reply to the response.*

(4) [A motion to dismiss or a motion for summary affirmance may be decided by the State Board upon consideration of the memoranda and documents filed in the record without oral argument.] *The last day of the period of time prescribed by this chapter shall be included, unless it is a Saturday, Sunday, or a State legal holiday, in which event the period ends on the next day that is not a Saturday, Sunday, or a State legal holiday.*

(5) *The State Board or its designee may modify the time schedule for the filing of motions, memoranda, and responses upon timely notice to all parties.*

(6) *Motions, memoranda, and responses shall be no longer than 15 pages, excluding attachments.*

(7) *Motions, memoranda, and responses may be submitted in electronic format if the party also provides the State Board with a hard copy.*

F. (text unchanged)

[G. Library Employee Dismissals. An appeal from dismissal of a library employee under Education Article, §23-406, Annotated Code of Maryland, shall be reviewed in accordance with applicable procedures set forth in this chapter.]

G. Lack of Notice.

(1) *A party who alleges lack of timely notice in a local board or State Board proceeding must file an affidavit with the State Board affirming under oath that the notice at issue was not timely received, the facts that support that affirmation, and that the party was prejudiced as a result.*

(2) *Failure to submit an affidavit shall result in the State Board declining to consider the claim of lack of notice.*

(3) *If a party submits an affidavit under §G(1) of this regulation, the opposing party shall bear the burden of demonstrating by a preponderance of the evidence, in the form of affidavits and documents, that the correspondence was timely sent to the correct recipient at the correct address.*

(4) *If the State Board concludes that there is a dispute of fact concerning whether a party received timely notice, it may refer the case to the Office of Administrative Hearings for proposed findings of fact, conclusions of law, and a proposed decision on the question.*

.05 Petition for Declaratory Ruling.

A. *A party may file a petition for declaratory ruling by the State Board on the interpretation of a public school law or regulation of the State Board that is material to an existing case or controversy.*

B. *The rules set forth in this chapter apply to a petition for declaratory ruling, as appropriate.*

[.05] .06 Standard of Review.

A.—G. (text unchanged)

[H. Library Personnel Dismissal. An employment dismissal decision of a board of library trustees shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the board of library trustees unless the decision is arbitrary, unreasonable, or illegal.]

.07 Hearing Procedures.

A. *Transfer to the Office of Administrative Hearings.*

(1) The State Board shall transfer an appeal to the Office of Administrative Hearings for review by an administrative law judge under the following circumstances:

[(1)] (a) — [(3)] (c) (text unchanged)

(2) *If a motion to dismiss is filed, the State Board may rule on the motion without first transferring the appeal to the Office of Administrative Hearings.*

B. (text unchanged)

C. *Additional Testimony or Documentary Evidence.*

(1) Additional testimony or documentary evidence may be introduced by either party *if the administrative law judge finds that the evidence is relevant and material and there were good reasons for the failure to offer the evidence in the proceedings before the local board*, but evidence that is unduly repetitious of that already contained in the record may be excluded by an administrative law judge.

(2) (text unchanged)

D.—E. (text unchanged)

F. *Exceptions.*

(1) A party objecting to the administrative law judge's proposed decision may file exceptions with the State Board within 15 days of [receipt of the findings] *the date of the proposed decision.*

(2) A party may respond [to the exceptions] within 15 days of [receipt of] *the date the exceptions were filed.*

(3) As appropriate, each party shall append to the party's exceptions or response to exceptions [filings] copies of the pages of the transcript that support the argument set forth in the party's exceptions or response to exceptions.

(4) (text unchanged)

(5) Oral argument before the State Board shall be limited to [15] 10 minutes per side. *The State Board at its sole discretion may shorten or lengthen the time period for oral argument.*

(6) *The rules set forth in Regulation .04D of this chapter apply to oral arguments on exceptions.*

.08 Hearing Record and Transcript.

A.—C. (text unchanged)

D. *The parties shall file a copy of the transcript with the State Board and the transcript shall be made a part of the record.*

.09 Final Decision.

A. (text unchanged)

B. *Except as otherwise provided in this chapter, the State Board shall decide an appeal on the record without a hearing or oral argument.*

[B.] C. A decision may not be rendered without the concurrence of a majority of the voting members then serving on the State Board. *If the Board cannot reach such concurrence, the local board's decision shall stand.*

[C.] D. The final decision shall be in writing and contain a factual background, legal analysis, and [legal] conclusion.

[D.] E.—[E.] F. (text unchanged)

.10 Reconsideration.

A. A party [aggrieved by the decision rendered in an appeal] may file a request for reconsideration of a *State Board decision* within 30 days [after] of the date of the decision [has been rendered].

B. The party requesting the reconsideration shall [serve] *send* copies of the request [on] to all other parties.

C. A response to a request for reconsideration may be filed within 15 days of the date [of service] *the request for reconsideration was filed.*

D. A decision on the request shall be made in the discretion of the State Board except that a decision may not be disturbed unless [there is sufficient indication in the request that]:

(1)—(2) (text unchanged)

E. The State Board may refuse to consider [facts] *any evidence* that the party could have [produced] *introduced* while the appeal was pending.

F.—G. (text unchanged)

.11 Appeal to Circuit Court.

A. Any party may appeal a decision to the circuit court of the jurisdiction [where the appellant resides] *in which the local board is located* within 30 days of the date of the decision of the State Board.

B. The appeal is governed by Maryland Rules [of Procedure 7-201 et seq. and 7-301] 7-201—7-210 or 7-401—7-403, *where appropriate*.

C. (text unchanged)

D. Because the State Board has reviewed and rendered a decision made in the first instance by a local school system official or a local board, the State Board may not participate as a party in an appeal [taken to the circuit court].

.12 Procedures Applicable to Requests to Remove a Local Board Member.

A. *Request to Issue Charges.* A request to issue charges against a local board member may be filed with the State Board by the local board or by a resident of the county in which the school system is located, if removal by the State Board is permitted by the statute governing removal of members of that local board.

B. *Content of the Request.*

(1) *The request to issue charges shall set forth in a detailed affidavit, with all supporting documentation, the factual basis to support a statutory ground for removal.*

(2) *Grounds for removal are those set forth by the statute governing removal of members of that local board and may include:*

(a) *Misconduct in office;*

(b) *Immorality;*

(c) *Incompetency;*

(d) *Willful neglect of duty; or*

(e) *Failure to attend a required number of scheduled board meetings.*

C. *Method of Submission.*

(1) *The request shall be filed with the State Board. Requests submitted by email will not be accepted.*

(2) *Repetitive, redundant, or duplicative submissions will not be accepted.*

(3) *The State Board may consolidate multiple requests for removal.*

D. *Time of Submission.* From the date the first request to issue charges was filed, the record shall remain open to file additional requests for 30 calendar days. The record shall close at the end of the 30-day period, unless the State Board extends that time period.

E. *Factual and Legal Sufficiency of the Request.*

(1) *The State Board shall assess the factual and legal sufficiency of the request to issue charges.*

(2) *In doing so, it shall notify the local board member of the request and may provide the local board member an opportunity to respond to the request to issue charges.*

(3) *A factually sufficient request shall:*

(a) *Be made by a person who has personal knowledge of the facts supporting the request and reason to believe in its truth; and*

(b) *State the act or acts complained of in concise language, with a detailed description of the date, location, and nature of each act.*

(4) *A legally sufficient request shall create a reasonable belief that the actions committed could constitute a ground for removal from office.*

(5) *The State Board shall dismiss a request that is not factually or legally sufficient, or otherwise fails to meet the requirements of this regulation.*

F. *Issuance of Charges.* If the State Board determines that the request to issue charges is factually and legally sufficient, it shall send a notice of the charges to the local board member who may file a request for a hearing within 10 days of the date the notice of charges was issued.

G. *Hearing.* If a hearing is requested, the State Board shall transfer the case to the Office of Administrative Hearings to schedule and conduct the hearing and issue a proposed decision on whether or not the local board member should be removed from office.

H. *Parties at the Hearing.*

(1) *If a local board has requested removal, it shall present the case for removal at the hearing through counsel.*

(2) *If a resident has requested removal, the resident shall present the case for removal through counsel or pro se.*

(3) *The local board member shall present the case against removal through counsel or pro se.*

I. *Proposed Decision.* The administrative law judge shall submit in writing to the State Board a proposed decision containing findings of fact, conclusions of law, and recommendations, and distribute a copy of the proposed decision to the parties.

J. *Hearing Record and Transcript.* The administrative law judge and the parties shall prepare a record and transcript as provided in Regulation .08 of this chapter.

K. *Exceptions and Oral Argument.*

(1) *A party objecting to the administrative law judge's proposed decision may file exceptions with the State Board within 15 days of the date of the proposed decision.*

(2) *A party may respond within 15 days of the date the exceptions were filed.*

(3) *As appropriate, each party shall append to the party's exceptions or response to exceptions copies of the pages of the transcript that support the argument set forth in the party's exceptions or response to exceptions.*

(4) *If exceptions are filed, each side shall have the opportunity for oral argument before the State Board before the State Board issues a final decision.*

(5) *Oral argument before the State Board shall be limited to 10 minutes per side. The State Board, upon request or at its sole discretion, may shorten or lengthen the time period for oral argument.*

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Subtitle 12 CERTIFICATION

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), and 6-701—6-706,
Annotated Code of Maryland

Notice of Proposed Action

[18-307-P]

The Maryland State Board of Education proposes to amend Regulation .05 under **COMAR 13A.12.01 General Provisions**. This action was considered at the July 24, 2018, meeting of the State Board of Education and at the September 13, 2018, meeting of the Professional Standards and Teacher Education Board. Also, at this time, the Maryland State Board of Education and the Professional Standards and Teacher Education Board are withdrawing the amendments to Regulation .05 under **COMAR 13A.12.01 General Provisions** that were proposed in 45:9 Md. R. 478 (April 27, 2018).

Statement of Purpose

The purpose of this action is to allow those individuals seeking certification in professional and technical education areas who do not hold a bachelor's degree to be exempt from the basic skills assessment requirement.

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 Sarah Spross, M.Ed., Assistant State Superintendent, Division of Educator Certification and Program Approval, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385 (TTY 410-333-6442), or email to sarah.spross@maryland.gov, or fax to 410-333-8963. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on January 22, 2019, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.05 General Requirements for Professional Certificates.

A.—C. (text unchanged)

D. Exceptions. An applicant who does not possess a bachelor's or higher degree for certification in a [career] *professional* and [technology] *technical* education area which does not require a bachelor's degree is [required to submit] *exempt from submitting* evidence of qualifying scores as established by the State Superintendent of Schools on the teacher certification tests approved by the State Board of Education.

E. (text unchanged)

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Subtitle 12 CERTIFICATION

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), and 6-701—6-706,
Annotated Code of Maryland

Notice of Proposed Action

[18-308-P]

The Maryland State Board of Education proposes to adopt new Regulation .08-1 under **COMAR 13A.12.01 General Provisions**. This action was considered at the July 24, 2018, meeting of the State Board of Education and at the September 13, 2018, meeting of the Professional Standards and Teacher Education Board. Also, at this time, the Maryland State Board of Education and the Professional Standards and Teacher Education Board are withdrawing the amendments to Regulation .05 under **COMAR 13A.12.01 General Provisions** that were proposed in 45:9 Md. R. 478—479 (April 27, 2018).

Statement of Purpose

The purpose of this action is to provide local education agencies the ability to request an adjunct certificate for individuals with highly specialized content expertise who are interested in teaching on a part-time basis.

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 Sarah Spross, M.Ed., Assistant State Superintendent, Division of Educator Certification and Program Approval, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385 (TTY 410-333-6442), or email to sarah.spross@maryland.gov, or fax to 410-333-8963. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on January 22, 2019, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.08-1 Adjunct Certificate.

A. *The Maryland State Department of Education may issue an adjunct certificate upon the request of a local school system superintendent or an education director of a nonpublic school approved under COMAR 13A.09.10.*

B. *The request for adjunct certification must include:*

(1) *The name and credentials of the individual;*

(2) *The course name and content to be taught; and*

(3) *An explanation as to why the position cannot be filled by a qualified certificate holder.*

C. *The adjunct certificate is nontransferable between local school systems.*

D. *A local school system may not employ an individual who holds an adjunct certificate as a full-time employee of the local school system.*

E. *An applicant for an adjunct certificate shall:*

- (1) *Hold a high school diploma or its equivalent;*
- (2) *Hold an industry license, when applicable for the profession; and*
- (3) *Have 5 years of satisfactory occupational experience in the field to be taught.*

F. An individual who is issued an adjunct certificate shall be provided with the following, by the employing local school system:

- (1) *A professionally certificated mentor;*
- (2) *Side-by-side coaching or co-teaching with a professionally certificated teacher;*
- (3) *A minimum of 45 hours of professional development, with 30 hours delivered prior to entry to the classroom and the remainder to be delivered throughout the school year; and*
- (4) *Evaluations of the individual's teaching effectiveness.*

G. The adjunct certificate issued in accordance with this regulation is valid for a 1-year period and may be renewed upon the request of the local school system.

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Title 14

INDEPENDENT AGENCIES

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.01 General Provisions

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

Notice of Proposed Action

[18-301-P]

The Maryland Health Benefit Exchange proposes to amend Regulation .02 under **COMAR 14.35.01 General Provisions**.

Statement of Purpose

The purpose of this action is to define vocabulary used in COMAR 14.35.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street Baltimore MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.gov, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

[(1)] "Administration" means the Maryland Insurance Administration.]

(1) "Advance payments of the premium tax credit" means payment of the federal tax credits authorized by 26 U.S.C. §36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a qualified health plan through the Exchange under §1412 of the Affordable Care Act.

(2) "Advanced Premium Tax Credit (APTC)" has the meaning stated in 45 CFR §155.20.

[(3)] "MCHP" means the Maryland Children's Health Program.]

(3) "Affordable Care Act (ACA)" means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended, including by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), and the regulations issued under it.

(4) "Authorized carrier" means a carrier that the Exchange certifies is authorized to offer a qualified plan in the Exchange under COMAR 14.35.15.

(5) "Board" has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(6) "Bronze coverage level" means the level of coverage described under §1302(d)(1)(A) of the ACA.

[(4)] (7) — [(5)] (8) (text unchanged)

(9) "Catastrophic plan" means a qualified health plan described in §1302(e) of the ACA.

(10) "Certification standard" means a process, procedure, requirement, or condition of participation in the Exchange under COMAR 14.35.15 or COMAR 14.35.16.

[(6)] (11) (text unchanged)

(12) *Cost Sharing,*

(a) "Cost sharing" means any expenditure required by or on behalf of an enrollee with respect to covered benefits.

(b) "Cost sharing" includes deductibles, coinsurance, copayments, or similar charges.

(c) "Cost sharing" does not include premiums, balance billing amounts for non-network providers, and spending for non-covered services.

[(7)] (13) "[Cost sharing] Cost-sharing reductions (CSR)" [has the meaning stated in 45 CFR §155.20] means reductions in cost sharing for an eligible individual enrolled in a silver level plan through the Exchange or for an individual who is an Indian enrolled in a QHP through the Exchange.

(14) "Coverage" means insurance through which benefits are provided.

[(8)] (15) (text unchanged)

(16) "Dependent" has the meaning stated in 26 CFR §54.9801-2 with respect to eligibility for coverage under an individual or SHOP QHP because of a relationship to a qualified individual or enrollee.

(17) "Eligibility determination" means a decision by the Exchange about an applicant's eligibility to enroll in a QHP or insurance affordability program or terminate a qualified individual's enrollment in a QHP or insurance affordability program.

(18) "Enrollee" means a qualified individual, or qualified employee, who is enrolled in a qualified plan through the Individual or SHOP Exchange.

(19) "Enrollment" means the qualified individual's coverage in a qualified plan, catastrophic plan, or insurance affordability program through the Exchange.

[(9)] (20) (text unchanged)

[(10)] (21) "Exchange annual training" means the yearly training administered to certified navigators, licensed navigators, application counselors, and authorized producers by the Exchange as part of its training program.

(22) “Gold coverage level” means the level of coverage described under §1302(d)(1)(C) of the ACA.

(23) “Grace period” means the period of time during which a carrier is prohibited from terminating an enrollee’s enrollment in a qualified plan, as specified in:

(a) Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, if the enrollee is receiving advanced premium tax credits;

(b) Insurance Article, §15-209, Annotated Code of Maryland, for insurers due to non-payment of premium;

(c) COMAR 31.10.25.04C, for non-profit health service plans;

(d) COMAR 31.12.07.05D, for HMOs;

(e) COMAR 31.12.04.05A, for dental plan organizations;

(f) COMAR 31.11.10.04I for insurers and non-profit health service plans offering small employer coverage in health benefit plans; or

(g) COMAR 31.12.07.04I, for HMOs offering small employer coverage in health benefit plans.

(24) “Health benefit plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(25) “HHS” means the federal Department of Health and Human Services.

[(11)](26) — [(17)](32) (text unchanged)

(33) “Limited cost sharing plan variation” means the cost-sharing reduction variation of a QHP described in 45 CFR §156.420(b)(2).

[(18)](34) (text unchanged)

[(19)](35) “Maryland Children’s Health Program (MCHP)” has the meaning stated in COMAR 10.09.43.02B[(22)].

(36) “Maryland Insurance Administration” means the insurance administration for the State established under Insurance Article, §2-101, Annotated Code of Maryland.

[(20)](37) (text unchanged)

(38) “Minimum essential coverage (MEC)” has the meaning stated in 26 USC §5000A(f) and the corresponding regulation under 26 CFR §1.5000A-2(a).

[(21)](39)—[(22)](40) (text unchanged)

(41) “Plain language” has the meaning stated in §1311(e)(3)(b) of the Affordable Care Act.

(42) “Plan variation” means a zero cost sharing plan variation, a limited cost sharing plan variation, or a silver plan variation.

(43) “Platinum coverage level” means the level of coverage described under §1302(d)(1)(D) of the ACA.

(44) “Product” has the meaning stated in 45 CFR §154.102.

(45) “Qualified dental plan (QDP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(46) “Qualified employee” means an employee who has been determined eligible to enroll in a qualified plan through the SHOP Exchange.

(47) “Qualified health plan (QHP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

[(23)](48) (text unchanged)

(49) “Qualified plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(50) “SHOP Exchange” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(51) “Silver coverage level” means the level of coverage described under §1302(d)(1)(B) of the ACA.

(52) “Silver plan variation” means any of the cost-sharing reduction plan variations of the standard silver QHP under 45 CFR §156.420(a).

(53) “Single, streamlined application form” means the eligibility application for Medicaid, MCHP, qualified health plan, stand-alone dental plan, APTC, or CSR through the Exchange.

(54) “Special enrollment period” means the period during which a qualified individual or enrollee, who experiences certain qualifying events may enroll in, or change enrollment in, a QHP through the Exchange outside of the annual open enrollment periods.

(55) “Stand-alone dental plan (SADP)” means a qualified dental plan that meets the requirements under 45 CFR §155.1065(a).

(56) “Zero cost sharing plan variation” means the cost-sharing reduction plan variation of a QHP under 45 CFR §156.420(b)(1).

MICHELE S. EBERLE

Executive Director

Maryland Health Benefit Exchange

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.07 Eligibility [and] Standards for Enrollment in a Qualified Health Plan, Eligibility Standards for APTC and CSR, and Eligibility Standards for Enrollment in a Catastrophic Qualified Health Plan in the Individual Exchange

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

Notice of Proposed Action

[18-306-P]

The Maryland Health Benefit Exchange proposes to repeal existing Regulation .01 and adopt new Regulations .01— .21 under COMAR 14.35.07 Eligibility Standards for Enrollment in a Qualified Health Plan, Eligibility Standards for APTC and CSR, and Eligibility Standards for Enrollment in a Catastrophic Qualified Health Plan in the Individual Exchange.

Statement of Purpose

The purpose of this action is to set forth the eligibility standards for enrollment in a qualified health plan and qualified health plans with advance payments of the premium tax credit and cost-sharing reductions in the Individual Exchange.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street, Baltimore, MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.gov, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Scope.

This chapter sets forth the eligibility standards for enrollment in a qualified health plan and qualified health plans with advance payments of the premium tax credit and cost-sharing reductions in the Individual Exchange. This chapter does not address the

verification of eligibility or redeterminations of eligibility for enrollment in the Individual Exchange or eligibility for enrollment in the SHOP Exchange. This chapter does not address eligibility and enrollment in qualified dental plans or qualified vision plans.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual who submits an application through the Individual Exchange for the individual and the individual's tax household, and is seeking eligibility for:

(a) Enrollment in a QHP through the Individual Exchange; or

(b) Enrollment in an insurance affordability program through the Individual Exchange.

(2) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272).

(3) "CSR plan for up to 150 percent FPL" means a QHP available through the Individual Exchange with an actuarial value of 94 percent plus or minus the de minimis variation for a silver plan variation.

(4) "CSR plan for 151–200 percent FPL" means a QHP available through the Individual Exchange with an actuarial value of 87 percent plus or minus the de minimis variation for a silver plan variation.

(5) "CSR plan for 201–250 percent FPL" means a QHP available through the Individual Exchange with an actuarial value of 73 percent plus or minus the de minimis variation for a silver plan variation.

(6) "Dependent," for the purposes of Regulations .12–.19 of this chapter, has the meaning stated in 26 CFR §54.9801-2 with respect to eligibility for coverage under an individual QHP because of a relationship to a qualified individual or enrollee.

(7) "Employer group health insurance coverage" means health coverage offered by an employer to an employee and the employee's dependents, if eligible, under:

(a) Government health coverage, such as the Federal Employees Health Benefit program;

(b) Health coverage offered in the small or large group market by an employer within a state; or

(c) Grandfathered health coverage offered by an employer in a group market.

(8) "Federal poverty level (FPL)" means the most recently published federal poverty level guidelines, updated periodically in the Federal Register by the Secretary of HHS as set forth in 42 U.S.C. §9902(2), as of the first day of the open enrollment period for QHPs offered through the Individual Exchange for a calendar year.

(9) Household income" has the meaning stated in §36B(d)(2) of the Internal Revenue Code.

(10) "Indian" means an individual who is a member of an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) "Institution" means:

(a) A medical institution under COMAR 10.09.24.02—.37; or

(b) A public institution under COMAR 10.09.24.02—.46.

(12) "Insurance affordability program" means a program that is one of the following:

(a) The Maryland State Medicaid Program;

(b) The Maryland Children's Health Insurance Program (CHIP), including the Maryland Children's Health Program (MCHP) Premium;

(c) A program that makes available to qualified individuals coverage in a QHP through the Individual Exchange with APTC credit under §1.36B(2)(c) of the Internal Revenue Code; and

(d) A program that makes available coverage in a QHP through the Individual Exchange with CSR under §1402 of the ACA.

(13) "Non-applicant" means an individual who is not seeking eligibility for enrollment in a QHP or an insurance affordability program through the Individual Exchange.

(14) "Qualifying eligible employer-sponsored plan" means a health benefit plan that meets the requirements set forth in 26 CFR §1.36B-2(c)(2)(i).

(15) "Rescission" means a cancellation or discontinuance of coverage that has retroactive effect.

(16) "Tax filer" means an individual or married couple who indicates that the tax filer expects:

(a) To file an income tax return for the benefit year, as set forth in 26 U.S.C. §§6011, 6012, and implementing regulations;

(b) If married, as set forth in 26 CFR §1.7703-1, to file a joint tax return for the benefit year, except if the spouse is a victim of domestic violence or spousal abandonment;

(c) To not be claimed as a tax dependent by any other taxpayer for the benefit year; and

(d) To claim a personal exemption deduction set forth in §151 of the Internal Revenue Code on the tax filer's return for one or more applicants, even if the tax filer is not an applicant.

.03 Applying for Coverage Through the Individual Exchange.

A. Individuals may apply to enroll in a QHP or an insurance affordability program through the Individual Exchange using the single, streamlined application form approved by the Individual Exchange.

B. An individual may submit the application:

(1) By telephone;

(2) On the Individual Exchange's internet website;

(3) Using in-person assistance, including with the provision of reasonable accommodations; or

(4) By mail.

C. An applicant shall provide the following information on the application:

(1) The applicant's and applicable dependents' Social Security numbers, provided that the applicant and applicable dependents have Social Security numbers;

(2) An authorization for the Exchange to verify attested information through electronic means;

(3) An election indicating whether the applicant is seeking an eligibility determination for enrollment in a QHP or insurance affordability program;

(4) If the applicant is applying for enrollment in a QHP, sufficient information to determine eligibility for enrollment in a QHP;

(5) If the applicant is applying for enrollment in an insurance affordability program, sufficient information to determine eligibility for enrollment in such insurance affordability program;

(6) If the applicant is applying for enrollment in an insurance affordability program as defined in Regulation .02B and the applicant files for an income tax return as a married couple, the applicant shall complete an attestation that the applicant intends to file a joint income tax return for the benefit year in which the individual is seeking coverage, except:

(a) If a spouse is the victim of domestic violence or spousal abandonment, the attestation may provide that the applicant intends

to file a single income tax return for the benefit year in which the individual is seeking coverage; or

(b) If the individual in a married couple qualifies to file as head of household, the attestation may provide that the applicant intends to file a single income tax return as head of household for the benefit year in which the individual is seeking coverage; and

(7) The applicant's signature, including either an electronic or telephonic signature, under penalties of perjury.

D. Non-applicant.

(1) A non-applicant who applies for insurance affordability programs on behalf of a member in the non-applicant's tax filing household shall provide the following information on the application:

(a) The non-applicant's name; and

(b) The non-applicant's Social Security number, if the applicant attests that the tax filer:

(i) Has a Social Security number; and

(ii) Filed a tax return for the year for which tax data would be used to verify the applicant's household income and family size.

(2) A non-applicant is required to provide the following information on the application if the only members of the individual's household seeking coverage are younger than 18 years old and are not emancipated minors:

(a) The non-applicant's name; and

(b) The non-applicant's address.

(3) Non-applicants are not required to provide information about the non-applicant's citizenship, status as a national, or immigration status.

E. An individual who applies for an insurance affordability program shall receive an eligibility determination for all of the insurance affordability programs.

F. An individual may submit an application to the Individual Exchange and receive an eligibility determination at any time during the year.

G. Incomplete Applications.

(1) If an individual submits an incomplete application, the Individual Exchange shall send the individual a notice under Regulation .04D of this chapter.

(2) The individual shall have 90 days to complete the application and receive an eligibility determination from the date the notice is sent to the individual under Regulation .04D of this chapter.

(3) If an individual does not complete and submit an application within the 90 days under §G(2) of this regulation, the Individual Exchange shall close the application and the individual shall begin a new application.

H. An individual shall complete and submit an application to enroll in coverage through the Exchange.

.04 Notice Requirements.

A. The Individual Exchange shall provide timely written notice to an applicant of any eligibility determination made under this chapter as set forth in 45 CFR §155.230 and a notification of the right to request a fair hearing as set forth in COMAR 14.35.11.04.

B. If an employee enrolls in a QHP with APTC or CSR, the Individual Exchange shall notify the employee's employer at the employer's address provided by the employee to the Individual Exchange that the employee has been determined eligible for APTC or CSR.

C. The notice under §B of this regulation shall:

(1) Identify the employee by including:

(a) The employee's name;

(b) The employee's date of birth;

(c) The last four digits of the employee's Social Security number, if available; and

(d) The employee's Individual Exchange identification number;

(2) Indicate that the employee has been determined eligible for APTC or CSR and has enrolled in a QHP;

(3) Indicate that if the employer has 50 or more full-time employees, the employer may be liable for the shared responsibility payment assessment set forth in §4980H of the Internal Revenue Code; and

(4) Notify the employer of the employer's right to appeal the determination to HHS.

D. The Exchange shall send a notice to an applicant who submits an application containing insufficient information for the Exchange to conduct an eligibility determination, which shall:

(1) Indicate that the information necessary to complete an eligibility determination is missing;

(2) Specify the missing information;

(3) Provide instructions on how to provide the missing information to the Individual Exchange; and

(4) Specify that the applicant shall have 90 days to provide the missing information to the Individual Exchange beginning by the date of the notice.

E. If the applicant or enrollee has designated an authorized representative under Regulation .20 of this chapter, the Individual Exchange shall provide:

(1) Information regarding the powers and duties of authorized representatives to both the applicant or enrollee and to the authorized representative; and

(2) Notices to the applicant or enrollee and to the authorized representative.

F. The Individual Exchange shall provide written notice electronically to the individual if:

(1) The individual elects to receive notices electronically;

(2) The individual is mailed confirmation of the individual's election to receive notices electronically;

(3) The individual is informed of the right to change the election;

(4) The Individual Exchange posts notices in the individual's online Individual Exchange account within 1 business day of generation of the electronic notice; and

(5) Within 1 business day of generating the electronic notice, the Individual Exchange alerts the individual, via email to the individual's verified email address, to the existence of the electronic notice in the individual's online Individual Exchange account.

G. If the electronic communication under §F(5) of this regulation fails to be sent to the individual, the Individual Exchange shall mail a written notice of the failed electronic communication to the individual's mailing address.

H. An individual may request a written copy of any electronic notice the individual receives from the Individual Exchange.

.05 Eligibility Requirements for Enrollment in a Qualified Health Plan Through the Individual Exchange.

A. An applicant shall be determined eligible for enrollment in a QHP through the Individual Exchange if the applicant is:

(1) A citizen or national of the United States, a non-citizen who is lawfully present in the United States, and reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought;

(2) A resident of the Individual Exchange service area; and

(3) Not incarcerated, other than incarceration pending the disposition of charges.

B. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in §A(1) of this regulation, or upon receipt of the applicant's

attestation that the applicant meets the criteria stated in §A(2) and (3) of this regulation.

C. For the purpose of determining eligibility for enrollment in a QHP under §A(1) of this regulation, “lawfully present” means a non-citizen individual as defined in 45 CFR §152.2.

.06 General Eligibility Requirements—Citizenship and Immigration Status.

For the purpose of determining eligibility for enrollment in a QHP under Regulation .05A(1) and (2) of this chapter, an individual shall be considered a citizen or national of the United States if the individual is:

- A. A citizen of the United States, including:
 - (1) An individual who was born in:
 - (a) One of the 50 states;
 - (b) The District of Columbia;
 - (c) Puerto Rico;
 - (d) Guam;
 - (e) The Northern Mariana Islands; or
 - (f) The U.S. Virgin Islands; or
 - (2) A child born outside of the United States if:
 - (a) The federal requirements, including the requirements in the Child Citizenship Act of 2000 (Public Law 106-395), are met for the child to automatically acquire United States citizenship upon the child’s lawful admission to the United States for permanent residence;
 - (b) At least one of the child’s natural or adoptive parents or stepparents is a United States citizen by birth or naturalization;
 - (c) The child is younger than 18 years old;
 - (d) The child resides in the United States in the legal and physical custody of the citizen or naturalized parent; and
 - (e) The child is a lawful permanent resident of the United States;
- B. A naturalized United States citizen; or
- C. A national from American Samoa or Swain’s Island.

.07 General Eligibility Requirements—Residency in Individual Exchange Service Area.

A. For the purpose of determining eligibility for enrollment in a QHP under Regulation .05(A)(2) of this chapter, an individual shall be considered a resident of the Exchange service area if:

- (1) An individual is 21 years old or older, is not living in an institution, is capable of indicating intent, and is not receiving an optional State supplementary payment and the individual lives in the Individual Exchange service area, including without a fixed address; or
- (2) An individual is younger than 21 years old, is not living in an institution, is not eligible for Medicaid based on receipt of assistance under Title IV-E of the Social Security Act, is not emancipated, is not receiving an optional State supplementary payment, and the individual either:
 - (a) Resides in the Exchange service area, including without a fixed address; or
 - (b) Resides with a parent or caretaker who resides in the service area of the Individual Exchange under §A(1) of this regulation.

B. For individuals not described in §A of this regulation, an individual shall be considered a resident of the Individual Exchange service area if the individual meets the State residency requirements set forth in COMAR 10.09.24.05-3.

C. If members of the tax household are not residents of the same Individual Exchange service area, the tax household may indicate any Individual Exchange service area for which one of the tax filers meets the regulation as the tax household’s residency.

D. If both spouses in a tax household enroll in a QHP through the same Individual Exchange, a tax dependent may only enroll in a

QHP through the Individual Exchange, or through a different health benefit exchange for which the dependent meets the residency standard.

E. The Individual Exchange may not deny or terminate an individual’s eligibility for enrollment in a QHP through the Individual Exchange if the individual meets the residency standard under this regulation but for a temporary absence from the service area of the Individual Exchange and the individual intends to return when the purpose of the absence has been accomplished.

F. The service area of the Individual Exchange is Maryland.

.08 Eligibility Requirements for Advance Payments of the Premium Tax Credit.

A. A tax filer shall be determined eligible for APTC if:

- (1) The tax filer attests to a household income, as defined in 26 CFR §1.36B-1(e), greater than or equal to 100 percent but not more than 400 percent of the FPL for the benefit year for which coverage is requested; and
- (2) One or more applicants for whom the tax filer attests to claiming a personal exemption deduction on the applicant’s federal tax return for the benefit year:
 - (a) Meet the requirements for eligibility for enrollment in a QHP through the Individual Exchange, as specified in Regulation .05 of this chapter; and
 - (b) Are not eligible for minimum essential coverage, with the exception of coverage in the individual market as set forth in 26 CFR §1.36B-2(a)(2) and (c).

B. A non-citizen tax filer who is lawfully present and ineligible for Medicaid or MCHP by reason of immigration status, and is not otherwise eligible for APTC, shall be eligible for APTC if:

- (1) The tax filer meets the requirements specified in §A(2) of this regulation;
- (2) The tax filer attests to household income of less than 100 percent of the FPL for the benefit year for which coverage is requested; and
- (3) One or more applicants for whom the tax filer attests to claiming a personal exemption deduction on the tax filer’s return for the benefit year is a non-citizen who is lawfully present and ineligible for Medicaid or MCHP by reason of immigration status.

C. A tax filer is eligible for APTC for another qualified individual only if one or more qualified individuals, for whom the tax filer attests that the tax filer expects to claim a personal exemption deduction for the benefit year, including the tax filer and the tax filer’s spouse, is enrolled in a QHP that is not a catastrophic plan through the Individual Exchange.

D. If one or more APTC amounts are to be made on behalf of a tax filer, or two tax filers covered by the same plan or plans, and individuals in the tax filers’ tax households are enrolled in more than one QHP, or stand-alone dental plan, then the APTC amounts shall be allocated as follows:

- (1) That portion of the APTC that is less than or equal to the aggregate adjusted monthly premiums, as set forth in 26 CFR §1.36B-3(e), and that is properly allocated to essential health benefits shall be allocated among the QHPs according to the premium level appropriate for each individual’s age-rating band premium; and
- (2) Any remaining APTC may be allocated to the essential health benefit portion of any stand-alone dental plans.

E. A tax filer may not be eligible for APTC if:

- (1) HHS notifies the Individual Exchange that APTC was made on behalf of the tax filer, or either spouse if the tax filer is a married couple, for a year for which tax data would be utilized for verification of household income and family size set forth in 45 CFR §155.320(c)(1)(i); and

(2) The tax filer or spouse did not file a federal income tax return and reconcile the APTC received for that year, or previous years.

F. APTC shall be calculated in accordance 26 CFR §1.36B-3.

G. To receive the APTC, the tax filer shall attest that:

(1) No other tax filer will claim the tax filer as a tax dependent for the benefit year; and

(2) The tax filer will claim a personal exemption deduction on the income tax return for the applicants identified as members of the tax filer's family, including the tax filer, who:

(a) Meet the requirements for eligibility for enrollment in a QHP through the Individual Exchange, under Regulation .05 of this chapter; and

(b) Are not eligible for minimum essential coverage elsewhere.

H. An enrollee may accept less than the full amount of the APTC for which the enrollee is determined eligible.

I. Effective Dates for Changes in Eligibility for APTC for Enrollees.

(1) Except as otherwise specified under this regulation, changes in eligibility for APTC determined by the Individual Exchange are effective the first day of the month following the date on which the determination is made.

(2) When an enrollee is determined newly eligible for Medicaid or MCHP, the enrollee shall be ineligible for APTC beginning the first of the month after the enrollee is determined newly eligible for Medicaid or MCHP.

(3) When an applicant or enrollee is eligible for a special enrollment period under Regulations .12—.19 of this chapter, the applicant or enrollee shall be in accordance with the applicable effective date specified for each special enrollment period under Regulations 12—.19 of this chapter.

(4) When an enrollee's enrollment is terminated by the enrollee as set forth in 45 CFR §155.430(b)(1) or terminated by the Exchange under 45 CFR §155.430(b)(2)(i) – (vii), the applicant or enrollee shall be in accordance with the applicable effective date of the termination set forth in 45 CFR §155.430(d).

J. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.

.09 Eligibility Requirements for Cost-Sharing Reductions.

A. An applicant shall be determined eligible for cost-sharing reductions if the applicant:

(1) Meets the requirements for eligibility for enrollment in a QHP through the Exchange under Regulation .05 of this chapter;

(2) Meets the requirements for APTC under Regulation .08 of this chapter; and

(3) Except as provided under §E of this regulation, attests to household income that does not exceed 250 percent of the FPL for the benefit year for which coverage is requested.

B. An applicant is eligible for:

(1) A CSR plan for up to 150 percent FPL for an individual who attests to household income greater than or equal to 100 percent of the FPL and less than or equal to 150 percent of the FPL for the benefit year for which coverage is requested, or, for an individual who is eligible for advance payments of the premium tax credit under Regulation .07B of this chapter, a household income less than 100 percent of the FPL for the benefit year for which coverage is requested;

(2) A CSR plan for 151—200 percent FPL for an individual who attests to household income greater than 150 percent of the FPL and less than or equal to 200 percent of the FPL for the benefit year for which coverage is requested;

(3) A CSR plan for 201—250 percent FPL for an individual who attests to household income greater than 200 percent of the FPL and less than or equal to 250 percent of the FPL for the benefit year for which coverage is requested; or

(4) Except as provided under §E of this regulation, any coverage level for an individual who attests to household income greater than 250 percent for the FPL for the benefit year for which coverage is requested.

C. To the extent that an enrollment in a QHP under a single policy covers two or more individuals who, if the individuals were to enroll in separate individual policies, would be eligible for different CSR plan variations, the individuals under the policy are collectively eligible only for the category of eligibility listed below for which all the individuals covered by the policy would be eligible:

(1) Individuals not eligible for changes to cost sharing;

(2) Individuals described in §E(2) of this regulation;

(3) Individuals described in §B(3) of this regulation;

(4) Individuals described in §B(2) of this regulation;

(5) Individuals described in §B(1) of this regulation; and

(6) Individuals described in §E(1) of this regulation.

D. Except as set forth in §E of this regulation, to receive cost-sharing reductions, an applicant shall enroll in a silver-plan variation of a QHP.

E. Special Cost-Sharing Rules for Indians.

(1) An applicant who is an Indian is eligible for the zero cost sharing plan variation of a QHP if the applicant:

(a) Meets the requirements for eligibility for enrollment in a QHP through the Individual Exchange pursuant to Regulation .05 of this chapter;

(b) Meets the requirements for APTC pursuant to Regulation .08 of this chapter; and

(c) Attests to household income, set forth in 26 CFR §1.36B-1(e) that does not exceed 300 percent of the FPL for the benefit year for which coverage is requested.

(2) An applicant who is an Indian and is enrolled in a QHP shall owe no cost-sharing under the plan for items or services furnished directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services.

F. Changes in enrollment in a plan with a CSR under this regulation are effective based on the effective dates under Regulation .08I of this chapter.

G. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.

.10 Eligibility Requirements for Enrollment in a Catastrophic Plan.

A. An applicant shall be determined eligible for enrollment through the Individual Exchange in a catastrophic plan if the applicant has met the requirements for eligibility for enrollment in a QHP through the Individual Exchange under Regulation .05 of this chapter and either:

(1) Is younger than 30 years old before the beginning of the plan year; or

(2) Has a certification in effect for any plan year that the applicant is exempt from the requirement to maintain minimum essential coverage set forth in §5000A of the Internal Revenue Code by reason of:

(a) §5000A(e)(1) of the Internal Revenue Code, regarding individuals without affordable coverage; or

(b) §5000A(e)(5) of the Internal Revenue Code, regarding individuals with hardships.

B. The certification described in §A(2) of this regulation may be provided by the U.S. Department of Health and Human Services or the Individual Exchange.

C. Changes in enrollment in a catastrophic plan under this regulation are effective based on the effective dates under Regulation .08I of this chapter.

D. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.

.11 Enrollment in a QHP or Insurance Affordability Program Through the Individual Exchange.

A. A qualified individual may enroll in a QHP or an insurance affordability program under Regulation .02B(12)(c) and .02B(12)(d) of this chapter, through the Individual Exchange only during:

(1) The annual open enrollment period of the Individual Exchange, or

(2) A special enrollment period for which the Individual Exchange has determined that the qualified individual is eligible.

B. The annual open enrollment period for the Individual Exchange shall be:

(1) For the benefit year beginning on January 1, 2019, November 1, 2018 through December 15, 2018; and

(2) For the benefit years beginning on January 1, 2020 and after, November 1 through December 15.

C. The Individual Exchange may modify or extend the annual open enrollment period each year with the approval of the Board of Trustees and consistent with 45 CFR §155.410.

D. Coverage selected during an open enrollment period shall:

(1) For the benefit year beginning on January 1, 2019, be effective on:

(a) January 1, 2019, for QHP selections received by the Individual Exchange on or before December 15, 2018; and

(b) January 1, 2019, or later as determined by the Board of Trustees, for QHP selections received by the Individual Exchange on or after December 16, 2018 and on or before December 31, 2018 if the Board of Trustees modifies or extends the annual open enrollment period under Regulation .11C of this chapter; and

(2) For the benefit year beginning on January 1, 2020, be effective on:

(a) January 1, 2020, for QHP selections received by the Individual Exchange on or before December 15, 2019; and

(b) January 1, 2020, or later, for QHP selections received by the Individual Exchange on or after December 16, 2019 and on or before December 31, 2019 if the Board of Trustees modifies or extends the annual open enrollment period under Regulation .11C of this chapter.

E. If an individual enrolls in a QHP, the Individual Exchange shall promptly and without undue delay transmit to the carrier of the QHP the information necessary to enable the QHP's carrier to enroll the qualified individual in the QHP selected by the qualified individual, including:

(1) The qualified individual's selected QHP;

(2) The qualified individual's eligibility or change in eligibility for APTC or a CSR plan, if applicable;

(3) Whether the carrier should apply, remove, or change the total amount of the qualified individual's APTC, if applicable;

(4) The dollar amount of the APTC, if any;

(5) The advance payment amount of the CSR plan, if any; and

(6) The effective date of the QHP enrollment.

F. Payment of First Month's Premium.

(1) A qualified individual shall pay the first month's premium to the carrier of the QHP to effectuate enrollment in the QHP when the individual has:

(a) Enrolled in a QHP after coverage from a previous enrollment in a QHP the individual had was terminated;

(b) Enrolled for the first time in a QHP in the Individual Exchange; or

(c) Enrolled in a QHP offered by a different carrier of the same holding company in the Individual Exchange.

(2) The first month's premium payment to effectuate prospective coverage for QHP selections made during an annual open enrollment period or during a special enrollment period under Regulations .13E(4), .18F(1), and .19C of this chapter shall be due on a uniformly applied date specified by the authorized carrier of the QHP that is no earlier than the coverage effective date but no later than 30 calendar days from the coverage effective date.

(3) Effective January 1, 2020, the first month's premium payment to effectuate prospective coverage for QHP selections made during an annual open enrollment period or during a special enrollment period described in Regulations .13E(4), .18F(1), and .19C of this chapter shall be due on a uniformly applied date specified by the authorized carrier of the QHP that is no earlier than the coverage effective date but no later than 30 calendar days from the coverage effective date.

(4) The first month's premium payment to effectuate prospective coverage for QHP selections made during a special enrollment period under Regulations .12E(1)–(3), .14E, .15D, .16C, .17D, and .18F(2) of this chapter shall be due on a date specified by the authorized carrier of the QHP and uniformly applied that is no earlier than the coverage effective date or no later than 30 calendar days from the date the carrier receives the enrollment transaction from the Exchange or the coverage effective date, whichever is later.

(5) Effective January 1, 2020, the first month's premium payment to effectuate prospective coverage for QHP selections made during a special enrollment period described in Regulations .11E, .12E(1)–(3), .13E, .14D, .15C, .16D and .18F(2) of this chapter shall be due on a uniformly applied date specified by the authorized carrier that is no earlier than the coverage effective date or no later than 30 calendar days from the date the carrier receives the enrollment transaction from the Individual Exchange or the coverage effective date, whichever is later.

(6) Payment to effectuate retroactive coverage shall include the premium due for all months of retroactive coverage and shall also include the full premium amount of the first prospective month of coverage.

(7) Payment to effectuate retroactive coverage for QHP selections made during a special enrollment period shall be due on a uniformly applied date specified by the authorized carrier that is no earlier than the coverage effective date and no later than 30 calendar days from the date the carrier receives the enrollment transaction from the Individual Exchange or the coverage effective date, whichever is later.

(8) Effective January 1, 2020, payment to effectuate retroactive coverage for QHP selections made during a special enrollment period under Regulations .13E(2) and (3), .14E, .15D, .16C, and .17D of this chapter shall be due on the first day of the first full prospective coverage month.

(9) An authorized carrier may choose to extend the premium due date under §E of this regulation if the carrier does so in a uniform and consistent manner for all similarly situated applicants.

G. Premium Payment Threshold Policy.

(1) An authorized carrier may establish a premium payment threshold policy.

(2) Under the premium payment threshold policy the authorized carrier may consider the individual or enrollee to have paid all amounts due if the enrollee pays an amount sufficient of the total premium owed equal to or greater than a level determined by the carrier.

(3) If an authorized carrier establishes a premium payment threshold policy, the authorized carrier shall:

(a) Determine a premium payment level that is reasonable; and

(b) Apply the premium payment level and the premium payment threshold policy in a uniform manner to all qualified individuals and enrollees.

(4) If a qualified individual satisfies the authorized carrier's premium payment threshold policy, the authorized carrier shall effectuate an enrollment based on payment of the initial premium payment under §E of this regulation;

(5) If an enrollee satisfies the authorized carrier's premium payment threshold policy, the authorized carrier may not:

(a) Trigger a grace period for non-payment of premium set forth in:

(i) Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, if the enrollee is receiving APTC; or

(ii) Insurance Article, §15-209, Annotated Code of Maryland (for insurers), COMAR 31.10.25.04C (for nonprofit health services plans), or COMAR 31.12.07.05D (for HMOs) if the enrollee is not receiving APTC; or

(b) Terminate the enrollment for non-payment of premium under 45 CFR §155.430(b)(2)(ii).

H. An authorized carrier shall accept and process an enrollment for a qualified individual that does not include a Social Security number.

I. The Individual Exchange shall maintain records of all enrollments through the Individual Exchange.

.12 Special Enrollment Periods—Loss of Minimum Essential Coverage or Termination of Other Specified Coverage Through the Individual Exchange.

A. A qualified individual and, when specified in this regulation, an enrollee, a qualified individual's dependent, or an enrollee's dependent are eligible for a special enrollment period for loss of minimum essential coverage or other specified coverage if:

(1) The qualified individual or the qualified individual's dependent loses minimum essential coverage;

(2) A qualified individual or a qualified individual's dependent was enrolled in coverage through a non-calendar year group health plan or individual health insurance coverage and the policy or plan year ends in the middle of the calendar year, even if the qualified individual or the qualified individual's dependent has the option to renew the coverage;

(3) A qualified individual or the qualified individual's dependent loses pregnancy-related coverage described in COMAR 10.09.24.03A(2) and 45 CFR §155.420(d)(1)(iii); or

(4) A qualified individual or the qualified individual's dependent loses the medically needy coverage under COMAR 10.09.24.03E.

B. A qualified individual and, when specified in this regulation, an enrollee, a qualified individual's dependent, or an enrollee's dependent are eligible for a special enrollment period for loss of minimum essential coverage or other specified coverage under circumstances including, but not limited to:

(1) The qualified individual or the qualified individual's dependent loses eligibility for qualifying eligible employer-sponsored minimum coverage that is not COBRA continuation coverage for reasons including:

(a) Legal separation;

(b) Divorce;

(c) Cessation of dependent status;

(d) Death of an employee;

(e) Termination of employment;

(f) Reduction in the number of hours of employment;

(g) The individual's coverage does not provide benefits to individuals who no longer reside, live, or work in a service area and the individual no longer resides, lives, or works in the service area;

(h) The individual incurs a claim that would meet or exceed a lifetime limit on all benefits;

(i) The individual's plan no longer offers any benefits to the class of similarly situated individuals that includes the individual;

(j) The employer terminates employer contributions to the individual's coverage; or

(k) The qualified individual or qualified individual's dependent, who is enrolled in an employer-sponsored plan, is determined newly eligible for APTC because the employer-sponsored plan is no longer considered minimum essential coverage set forth in 26 CFR §1.36B-2(c)(3), including as a result of the qualified individual's employer discontinuing or changing available coverage within the next 60 days, if the qualified individual or qualified individual's dependent is permitted by the employer and applicable federal laws to terminate enrollment in the employer-sponsored plan;

(2) A qualified individual or the qualified individual's dependent loses eligibility for employer-sponsored coverage that is COBRA continuation coverage or continuation coverage under State law because the individual exhausted COBRA continuation coverage or continuation coverage under State law; or

(3) An enrollee or an enrollee's dependent loses coverage in a QHP because the QHP is decertified.

C. Loss of minimum essential coverage does not include termination or loss due to:

(1) Failure to pay premiums on a timely basis, including failure to pay COBRA premiums prior to expiration of COBRA coverage;

(2) A change in eligibility status under 45 CFR §155.315(f)(5) because the individual does not meet the requirement specified under Regulation .05 of this chapter;

(3) An authorized carrier's valid rescission of coverage;

(4) A loss in coverage from a short-term limited duration insurance plan as stated in Insurance Article, §15-1301(s), Annotated Code of Maryland; or

(5) A loss in coverage from an association health plan as stated in Insurance Article, §15-1301(c), Annotated Code of Maryland that does not meet the definition for minimum essential coverage as stated in Insurance Article, §15-1301(p), Annotated Code of Maryland.

D. The date of loss of minimum essential coverage or other coverage is the date the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent:

(1) Loses eligibility for minimum essential coverage under the previous plan; or

(2) The coverage under §A(1)—(4) of this regulation terminates.

E. To be eligible for a special enrollment period under this regulation, a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent shall:

(1) Report the loss of minimum essential coverage or the termination of coverage or the termination of coverage under §A(1) and (3)—(7) of this regulation;

(2) select a QHP up to 60 days before or within 60 days after the loss of minimum essential coverage or the termination of coverage; and

(3) Provide documentary evidence from an employer, carrier, legal/court proceeding, public health coverage program, death certificate, or the qualified individual that, together, indicates the date of coverage loss and the qualified individuals losing coverage.

F. Enrollment in a QHP selected by a qualified individual, an enrollee, or a qualified individual's dependent during a special enrollment period for loss of minimum essential coverage or termination of coverage under §A(1)—(4) of this regulation shall be effective on:

(1) The first day of the month following the loss of minimum essential coverage or termination of coverage if the Individual

Exchange receives the QHP selection before the loss of minimum essential coverage or the coverage terminates; or

(2) The first day of the month after the Individual Exchange receives the QHP selection if the Individual Exchange receives the QHP selection after the loss of minimum essential coverage or the coverage terminates.

G. The eligibility for the special enrollment period under §A(4) of this regulation shall only be available once per calendar year for the qualified individual and the qualified individual's dependent.

.13 Special Enrollment Periods—Change in Family Status Through the Individual Exchange.

A. A qualified individual, an enrollee, a qualified individual's dependent, and an enrollee's dependent are eligible for a special enrollment period for change in family status if the qualified individual or enrollee gains a dependent or becomes a dependent through:

- (1) Marriage;
- (2) Birth;
- (3) Adoption;
- (4) Placement for adoption;
- (5) Placement in foster care;
- (6) A child support order; or
- (7) Other court order.

B. A qualified individual, an enrollee, a qualified individual's dependent, and an enrollee's dependent are eligible for a special enrollment period for change in family status if the qualified individual or enrollee loses a dependent or is no longer considered a dependent through:

- (1) Divorce;
- (2) Legal separation; or
- (3) Death.

C. Family status changes shall be determined in accordance with the law of the state where the change in family status occurred.

D. If eligible for a special enrollment period under this regulation, a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent shall select a QHP within 60 days of the change in family status under §§A and B of this regulation.

E. Enrollment in a QHP selected by a qualified individual, an enrollee, the qualified individual's dependent, or the enrollee's dependent during a special enrollment period under this regulation shall be effective:

- (1) For marriages, the first day of the month following the date that the Individual Exchange receives the QHP selection;
- (2) In the case of birth, adoption, placement for adoption, placement in foster care, or court order, on the date of birth, adoption, placement for adoption, placement in foster care, or effective date of court order;
- (3) In the case of death, the first day of the month following the date that the Individual Exchange receives the QHP selection; and
- (4) For divorces or legal separation:

(a) The first date of the following month for QHP selections received by the Individual Exchange between the first and the 15th day of the month; or

(b) The first day of the next following month for QHP selections received by the Individual Exchange between the 16th and the last day of a month.

.14 Special Enrollment Period—Error, Misrepresentation, or Inaction through the Individual Exchange.

A. Prior to January 1, 2020, a qualified individual or a qualified individual's dependent shall be eligible for the special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(4) occurs.

B. Effective January 1, 2020, as evaluated and determined by the Individual Exchange, a qualified individual or qualified individual's

dependent is eligible for a special enrollment period when the individual or dependent's enrollment or non-enrollment in a QHP is:

- (1) Unintentional, inadvertent, or erroneous; and
- (2) The result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Individual Exchange its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

C. Effective January 1, 2020, a qualified individual or a qualified individual's dependent shall notify the Individual Exchange of the alleged error, misrepresentation, or inaction by the later of:

- (1) 30 days of the alleged error, misrepresentation, or inaction; or
- (2) 30 days from when the qualified individual reasonably should have known about the alleged error, misrepresentation, or inaction.

D. Notification to the Individual Exchange under §C of this regulation shall be satisfied if the qualified individual or qualified individual's dependent provides notice:

- (1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and
- (2) Using any of the methods of communication listed under Regulation .03B of this chapter.

E. Effective January 1, 2020, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the qualified individual that the qualified individual or qualified individual's dependent provides notice.

F. The effective date of coverage for a qualified individual or the qualified individual's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §E of this regulation:

- (1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the error, misrepresentative, or inaction;
- (2) Shall be no earlier than the date the qualified individual's or qualified individual's dependent's coverage would have begun or continued but for the error, misrepresentation, or inaction; and
- (3) May be retroactive or prospective depending on the nature of the error, misrepresentation, or inaction.

.15 Special Enrollment Period—Misconduct Through the Individual Exchange.

A. Prior to January 1, 2020, a qualified individual or qualified individual's dependent is eligible for a special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(4) occurs.

B. Effective January 1, 2020, a qualified individual or qualified individual's dependent is eligible for a special enrollment period if:

(1) The Individual Exchange determines, in collaboration and coordination with the Maryland Insurance Administration that, as a result of misconduct on the part of the Individual Exchange, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities, the qualified individual or qualified individual's dependent:

- (a) Was not enrolled in a QHP;
- (b) Was not enrolled in the QHP selected by the qualified individual, enrollee, or dependent; or
- (c) Is eligible for, but is not receiving APTC or CSR; and

(2) The qualified individual or qualified individual's dependent notifies the Individual Exchange or the Maryland Insurance Administration of the alleged misconduct by the later of:

- (a) 30 days of the misconduct; or
- (b) 30 days of when the qualified individual reasonably should have known about the misconduct.

C. Misconduct under this regulation means the failure of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with applicable standards set forth in COMAR 14.35 or other applicable State or federal laws as determined by the Individual Exchange, or the Maryland Insurance Administration.

D. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the qualified individual or qualified individual's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker, or an Individual Exchange-certified consolidated service center representative; and

(2) Using any of the methods of communication listed under Regulation .03B of this chapter.

E. Notification to the Maryland Insurance Administration under §B(2) of this regulation shall be satisfied if the qualified individual or the qualified individual's dependent files a complaint with the Maryland Insurance Administration.

F. Effective January 1, 2020, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the qualified individual or the qualified individual's dependent that the qualified individual or the qualified individual's dependent is eligible for a special enrollment period under this regulation.

G. The effective date of coverage for a qualified individual or the qualified individual's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §F of this regulation.:

(1) Shall be determined by the Individual Exchange as appropriate based on the circumstances of the misconduct;

(2) Shall be no earlier than the date the qualified individual or dependent's coverage would have begun or continued, but for the misconduct; and

(3) May be retroactive or prospective depending on the nature of the misconduct.

H. The Individual Exchange's determination that an individual is eligible for a special enrollment period under this regulation may be made prior to the completion of the Maryland Insurance Administration's review of the alleged misconduct.

.16 Special Enrollment Period—Violation of Material Provision Through the Individual Exchange.

A. Prior to January 1, 2020, an enrollee or an enrollee's dependent shall be eligible for a special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(5) occurs.

B. Effective January 1, 2020, an enrollee or an enrollee's dependent is eligible for a special enrollment period if the enrollee or the enrollee's dependent:

(1) Demonstrates, as determined by the Individual Exchange in collaboration and coordination with the Maryland Insurance Administration, that the carrier of the QHP in which the enrollee or dependent is enrolled substantially violated a material provision of its contract in relation to the enrollee or the enrollee's dependent; and

(2) Notifies the Exchange or the Maryland Insurance Administration of the alleged violation by the later of:

(a) 30 days of the violation; or

(b) 30 days of when the enrollee or dependent reasonably should have known about the violation.

C. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the enrollee or the enrollee's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker, or an Individual Exchange-certified consolidated service center representative; and

(2) Using any of the methods of communication listed under Regulation .03B of this chapter.

D. Notification to the Maryland Insurance Administration under §B(2) of this regulation shall be satisfied if the enrollee or enrollee's dependent files a complaint with the Maryland Insurance Administration.

E. Effective January 1, 2020, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the enrollee or the enrollee's dependent that the enrollee or enrollee's dependent is eligible for a special enrollment period under this regulation.

F. The effective date of coverage for an enrollee or an enrollee's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §E of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the material violation;

(2) Shall be no earlier than the date the enrollee or enrollee's dependent's coverage would have begun or continued, but for the material violation; and

(3) May be retroactive or prospective depending on the nature of the material violation.

G. The Individual Exchange's determination that an individual is eligible for a special enrollment period under this regulation may be made prior to the completion of the Maryland Insurance Administration's review of the alleged violation of a material provision of the contract in relation to the enrollee or the enrollee's dependent.

.17 Special Enrollment Period—Exceptional Circumstances Through the Individual Exchange.

A. Prior to January 1, 2020, an individual, an enrollee or an enrollee's dependent is eligible for a special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(9) occurs.

B. Effective January 1, 2020, a qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent is eligible for a special enrollment period if:

(1) The Individual Exchange determines that, at the time of the qualified individual's, enrollee's, qualified individual's dependent's, or enrollee's dependent's application for coverage, the individual experienced exceptional circumstances that prevented the qualified individual, enrollee, qualified individual's dependent or the enrollee's dependent from enrolling during open enrollment or a special enrollment period, if the individual was determined eligible for the special enrollment period by the Individual Exchange; and

(2) The qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent notifies the Exchange within 30 calendar days of the exceptional circumstances.

C. The Exchange, at its discretion, may waive the 30-calendar-day reporting requirement under §B(2) of this regulation if the exceptional circumstance prevented the qualified individual from providing notice.

D. Exceptional circumstances may include, but are not limited to:

(1) A serious medical condition, such as an unexpected hospitalization or temporary cognitive disability;

(2) Domestic abuse or violence;

(3) Spousal abandonment;

(4) A natural disaster, such as an earthquake, a massive flooding, or a hurricane;

(5) A significant life event resulting in lack of access to the qualified individual's or enrollee's Individual Exchange application or account and the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent has experienced a change in situation or status that now requires that the qualified

individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent obtain minimum essential coverage; or

(6) Policy action that would result in a premium change of prospective coverage that would adversely impact the qualified individual and the qualified individual did not receive reasonable notice to act upon the material change.

E. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker, or an Individual Exchange-certified consolidated service center representative; and

(2) Using any of the methods of communication listed under Regulation .03B of this chapter.

F. The effective date of coverage for a qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §B of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the qualified individual's, the enrollee's, the qualified individual's dependent's, or the enrollee's dependent's exceptional circumstances;

(2) Shall be no earlier than the date the qualified individual's, the enrollee's, the qualified individual's dependent's, or the enrollee's dependent's coverage would have begun or continued, but for the exceptional circumstances; and

(3) May be retroactive or prospective dependent on the nature of the exceptional circumstance.

.18 Special Enrollment Period—Permanent Move.

A. A qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent is eligible for a special enrollment period if the qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent:

(1) Gains access to a new QHP as a result of a permanent move;

(2) Was enrolled in minimum essential coverage for one or more days in the 60 days prior to the move, unless the qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent:

(a) Lived in a foreign country or a United States territory for 1 or more days during the 60 days preceding the date of the move;

(b) Is moving from a state that did not expand Medicaid or MCHP eligibility set forth in §2001 of the ACA and the individual was not eligible for APTC or CSR in the individual's previous state of residence because the individual's household income was below 100 percent of the FPL; or

(c) Is leaving incarceration, except if the individual was incarcerated pending disposition; and

(3) Notifies the Individual Exchange within 60 days from the date of the permanent move that the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent has gained access to a new QHP as a result of that move.

B. A permanent move does not include:

(1) A short-term or temporary move where the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent does not intend to remain in the individual's new location; or

(2) A move solely for the purpose of obtaining medical treatment.

C. A qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent may select a qualified health plan

within 60 days of the date of the permanent move if the individual is otherwise eligible for the special enrollment period.

D. The effective date of coverage for a qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent who is determined eligible for the special enrollment period under this regulation and selects enrollment in a QHP during the special enrollment period under §C of this regulation shall be:

(a) The first day of the following month for QHP selections received by the Individual Exchange on or before the date of the permanent move;

(b) The first day of the following month for QHP selections received by the Individual Exchange after the date of the permanent move between the first and 15th day of a month; or

(c) The first day of the second following month for QHP selections received by the Individual Exchange after the date of the permanent move between the 16th and the last day of a month.

.19 Special Enrollment Period—Other.

A. An enrollee or an enrollee's dependent is eligible for a special enrollment period if the enrollee or enrollee's dependent is determined newly eligible or ineligible for APTC or has a change in eligibility for CSR. The effective date of coverage for enrollees determined eligible for a special enrollment period under this section is the first day of the month after the Individual Exchange receives the QHP selection.

B. A qualified individual who is an Indian, or becomes a dependent of an Indian, may enroll in a QHP or change from one QHP to another, no more than once per month.

C. A qualified individual or a qualified individual's dependent is eligible for a special enrollment period if the qualified individual or qualified individual's dependent who was not previously a U.S. citizen, a U.S. national, or lawfully present in the U.S. becomes a U.S. citizen, a U.S. national, or lawfully present in the U.S.

D. A qualified individual or a qualified individual's dependent is eligible for a special enrollment period if the qualified individual or qualified individual's dependent who was previously incarcerated becomes newly eligible for a QHP due to satisfying the requirements under 45 CFR §155.305(a)(2).

E. A qualified individual or qualified individual's dependent is eligible for a special enrollment period if the qualified individual receives a certificate of exemption under Regulation .20 of this chapter for a hardship based on the eligibility standards set forth in 45 CFR §155.605(d)(i)–(iii) for a month or months during the coverage year, and based on the circumstances of the hardship attested to, the qualified individual is no longer eligible for a hardship exemption within a coverage year but outside of an open enrollment period.

F. A qualified individual or a qualified individual's dependent is eligible for a special enrollment period if a qualified individual with a certificate of exemption under Regulation .20 of this chapter for a hardship based on the eligibility standards for an exemption, as set forth in 45 CFR §155.620(b), the change resulting from a redetermination is implemented, and the qualified individual or the qualified individual's dependent is no longer eligible for an exemption.

G. A qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent is eligible for a special enrollment period if the qualified individual or qualified individual's dependent experiences a change or triggering event not included in this regulation under 45 CFR §155.420.

H. A qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent has 60 days from the date of the change in circumstances creating eligibility for a special enrollment period under this regulation to notify the Individual Exchange of the change in circumstances and select a QHP.

I. The effective date of coverage for a qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent who is determined eligible for a special enrollment period under §§B—G of this regulation is:

(1) The first date of the following month for QHP selections received by the Individual Exchange between the first and the 15th day of the month; or

(2) The first day of the next following month for QHP selections received by the Individual Exchange between the 16th and the last day of a month.

.20 Exemptions.

A. As set forth in 45 CFR §155.625(b), the Individual Exchange has delegated administration of all exemption determinations for Maryland residents to HHS.

B. An applicant shall follow:

(1) The procedures specified by HHS to apply for an exemption set forth in 45 CFR Part 155, Subpart G; and

(2) The procedures specified by the Internal Revenue Service to apply for an exemption under 26 CFR §1.5000A-3.

C. The Individual Exchange may administer exemption determinations for Maryland residents.

D. If §C becomes effective, applicants shall follow the procedures specified by the Individual Exchange to apply for an exemption set forth in 26 CFR §1.5000A-3 and 45 CFR Part 155, Subpart G.

.21 Authorized Representative.

An applicant or enrollee in the Individual Exchange may designate an individual or an organization to act as the applicant or enrollee's representative as set forth in COMAR 14.35.11.14.

MICHELE S. EBERLE
Executive Director

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.14 [Eligibility Standards for Enrollment in Qualified Health Plans, Advance Payments of the Premium Tax Credit, and Cost-Sharing Reductions] Termination, Cancellation, and Rescission of Qualified Health Plan

Authority: Insurance Article, [§§31-106 and 31-108], §§31-106(c)(1)(iv) and 31-108(b)(1) and (6), Annotated Code of Maryland

Notice of Proposed Action

[18-303-P]

The Maryland Health Benefit Exchange proposes to repeal existing Regulations .01—.07 and adopt new Regulations .01—.10 under COMAR 14.35.14 Termination, Cancellation, and Rescission of Qualified Health Plan.

Statement of Purpose

The purpose of this action is to describe the events that may result in the termination, cancellation, or rescission of the enrollment of an individual enrolled in a QHP through the Individual Exchange.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street, Baltimore MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.gov, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Scope.

This chapter describes the events that may result in the termination, cancellation, or rescission of the enrollment of an individual enrolled in a QHP through the Individual Exchange.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Cancellation" means an action that ends a qualified individual's enrollment through the Exchange on the date such enrollment became effective resulting in enrollment through the Exchange never having been effective.

(2) "Product" has the meaning stated in Insurance Article, §15-1309(a)(3)(i), Annotated Code of Maryland.

(3) "Reinstatement" means a correction of an erroneous termination or cancellation action that results in restoration of an enrollment with no break in coverage.

(4) "Same QHP policy" means that one enrollee is enrolled under the same QHP contract as another enrollee.

(5) "Termination" means an action taken after a coverage effective date that ends an enrollee's enrollment through the Exchange for a date after the original coverage effective date resulting in a period during which the individual was enrolled in coverage through the Exchange.

.03 Terminations in General.

A. An enrollee who is the contract holder of a QHP who terminates enrollment in a QHP also terminates the enrollment of the other enrollees in the household.

B. Each enrollee, who is not the contract holder, may terminate enrollment in a QHP without affecting the enrollment status of the enrollee's household or each individual member of the enrollee's household other than the enrollee.

C. A carrier shall process a request from the contract holder of a QHP to terminate coverage under Regulation .04 of this chapter for all enrollees promptly and without undue delay.

D. A carrier shall process the Exchange's termination determination under Regulation .06 of this chapter promptly and without undue delay.

E. A carrier shall maintain records of termination of enrollment in a QHP in the format specified by the Exchange in an electronic data interchange format for a period of 10 years.

F. A carrier shall make reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act), including head-of-household and non-head-of-household enrollees, before terminating the individual's enrollment.

G. A carrier shall send an electronic transaction to the Exchange documenting, or acknowledging, each termination of coverage carried out under this chapter, promptly and without undue delay.

H. In cases of retroactive termination dates, the carrier shall accept the Exchange's adjusted calculations of APTC, and premiums and changes to the plan variation of the QHP.

I. A carrier shall confirm the termination of an enrollee's coverage with a notice provided to the contract holder indicating the enrollees affected by the termination and the effective date of the termination.

.04 Enrollee-Initiated Terminations—In General.

A. An enrollee may terminate the enrollee's coverage in a QHP at any time within a month for a termination effective at the end of the month.

B. An enrollee may request a termination of the enrollee's coverage in a QHP by providing notice to the Exchange or the enrollee's QHP carrier as follows:

(1) Enrollees seeking to terminate coverage for an enrollee or enrollees on a QHP shall provide notice to the Exchange; and

(2) Enrollees seeking to terminate coverage for the enrollee's household may notify either the Exchange or the QHP carrier.

C. Date of Terminations. If the enrollee provides notice to the Exchange or the carrier on any day within the month, the date of termination is the end of the month.

D. If an enrollee terminates coverage in one QHP because the enrollee elects enrollment in a different QHP, coverage in the original qualified health plan ends at midnight the day before the effective date of coverage in the enrollee's new QHP.

E. Death.

(1) In the case of a termination due to death, the last day of enrollment in a QHP through the Exchange is the date of death.

(2) Any applicable premium refund, or premium due, shall be processed by the deceased enrollee's QHP in accordance with State law.

(3) Notice of the enrollee's death may be provided to the Exchange or the deceased enrollee's QHP by:

(a) The policyholder under COMAR 31.10.01.02B(7), or subscriber under COMAR 31.12.02.02B(11), of the deceased enrollee's QHP;

(b) An enrollee who is 18 years or older and enrolled in the same QHP policy of the deceased enrollee; or

(c) The authorized representative of an enrollee under COMAR 14.35.11.14.

.05 Enrollee-Initiated Terminations—Due to Error, Misconduct, or Enrollment without Knowledge or Consent.

A. An enrollee may retroactively terminate the enrollee's coverage when:

(1) The enrollee attempted to terminate the enrollee's coverage and the enrollee experienced a technical error that did not allow the enrollee to terminate the enrollee's coverage;

(2) The enrollee's enrollment in a QHP through the Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(3) The enrollee was enrolled in a QHP without the enrollee's knowledge or consent by any third party, including third parties who have no connection with the Exchange.

B. Misconduct under §A(2) of this regulation means the failure of an officer, employee, or agent of the Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with applicable standards under COMAR 14.35.14 or other applicable State or federal laws as determined by the Exchange.

C. Except as specified in §D of this regulation, the enrollee shall request termination under §A of this regulation by notifying the Exchange of the request:

(1) Within 60 days of discovering the technical error under §A(1) of this regulation;

(2) Within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment under §A(2) of this regulation; or

(3) Within 60 days of discovering the enrollment under §A(3) of this regulation.

D. If the enrollee discovers an enrollment under §A of this regulation in the previous calendar year, the enrollee shall request termination under §A of this regulation by notifying the Exchange of the request by the end of March the calendar year immediately following the calendar year with the enrollment under §A of this regulation.

E. Notification to the Exchange under §§C and D of this regulation shall be satisfied if the enrollee provides notice:

(1) To an Exchange-certified navigator, an Exchange-authorized broker, or an Exchange-certified consolidated service center representative; and

(2) Using any of the methods of communication listed under COMAR 14.35.07.03B.

F. The effective date of the termination under §A of this regulation shall be:

(1) For a retroactive termination under §A(1) of this regulation, no later than the end of the month when the enrollee contacted the Exchange to request termination of the enrollee's enrollment through the Exchange; and

(2) For a retroactive termination under §A(2) or (3) of this regulation:

(a) The original coverage effective date; or

(b) A later date, as determined appropriate by the Exchange, based on the circumstances of the termination.

.06 Termination by the Exchange.

A. A carrier shall terminate an enrollee's coverage in a qualified health plan upon receiving an electronic data transaction from the Exchange directing that the enrollee's coverage be terminated.

B. The Exchange shall direct the carrier to terminate an enrollee's enrollment in a QHP if:

(1) The enrollee is no longer eligible for coverage in a QHP through the Exchange;

(2) The enrollee requests termination under Regulations .04 and .05 of this chapter;

(3) The enrollee's coverage is rescinded under 45 CFR §147.128;

(4) The QHP terminates or is decertified under 45 CFR §155.1080;

(5) The Exchange determines that:

(a) An enrollee was enrolled in a QHP without the enrollee's knowledge or consent by a third party, including by a third party with no connection with the Exchange; and

(b) Where possible, the Exchange has provided reasonable notice to the enrollee of the Exchange's determination;

(6) The enrollee changes from one QHP to another QHP during an annual open enrollment period under COMAR 14.35.07.11A(1) or a special enrollment period under COMAR 14.35.07.12—.19; and

(7) The enrollee moves outside of the service area under 45 CFR §155.430(b)(2)(vii) in reference to 45 CFR 147.106(b)(5).

C. If the enrollee becomes eligible for other minimum essential coverage but does not request termination in accordance with Regulation .04 of this chapter at the time of plan renewal, the

enrollee may choose to remain enrolled in a QHP without the provision of financial assistance through APTC or CSR payments.

D. If the enrollee does not choose to remain enrolled in the QHP through the Exchange when the enrollee becomes eligible for other minimum essential health coverage under §C of this regulation, the Exchange shall initiate termination of the enrollee's coverage upon completion of the redetermination process specified in 45 CFR §155.330.

E. Upon termination by the Exchange, the last day of coverage by a QHP is:

(1) The last day of the enrollee's eligibility, if the Exchange determines an enrollee to be no longer eligible for coverage in a QHP through the Individual Exchange;

(2) The last day of the coverage month in which coverage is rescinded, if the enrollee's coverage is rescinded in accordance with 45 CFR §147.128;

(3) The last day of the coverage month in which the QHP is terminated or decertified, if the QHP terminates or, as described in 45 CFR §155.1080, is decertified;

(4) The last day of the coverage month in which the enrollee is determined newly eligible for enrollment in Medicaid or MCHP, if the enrollee chooses to terminate the QHP;

(5) The day before the first day of enrollment in the new QHP if an enrollee terminates coverage in a previous QHP and selects a new QHP during an annual open enrollment period under COMAR 14.35.07.11A(1) or a special enrollment period under COMAR 14.35.07.12—19;

(6) The original coverage effective date for a cancellation under §B(5) of this regulation;

(7) The date of death, if the enrollee is terminated because of the enrollee's death; or

(8) The day before the change in the enrollee's circumstance if the enrollee is terminated because of a circumstance where the enrollee could not have prevented the disruption of the QHP enrollment.

.07 Termination by Carrier.

A. A carrier may only terminate an individual's coverage in a QHP before receiving an instruction from the Exchange to terminate coverage:

(1) If the enrollee requests termination of the enrollee's enrollment to the carrier, and the termination follows the procedures in Regulation .04 of this chapter;

(2) If the enrollee's coverage is rescinded under 45 CFR §147.128;

(3) If the carrier is decertified by the Exchange under COMAR 14.35.16.11;

(4) If the carrier ceases to offer the QHP that an enrollee is enrolled in through the Exchange under 45 CFR §147.106(b)(4) and the carrier follows the requirements under 45 CFR §147.106(c);

(5) If the carrier ceases to offer any QHPs through the Exchange under 45 CFR §147.106(b)(4) and the carrier follows the requirements under 45 CFR §147.106(d);

(6) If the enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in connection with the coverage under 45 CFR §147.106(b)(2); or

(7) For nonpayment of premiums as specified in §B of this regulation.

B. Termination for Nonpayment.

(1) A carrier may terminate coverage for nonpayment of premium if the enrollee has not made applicable premium payments and at the time the enrollee first fails to pay premiums:

(a) The enrollee is receiving APTC, and the 3-month grace period under Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, has been exhausted; or

(b) The enrollee is not receiving APTC and all other applicable grace periods under State law have been exhausted.

(2) A carrier may not terminate coverage for failure to make a premium payment if:

(a) Through a renewal of the plan under 45 CFR §155.335, the enrollee maintains coverage in the same QHP or same product that is a uniform modification of coverage under Insurance Article, §15-1309(a)(4), Annotated Code of Maryland; and

(b) The applicable grace period has not been exhausted under:

(i) Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland; or

(ii) Another applicable grace period under State law if the enrollee is not receiving APTC.

(3) The last day of coverage is:

(a) The last day of the first month of the 3-month grace period when terminating an individual after exhaustion of the 3-month grace period for individuals receiving APTC; and

(b) 31 days after the missed premium payment was due when terminating an individual after the exhaustion of any other applicable grace period.

.08 Cancellation.

A. An individual's enrollment in a QHP may be canceled only if:

(1) The enrollee requests voluntary cancellation of the enrollee's enrollment to the Exchange or the carrier under §C of this regulation;

(2) The enrollee's coverage is rescinded under 45 CFR §147.128; or

(3) The enrollee does not provide the first month's premium required to effectuate an enrollment by the due dates set forth at COMAR 14.35.07.11F.

B. To request cancellation of the individual's enrollment under §A of this regulation, the individual shall notify the Exchange or the carrier of the request to cancel before or on the last day of the month prior to the date the coverage begins.

C. An enrollee may retroactively cancel the enrollee's coverage if:

(1) The enrollee attempted to cancel the enrollee's coverage and the enrollee experienced a technical error that did not allow the enrollee to cancel the enrollee's coverage;

(2) The enrollee's enrollment in a QHP through the Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(3) The enrollee was enrolled in a QHP without the enrollee's knowledge or consent by any third party, including third parties who have no connection with the Exchange.

D. Misconduct under §C(2) of this regulation means the failure of an officer, employee, or agent of the Exchange or HHS, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with applicable standards under COMAR 14.35.14 or other applicable State or federal laws as determined by the Exchange.

E. Except as specified in §F of this regulation, the enrollee shall request cancellation under §C of this regulation by notifying the Exchange of the request:

(1) Within 60 days after the enrollee discovered the technical error under §C(1) of this regulation;

(2) Within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment under §C(2) of this regulation; or

(3) Within 60 days of discovering of the enrollment under §C(2) of this regulation.

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.15 Carrier Certification Standards

Authority: Insurance Article §§31-108, 31-115, and 31-116, Annotated Code of Maryland

Notice of Proposed Action

[18-304-P]

The Maryland Health Benefit Exchange proposes to adopt new Regulations .01—.11 under a new chapter, **COMAR 14.35.15 Carrier Certification Standards**.

Statement of Purpose

The purpose of this action is to set forth the standards a carrier shall meet to be certified as a carrier authorized to participate on the Maryland Health Benefit Exchange under Insurance Article, §31-115(b)(5), Annotated Code of Maryland, in the Individual and SHOP Exchanges.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street, Baltimore, MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.gov, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

F. If the enrollee discovers an enrollment under §C of this regulation in the previous calendar year, the enrollee shall request termination under §C of this regulation by notifying the Exchange of the request by the end of March in the calendar year immediately following the calendar year with the enrollment under §C of this regulation.

G. Notification to the Exchange under §§E and F of this regulation shall be satisfied if the enrollee provides notice:

(1) To an Exchange-certified navigator, an Exchange-authorized broker or an Exchange-certified consolidated service center representative; and

(2) Using any of the methods of communication listed under COMAR 14.35.07.03B.

H. The effective date of the cancellation under §C of this regulation shall be:

(1) For a retroactive cancellation under §C(1) or (2) of this regulation:

(a) The day before the original coverage effective date; or

(b) A later date, as determined appropriate by the Exchange, based on the circumstances of the cancellation; and

(2) For a retroactive cancellation under §C(3) of this regulation, the day before the original coverage effective date.

.09 Reinstatement.

A. An individual's enrollment shall be reinstated:

(1) If applicable, under QHP provisions required by COMAR 31.10.25.04;

(2) If the Exchange determines an error was made by the Exchange that led to an improper termination or cancellation;

(3) If the carrier determines an error was made by the carrier that led to an improper termination or cancellation; or

(4) If the Exchange is ordered to reinstate the enrollee by the Maryland Insurance Administration, Office of Administrative Hearings, or a State or federal court.

B. If the carrier erroneously terminates or cancels an enrollee's coverage, including if the coverage was terminated or canceled for non-payment of premiums, a carrier shall process a reinstatement transaction from the Exchange.

.10 Sanctions.

A carrier that fails to follow the requirements of this chapter may:

A. Be denied certification as an authorized carrier;

B. Be denied certification for a QHP offered for sale by the carrier on the Individual Exchange;

C. Have the carrier's certification suspended or revoked;

D. Have the certification for a QHP offered for sale by the carrier on the Exchange suspended or revoked; or

E. Be subject to other penalties under Insurance Article, §31-115(k), Annotated Code of Maryland, and COMAR 14.35.16.11.

MICHELE S. EBERLE

Executive Director

Maryland Health Benefit Exchange

.01 Scope.

This chapter describes the standards a carrier shall meet to be certified as a carrier authorized to participate on the Maryland Health Benefit Exchange under Insurance Article, §31-115(b)(5), Annotated Code of Maryland, in the Individual and SHOP Exchanges. This chapter does not apply to certification of Individual or SHOP Exchange qualified plans.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Active carrier business agreement" means the most recent version of the carrier business agreement provided by the Exchange, signed by the Exchange and the carrier, and on file with the Exchange.

(2) "Active non-exchange entity agreement" means the most recent version of the non-exchange entity agreement provided by the Exchange, signed by the Exchange and the carrier, and on file with the Exchange.

(3) "Authorized carrier" means a carrier that holds a current certification of authorization issued by the Exchange as set forth in Regulation .03 of this chapter.

(4) "Carrier business agreement" means the agreement between the Exchange and the carrier that contains terms and

conditions governing compliance with the Annotated Code of Maryland, Exchange policies, and State and federal regulations.

(5) "Carrier reference manual" means the document developed by the Exchange that provides business rules and operational instructions to authorized carriers participating on the Exchange.

(6) "Health maintenance organization (HMO)" has the meaning stated in Health-General Article, §19-701(g), Annotated Code of Maryland.

(7) "Member" means a qualified individual or qualified employee enrolled in a QHP with a particular authorized carrier through the Exchange.

(8) *Member Level Report.*

(a) "Member level report" means a report of the carrier's QHP member enrollment files with the Exchange at a specified time.

(b) "Member level report" includes:

(i) Information demonstrating the member enrolled through the Exchange;

(ii) The coverage effective date;

(iii) The coverage termination date, if applicable;

(iv) The termination reason, if applicable;

(v) The premium amount; and

(vi) The amount of advanced premium tax credits, if applicable.

(9) "Metal level" means a QHP at the bronze, silver, gold, or platinum coverage level.

(10) "Non-exchange entity agreement" means the agreement between the Exchange and the carrier that contains privacy and security provisions.

(11) "SERFF binder" means the portfolio of information that State laws and regulations require carriers to submit to the Exchange through SERFF.

(12) "System companion guide" means the document developed by the Exchange that provides instructions to authorized carriers to process enrollment information through electronic data transactions between the Exchange and the carrier.

(13) "System for Electronic Rate and Form Filing (SERFF)" means the online system the Exchange and the Administration use to accept, review, and approve carrier product and rate filings.

.03 Carrier Conditions for Participation and Certification—Generally.

A. In order to participate in the Exchanges, carriers must hold a current certificate of authorization issued by the Exchange.

B. To receive a certificate of authorization from the Exchange, carriers shall:

(1) Possess a certificate of authority to:

(a) Act as an insurer and engage in the business of health insurance under Insurance Article, Title 4, Subtitle 1, Annotated Code of Maryland;

(b) Operate a health maintenance organization under Health-General Article, §19-707, Annotated Code of Maryland;

(c) Operate as a dental plan organization under Insurance Article, Title 14, Subtitle 4, Annotated Code of Maryland; or

(d) Operate as a nonprofit health service plan under Insurance Article, Title 14, Subtitle 108, Annotated Code of Maryland;

(2) If offering health plans, demonstrate evidence that the carrier:

(a) Is accredited by the National Committee for Quality Assurance (NCQA) or the Utilization Review Accreditation Commission (URAC); and

(b) Meets data sharing requirements with the Exchange under the federal accreditation standard at 45 CFR §156.275(c)(5);

(3) Have a current active carrier business agreement in place, in the form designated by the Exchange;

(4) Have a current active non-Exchange entity agreement in place, in the form designated by the Exchange; and

(5) By submitting its application, agree that it will:

(a) Retain records related to participation in the Exchange for a period of 10 years after participation in the Exchange has ceased; and

(b) Allow reasonable inspection by the Exchange and, to the extent required by law, other governmental entities including HHS.

C. The carrier shall remain an authorized carrier until:

(1) The certificate of authorization expires;

(2) The Exchange suspends or revokes the authorized carrier's certification;

(3) The authorized carrier discontinues offering health benefit plans in the Exchange under Insurance Article, §§15-1212 and 15-1409, Annotated Code of Maryland; or

(4) The authorized carrier loses its certificate of authority to act as an insurer in the State of Maryland.

D. When an authorized carrier that offers one or more qualified plans in the Exchange merges into or is acquired by another entity and the merger or acquisition is approved by the Commissioner, the authorized carrier shall:

(1) Notify the Exchange of the change in a manner to be specified by the Exchange;

(2) Provide the legal name and Taxpayer Identification Number of the new entity and the effective date of the change at least 30 days prior to the effective date of the merger or acquisition;

(3) Be deemed to adhere to the requirements of this chapter for the remainder of the affected benefit year; and

(4) Complete any required modifications to interfaces with the Exchange without undue delay such that operations with the Exchange are not affected or interrupted.

.04 Application for Authorization.

A. Carriers shall submit an application to the Exchange each year, in the form specified by the Exchange, no later than the first business day of July of the year before the certification is effective.

B. An application will not be deemed complete until a carrier submits all of the required application elements under §A of this regulation.

C. The Exchange, within 45 days of receipt of a completed application, shall notify a carrier of the decision to approve or deny the application.

D. If the Exchange does not provide a carrier notice of a decision to approve or deny a carrier's application within 45 days of application submission, then the carrier may appeal to MHBE Board of Trustees through a written letter to request an expedited decision within 14 days of the appeal.

E. An application subject to an expedited decision under §D of this regulation shall be deemed denied by the Exchange if the appeal is not ruled upon by the Board within 14 days.

.05 Conditions for Participation—Authorized Carrier Conduct.

A. An authorized carrier may not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation in the administration of a qualified plan.

B. An authorized carrier shall offer insurance producer compensation for qualified plans offered through the Exchange equal to insurance producer compensation for qualified plans offered outside of the Exchange.

C. An authorized carrier shall comply with any applicable State laws and regulations regarding marketing by carriers, including:

(1) Any fair marketing standards developed jointly by the Exchange and the Commissioner under Insurance Article, §31-115(k)(2)(x), Annotated Code of Maryland;

(2) Insurance Article, §§27-202 — 27-205, Annotated Code of Maryland, for insurers, nonprofit health service plans, and dental plan organizations; and

(3) Health-General Article, §19-729, Annotated Code of Maryland, for health maintenance organizations.

D. An authorized carrier and its officials, employees, agents, and representatives:

(1) Shall comply with any applicable State laws and regulations regarding marketing by carriers; and

(2) May not employ marketing practices or benefit designs that will have the effect of discouraging the enrollment of individuals with significant health needs in qualified plans.

E. An authorized carrier shall allow all qualified individuals and qualified employees to enroll in qualified health plans during open enrollment periods designated by the Exchange for the Individual Exchange or the employer for the SHOP Exchange.

F. An authorized carrier shall allow qualified individuals and qualified employees determined eligible for special enrollment periods by the Exchange to enroll in qualified health plans outside the open enrollment periods.

G. An authorized carrier shall implement the effective dates of coverage for the Individual Exchange established by the Exchange in accordance with COMAR 14.35.07 and COMAR 14.35.14.14 as specified in enrollment information received from the Exchange.

H. An authorized carrier shall terminate an enrollee's coverage in the Individual Exchange only in those circumstances permitted by COMAR 14.35.14.

I. An authorized carrier shall process and acknowledge enrollment and eligibility information transmitted from the Exchange in accordance with Exchange standards detailed in the System Companion Guide.

J. An authorized carrier shall reconcile enrollment and eligibility information with the Exchange no less than once a month and upon request of the Exchange in a form and manner designated by the Exchange and detailed in the system companion guide.

K. An authorized carrier shall provide a member level report to the Exchange no less than once per month, upon request of the Exchange, and in a form and manner designated by the Exchange and detailed in the system companion guide.

L. An authorized carrier shall notify the Exchange 60 days in advance of a carrier system or data change that may affect the transmission or receipt of data from the Exchange to the carrier.

M. If an applicant initiates enrollment directly with the authorized carrier for enrollment through the Individual Exchange, the authorized carrier shall direct the individual to file an application through the Individual Exchange.

N. An authorized carrier shall accept and process an enrollment for a qualified individual or qualified employee that does not include a Social Security number.

.06 Conditions for Participation—Individual Exchange Premium Payment.

A. An authorized carrier shall follow the premium payment procedures and deadlines under COMAR 14.35.07.11F.

B. An authorized carrier may establish a premium payment threshold policy under COMAR 14.35.07.11G.

C. An authorized carrier may not use a payment made to effectuate coverage under COMAR 14.35.07.11F(1) to pay outstanding balances attributed to previously terminated coverage of the qualified individual.

D. An authorized carrier in the Individual Exchange shall calculate that the premium for coverage lasting less than 1 month equals the product of:

(1) The premium for 1 month of coverage divided by the number of days in the month; and

(2) The number of days for which coverage is being provided in the month.

E. An authorized carrier shall accept premium and cost-sharing payments from the following third-party entities:

(1) Ryan White HIV/AIDS Program under Title XXVI of the Public Health Service Act;

(2) Indian tribes, tribal organizations, or urban Indian organizations; and

(3) State and federal government programs.

F. Establishment of Standard Policies for Termination of QHPs Due to Non-payment of Premiums.

(1) An authorized carrier shall establish a standard policy for termination of enrollment of enrollees through the Exchange due to non-payment of premiums under COMAR 14.35.14.06B.

(2) The authorized carrier's standard policy shall:

(a) Include the grace period for enrollees receiving Advanced Premium Tax Credits set forth in Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland;

(b) Include the grace period for enrollees not receiving an Advanced Premium Tax Credit set forth in Insurance Article, §15-209, Annotated Code of Maryland, COMAR 31.10.25.04C, and COMAR 31.12.07.05D;

(c) Be applied uniformly to enrollees in similar circumstances;

(d) Specify whether the authorized carrier has a premium payment threshold policy under COMAR 14.35.07.11F; and

(e) If the carrier has a premium payment threshold policy, specify the authorized carrier's premium payment threshold policy.

G. Location of Premium Payment Information.

(1) An authorized carrier shall make information available to enrollees through an Internet link that is displayed prominently in the enrollee's authorized carrier's monthly premium payment billing notice.

(2) This information shall be available on:

(a) The authorized carrier's enrollee website;

(b) The authorized carrier's enrollee Internet portal; and

(c) Upon request by an enrollee.

.07 Conditions for Participation—Individual Exchange Carrier Notice Requirements.

A. An authorized carrier shall provide enrollees newly effectuating coverage an enrollment information package that is written in plain language and in a manner that is accessible to individuals living with disabilities and individuals who have limited English proficiency.

B. If an enrollee is delinquent on premium payment, the carrier shall provide the enrollee with notice of such payment delinquency.

C. If an authorized carrier terminates an enrollee's coverage or enrollment in a qualified plan through the Exchange in accordance with COMAR 14.35.14 and 45 CFR §155.430(b)(2)(i), (ii), or (iii), the authorized carrier shall, promptly and without undue delay provide the enrollee with a notice of termination that includes:

(1) The termination effective date; and

(2) The reason for termination.

D. An authorized carrier shall follow all other carrier notice requirements under Insurance Article, Titles 15 and 31, Annotated Code of Maryland, pertaining to the individual and small group Exchanges, and 45 CFR Parts 147, 154, 155, and 156.

.08 Requirements for Qualified Plans.

A. The authorized carrier shall offer in the Exchange only plans that the Exchange certifies as qualified plans under COMAR 14.35.16.

B. The authorized carrier shall ensure that each of its plans comply with the plan certification requirements in COMAR 14.35.16 on an ongoing basis.

C. An authorized carrier shall offer no more than four benefit designs per metal level in the Individual Exchange and four benefit designs per metal level in the SHOP Exchange.

D. An authorized carrier offering stand-alone dental plans shall offer no more than one benefit design at the same actuarial value per network type.

E. As set forth in Insurance Article, §31-115(b)(5), Annotated Code of Maryland, the authorized carrier:

(1) Shall offer in each Exchange, the Individual and the SHOP, in which the authorized carrier participates, at least one qualified health plan:

- (a) At a bronze coverage level;
- (b) At a silver coverage level; and
- (c) At a gold coverage level;

(2) If the authorized carrier participates in the Individual Exchange and offers any health benefit plan in the individual market outside the Exchange, shall offer at least one qualified health plan at the silver level and one at the gold level in the individual market outside the Exchange;

(3) Shall charge the same premium rate for the same qualified health plan regardless of whether the qualified health plan is offered through the Exchange, through an insurance producer outside the Exchange, or directly from a carrier;

(4) May not vary rates for a SHOP qualified employer during the employer's plan year; and

(5) Shall comply with the prohibition on cancellation fees and penalties for termination of coverage, as set forth in the Insurance Article, §31-108(d), Annotated Code of Maryland.

.09 Network Adequacy.

For each qualified plan that the authorized carrier seeks to offer for sale through the Individual Exchange or the SHOP Exchange, the authorized carrier shall:

A. Follow the Maryland Insurance Administration network adequacy and network reporting regulations set forth under COMAR 31.10.44 or COMAR 31.10.45;

B. Complete an attestation in the carrier application under Regulation .04 of this chapter indicating carrier compliance with COMAR 31.10.44 or COMAR 31.10.45; and

C. Submit a document providing consumers with information on the carrier's network that is suitable for publishing in qualified plan shopping in the Individual Exchange in a form and manner detailed by the Individual Exchange.

.10 Waiver Authority.

A. The Exchange, with the approval of the Exchange Board of Trustees, and for reasons solely within the discretion of the Exchange, may grant a waiver to a specific provision of the application for certification, with or without conditions.

B. A waiver may only be granted to the extent it does not conflict with the provisions of Insurance Article, Annotated Code of Maryland, or applicable federal and State law.

C. A carrier may submit a request for a waiver on a form developed by the Exchange.

D. Carriers who are newly seeking accreditation from outside entities and have not yet received such accreditation by the Exchange's application deadline should use the waiver process to seek waiver or modification of this condition.

E. The request shall state:

- (1) The provision from which a waiver is sought;
- (2) The reason the carrier is unable to comply with the provision; and
- (3) The reason that compliance with the provision will impose a substantial hardship.

F. The Exchange may grant a waiver if:

(1) The Exchange determines that compliance with the provision from which the waiver is sought cannot be accomplished without substantial hardship;

(2) The waiver will not conflict with applicable State and federal law; and

(3) The waiver is in the best interests of the State.

G. Final Written Decisions on Requests for Waivers.

(1) The Exchange shall issue a final written decision on a request for a waiver that is submitted under §A of this regulation within 45 days from receipt of the request and all supporting information for the waiver by the Exchange.

(2) If the Exchange grants a waiver, the decision shall include:

- (a) The duration of the waiver; and
- (b) Any conditions imposed by the Exchange.

(3) A request for a waiver may be denied if:

- (a) The Exchange determines that the conditions of §D of this regulation are not satisfied;
- (b) A waiver is not in the best interests of the State; or
- (c) The waiver will conflict with applicable State or federal laws.

(4) A denial may not be appealed.

(5) The Exchange shall notify the carrier of the decision by mail or electronically.

H. The Exchange may revoke a waiver if it appears that the reasons for granting the waiver have ceased to exist.

I. The Exchange's decision and the request for waiver shall be subject to public disclosure.

.11 Authorization Renewals.

A. The Exchange shall review the performance of authorized carriers on an annual basis.

B. Authorized carriers shall submit information in a form and manner required by the Exchange about Exchange-specific complaints and grievances, upon request.

MICHELE S. EBERLE

Executive Director

Maryland Health Benefit Exchange

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.16 Plan Certification Standards

Authority: Insurance Article, §§31-108, 31-115, and 31-116, Annotated Code of Maryland

Notice of Proposed Action

[18-305-P]

The Maryland Health Benefit Exchange proposes to adopt new Regulations .01— .12 under a new chapter, **COMAR 14.35.16 Plan Certification Standards**.

Statement of Purpose

The purpose of this action is to set forth the standards a qualified health plan shall meet in order to be certified as a QHP by the Maryland Health Benefit Exchange under Insurance Article, §31-115, Annotated Code of Maryland. This chapter addresses standards for QHP certification for the Individual and SHOP Exchanges. Standards for carrier certification for the Individual and SHOP Exchanges are addressed in COMAR 14.35.15.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street, Baltimore, MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.go, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Scope.

This chapter describes the standards a qualified health plan shall meet in order to be certified as a QHP by the Maryland Health Benefit Exchange under Insurance Article, §31-115, Annotated Code of Maryland. This chapter addresses standards for QHP certification for both the Individual and SHOP Exchanges, unless otherwise noted. Standards for carrier certification for the Exchange are addressed in COMAR 14.35.15. This chapter does not address plan certification standards for QDPs or QVPs.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Annual Letter to Issuers.

(a) "Annual Letter to Issuers" means a written communication, issued by the Exchange, which should be interpreted in the same manner as the Annual Letter to Issuers that is distributed by the federally facilitated Exchange.

(b) "Annual Letter to Issuers" includes instruction on how issuers shall meet compliance with QHP certification standards, establishes timelines on implementation, details Exchange expectations of issuer compliance with such certification standards, and alerts issuers of policy developments.

(2) "Essential community provider" means:

(a) An essential community provider as defined in 45 CFR §156.235(c);

(b) A local health department;

(c) An outpatient mental health center, as described in COMAR 10.21.20, or a substance use disorder treatment provider, as described in COMAR 10.09.80.03B(1) and (3), that is licensed or approved by the State Department of Health and Mental Hygiene as a program or facility; or

(d) A school-based health center.

(3) "Similarly situated" means alike in all relevant ways.

.03 Qualified Health Plan Certification—In General.

A. An authorized carrier shall apply for a certificate of authorization for each health benefit plan the carrier intends to offer on the Exchange.

B. The authorized carrier shall no longer offer a QHP on the Exchange, if:

(1) The plan's certification of authorization expires;

(2) The plan is decertified by the Exchange;

(3) The carrier elects to withdraw from the market with the Exchange, under 45 CFR §156.290; or

(4) The carrier elects not to offer or renew the QHP on the Exchange in accordance with Insurance Article, Annotated Code of Maryland.

C. With respect to per-member premium rating for family coverage offered through a QHP on the Exchange, a carrier shall cap the premium rating for non-spousal dependents at three non-spousal dependents under the age of 21 for all plans authorized for sale under this chapter.

.04 Qualified Health Plan Certification—Application.

A. Each authorized carrier shall annually submit an application, in a form specified by the Annual Letter to Issuers, for each health benefit plan intended to be certified as a QHP to be offered on the Exchange.

B. A carrier shall submit a completed application, including all required information and submissions under this regulation, to the Exchange.

C. The Exchange shall notify a carrier of the application status within 45 days of receipt of a completed application.

D. If an application is determined incomplete, the Exchange shall notify a carrier of the application status within 45 days of the initial submission.

E. Information Submission.

(1) An authorized carrier shall submit an initial submission containing the information required under §§E and F of this regulation and Regulations .04 — .10 of this chapter as part of the application under §B of this regulation and detailed through the Annual Letter to Issuers.

(2) If requested by the Exchange, an authorized carrier shall submit a supplement to its initial submission under §E(1) of this regulation.

F. In accordance with Insurance Article, §31-115(g)(2), Annotated Code of Maryland, upon request, an authorized carrier shall provide in its application a description of the health benefit plan, in plain language and in a form specified by the Annual Letter to Issuer, that includes:

(1) Claims payment policies and practices;

(2) Data on enrollment, disenrollment, number of claims denied (including in whole and in part), and rating practices, if applicable;

(3) Information on cost sharing and payments with respect to any out-of-network coverage; and

(4) Any other information as determined appropriate by the Exchange.

G. An authorized carrier shall provide in its application, in a form specified in the Annual Letter to Issuers, the following information about the health benefit plan:

(1) Plan, benefit, and cost sharing;

(2) Plan information for the renewal of QHP enrollment;

(3) Unified rate review template;

(4) Prescription drug cost sharing and formulary;

(5) Provider network;

(6) Service area, including justifications for partial county service areas;

(7) Rate and premiums;

(8) Actuarial information required to be submitted to the Exchange under 45 CFR §155.1030(b);

(9) Provider directory data as specified in Regulation .07 of this chapter;

(10) Summaries of benefits and coverage, under 45 CFR §147.200, for each cost-sharing reduction variation;

(11) Essential community providers contracted to participate within the health benefit plan's provider network; and

(12) Any other information the carrier would like to provide to the Exchange to supplement the application.

H. An authorized carrier shall comply with the rate and form review procedures, including review of compliance with essential health benefits requirements, established by the Commissioner.

I. Data and information submitted to the Exchange may be provided to the Commissioner, if requested, for consideration in the Commissioner's annual QHP rate and form review process.

J. The authorized carrier shall provide to the Exchange the rate justification forms filed with the Commissioner for each QHP certification application the authorized carrier submits to the Exchange.

.05 Qualified Health Plan Certification—Plan Service Areas.

A. As part of a QHP certification application, an authorized carrier shall submit:

(1) A description of the boundaries of the service area of any health benefit plan that is smaller than the State of Maryland; and

(2) For any service area smaller than the State of Maryland, an explanation of the reason for the smaller service area, including a justification that the boundaries are not designed to discriminate against individuals excluded from the health benefit plan's service area.

B. Carriers submitting a justification under §A(2) of this regulation are not required to submit a justification in subsequent years, after the initial justification submission, if there has been no change in the carrier's health benefit plan service areas.

C. After the initial data submission under Regulation .04E of this chapter, a change to a health benefit plan's service area shall be made only by petition to the Exchange and:

(1) Because the carrier cannot secure enough providers; or

(2) Because of an Exchange request to serve an unmet need.

D. After the final data submission under Regulation .04E of this chapter, a change to the health benefit plan's service area shall be permitted only if the change is an expansion of the health benefit plan's service area.

.06 Qualified Health Plan Certification—Provider Directories Specific to Individual Exchange.

A. An authorized carrier shall submit to the Individual Exchange the health benefit plan's provider directory information for each QHP's network.

B. Provider directory data shall include the requirements specified in Insurance Article, §15-112(n)(3), Annotated Code of Maryland, as well as be current, accurate, and complete.

C. Provider directory data may include:

(1) Program and community health center names;

(2) Providers' affiliations with certain facilities, programs, and centers; and

(3) Any other information that may assist consumers in searching for specific programs or centers by name.

D. Updated provider directory data requested in §B of this regulation shall be submitted in the format required by the Individual Exchange at least once every 15 calendar days.

.07 Qualified Health Plan Certification—Essential Community Providers.

A. For each health benefit plan that a carrier seeks to offer through the Exchange, the carrier shall make all good faith efforts to contract with at least 30 percent of available essential community providers in the plan's service area as part of each plan's provider network, except as specified in §C of this regulation.

B. Additional Essential Community Providers.

(1) Included with its application for certification and in the form provided by the Exchange, the carrier may write in additional essential community providers that are not included in the definition for essential community provider under Regulation .02B of this chapter.

(2) If available, the carrier shall include the following information when writing in additional essential community health providers:

(a) The provider's zip code reflecting a provider location within a low-income zip code or Health Professional Shortage Areas

included on the "Low-Income and Health Professional Shortage Area Zip Code Listing" from CMS;

(b) The provider's service street address, which may not be a Post Office Box number; and

(c) The National Provider Identifier (NPI) number, if the provider has such a number, or an alternate identification, such as a Tax Identification Number, if the provider does not have such a number.

(3) The authorized carrier shall provide information under this section as part of the application submitted under Regulation .04 of this chapter.

C. Carriers Who Are Unable to Meet Contracting Requirements.

(1) If the authorized carrier cannot meet the standard under this section, the authorized carrier may satisfy this requirement under the alternative standard.

(2) To meet the alternative standard, the authorized carrier shall provide a narrative explanation of the authorized carrier's justification that the carrier includes access to sufficient essential community providers within the health benefit plan's network.

(3) The narrative explanation shall describe the extent to which the authorized carrier's provider sites are accessible to, and have services that meet the needs of, specific underserved populations, including:

(a) Individuals with HIV/AIDS, including those with co-morbid behavioral health conditions;

(b) American Indians and Alaska Natives;

(c) Low-income and underserved individuals seeking women's health and reproductive health services; and

(d) Other specific populations served by essential community providers in the plan's service area.

(4) The narrative explanation shall demonstrate that low-income members receive appropriate access to care and satisfactory service, including performance on provider quality and patient satisfaction metrics, as specified in the Annual Letter to Issuers.

D. For each health benefit plan that a carrier seeks to offer through the Exchange, the carrier shall make all good faith efforts to contract with at least one available essential community provider of each essential community provider type, under §E of this regulation, in each county, or partial county, of the plan's service area as part of each plan's provider network.

E. Authorized carriers shall offer the same provider contract terms in good faith to the following essential community providers that a willing, similarly situated, non-essential community provider would accept or has accepted from the authorized carrier to the following provider types:

(1) All available Indian Health Care Providers in the plan's service area;

(2) Willing local health departments under Insurance Article, §15-112(b)(3)(iii), Annotated Code of Maryland, in the plan's service area; and

(3) For each county in the plan's service area, at least one provider from the following provider types, if such a provider is available and provides the medical or dental services, as applicable to plan type:

(a) A health care provider defined in §340B(a)(4) of the Public Health Services Act;

(b) An outpatient mental health center as described in COMAR 10.21.20;

(c) A substance use disorder treatment provider as described at COMAR 10.09.80.03B(1) and (3);

(d) A school based-health center;

(e) A health care provider described in §1927(c)(1)(D)(i)(IV) of the Social Security Act; and

(f) A State-owned, government-owned, or not-for-profit family planning services site that does not receive federal funding.

F. An authorized carrier shall submit verification of essential community provider contract offers to the Exchange upon request.

.08 Qualified Health Plan Certification—Network Adequacy.

A. Each health benefit plan shall meet the network adequacy standards stated in 45 CFR §156.230, Insurance Article, §15-112, Annotated Code of Maryland, and COMAR 31.10.44.

B. Each health benefit plan shall meet the provider panel sufficiency requirements under COMAR 31.10.34.04A.

.09 Qualified Health Plan Certification—Covered Prescription Drugs and Formularies.

A. An authorized carrier's application under Regulation .04A of this chapter shall identify drugs covered under the health benefit plan's medical benefit.

B. Drug Formulary List Location.

(1) An authorized carrier shall provide the Internet address for the drug formulary for each health plan with the application submitted for the health benefit plan to the Exchange under Regulation .04A of this chapter.

(2) The Internet address required under §B(1) of this regulation shall link directly to the health benefit plan's list of covered drugs without further navigation.

(3) The health benefit plan's list of covered drugs shall:

(a) Include plain language drug category information for each drug category;

(b) Include information on utilization management tools such as prior authorization, step therapy, quantity limitations, and generic substitutions; and

(c) Be up to date, accurate, and complete.

C. An authorized carrier may classify a covered drug as a preventative drug covered at zero cost and shall identify any drugs so covered in its formulary.

D. Drug Exception Process.

(1) An authorized carrier shall establish a drug exception process by which an enrollee can request access to a drug not on the plan's formulary list in standard situations, as required by Insurance Article, §15-831(c), Annotated Code of Maryland, and 45 CFR §156.122(c).

(2) A carrier shall notify the enrollee of its coverage decision no later than 72 hours after receipt of the request for exception.

E. A carrier shall follow the external review process established by the Administration for advice from an independent review organization for denied requests as described in COMAR 31.10.19.

F. A carrier shall establish a process for the emergency review of denials that is compliant with State and federal statute and regulation.

.10 Qualified Health Plan Certification—Waiver Authority.

The Exchange, with the approval of the Board, may grant a waiver to a specific provision of this chapter, with or without conditions, under the procedure in COMAR 14.35.15.10.

.11 Qualified Health Plan Denial, Suspension, and Revocation of Certification and Other Remedies.

A. If the Exchange determines that a carrier has failed to comply with this chapter, Insurance Article, Title 31, Annotated Code of Maryland, or any other federal or State laws or regulations applicable to carrier offerings in the Exchange that are not otherwise specified in Insurance Article, §31-115(k), Annotated Code of Maryland, the Exchange may initiate one or more of the following actions against the carrier:

(1) Deny certification for participation in the Exchange;

(2) Suspend the carrier's certification for participation in the Exchange;

(3) Revoke the carrier's certification for participation in the Exchange; or

(4) Another remedy defined under §D of this regulation.

B. Subject to the contested case hearing provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and the limitations stated in Insurance Article, §31-115(k), Annotated Code of Maryland, the Exchange may deny certification to a health benefit plan, or suspend or revoke the certification of a qualified health plan, based on a finding that the health benefit plan or qualified health plan does not satisfy requirements or has otherwise violated standards for certification that are established under this regulation and interim policies adopted by the Exchange, and not otherwise under the regulatory and enforcement authority of the Commissioner, including requirements and standards related, but not limited, to:

(1) Enrollment;

(2) Essential community providers;

(3) Complaints and grievances involving the Individual Exchange;

(4) Network adequacy;

(5) Quality;

(6) Transparency;

(7) Race, ethnicity, language, interpreter need, and cultural competency (RELICC);

(8) Plan service area, including demographics;

(9) Accreditation;

(10) Authorization of the plan's sponsoring carrier; and

(11) Fair marketing standards developed jointly by the Individual Exchange and the Commissioner.

C. Instead of or in addition to denying, suspending, or revoking plan certification, the Exchange may impose other remedies or take other actions, and to the extent not otherwise under the regulatory and enforcement authority of the Commissioner, including:

(1) Requiring a corrective action to remedy a violation of or failure to comply with standards for certification; and

(2) Imposing a penalty not exceeding \$5,000 for each violation of or failure to comply with standards for certification.

D. In determining the amount of a penalty under §C of this regulation, the Exchange shall consider:

(1) The type, severity, and duration of the violation;

(2) Whether the plan or carrier knew or should have known of the violation;

(3) The extent to which the plan or carrier has a history of violations; and

(4) Whether the plan or carrier corrected the violation as soon as they knew or should have known of the violation.

E. The penalties available to the Exchange under this regulation shall be in addition to any criminal or civil penalties imposed for fraud or other violation under any other State or federal law.

.12 Qualified Health Plan Certification—On-going Compliance with Qualified Health Plan Certification Standards.

A. The Exchange may conduct compliance reviews of a QHP during the plan benefit year.

B. The Exchange may require an authorized carrier to develop, submit for approval, and follow, as amended by the Exchange, a corrective action plan for compliance issues noted by the Exchange during its compliance review of a QHP.

MICHELE S. EBERLE

Executive Director

Maryland Health Benefit Exchange

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.17 State Reinsurance Program

Authority: Insurance Article, §31-117(f), Annotated Code of Maryland

Notice of Proposed Action

[18-302-P]

The Maryland Health Benefit Exchange proposes to adopt new Regulations .01—,09 under a new chapter, **COMAR 14.35.17 State Reinsurance Program**.

Statement of Purpose

The purpose of this action is to set forth the structure, implementation, and eligibility standards for the State Reinsurance Program, as required under Insurance Article, §31-117, Annotated Code of Maryland.

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 Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 E Pratt Street, Baltimore MD 21202, or call 410-547-6888, or email mhbe.publiccomments@maryland.gov, or fax to (410) 547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled

.01 Scope.

This chapter sets forth the structure, implementation, and eligibility standards for the State Reinsurance Program, as required under Insurance Article, §31-117, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Affordable Care Act (ACA)” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended, including by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), and the regulations issued under it.

(2) “Annual Letter to Issuers” means a written communication, issued by the Individual and SHOP Exchange, that:

(a) Provides guidance on how the Exchange will interpret laws and regulations, issues reminders regarding requirements of and compliance with relevant laws and regulations, and provides notification of policy developments; and

(b) Instructs issuers on how to meet compliance with QHP certification standards, establishes timelines on implementation, and details Exchange expectations of issuer compliance with such certification standards.

(3) “Attachment point” means the threshold dollar amount for claims costs incurred by a health insurance carrier for an enrolled individual’s covered benefits in a benefit year, after which threshold the claims costs for such benefits are eligible for reinsurance payments.

(4) “Benefit year” means a calendar year for which a health plan provides coverage for health benefits.

(5) “Board” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(6) “Carrier business agreement” means the annual agreement between the Exchange and the carrier that contains terms and conditions governing compliance with the Annotated Code of Maryland, and State and federal regulations.

(7) “Carrier Reference Manual” means the document developed by the Exchange that provides business rules and operational instructions to authorized carriers participating on the Individual and SHOP Exchange.

(8) “Carrier-specific adjustment factors” means a set of coefficients that modify payments under the State Reinsurance Program and that replicate the modified payments that would occur by applying the Dampening Factor to the Federal Risk Adjustment Program.

(9) “Claims-to-premium ratio” means the resulting ratio produced by dividing total claims incurred (less State Reinsurance Program payments, federal risk adjustment payments, and federal high risk pool reinsurance payments) by the premium amount collected for a reinsurance-eligible plan.

(10) “Coinsurance rate” means the rate at which the applicable reinsurance entity will reimburse the health insurance issuer for claims costs incurred for an enrolled individual’s covered benefits in a benefit year after the attachment point and before the reinsurance cap.

(11) “Dampening factor” means a coefficient that modifies payments under the State Reinsurance Program to account for RA/RI program interaction to the extent that the claims-to-premium ratio between payers and receivers under the risk adjustment is normalized.

(12) “Individual Exchange” has the meaning stated in Insurance Article, §31-101(h), Annotated Code of Maryland.

(13) Payment Parameters.

(a) “Payment parameters” means the attachment point, coinsurance rate, and reinsurance cap for reinsurance payments.

(b) “Payment parameters” includes a dampening factor, if determined appropriate by the Board.

(14) “Qualified health plan (QHP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(15) “RA/RI program interaction” refers to payments received by a carrier for the enrolled population whose risk and claims experience would be eligible for payments under both the Federal Risk Adjustment Program and the State Reinsurance Program, such that the resulting full payment would result in a normalized claims-to-premium ratio, for the enrolled population identified in this definition, that is less than one.

(16) “Reinsurance cap” means the threshold dollar amount for total claims costs paid by a health insurance issuer for an enrolled individual’s covered benefits, after which, the claims costs for such benefits are no longer eligible for reinsurance payments.

(17) “Reinsurance-eligible plan” means any health benefit plan offered in the individual market, except for the limitations and exceptions provided in Regulation .03 of this chapter.

(18) “Risk adjustment covered plan” means, for the purpose of the risk adjustment program, any health insurance coverage offered in the individual or small group market with the exception of grandfathered health plans, group health insurance coverage described in 45 CFR §146.145(c), individual health insurance coverage described in 45 CFR §148.220, and any plan determined not to be a risk adjustment covered plan in the applicable federally certified risk adjustment methodology.

(19) “Section 1332 State Innovation Waiver” means the waiver for state innovation filed by the State of Maryland, pursuant to 42 U.S. Code §18052.

(20) “State Reinsurance Program” means the market stabilization program identified in Insurance Article, §31-117, Annotated Code of Maryland.

.03 Eligibility for Receipt of Reinsurance Payments.

A. Except as provided in §B of this regulation, a qualified health plan is eligible to receive reinsurance payments from the State Reinsurance Program, provided that the qualified health plan is offered by a carrier that:

(1) Is authorized to offer individual non-Medigap health benefit plans in Maryland;

(2) Complies with the assessment under Insurance Article, §6-102.1, Annotated Code of Maryland; and

(3) Meets all obligations set forth in the Carrier Business Agreement.

B. The following health benefit plans are not eligible to receive reinsurance payments:

(1) Grandfathered health benefit plans as defined in §1251 of the Affordable Care Act;

(2) Health benefit plans that are not required to submit reinsurance contributions under Insurance Article, §6-102.1, Annotated Code of Maryland;

(3) Group health insurance plans, including but not limited to those identified in Insurance Article, §15-1202, Annotated Code of Maryland;

(4) Short-term, limited duration insurance plans, including but not limited to those identified in Insurance Article, §15-1301, Annotated Code of Maryland; and

(5) Association health plans, including but not limited to those offered by associations identified in Insurance Article, §15-1301, Annotated Code of Maryland.

C. Carrier State Reinsurance Program Accountability Report. For each year a carrier which offers a reinsurance-eligible plan participates in the State Reinsurance Program, the carrier shall submit to the Board a report on a date no later than that provided in the Annual Letter to Issuers, to be made publically available on the Individual Exchange website upon review of the Board, detailing carrier action to manage the costs and utilization of enrollees whose claims are reimbursable under the State Reinsurance Program. At minimum, the report shall include information related to the following:

(1) The initiatives and programs the carrier administers to manage cost and utilization of enrollees whose claims are reimbursable under the State Reinsurance Program in a narrative summary format;

(2) The total population of enrollees whose claims are reimbursable under the State Reinsurance Program, the allocation of these enrollees across each of the initiatives and programs identified in §C(1) of this regulation, and the allocation of these enrollees who do not participate in the initiatives and programs identified in §C(1) of this regulation;

(3) The effectiveness of the initiatives and programs identified in §C(1) of this regulation as measured by the estimated reduction of claims and utilization by the enrollees identified in §C(1) of this regulation;

(4) The actions the carrier will take to improve on the effectiveness estimates identified in §C(3) of this regulation;

(5) The estimated savings to the State Reinsurance Program based upon the effectiveness identified in §C(3) of this regulation;

(6) The estimated rate impact of the initiatives and programs identified in §C(1) of this regulation;

(7) The methodology utilized to determine which programs to include in §C(1) of this regulation, estimated effectiveness in §C(3) of this regulation, and estimated savings to the State Reinsurance Program in §C(5) of this regulation; and

(8) Population health initiatives and outcomes for Individual Exchange enrollment.

.04 Calculation of Reinsurance Payments Under the State Reinsurance Program.

A. A carrier of a reinsurance-eligible plan, as provided for in Regulation .03 of this chapter, becomes eligible for reinsurance payments from the State Reinsurance Program when its claims costs for individual enrollees’ covered benefits in a benefit year exceed the attachment point established under the process identified in §B of this regulation.

B. Each year the Board shall set the payment parameters for the State Reinsurance Program by determining the following factors:

(1) An attachment point;

(2) A coinsurance rate;

(3) A reinsurance cap; and

(4) A market-level dampening factor provided by the Commissioner, if determined necessary by the Board.

C. For each benefit year after 2019, the Board shall set the estimated payment parameters for the State Reinsurance Program on or before April 1 of the calendar year proceeding the applicable plan year.

D. For each benefit year after 2019, the Board shall set the final payment parameters for the State Reinsurance Program before December 31 of the calendar year proceeding the applicable plan year.

E. The Exchange shall calculate each reinsurance payment made from the State Reinsurance Program as the product of the coinsurance rate multiplied by the carrier’s claims costs for an individual enrollee’s covered benefits that the carrier incurs in the applicable benefit year between the attachment point and reinsurance cap. The Exchange shall apply the carrier-specific adjustment factor provided in §B(4) of this regulation to the product calculated above to determine the adjusted reinsurance payment.

F. If the Individual Exchange determines that all reinsurance payments requested under the State Reinsurance Program by reinsurance-eligible plans in the State for a benefit year will not be equal to the amount of funding allocated to the State Reinsurance Program, the Individual Exchange shall determine a uniform pro rata adjustment to be applied to all such requests for reinsurance payments in the State.

.05 Data Collection and Maintenance for Reinsurance Payments.

A. The carriers of reinsurance-eligible plans shall submit to the Exchange data required to determine reinsurance payments as described in Regulation .06 of this chapter, or shall provide access to such data, according to the data requirements specified by the Exchange in the Annual Letter to Issuers.

B. The Individual Exchange shall establish a process through which an issuer of a reinsurance-eligible plan that does not generate individual enrollee claims in the normal course of business may use estimated claims costs to make a request for payment, or to submit data to be considered for reinsurance payments, in accordance with the requirements of Regulation .09 of this chapter. The State shall ensure that such requests for reinsurance payment, or a subset of such requests, are subject to validation.

C. The Individual Exchange shall maintain documents and records relating to the State Reinsurance Program, whether paper, electronic, or in other media, for each benefit year for at least 10 years. The documents and records shall be sufficient to enable the evaluation of the State Reinsurance Program’s compliance with federal standards.

D. The Individual Exchange shall ensure that the collection of personally identifiable information is limited to information reasonably necessary for use in the calculation of reinsurance payments. Any use and disclosure of personally identifiable information shall be limited to those purposes for which the personally identifiable information was collected, including for purposes of data validation.

E. The Individual Exchange shall maintain standards that provide administrative, physical, and technical safeguards for the personally identifiable information consistent with applicable State and federal standards.

.06 Disbursement of Reinsurance Payments.

A. The Individual Exchange shall make reinsurance payments to the carrier of a reinsurance-eligible plan after it receives a valid claim for payment from that carrier in accordance with the processes established in Regulation .07 of this chapter.

B. For each applicable benefit year, the Individual Exchange shall:

(1) Notify carriers annually of reinsurance payments under the State Reinsurance Program payment parameters to be made for the applicable benefit year no later than September 30 of the year following the applicable benefit year; and

(2) Provide to each issuer of a reinsurance-eligible plan the calculation of total reinsurance payment requests made under the State Reinsurance Program payment parameters.

.07 Request for Reinsurance Payment.

A. A carrier may make a request for payment when a carrier's claims costs for an enrollee of a reinsurance-eligible plan has met the criteria for reinsurance payment set forth by the Board for the applicable benefit year.

B. A carrier of a reinsurance-eligible plan shall make requests for payment in accordance with the requirements of the Annual Letter to Issuers for the applicable benefit year.

.08 Document Retention and Audits.

A. A carrier of a reinsurance-eligible plan shall maintain documents and records, whether paper, electronic, or in other media, sufficient to substantiate the requests for reinsurance payments made pursuant to Regulation .07 of this chapter for a period of at least 10 years and shall make those documents and records available upon request by the Board or the Individual Exchange or its designee to any such entity for purposes of verification, investigation, audit, or other review of reinsurance payment requests.

B. The Individual Exchange may audit a carrier of a reinsurance-eligible plan to assess its compliance with the requirements of this chapter. The issuer shall ensure that its relevant contractors, subcontractors, or agents cooperate with any audit under this section. If an audit results in a finding of material weakness or significant deficiency with respect to compliance with any requirement of these regulations, the carrier shall complete all of the following:

(1) Within 30 calendar days of the issuance of the final audit report, provide a written corrective action plan to the Exchange for approval;

(2) Implement the corrective action plan; and

(3) Provide to the Exchange written documentation of the corrective actions once taken.

.09 State Reinsurance Program Surplus.

For the Benefit Year 2019 and after, the Individual Exchange shall reserve any surplus, after all reinsurance payments have been remitted, for claims in future years of the State Reinsurance Program.

MICHELE S. EBERLE
Executive Director
Maryland Health Benefit Exchange

Title 22

STATE RETIREMENT AND PENSION SYSTEM

Subtitle 01 GENERAL REGULATIONS

22.01.01 [Terminology] *Definitions and General Provisions*

Authority: State Personnel and Pensions Article, §§21-108 and 21-110,
Annotated Code of Maryland

Notice of Proposed Action

[18-293-P]

The Board of Trustees of the State Retirement and Pension System proposes to amend Regulations .01 and .02 under **COMAR 22.01.01 Definitions and General Provisions**. This action was considered by the Board of Trustees of the State Retirement and Pension System at an open meeting held on August 21, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to define certain terms that have not previously been defined under COMAR, Title 22. Additionally, these proposed regulations amend the State Retirement Agency's ability to accept the electronic submission of forms with electronic signatures through the State Retirement Agency's secure access portal.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Board of Trustees of the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) “*Creditable Service*” means the service credit of a member that is recognized for computing a benefit under State Personnel and Pensions Article, Division II, Annotated Code of Maryland.

[(4)] (5) (text unchanged)

(6) “*Electronic signature*” has the meaning stated in Commercial Law Article, §21-101, Annotated Code of Maryland.

(7) “*Eligibility service*” means the service credit of a member that is recognized for determining eligibility for a benefit under State Personnel and Pensions Article, Division II, Annotated Code of Maryland.

[(5)] (8)—[(9)] (12) (text unchanged)

(13) “*Secure access participant portal*” means the Retirement Agency’s internet website that participants may access only after completing the registration and authentication requirements specified by the Retirement Agency.

(14) “*Service credit*” means the basic unit of eligibility service or creditable service, or both.

[(10)] (15)—[(11)] (16) (text unchanged)

.02 Submission of Forms through the Secure Access Participant Portal.

A. Scope. This regulation applies only to forms that the Retirement Agency permits a participant to submit in an electronic format to the Retirement Agency through the secure access participant portal.

B. The Retirement Agency may establish a secure access participant portal and specify the registration and authentication requirements that participants must satisfy in order to access and use the secure access participant portal.

C. A participant may submit a form through the secure access participant portal by properly completing submission and affixing an electronic signature in the manner and format required by the Retirement Agency.

D. Except when Division II of the State Personnel and Pensions Article requires notarization, and notwithstanding any other provision of this title, a participant who submits a form through the secure access participant portal and satisfies its authentication requirements is not required to have the form acknowledged by a notary public.

R. DEAN KENDERINE

Executive Director

Maryland State Retirement and Pension System

Subtitle 01 GENERAL REGULATIONS

22.01.03 Domestic Relations Orders

Authority: State Personnel and Pensions Article, §§21-110, 21-502, and 21-603, Annotated Code of Maryland

Notice of Proposed Action

[18-294-P]

The Board of Trustees for the State Retirement and Pension System proposes to amend Regulations .02, .03, .05, and .07 under **COMAR 22.01.03 Domestic Relations Orders**. This action was considered by the Board of Trustees of the State Retirement and Pension System at an open meeting held on August 21, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend current regulations to clarify that the State Retirement Agency will only accept an eligible domestic relations order that includes cost-of-living adjustments to alternate payees. Additionally, these proposed regulations provide additional details on how the Agency shall calculate a retirement allowance based upon a marital share fraction. Finally, these proposed regulations add definitions of terms not previously defined.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, Maryland 21202.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) “*Cost-of-living adjustment*” has the meaning set forth in State Personnel and Pensions Article, §29-401, Annotated Code of Maryland.

[(5)] (6)—[(7)] (8) (text unchanged)

(9) “*Marital share fraction*” means a formula in which the numerator represents the participant’s numerically specified or unspecified number of total months of service credit received or accrued during the parties’ marriage or other relevant period, and the denominator represents the participant’s total number of months of service credit.

(10) “Military service credit” means service credit for military service that a participant receives in accordance with State Personnel and Pensions Article, Title 38, Annotated Code of Maryland.

[(8)] (11)—[(12)] (15) (text unchanged)

(16) “Projected service credit” means service credit that a participant receives in connection with an ordinary disability retirement allowance in accordance with State Personnel and Pensions Article, §29-106(d) or §29-108(b), Annotated Code of Maryland.

(17) Purchased Service Credit.

(a) “Purchased service credit” means service credit that a participant purchases in accordance with provisions of State Personnel and Pensions Article, Division II, Annotated Code of Maryland.

(b) “Purchased service credit” includes, but is not limited to, service credit a participant receives by paying or redepositing accumulated member contributions.

(18) “Unused sick leave credit” means service credit for unused sick leave that a participant receives in accordance with State Personnel and Pensions Article, §20-206, Annotated Code of Maryland.

.03 Eligible Domestic Relations Orders.

A. (text unchanged)

B. A domestic relations order shall constitute an eligible domestic relations order only if it satisfies all of the following requirements:

(1)—(4) (text unchanged)

(5) Does not affect the rights of [an] a different alternate payee who was named by the participant in an eligible domestic relations order on file at the Agency;

(6)—(9) (text unchanged)

(10) If the alternate payee has been assigned a portion of an allowance and will receive payment of:

(a) A fixed dollar amount, states that the alternate payee shall receive a pro rata share of any cost-of-living adjustments payable after the date of administration of the order by the Agency; or

(b) A fixed percentage or fixed formula, states the alternate payee shall receive a pro rata share of all cost-of-living adjustments;

[(10)] (11)—[(17)] (18) (text unchanged)

[(18)] (19) Is:

(a)—(b) (text unchanged)

(c) In the case of an out-of-State domestic relations order, [has been] filed in a Circuit Court in the State in accordance with the Uniform Enforcement of Foreign Judgments Act, Courts and Judicial Proceedings Article, Title 11, Subtitle 8, Annotated Code of Maryland.

C.—D. (text unchanged)

E. If the Agency determines that the domestic relations order satisfies the requirements set forth in §§B through D of this regulation, the domestic relations order shall be administered as an eligible domestic relations order in accordance with Regulation .04 of this chapter.

F. (text unchanged)

.05 Rejection of Domestic Relations Order.

A. [A] The Agency shall reject a domestic relations order [shall be rejected by the Agency if the order] that is not an eligible domestic relations order.

B.—C. (text unchanged)

.07 Formula for Computation of Plan Benefit.

A. [A formula may be used by the parties] Parties to a domestic relations order may use a formula, including a marital share fraction,

to determine the amount or percentage of a participant’s plan benefit which is payable to an alternate payee if:

(1) The formula is expressed in a format that [is understood by] the Agency understands;

(2)—(4) (text unchanged)

B.—C. (text unchanged)

D. Domestic Relations Orders Which Contain Marital Share Fractions.

(1) If a domestic relations order contains a marital share fraction with a numerically specified numerator, and does not otherwise state how to divide the participant’s military service credit, projected service credit, purchased service credit, or unused sick leave credit, then the Agency shall:

(a) Include the participant’s military service credit and purchased service credit only in the marital share fraction’s denominator; and

(b) Exclude the participant’s projected service credit and unused sick leave credit from both the numerator and denominator of the marital share fraction.

(2) If a domestic relations order contains a marital share fraction with a numerically unspecified numerator, and does not otherwise state how to divide the participant’s military service credit, projected service credit, purchased service credit, or unused sick leave credit, then the Agency shall:

(a) Include in the marital share fraction’s numerator only those months of the participant’s military service credit and purchased service credit based on the participant’s military service or employment that took place during the marital or other relevant time period;

(b) Include in the marital share fraction’s denominator the participant’s total months of military service credit and purchased service credit; and

(c) Exclude the participant’s projected service credit and unused sick leave credit from both the numerator and denominator of the marital share fraction.

R. DEAN KENDERINE

Executive Director

Maryland State Retirement and Pension System

Subtitle 01 GENERAL REGULATIONS

22.01.04 Average Final Compensation

Authority: State Personnel and Pensions Article, §§20-204, 20-205, 20-205.1, and 21-110, Annotate Code of Maryland

Notice of Proposed Action

[18-295-P]

The Board of Trustees of the State Retirement and Pension System proposes to amend Regulations .02, .03, .04, and .05 under **COMAR 22.01.04 Average Final Compensation**. This action was considered by the Board of Trustees of the State Retirement and Pension System at an open meeting held on August 21, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to address changes in provisions of the State Personnel and Pensions Article that amended the calculation of the average final compensation of members joining the State Retirement and Pension System on or after July 1, 2011. These proposed regulations address these statutory changes. Additionally, these proposed regulations conform current regulations to the existing practice of the State Retirement Agency when staff is reviewing and

processing extraordinary salary increases. Finally, these proposed regulations make technical and clarifying changes to existing regulations.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Trustees of the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.02 Average Final Compensation—Retirement Systems.

A. (text unchanged)

B. Except as provided in [§§C and D] §D and E of this regulation, the average final compensation of a member *who became a member before July 1, 2011* equals the average annual earnable compensation of the member, adjusted as provided in Regulation .04 of this chapter, for the:

(1)—(2) (text unchanged)

C. [Extraordinary Salary Increase.

(1) Except as provided in §C(2) of this regulation, if a] *Except as provided in §§D and F of this regulation, the average final compensation of a member of the Correctional Officers' Retirement System or the State Police Retirement System who became a member on or after July 1, 2011 equals the average annual earnable compensation of the member, adjusted as provided in Regulation .04 of this chapter, for the:*

(1) *5 years of employment as a member during which the member's earnable compensation was highest, if the member was employed at least 5 years as a member; or*

(2) *Member's total period of employment, if the member was employed less than 5 years as a member.*

D. *An increase of more than 20 percent to a member's average annual earnable compensation [increases] in any one of the last 3 years of employment [by over 20 percent, the member's average final compensation does not include the amount of the increase in excess of 20 percent.*

(2) A member's average final compensation may include the amount of an increase in the member's annual earnable compensation in excess of 20 percent if:

(a)] *for a member who became a member before July 1, 2011, or in any one of the last 5 years of employment for a member who became a member on or after July 1, 2011, is an extraordinary salary increase that is not included in determining the member's average final compensation unless:*

(1) The increase is the result of the member's:

[(i)] (a) Promotion [of the member] by the member's employer[.]; or

[(ii)] (b) Appointment or election [of the member] to a public office; [or]

(2) *Including the increase when determining the member's average final compensation would increase the member's allowance by \$25 or less per month; or*

[(b)] (3) The Board of Trustees determines that the increase [in the member's earnable compensation] is not an extraordinary salary increase in accordance with Regulation .05 of this chapter.

[D.] E. If a member of the State Police Retirement System who *became a member before July 1, 2011 and who transferred from another actuarial retirement system in the State retires after less than 3 years of employment as a member of the State Police Retirement System, the member's earnable compensation in the other system shall be used to determine the member's average final compensation.*

F. *If a member of the State Police Retirement System who became a member on or after July 1, 2011 and who transferred from another actuarial retirement system in the State retires after less than 5 years of employment as a member of the State Police Retirement System, the member's earnable compensation in the other system shall be used to determine the member's average final compensation.*

.03 Average Final Compensation—Pension Systems.

A. This regulation applies only to the Employees' Pension System, the Local Fire and Police System, the [Natural Resources] Law Enforcement Officers' Pension System, and the Teachers' Pension System.

B. Except as provided in [§C] §D of this regulation, for the purpose of computing benefits under State Personnel and Pensions Article, Division II, Annotated Code of Maryland, the average final compensation of a member *who became a member before July 1, 2011* equals the average annual earnable compensation of the member, adjusted as provided in Regulation .04 of this chapter, for the:

(1)—(2) (text unchanged)

C. [Extraordinary Salary Increase.

(1) Except as provided in §C(2) of this regulation, if a] *Except as provided in §D of this regulation, for the purpose of computing benefits under State Personnel and Pensions Article, Division II, Annotated Code Maryland, the average final compensation of a member who became a member on or after July 1, 2011 equals the average annual earnable compensation of the member, adjusted as provided in Regulation .04 of this chapter, for the:*

(1) *5 consecutive years that provide the highest average earnable compensation; or*

(2) *Member's total period of employment, if the member was employed less than 5 years as a member.*

D. *An increase of more than 20 percent to a member's average annual earnable compensation [increases] in any one of the last 3 years of employment [by over 20 percent, the member's average final compensation does not include the amount of the increase in excess of 20 percent.*

(2) A member's average final compensation may include the amount of an increase in the member's annual earnable compensation in excess of 20 percent if:

(a)] *for a member who became a member before July 1, 2011, or in any one of the last 5 years of employment for a member who became a member on or after July 1, 2011, is an extraordinary salary increase that is not included in determining the member's average final compensation unless:*

(1) The increase is the result of the member's:

[(i)] (a) Promotion [of the member] by the member's employer[.]; or

[(ii)] (b) Appointment or election [of the member] to a public office; [or]

(2) *Including the increase when determining the member's average final compensation would increase the member's allowance by \$25 or less per month; or*

[(b)] (3) The Board of Trustees determines that the increase [in the member's earnable compensation] is not an extraordinary salary increase in accordance with Regulation .05 of this chapter.

.04 Adjustment to Earnable Compensation.

A. The Board of Trustees shall adjust the member's annual earnable compensation if, during the [last 3 years of employment as a member] *time period included in the computation of average final compensation*, the member:

(1)—(2) (text unchanged)

B. Part-time Employment.

(1) *This section applies only to a member of the Employees' Pension System, the Local Fire and Police System, the Law Enforcement Officers' Pension System, or the Teachers' Pension System whose eligibility service has been adjusted under State Personnel and Pensions Article, Division II, Annotated Code of Maryland to compute creditable service on the basis of the member having completed less than the normal hours of service for the member's position.*

(2) The Board of Trustees shall adjust the member's annual earnable compensation [if, during the period used to determine earnable compensation, the member worked less than the normal hours of service for the member's position] *to a full-time basis for any time period included in the computation of average final compensation.*

.05 Extraordinary Salary Increase—Board of Trustees' Determination.

A. [This regulation sets forth the procedures for the Board of Trustees to determine whether an increase in a member's annual earnable compensation in excess of 20 percent is an extraordinary salary increase.

B.] Retirement Agency's [Preliminary] Report and Notice.

(1) The Retirement Agency shall issue a preliminary report that [identifies each member who received an extraordinary salary increase.

(2) The preliminary report shall contain] *includes* the following information:

(a) The name [and address] of each member that [received an increase in annual earnable compensation in any one of the last 3 years of employment by over 20 percent] *the Retirement Agency has preliminarily determined to have received an extraordinary salary increase;*

(b) The name [and address] of the member's employer;

(c) The amount of the increase in the member's *average* annual earnable compensation;

(d) [The allowance payable to the member if the increase in the member's annual earnable compensation in excess of 20 percent is not taken into account to determine the member's average final compensation;

(e) The allowance payable to the member if 100 percent of the member's annual earnable compensation is used to determine the member's average final compensation; and

(f) The reason or reasons for the increase [in the member's annual earnable compensation]; *and*

(e) *A comparison of the member's allowance calculated with and without inclusion of the extraordinary salary increase in the member's annual final compensation.*

(2) *The Retirement Agency shall send to each member listed in the report written notice of:*

(a) *The Agency's determination that the member has received an extraordinary salary increase;*

(b) *A comparison of the member's average final compensation and resulting allowance amount calculated with and without inclusion of the extraordinary salary increase;*

(c) *The employer's stated reason or reasons for the increase; and*

[C.] (d) The member may file a written petition to the Board of Trustees stating] *A statement of the member's right to file with the Executive Director a written statement of the reasons why the member believes the [increase in the member's earnable compensation is not] determination that the member received an extraordinary salary increase[. A copy of the petition shall be filed with the Executive Director of the Retirement Agency] is incorrect.*

[D. Executive Director Review of the Preliminary Report.

(1) The Executive Director shall review the Retirement Agency's preliminary report, including any petition filed by a member.

(2) The Executive Director may change the Retirement Agency's preliminary report for a member if the Executive Director determines that inclusion of the increase in the member's annual earnable compensation in excess of 20 percent does not increase the member's allowance by more than \$25 per month.

E.] B. Board of Trustees Determination.

(1) The Executive Director shall submit [the following information] to the Board of Trustees:

(a) [A summary] *Each* report [that reflects the changes made by the Executive Director to the Retirement Agency's preliminary report under §D(2)] *issued pursuant to §A(1) of this regulation; and*

(b) [The Retirement Agency's preliminary report for each member for whom the Executive Director did not change the Retirement Agency's preliminary report under §D(2) of this regulation; and

(c)] A copy of [the petition] *a written statement* filed by a member *pursuant to §A(2)(d) of this regulation.*

(2) [A] *Following review of the Retirement Agency's report and any written statement filed by a member, a majority of the Board of Trustees shall [issue a decision in writing that:*

(a) *Adopts the summary report of the Executive Director; and*

(b) *For each member who is named in the Retirement Agency's preliminary report but who is not included in the Executive Director's summary report, states the:*

(i) *Board of Trustees' determination as to whether the member received an extraordinary salary increase, and*

(ii) *Reasons for Board of Trustees' determination] determine whether each member received an extraordinary salary increase.*

[F.] (3) [The Secretary to the Board of Trustees shall notify each affected member of the Board of Trustees' decision as soon as practical] *As soon as practicable* after the meeting of the Board of Trustees[. The notice shall be in writing and shall advise the member], *the Secretary to the Board of Trustees shall send each member listed on the Retirement Agency's report written notice of the Board of Trustees' decision and, if the decision is adverse to the member, of the member's right to [request] submit a petition for a hearing under COMAR 22.03.04.*

R. DEAN KENDERINE

Executive Director

Maryland State Retirement and Pension System

Subtitle 01 GENERAL REGULATIONS

22.01.05 Proof of Date of Birth

Authority: State Personnel and Pensions Article, §21-110, Annotated Code of Maryland

Notice of Proposed Action

[18-296-P]

The Board of Trustees of the State Retirement and Pension System proposes to repeal existing Regulation .01, adopt new Regulation .01, and amend Regulation .02 under **COMAR 22.01.05 Proof of Date of Birth**. This action was considered by the Board of Trustees of the State Retirement and Pension System at an open meeting held on August 21, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to make clarifying changes to existing regulations that address: (1) the State Retirement Agency's ability to request proof of date of birth from various individuals; (2) the proof of date of birth documents that are acceptable; and (3) the methods by which the State Retirement Agency may receive these documents.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Board of Trustees of the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.01 Definition.

In this chapter, "alternate payee" means a former spouse named in an eligible domestic relations order that the Retirement Agency has accepted for administration pursuant to a notice of administration issued in accordance with State Personnel and Pensions Article, §21-502, Annotated Code of Maryland, and **COMAR 22.01.03.04**.

.02 Proof of Birth.

A. Individuals Required to Submit Proof of Birth.

(1) (text unchanged)

(2) [The] *On the request of the Retirement Agency, [may request] an individual who applies for [a retirement allowance or a vested] an allowance [to] shall submit documentation to verify the individual's date of birth and the date of birth of any designated*

beneficiaries. [If the individual designates a beneficiary to receive a benefit on the death of the individual, the designated beneficiary shall submit documentation to verify the designated beneficiary's date of birth to the Retirement Agency.]

(3) On the request of the Retirement Agency, [an individual who is not a member of a State system but] *a participant or alternate payee who is or may become eligible to receive a benefit of any type* under State Personnel and Pensions Article, Division II, Annotated Code of Maryland, shall submit documentation to the Retirement Agency to verify the individual's date of birth.

B. An individual who is a United States citizen shall submit any one of the following documents to verify the individual's date of birth:

(1)—(9) (text unchanged)

(10) *Unexpired* Maryland Identification Card, formerly called Maryland Age of Majority Card, issued by the Maryland State Motor Vehicle Administration.

C. (text unchanged)

D. The Retirement Agency shall accept a photostatic, [or] facsimile, *or electronically imaged* copy of any one of the documents listed in §B or C of this regulation, but reserves the right to require the individual to submit the original document from which the copy was made.

E. If an individual cannot obtain any of the documents listed in §B or C of this regulation, the Retirement Agency [shall] *may* determine an alternate form of documentation to verify the individual's date of birth.

R. DEAN KENDERINE

Executive Director

Maryland State Retirement and Pension System

Subtitle 01 GENERAL REGULATIONS

22.01.07 Designation of Beneficiary

Authority: State Personnel and Pensions Article, §21-110; Title 21, Subtitle 4; and Title 29, Subtitle 2; Annotated Code of Maryland

Notice of Proposed Action

[18-297-P]

The Board of Trustees for the State Retirement and Pension System proposes to amend Regulations .02 and .03 under **COMAR 22.01.07 Designation of Beneficiary**. This action was considered by the Board of Trustees for the State Retirement and Pension System at an open meeting held on September 18, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to make technical amendments to existing regulations to acknowledge that in the future designation of beneficiary forms may be filed electronically via submission through the State Retirement Agency's Secure Access Participant Portal. Additionally, these proposed regulations correct redundancies and obsolete cross references. Existing regulations provide blanket authorization to designate a minor beneficiary under any circumstances, creating inconsistencies with State Personnel and Pensions Article, §21-403(c)(2), Annotated Code of Maryland, which provides circumstances under which a member cannot designate a minor beneficiary. These proposed regulations resolve this inconsistency.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Board of Trustees for the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.02 Designation of Beneficiary Form.

A. Completion and Filing of Designation of Beneficiary Form.

(1)—(2) (text unchanged)

(3) Filing a Designation of Beneficiary Form.

(a) A designation of beneficiary form is filed on the date that it is received by the [administrative offices of the] Retirement Agency [at the address provided on the designation of beneficiary form].

(b) (text unchanged)

B.—E (text unchanged)

.03 Designation of Minor Beneficiary.

A. (text unchanged)

[B. An individual may designate a beneficiary who is not 18 years old or older on the designation of beneficiary form.]

[C.] B. (text unchanged).

[D.] C. If a guardian of the property has not been appointed by a court in accordance with the Estates and Trusts Article, Title 13, Subtitle 2, Annotated Code of Maryland, the Retirement Agency shall pay the survivor benefit for the benefit of the designated beneficiary in the following order:

(1)—(2) (text unchanged)

(3) If the individual did not name a custodian or trustee as provided in [§D(1) or (2)] § C(1) or (2) of this regulation, to an adult as custodian for the benefit of the minor beneficiary under the Maryland Uniform Transfers to Minors Act, Estates and Trusts Article, Title 13, Subtitle 3, Annotated Code of Maryland, if the:

(a)—(b) (text unchanged)

(4) If the criteria specified in [§D(3)(a) or (b)] § C(3)(a) or (b) of this regulation are not satisfied, the Retirement Agency shall pay the survivor benefit only to a guardian of the property of the minor beneficiary who is appointed by a court in accordance with the Estates and Trusts Article, Title 13, Subtitle 2, Annotated Code of Maryland.

R. DEAN KENDERINE
Executive Director

Maryland State Retirement and Pension System

Subtitle 01 GENERAL REGULATIONS

22.01.08 Refund of Accumulated Contributions

Authority: State Personnel and Pensions Article, §§ 21-110, 21-603, and 29-501, Annotated Code of Maryland

Notice of Proposed Action

[18-298-P]

The Board of Trustees for the State Retirement and Pension System proposes to amend Regulations .01—.03 under **COMAR 22.01.08 Refund of Accumulated Contributions**. This action was considered by the Board of Trustees for the State Retirement and Pension System at an open meeting held on September 18, 2018, notice of which was given by publication on the website for the Maryland State Retirement and Pension system pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend existing regulations to convey the State Retirement Agency's requirement that a participant must properly complete an Application for Withdrawal of Accumulated Contributions in accordance with the form's instructions. Additionally, these proposed regulations reflect that it is the Agency and not the Board of Trustees for the State Retirement and Pension System that makes refunds of accumulated contributions. These proposed regulations also clarify that only a properly completed application will result in a payment to the member or former member. These proposed regulations expand the permissible methods to submit a refund form to include electronically transmitted copies, including a PDF submitted by email. Finally, these proposed regulations enable a member or former member to request a rollover of all or a portion of the refund of accumulated contributions to another eligible retirement plan in a direct rollover.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Board of Trustees for the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.01 Scope.

This chapter establishes procedures for the refund of the accumulated contributions of each member or former member of a State [System] system who separated from employment for a reason other than death or retirement.

.02 Application for [Refund Form] Withdrawal of Accumulated Contributions.

A. [The Retirement Agency shall provide an application for refund form to a member or former member of a State system who:

(1) Separated from employment for a reason other than death or retirement; and

(2) Requests a refund of accumulated contributions.] *A member or former member who has separated from employment with a participating employer for a reason other than death or retirement and is not employed by any other participating employer may request a refund of accumulated contributions by properly completing the appropriate form that the Retirement Agency provides and filing it with the Retirement Agency.*

B. [A photocopy or facsimile copy of the application for refund form shall be treated as an original for all purposes.] *A form to request a refund of accumulated contributions is properly completed if it is completed in accordance with the form's instructions and signed and dated by the member or former member.*

.03 [Submission of Application for Refund Form] Refund of Accumulated Contributions.

A. The [Board of Trustees] Retirement Agency shall pay an applicant the accumulated contributions of the applicant within a reasonable time after receipt by the Retirement Agency of a properly completed application for refund form.

B. If an applicant files a photocopy, *electronically transmitted copy*, or facsimile copy of the application for refund form with the Retirement Agency, the applicant shall retain [the] *any* original to provide to the Retirement Agency at the request of the Retirement Agency.

C. *When requesting a refund of accumulated contributions, an applicant may request to have all or a portion of the refund that constitutes an eligible rollover distribution paid to an eligible retirement plan in a direct rollover in accordance with State Personnel and Pensions Article, Title 21, Subtitle 6, Annotated Code of Maryland and COMAR 22.07.02.05.*

R. DEAN KENDERINE
Executive Director

Maryland State Retirement and Pension System

**Subtitle 07 COMPLIANCE WITH THE
INTERNAL REVENUE CODE**

22.07.02 Code Compliance

Authority: State Personnel and Pensions Article §§ 21-110 and 21-603,
Annotated Code of Maryland

Notice of Proposed Action

[18-299-P]

The Board of Trustees of the State Retirement and Pension System proposes to adopt new Regulation .05 under **COMAR 22.07.02 Code Compliance**. This action was considered by the Board of Trustees for the State Retirement and Pension System at an open meeting held on September 18, 2018, notice of which was given by publication on the website of the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add a new regulation to address the procedures to elect to have an eligible rollover distribution paid to an eligible retirement plan in a direct rollover. This proposed regulation specifies that it is the Retirement Agency and not the Board of Trustees for the State Retirement and Pension System that will carry

out certain requirements set forth in the State Personnel and Pensions Article to provide a recipient of an eligible rollover distribution with the required notice regarding rollover options within a reasonable time before making an eligible rollover distribution. Additional this proposed regulation conveys the requirement in U.S. Treasury regulations that a participant shall have at least 30 days to review the written notice regarding rollover options, but may waive that notice period by making an affirmative election. Finally, this proposed regulation conveys the requirement that a participant properly complete and file the appropriate form that the Retirement Agency provides in order to elect to have all or any part of an eligible rollover distribution paid to an eligible retirement plan in an eligible rollover distribution.

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 Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Board of Trustees of the State Retirement and Pension System during a public meeting to be held on January 15, 2019, 9:30 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, MD 21202.

.05 Compliance with Internal Revenue Code, 26 U.S.C. §401(a)(31) for Eligible Rollover Distributions.

A. Definitions.

(1) *In this regulation, the following terms have the meanings indicated.*

(2) *Terms Defined.*

(a) *"Direct rollover" has the meaning stated in State Personnel and Pensions Article, §21-601, Annotated Code of Maryland.*

(b) *"Eligible rollover distribution" has the meaning stated in State Personnel and Pensions Article, §21-601, Annotated Code of Maryland.*

B. Within a reasonable period of time before making an eligible rollover distribution, the Retirement Agency shall provide the recipient with written notice regarding eligible rollover distributions as required under 26 U.S.C. § 402(f) and applicable U.S. Treasury regulations.

C. A participant shall have at least 30 days to review the Retirement Agency's written notice under subsection B of this regulation and consider whether or not to have an eligible rollover distribution paid to an eligible retirement plan in a direct rollover.

D. A participant may waive the notice period by making an affirmative election indicating whether or not the participant wishes to make a direct rollover.

E. Rollover Election.

(1) To elect to have all or any part of an eligible rollover distribution paid to an eligible retirement plan in a direct rollover, a

participant shall properly complete the appropriate form that the Retirement Agency provides and file it with the Retirement Agency.

(2) A form to request a rollover is properly completed if it is completed, dated, and signed in accordance with the form's instructions.

R. DEAN KENDERINE
Executive Director

Maryland State Retirement and Pension System

Title 31 **MARYLAND INSURANCE** **ADMINISTRATION**

Subtitle 10 HEALTH INSURANCE — **GENERAL**

31.10.06 Standards for Medicare Supplement Policies

Authority: Health-General Article, §§19-705 and 19-706; Insurance Article, §§2-109 and 8-403(b), Title 15, Subtitle 9, and Title 27; Annotated Code of Maryland

Notice of Proposed Action

[18-310-P]

The Insurance Commissioner proposes to amend Regulations .02, .28, and .30 and adopt new Regulation .31 under **COMAR 31.10.06 Standards for Medicare Supplement Policies**.

Statement of Purpose

The purpose of this action is to conform COMAR to the NAIC Medicare Supplement Model, which was changed due to the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA).

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

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 Tyler Hoblitzell, Legislative and Regulatory Analyst, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2488, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(20) (text unchanged)

(21) "Newly eligible for Medicare" means the individual:

(a) Attained age 65; or

(b) Became entitled to benefits under part A pursuant to §226(b) or 226A of the Social Security Act, or is deemed to be eligible for benefits under §226(a) of the Social Security Act.

[(21)] (22)—[(26)] (27) (text unchanged)

.28 Standard Medicare Supplement Benefit Plans for 2010 Plans.

A.—G. (text unchanged)

H. Make-up of 2010 Standardized Benefit Plans.

(1)—(6) (text unchanged)

(7) Standardized Medicare Supplement Benefit Plan G.

(a) Standardized Medicare supplement benefit Plan G shall include only the following: The core benefits as defined in Regulation .27C of this chapter, plus 100 percent of the Medicare Part A Deductible, Skilled Nursing Facility Care, 100 percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country as defined in Regulation .27D(1), (3), (5), and (6) of this chapter.

(b) Effective January 1, 2020, the standardized benefit plan described in Regulation .31B(3) of this chapter (Re-designated Plan G High Deductible) may be offered to any individual who was eligible for Medicare prior to January 1, 2020.

(8)—(11) (text unchanged)

I. (text unchanged)

.30 Outlines of Coverage for [2010] Standardized Medicare Supplement Benefit Plans.

A. Forms.

(1) The issuer shall include in the outline of coverage for:

(a) [2010 plan policies] Policies or certificates sold with an effective date for coverage on or after June 1, 2010 and before January 1, 2020, the forms that appear in §§B(1), C—G, H(1), and I—L of this regulation, in the order that the forms appear in this regulation; and

(b) Policies and certificates with an effective date for coverage on or after January 1, 2020, the forms that appear in §§B(2), C—G, H(2), and I—L of this regulation, in the order that the forms appear in this regulation.

(2) (text unchanged)

PROPOSED ACTION ON REGULATIONS

1120

B. Cover Page.

(1) Benefit Chart of Medicare Supplement Plans Sold With an Effective Date for Coverage on or After June 1, 2010 *and Before January 1, 2020.*

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan “A” available. Some plans may not be available in your state.

[Plans E, H, I, and J are no longer available for sale. {This sentence will not appear after June 1, 2011.}]

Basic Benefits:

- Hospitalization—Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- Medical Expenses—Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L, and N require insureds to pay a portion of Part B coinsurance or copayments.
- Blood—First three pints of blood each year.
- Hospice—Part A coinsurance.

(existing table unchanged)

* Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \${insert amount of Plan F high deductible} deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed \${insert amount of Plan F high deductible}. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan’s separate foreign travel emergency deductible.

PREMIUM INFORMATION

We {insert insurer’s name} can only raise your premium if we raise the premium for all policies like yours in this State. {If the premium is based on the increasing age of the insured, include information specifying when premiums will change.}

DISCLOSURES

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I, and J are no longer available for sale. {This paragraph will not appear after June 1, 2011.}]

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy’s most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to {insert insurer’s address}. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

{for agents:}

Neither {insert company’s name} nor its agents are connected with Medicare.

{for direct response:}

{insert company’s name} is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult Medicare and You for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT {Boldface Type}

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. {If the policy or certificate is guaranteed issue, this paragraph need not appear.}

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

{Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Regulation .28G of this chapter.}

{Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commissioner.}

(2) *Benefit Chart of Medicare Supplement Plans Sold on or After January 1, 2020.*

This chart shows the benefits included in each of the standard Medicare supplement plans. Some plans may not be available. Only applicants first eligible for Medicare before 2020 may purchase Plans C, F, and high deductible F.

Note: A ✓ means 100% of the benefit is paid.

Benefits	Plans Available to All Applicants								Medicare first eligible before 2020 only	
	A	B	D	G ¹	K	L	M	N	C	F ¹
Medicare Part A coinsurance and hospital coverage (up to an additional 365 days after Medicare benefits are used up)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Medicare Part B coinsurance or Copayment	✓	✓	✓	✓	50%	75%	✓	✓ copays apply ³	✓	✓
Blood (first three pints)	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Part A hospice care coinsurance or copayment	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Skilled nursing facility coinsurance			✓	✓	50%	75%	✓	✓	✓	✓
Medicare Part A deductible		✓	✓	✓	50%	75%	50%	✓	✓	✓
Medicare Part B deductible									✓	✓
Medicare Part B excess charges				✓						✓
Foreign travel emergency (up to plan limits)			✓	✓			✓	✓	✓	✓
Out-of-pocket limit					{Insert Plan K out-of-pocket limit} ²	{Insert Plan L out-of-pocket limit} ²				

¹ Plans F and G also have a high deductible option which require first paying a plan deductible of {Insert amount of Plans F and G high deductible} before the plan begins to pay. Once the plan deductible is met, the plan pays 100% of covered services for the rest of the calendar year. High deductible Plan G does not cover the Medicare Part B deductible. However, high deductible Plans F and G count your payment of the Medicare Part B deductible toward meeting the plan deductible.

² Plans K and L pay 100% of covered services for the rest of the calendar year once you meet the out-of-pocket yearly limit.

³ Plan N pays 100% of the Part B coinsurance, except for a co-payment of up to \$20 for some office visits and up to a \$50 co-payment for emergency room visits that do not result in an inpatient admission.

PREMIUM INFORMATION

We {insert insurer's name} can only raise your premium if we raise the premium for all policies like yours in this State. {If the premium is based on the increasing age of the insured, include information specifying when premiums will change.}

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to {insert insurer's address}. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

PROPOSED ACTION ON REGULATIONS

1122

POLICY REPLACEMENT

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

{for agents:}

Neither {insert company's name} nor its agents are connected with Medicare.

{for direct response:}

{insert company's name} is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult Medicare and You for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. {If the policy or certificate is guaranteed issue, this paragraph need not appear.}

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

{Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Regulation .28G of this chapter.}

{Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commissioner.}

C.—F. (text unchanged)

G. Plan F or High Deductible Plan F.

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

{**This high deductible plan pays the same benefits as Plan F after [one has] you have paid a calendar year \${Insert amount of Plan F high deductible} deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \${Insert amount of Plan F high deductible}. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.}

SERVICES	MEDICARE PAYS	{AFTER YOU PAY \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \${Insert amount of Medicare Part A deductible}	\${Insert amount of Medicare Part A deductible} (Part A Deductible)	\$0
61st thru 90th day	All but \${Insert amount equal to 25% of Medicare Part A deductible} a day	\${Insert amount equal to 25% of Medicare Part A deductible} a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \${Insert amount equal to 50% of Medicare Part A deductible} a day	\${Insert amount equal to 50% of Medicare Part A deductible} a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0***

- Beyond the Additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	Up to \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints [Additional amounts]	\$0 [100%]	3 pints [\$0]	\$0 [\$0]
<i>Additional amounts</i>	<i>100%</i>	<i>\$0</i>	<i>\$0</i>
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN F or HIGH DEDUCTIBLE PLAN F
MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

*Once you have been billed \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts for the covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

{**This high deductible plan pays the same benefits as Plan F after [one has] *you have* paid a calendar year \${Insert amount of Plan F high deductible} deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \${Insert amount of Plan F high deductible}. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.}

PROPOSED ACTION ON REGULATIONS

1124

SERVICES	MEDICARE PAYS	{ AFTER YOU PAY \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} YOU PAY
MEDICAL EXPENSES-IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment. – CLINICAL LABORATORY SERVICES-TESTS FOR DIAGNOSTIC SERVICES (text unchanged)			
PARTS A & B			
SERVICES	MEDICARE PAYS	{ AFTER YOU PAY \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES – Remainder of Medicare-approved amounts (text unchanged)			
OTHER BENEFITS-NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	{ AFTER YOU PAY \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan F high deductible} DEDUCTIBLE,**} YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE – Remainder of Charges (text unchanged)			

H. Plan G and Plan G or High Deductible Plan G.

(1) Plan G.(text unchanged)

(2) Plan G or High Deductible Plan G.

PLAN G or HIGH DEDUCTIBLE PLAN G

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

{**This high deductible plan pays the same benefits as Plan G after you have paid a calendar year \${Insert amount of Plan G high deductible} deductible. Benefits from the high deductible Plan G will not begin until out-of-pocket expenses are \${Insert amount of Plan G high deductible} deductible.

deductible}. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible, and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.}

SERVICES	MEDICARE PAYS	{AFTER YOU PAY \${Insert amount of Plan G high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan G high deductible} DEDUCTIBLE,**} YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \${Insert amount of Medicare Part A deductible}	\${Insert amount of Medicare Part A deductible} (Part A Deductible)	\$0
61st thru 90th day	All but \${Insert amount equal to 25% of Medicare Part A deductible} a day	\${Insert amount equal to 25% of Medicare Part A deductible} a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \${Insert amount equal to 50% of Medicare Part A deductible} a day	\${Insert amount equal to 50% of Medicare Part A deductible} a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0***
- Beyond the Additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	Up to \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints [Additional amounts]	\$0 [100%]	3 pints [\$0]	\$0 [\$0]

PROPOSED ACTION ON REGULATIONS

1126

<i>Additional amounts</i>	<i>100%</i>	<i>\$0</i>	<i>\$0</i>
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G or HIGH DEDUCTIBLE PLAN G

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

*Once you have been billed \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts for the covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

{**This high deductible plan pays the same benefits as Plan G after you have paid a calendar year \${Insert amount of Plan G high deductible} deductible. Benefits from the high deductible Plan G will not begin until out-of-pocket expenses are \${Insert amount of Plan G high deductible}. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible, and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.)

SERVICES	MEDICARE PAYS	{AFTER YOU PAY \${Insert amount of Plan G high deductible} DEDUCTIBLE,**} PLAN PAYS	{IN ADDITION TO \${Insert amount of Plan G high deductible} DEDUCTIBLE,**} YOU PAY
MEDICAL EXPENSES-IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts*	\$0	\$0	\${Insert amount of Medicare Part B deductible}[Part B Deductible] (Unless Part B deductible has been met)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts*	\$0	\$0	\${Insert amount of Medicare Part B deductible}[Part B Deductible] (Unless Part B deductible has been met)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-TESTS FOR	100%	\$0	\$0

DIAGNOSTIC SERVICES			
PARTS A & B			
SERVICES	MEDICARE PAYS	<i>{AFTER YOU PAY \${Insert amount of Plan G high deductible} DEDUCTIBLE,**}</i> PLAN PAYS	<i>{IN ADDITION TO \${Insert amount of Plan G high deductible} DEDUCTIBLE,**}</i> YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts*	\$0	\$0	\${Insert amount of Medicare Part B deductible}[Part B Deductible] (Unless Part B deductible has been met)
Remainder of Medicare- approved amounts	80%	20%	\$0
OTHER BENEFITS-NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	<i>{AFTER YOU PAY \${Insert amount of Plan G high deductible} DEDUCTIBLE,**}</i> PLAN PAYS	<i>{IN ADDITION TO \${Insert amount of Plan G high deductible} DEDUCTIBLE,**}</i> YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

I. — L (text unchanged)

.31 Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or After January 1, 2020.

A. General Standards.

(1) A policy or certificate that provides coverage of the Medicare Part B deductible may not be advertised, solicited, delivered, or issued for delivery in this State as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020.

(2) Medicare supplement policies and certificates delivered or issued for delivery to individuals eligible for Medicare before January 1, 2020 remain subject to the requirements of Regulation .28 of this chapter.

(3) Medicare supplement policies or certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020 are subject to the requirements of Regulation .28 of this chapter, except as stated in §§B and C of this regulation.

(4) Standardized Medicare supplement benefit Plans C, F, and F with High Deductible may not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

B. Make-up of 2020 Standardized Benefit Plans

(1) Standardized Medicare supplement benefit Plan C is re-designated as Plan D and shall include the benefits contained in Regulation .28H(3) of this chapter except for coverage for 100 percent or any portion of the Medicare Part B deductible.

(2) Standardized Medicare supplement benefit Plan F is re-designated as Plan G and shall include the benefits contained in Regulation .28H(5) of this chapter except for coverage for 100 percent or any portion of the Medicare Part B deductible.

(3) Standardized Medicare Supplement Benefit Plan G With High Deductible.

(a) Standardized Medicare supplement benefit Plan F with High Deductible is re-designated as Plan G with High Deductible.

(b) Standardized Medicare supplement benefit Plan G with High Deductible shall include the benefits contained in Regulation .28H(6) of this chapter except for coverage for 100 percent or any portion of the Medicare Part B deductible.

(c) The Medicare Part B deductible paid by the beneficiary shall be considered an out-of-pocket expense in meeting the annual Plan G high deductible.

C. In the case of an individual newly eligible for Medicare on or after January 1, 2020, the reference to Plans C or F in Regulation .28D(2) of this chapter is deemed a reference to Plans D or G, respectively.

D. On or after January 1, 2020, the standardized benefit plan described in §B(3) of this regulation may be offered to an individual who was eligible for Medicare prior to January 1, 2020 in addition to the standardized plans described in Regulation .28H of this chapter.

E. For purposes of Regulation .09-1E of this chapter, in the case of an individual newly eligible for Medicare on or after January 1, 2020, any reference to Plans C or F (including F With High Deductible) shall be deemed to be a reference to Plans D or G (including G With High Deductible) respectively.

ALFRED W. REDMER, JR.
Insurance Commissioner

Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Notice of Proposed Action

[18-300-P]

The Maryland State Lottery and Gaming Control Agency proposes to:

(1) Amend Regulations .01 and .03—.06 under **COMAR 36.01.01 General;**

(2) Amend Regulations .01—.06 under **COMAR 36.01.02 Administrative Procedures;**

(3) Amend Regulations .01—.07 under **COMAR 36.01.03 Voluntary Exclusion and Responsible Gaming;**

(4) Amend Regulation .01 under **COMAR 36.02.01 General;**

(5) Amend Regulations .01, .02, .05, .06, and .10 under **COMAR 36.02.02 Retailer Licensing;**

(6) Amend Regulations .01 and .02, adopt new Regulation .03, and amend and recodify existing Regulations .03—.10 to be Regulations .04—.11 under **COMAR 36.02.03 Retailer Requirements;**

(7) Amend Regulations .02—.05 under **COMAR 36.02.04 Common Provisions for All Lottery Games;**

(8) Amend Regulations .01 and .02 under **COMAR 36.02.05 Specific Game Provisions;**

(9) Amend Regulations .01, .04—.06, .08, .11, .12, .15, and .18 under **COMAR 36.02.06 Claims Procedures;**

(10) Amend Regulation .02 under **COMAR 36.02.07 Unclaimed Lottery Prizes;**

(11) Amend Regulations .01 and .06—.08, adopt new Regulation .02, repeal existing Regulation .04, amend and recodify existing Regulation .03 to be Regulation .04, and recodify existing Regulation .02 to be Regulation .03 under **COMAR 36.02.08 Voluntary Assignment of Monetary Prizes;**

(12) Amend Regulation .02 under **COMAR 36.03.01 General;**

(13) Amend Regulation .15 under **COMAR 36.05.02 Table Game Equipment; and**

(14) Adopt new Regulations .01—.15 under a new chapter, **COMAR 36.09.01 Fantasy Competition**, under a new subtitle, **Subtitle 09 Online Fantasy Competition.**

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on September 20, 2018, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Under 36.01.01, revise the definition of “final action on a license denial” to include the option of the Commission to delegate a hearing to the OAH; consolidate the definition of “state obligations” into one chapter; and update citations pertaining to the Central Collection Unit (CCU);

(2) Under 36.01.02, clarify administrative procedures of the Agency and Commission;

(3) Under 36.01.03, add instant bingo facilities with more than 10 machines to the gaming venues from which an individual may self-exclude; codify casinos’ existing practice of filing a criminal trespass charge, consistent with COMAR 36.03.06; and add changes to reflect the Agency’s current practice of sending notices related to the voluntary exclusion list by email as well as mail;

(4) Under 36.02.01, clarify certain definitions to avoid possible confusion with iLottery gaming; and delete no longer used definitions and add new definitions;

(5) Under 36.02.01, update certain terminology; and add changes to reflect current practices;

(6) Under 36.02.03, add changes to reflect current lottery practices and procedures, including the use of player activated terminals; and prohibit the sale of lottery games from other jurisdictions;

(7) Under 36.02.04, revise procedures and practices to reflect the new lottery subscription program; and remove the requirement for an SSN when purchasing a subscription;

(8) Under 36.02.05, update the term “on-line game” and “on-line ticket” to “draw ticket” to avoid possible confusion with iLottery gaming;

(9) Under 36.02.06, remove the definition of state obligation; and change certain definitions to avoid possible confusion with iLottery gaming;

(10) Under 36.02.07, apply the term “bonus”;

(11) Under 36.02.08, revise the regulation for simplicity by removing language; add a requirement to check whether assignees and subsequent assignees owe State obligations; and ensure that a corporate assignee or subsequent assignee is in good standing with the Maryland Department of Assessment and Taxation before issuing prize payment;

(12) Under 36.03.01, allow standard definition to apply to players of all gaming activities that the Commission and Agency regulate, thereby eliminating the need for a separate definition of “player”;

(13) Under 36.05.02, allow a facility operator to use non-traditional decks of playing cards for table games, as approved by the Commission; and

(14) Under 36.09.01, implement oversight responsibilities for fantasy competitions that were transferred from the Office of the Comptroller to the Commission; and incorporate a specific statutory prohibition on certain kiosks and machines physically located in a retail business location pursuant to Chapter 853 of the 2018 Laws of Maryland (Senate Bill 900).

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 James B. Butler, Managing Director, Organizational Compliance, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to jbutler@maryland.gov, or fax to 410-230-8727. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

Subtitle 01 GENERAL PROVISIONS

36.01.01 General

Authority: State Government Article, §§9-101—9-111, 9-116, 9-123, 9-1A-01, 9-1A-02, 9-1A-04, 9-1A-24, and 10-205, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) “Final action on a license denial” means:

(a)—(b) (text unchanged)

(c) If the Commission holds *or delegates* a hearing on an appeal of the Director’s license denial or reconsideration of license denial, the date of the Commission’s *or the Office of Administrative Hearings’* written decision.

(6) “Final action on a sanction” means:

(a) If after the Director sends a deficiency notice under COMAR 36.02.02, [36.03.05] 36.03.04, 36.06.05, [or] 36.07.02, *or* 36.03.03, a licensee fails to submit a timely, acceptable corrective action plan, and the Commission adopts as final the Director’s deficiency notice; or

(b) (text unchanged)

(7) *Gaming Activity.*

(a) “*Gaming activity*” means *play of a game or machine that is regulated by the Agency.*

(b) “*Gaming activity*” does not include activities as provided in COMAR 36.06—36.09.

[(7)] (8) — [(9)] (10) (text unchanged)

(11) “*Player*” means *a person who participates in lottery or gaming activity.*

[(10)] (12) [“*Person*” means:] *Person.*

[(a)] An individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, assignor, referee, or any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals; and

(b) Department, commission, agency, unit, or instrumentality of a governmental entity.]

(a) “*Person*” has the meaning stated in State Government Article §1-101, Annotated Code of Maryland.

(b) “*Person*” within COMAR 36.02, may include a group of two or more individuals that are playing or claiming together.

[(11)] (13) — [(13)] (15) (text unchanged)

(16) “*State obligation*” means *moneys owed pursuant to:*

(a) *Criminal Procedure Article, §11-616(b) or 11-618, Annotated Code of Maryland;*

(b) *Family Law Article, §10-113.1(a), Annotated Code of Maryland; or*

(c) *State Finance and Procurement Article, §3-307, Annotated Code of Maryland.*

[(14)] (17) “*Table games*” means:

(a) Roulette, baccarat, blackjack, craps, big six wheel, [minibaccarat], poker, pai gow [poker], and sic bo *shakers*, *pai gow tiles*, [or] any variation and composites of such games, *and other games that the Commission has approved for play in a video lottery facility;* and

(b) Gaming tournaments in which players compete against one another in one or more of the games authorized under [§B(14)(a)] §B(147(a) of this regulation.

[(15)] (18) “*Ticket*” or “*lottery ticket*” means a ticket [sold by] *that a lottery retailer [to the general public] or the Agency makes available for sale.*

[(16)] (19) — [(20)] (23) (text unchanged)

.03 Lottery and Gaming Control Commission.

A. [Definitions.

(1) In this regulation the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Gaming activities" means, for purposes of this chapter, any activity lawfully carried out under the gaming law.

(b) "Quorum" means a majority of the full authorized membership of the Commission.]

[B.] A. (text unchanged)

[C.] B. Operational Procedures.

(1) Meetings.

(a)—(b) (text unchanged)

(c) [No action shall be considered an act of the] *The Commission may not act* unless at least four [of its] members concur.

(2) Minutes.

(a) (text unchanged)

(b) The Secretary of the Commission [promptly shall send the Governor a certified copy of the minutes of each meeting of the Commission] *shall, as soon as practicable after the Commission meets, prepare minutes of the meeting and make them available to the public as required under §3-306 of the General Provisions Article, Annotated Code of Maryland.*

[(c) The minutes shall include a copy of each regulation of the Agency that is adopted by the Commission.]

[D.] C. Powers of Commission.

(1) (text unchanged)

[(2) The Commission shall satisfy all regulatory authorities, responsibilities, and processes as designated by law and this title.]

.04 Lottery and Gaming Control Director.

A. General Duties. The Director shall:

(1) Supervise and administer the operation of the Agency [in accordance with the lottery law];

(2) Provide assistance to the Commission in the performance of its duties [under the provisions of the lottery law and gaming law]; and

(3) (text unchanged)

B. Powers of Director.

(1) [The Director shall authorize the Agency to sell lottery tickets for purposes consistent with the lottery law.

(2) The Director may authorize the Agency to sell lottery tickets for a temporary period at any promotional or special event being held in the State if:

(a) In the Director's determination, a licensed retailer is not available to conduct the sale; and

(b) The person holding the promotional or special event has authorized the Agency to sell Lottery tickets at the event.

(3) With the approval of the Commission in compliance with the lottery law and State Finance and Procurement Article, Division II, Annotated Code of Maryland, the Director may enter into contracts for the:

(a) Operation of all or any part of the lottery; and

(b) Use of space, for advertising or promotional purposes, on tickets or publications distributed by the Agency, if, in the Director's discretion, the action is fiscally prudent and in the best interest of the lottery.

(4) With the approval of the Commission, the Director may:

(a) Contract for the promotion of the lottery; and

(b) Enter into private sector cooperative marketing project agreements as provided for in State Finance and Procurement Article, §11-203, Annotated Code of Maryland.

(5) With the approval of the Commission and the Legislative Policy Committee, the Director may enter into agreements to operate multijurisdictional lotteries with:

(a) Any other political entity outside of the State or outside the United States that operates a lottery; or

(b) A private licensee of a state or foreign nation] *The Director has all those powers conferred under State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.*

[(6)] (2) — [(8)] (4) (text unchanged)

[(9)] (5) The Director may determine that a type of ticket shall be cancelled, including an instant ticket, a multi-jurisdictional ticket, and [an online] *a draw game* ticket.

[(10)] (6) The Director may disqualify a game ticket [upon a player's breach of] *if a player violates* an Agency law or regulation.

[(11) Delegation of Authority.

(a)] (7) The Director may delegate to another individual the performance of any activity, function, or [services] *service* in connection with the operation of the Lottery.

[(b) The delegated activity, function, or service shall constitute a lawful activity, function, or service of the Agency.]

.05 Limitations on [Lottery and Gaming Play] *Gaming Activity*.

[A. A lottery ticket may not be purchased] *Gaming activity may not be engaged in* by, and a prize or jackpot may not be paid to:

[(1)] A. — [(3)] C. (text unchanged)

[(a)] (1) — [(d)] (4) (text unchanged)

[(4)] D. A person whose name appears on [the] *a* Voluntary Exclusion Program list [for exclusion from lottery play] *under COMAR 36.01.03.*

E. *The Agency shall conduct periodic reviews to ensure compliance with this Regulation.*

[B. A video lottery terminal or table game licensed by the Commission may not be played, and a jackpot or complimentary service, as those terms are defined in COMAR 36.03, may not be accepted, by:

(1) A Commission member;

(2) An employee of the Agency;

(3) An individual who lives in the same principal residence as a Commission member or an employee of the Agency and is the member's or employee's:

(a) Spouse or domestic partner;

(b) Child;

(c) Sibling; or

(d) Parent or parent-in-law; or

(4) A person whose name appears on the Voluntary Exclusion Program list for exclusion from lottery or gaming activities play.]

.06 Code of Conduct.

A. Definitions.

(1) (text unchanged)

(2) Terms Defined.

(a) (text unchanged)

(b) "Complaint" means *the submission of* a communication to the Agency or the Commission *alleging* [of a possible] *a* violation of [this subtitle] *a law, regulation, or the code of conduct established by the Director.*

(c) "Conflict of interest" means a situation in which a personal interest of a Commission member or an Agency employee [presents a potential conflict with] *may be contrary to* the public interest in [connection with] an anticipated [public] *Commission* action or decision.

(d) "Ex parte communication" means a direct or indirect communication between a Commission member or Agency employee and another [party] *person* regarding [the merits of] an issue in a *matter that is pending* [matter] *before the Commission*, if the communication is made outside the presence of [the] an opposing [party] *person.*

(e) (text unchanged)

B. Establishment and Compliance.

(1) The Director shall establish a code of conduct for members of the Commission and [employees of the] *Agency employees*.

(2) *Members of the Commission and Agency employees shall comply with the code of conduct.*

C. Recusal of Commission Members.

(1) A Commission member [shall recuse himself from] *may not participate in a Commission [proceedings] proceeding* in matters in which the member:

(a)—(b) (text unchanged)

(2) [Personal] A *Commission member's* familiarity with a [party] *person* does not, of itself, require recusal of [a] *the* Commission member.

(3) [A Commission member may seek advice of the Commission's counsel in determining the need for recusal on a specific matter.

(4) The] A Commission member who is recused from a matter before the Commission may not:

(a) Participate in the Commission's discussion or vote on the matter; or

(b) Discuss the matter or the Commission's review of the matter with members of the Commission or [other individuals] *another person*.

[(5)] (4) [The] A Commission member who is recused shall physically leave the room during hearings, discussion, or voting on the matter to ensure nonparticipation.

[(6)] (5) The Commission shall document the recusal of the Commission member in the minutes of the Commission meeting *from which the member was recused*.

D. Complaints.

[(7)] (1) A Commission member against whom a complaint is filed shall follow [§C(4) and (5)] *§C(3) and (4)* of this regulation for [all] *Commission* discussion and voting [concerning] *related to* the complaint [filed against the Commission member].

[(8) If the Commission determines that there is an additional matter before the Commission which is reasonably related to the complaint filed against the Commission member, the Commission member against whom the complaint is filed shall follow this section for the additional matter.]

(2) *Upon receipt of a complaint, the Commission may:*

(a) *Direct the Agency to investigate; or*

(b) *Refer the complaint to appropriate unit of State government.*

[(9) If, after investigation of the complaint, the Commission refers the case to the Attorney General's Office, the Commission member shall recuse himself or herself from all Commission activities until the final disposition of the case.]

(3) *An Agency employee who has a conflict of interest pertaining to the Commission member who is the subject of the complaint may not participate in an investigation of the complaint.*

(4) *The Commission member who is the subject of the complaint may not participate in any Commission activity until the complaint is resolved.*

[D. Agency Employee.

(1) An Agency employee may not conduct or participate in an investigation in which the Agency employee has a conflict of interest.

(2) In the investigation of a complaint against a member of the Commission, the Commission may consider using an investigator other than the investigator who is regularly assigned to conduct investigations for the Commission.]

E. (text unchanged)

36.01.02 Administrative Procedures

Authority: General Provisions Article, §§3-101 – 3-501, and 4-101 – 4-601; State Government Article, §§9-108 – 9-111, 9-1A-04, 10-201, 10-226, and 10-301 – 10-305; Annotated Code of Maryland

.01 Public Information Act Requests.

A.—F. (text unchanged)

G. Response to Application.

(1)—(7) (text unchanged)

(8) *The Agency is not required to create a new record in response to an application.*

H.—K. (text unchanged)

L. Fees.

(1)—(8) (text unchanged)

(9) Waiver or Reduction of Fee.

(a) The custodian may waive or reduce any fee set under this regulation if the applicant requests a waiver, and:

(i) (text unchanged)

(ii) The applicant is indigent and [files] *submits* an affidavit verifying the facts that support a claim of indigency.

.02 Correction of Public Records.

A. Scope. This regulation sets out procedures under which a person in interest may request the correction or amendment of a public record of the Agency pursuant to [State Government Article, §10-625] *General Provisions Article, §4-502*, Annotated Code of Maryland.

B.—C. (text unchanged)

D. Form and Contents of Request.

(1) The request shall be:

(a) (text unchanged)

(b) [Filed with] Submitted to:

(i)—(ii) (text unchanged)

(2) (text unchanged)

E.—F. (text unchanged)

G. Statement of Disagreement.

[(1)] If the Agency refuses to make a requested correction or amendment, a person in interest [may file] *submit to* with the Agency a concise, *written* statement *that, in five pages or less*, states [of] the reasons for:

[(a)] (1)—[(b)] (2) (text unchanged)

[(2) Form of Statement of Disagreement.

(a) The statement of disagreement may not exceed five pages.

(b) The pages may not exceed 8-1/2" x 11" each.

(c) Only one side of a page may be used for the statement.]

H. Statement of Disagreement Provided Third Parties. [When] *If* the Agency discloses to a third party information about which a statement of disagreement has been [filed] *submitted* under §H of this regulation, the Agency shall provide a copy of the statement [to that third party] *submitted to the Agency by the person in interest*.

I. Administrative Review.

(1) (text unchanged)

(2) A request for administrative review shall be [filed with] *submitted to* the Director within 30 days after the requestor is advised of the Agency's action.

(3) (text unchanged)

.03 Open Meetings.

A. Public Attendance.

(1) [At any] *The public may attend and observe an open session of [the] a Commission meeting* [the general public is invited to listen and observe].

(2) (text unchanged)

B. Disruptive Conduct or Activity.

(1) A person attending an open session of the Commission may not engage in any conduct[, including visual demonstrations such as the waving of placards, signs, or banners, which] *that* disrupts the session or interferes with the opportunity of members of the public to [listen] *attend* and observe the session.

(2) The presiding officer may:

(a) Order any person who engages in conduct [prohibited in §A of this regulation, or who has violated another regulation concerning the conduct of an open] *that disrupts a session*, to be removed from the session;

(b)—(c) (text unchanged)

C. Recording, Photographing, and Broadcasting of Open Meetings.

(1) A member of the public, including a representative of the news media, may record discussions of the Commission at an open session by means of a tape recorder or another recording device if the device:

(a)—(b) (text unchanged)

(c) Does not otherwise interfere with another person's *attendance* or observation of [or participation in] the session; and

(d) (text unchanged)

(2)—(4) (text unchanged)

(5) The Commission may require any person who intends to record, photograph, videotape, broadcast, or televise an open session to register [in advance of the beginning of] *with the Commission at least 24 hours before the session begins*.

(6) (text unchanged)

D. (text unchanged)

.04 Petition for Declaratory Ruling.

A. [Who May File] *Submissions*. [Any] A person may [file] *submit* a petition with the Agency seeking the issuance of a declaratory ruling with respect to the applicability of [any] *a* regulation, order, or statute enforceable by the Agency.

B. (text unchanged)

C. Disposition.

(1)—(2) (text unchanged)

(3) Unless reviewable by the Commission under §E of this regulation, the Director's decision [shall be considered] *is final*.

D. (text unchanged)

E. Review By Commission.

(1) [For declaratory rulings under Criminal Law Article, Title 12, Subtitle 3, and State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland, or regulations promulgated thereunder, the] *The* Director's decision shall be forwarded to the Commission for its review and approval before it may be considered final *for a petition for declaratory ruling under*:

(a) *State Government Article, Title 9, Subtitles 1, 1A, 1B, and 1D, Annotated Code of Maryland or regulations promulgated thereunder; and*

(b) *Criminal Law Article, Title 12, Subtitle 3, Annotated Code of Maryland, or regulations promulgated thereunder*.

(2) The Commission's approval of the Director's decision [shall make] *makes* the Director's decision final.

F. (text unchanged)

G. Agency File.

(1) (text unchanged)

(2) The Agency's file [shall be available for] *is a* public [inspection as provided in State Government Article, §10-613] *record as defined in General Provisions Article, §4-101*, Annotated Code of Maryland.

.05 Petition for Promulgation, Amendment, or Repeal of a Regulation.

A. [Who May File] *Submissions*. [Any] A person may [file] *submit* a petition requesting the promulgation, amendment, or repeal of [any] *a* regulation concerning which the Agency has [rule-making] *rulemaking* authority.

B.—C. (text unchanged)

D. Disposition.

(1) (text unchanged)

(2) [For petitions related to regulations under State Government Article, Title 9, Subtitle 1A, or Criminal Law Article, Title 12, Subtitle 3, Annotated Code of Maryland, within] *Within* 60 days after submission of the petition, the Director shall forward the petition to the Commission with a recommendation to deny the petition or initiate rulemaking proceedings *for a petition pertaining to regulations promulgated under*:

(a) *State Government Article, Title 9, Subtitles 1, 1A, 1B, and 1D, Annotated Code of Maryland; or*

(b) *Criminal Law Article, Title 12, Subtitle 3, Annotated Code of Maryland*.

(3) (text unchanged)

E. Agency File.

(1) (text unchanged)

(2) The [Agency file shall be available for] *Agency's file is a* public [inspection as provided in State Government Article, §10-613] *record as defined in General Provisions Article, §4-101*, Annotated Code of Maryland.

.06 Commission Hearings.

A. Scope.

(1) (text unchanged)

(2) These regulations do not apply to conferences, *meetings*, or other informal proceedings where no formal ruling or decision is made.

B. Definitions.

(1) (text unchanged)

(2) Terms Defined.

(a)—(c) (text unchanged)

[(d) "Filed" means when a document related to a hearing is:

(i) Received by the Commission or, if earlier, postmarked; and

(ii) If required, served on the other parties to the proceeding.]

[(e)] (d)— [(g)] (f) (text unchanged)

C. Conduct of Hearing.

(1) (text unchanged)

(2) Duties of Presiding Officer.

(a) (text unchanged)

(b) In addition to other powers and authority granted by law, the presiding officer may:

(i)—(vi) (text unchanged)

(vii) Limit [unduly] *unnecessarily* repetitious or irrelevant [testimony] *evidence* or argument.

D.—F. (text unchanged)

G. Rights of Parties.

(1) At a hearing, the parties may:

(a)—(e) (text unchanged)

(f) Present argument [and summation].

(2) If a party is represented by counsel, submissions of evidence, examination and cross-examination of witnesses, and [summation] *argument* shall be performed solely by counsel.

(3)—(4) (text unchanged)

H. Record and Transcript of Hearing.

(1) Record.

(a) The Commission shall prepare an official record of the hearing, which shall include all pleadings, testimony, exhibits, and other memoranda or other documents [filed] *submitted* in the proceedings.

(b)—(c) (text unchanged)

(2) Transcript Expense.

(a) The cost to obtain a written transcript of [a] *any part of a* proceeding [, or part of one,] shall be paid by the party requesting the transcript.

(b) The party requesting the transcript is responsible for all costs of transcription [unless, at the party's request, the Commission agrees to reduce or waive those costs for good cause shown].

(c) If a party is excepting to [or], appealing from [a], *or seeking judicial review of the Commission's proposed or final decision* [by the Commission], that party shall request a transcript of the recording, unless a transcript already has been prepared [or the Director or the Commission waives the requirement for a transcript].

(d) If a party is seeking judicial review of a final decision, that party shall request a transcript of the recording, unless a transcript already has been prepared].

I. Decision and Order.

(1) (text unchanged)

(2) A copy of the decision and order and accompanying findings and conclusions shall be [delivered or mailed] *transmitted* promptly to each party or each party's attorney of record.

J. (text unchanged)

K. Default.

(1) (text unchanged)

(2) Within 30 days after issuance of a default order, the party in default may [file] *submit* a written motion requesting that the order be vacated or modified.

(3) (text unchanged)

(4) If a motion to vacate or modify *the default order* is not timely [filed] *submitted*, or if a motion is [filed] *submitted* and denied, the default order shall be final and effective [immediately] *when the Chairman signs the order*.

L. Dismissal for Lack of Prosecution.

(1) [In this section "docket entry":

(a) Means filing a pleading, requesting a hearing date, or scheduling a proceeding; and

(b) Does not include the entry or withdrawal of an appearance, case status reports, or other inquiries.

(2) At the expiration of 6 months from the last docket entry, the Commission may dismiss an action for lack of prosecution] *If six months pass since a party that initiated an action before the Commission has made a submission or otherwise contacted the Commission to pursue the party's action, the Commission may dismiss the action.*

[(3) The Commission shall notify all parties that an order of dismissal for lack of prosecution will be entered after the expiration of 30 days from the notice, unless a motion is filed under §L(4) of this regulation.]

(2) *The Commission shall:*

(a) *Document its dismissal of the action in writing; and*

(b) *Transmit the written dismissal to all parties by electronic or regular mail.*

(3) *If a party disagrees with the dismissal, within 30 days of the date of the dismissal notice, the party shall submit, in writing, its factual and legal basis for disagreement.*

[(4) On motion filed within 30 days of the notice, and for good cause shown, the Commission may defer entry of an order of dismissal for the period and on the terms the Commission considers proper.

(5) If a motion is not timely filed, or if a motion is filed and denied, the Commission shall issue an order of dismissal.]

(4) *The Commission may reopen the matter if good cause exists to do so.*

(5) *The Commission's dismissal of an action is final if:*

(a) *No party timely submits written disagreement with the dismissal; or*

(b) *The Commission declines to reopen the matter.*

M. (text unchanged)

N. Service.

(1) *A party shall promptly serve a copy of any notice, order, pleading, motion, response, correspondence, decision, paper, or other document [filed] submitted in a proceeding [shall be served promptly] on all other parties to the proceeding or their [respective] authorized representatives.*

(2) *Unless otherwise required by law, a party shall make service [shall be made] by personal delivery or by regular mail.*

(3) [Service] *A party may make service* on a party to whom a [permit,] license, registration, or certification has been issued by the Agency or the Commission [may be made] by delivering a copy to the last address provided the Agency by that party.

(4) Every paper or document [filed] *submitted* in a proceeding, other than one [filed] *submitted* by or on behalf of the Commission, shall contain or be accompanied by a certificate of service that:

(a) Is signed by or on behalf of the party [filing] *submitting* the paper or document; and

(b) (text unchanged)

O. Delegation of Hearing Authority.

(1)—(8) (text unchanged)

(9) [A copy of the Commission's revocation notice shall be made a part of the record] *The Commission's revocation notice shall be included in the record.*

36.01.03 Voluntary Exclusion and Responsible Gaming

Authority: *Criminal Law Article, §§12-301.1 and 12-308; State Government Article, §§9-110 and 9-1A-24(e); Annotated Code of Maryland*

.01 General.

A. This chapter establishes a mechanism by which an individual may request to be placed on a list of individuals with gambling problems who have been voluntarily excluded from:

(1) Video lottery facilities in the State; [or]

(2) Lottery play in the State; [or]

(3) [Both] *Instant bingo facilities under COMAR 36.07 with more than 10 instant bingo machines; or*

(4) *Any combination of the three.*

B. The Commission shall:

(1) Maintain a list of individuals who have requested to be excluded from video lottery facilities [and], lottery play in the State, *and instant bingo facilities with more than 10 instant bingo machines; and*

(2) (text unchanged)

.02 Application for Voluntary Exclusion.

A. An application for voluntary exclusion shall be available at:

(1) Each licensed video lottery facility upon request of Commission staff; [and]

(2) *Each licensed instant bingo facility with more than 10 instant bingo machines; and*

[(2)] (3) The Agency's offices.

B. An individual may request to be excluded from a video lottery facility or lottery play in the State, *or an instant bingo facility with more than 10 instant bingo machines* by submitting a completed application form to Commission staff.

C. *An individual may request to be excluded from an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to instant bingo facility staff.*

[C.] D. An application for voluntary exclusion shall include:

(1)—(2) (text unchanged)

(3) Information pertaining to [the Problem Gambling Fund] *problem gambling* programs [established under State Government Article, §9-1A-33(b)(4), Annotated Code of Maryland]; and

(4) A signed statement by which the individual declares that the individual:

(a)—(b) (text unchanged)

(c) Releases and holds harmless the State of Maryland, the Agency, and their employees, and agents from any liability that may arise from the application or the individual's placement on the voluntary exclusion list;

(d) Acknowledges that the Commission is collecting information from the individual that the:

(i) Individual may request to inspect or correct under [State Government Article, §10-625] *General Provisions Article, §4-502*, Annotated Code of Maryland; and

(ii) Commission will maintain as sociological information under [State Government Article, §10-617(c)] *General Provisions Article, § 4-330*, Annotated Code of Maryland;

(e) Authorizes the release of information to the persons specified in Regulation [.07] *.06 of this chapter*;

(f) Acknowledges that the individual will be, for the entire term of the requested period of exclusion:

(i) (text unchanged)

(ii) Prohibited from playing a lottery game; [or

(iii) Both;]

(iii) *Prohibited from playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines; or*

(iv) *Any combination of the three;*

(g) (text unchanged)

(h) Acknowledges that the individual may be subject to criminal charges if, during the period of exclusion, the individual enters a video lottery facility in the State; [and]

(i) Otherwise acknowledges that the individual understands the individual's responsibilities and possible consequences associated with being placed on the State's voluntary exclusion list; *and*

(j) *Is voluntarily applying.*

[D.] E. (text unchanged)

F. *Notice to Excluded Individual.*

The Agency's notice of an individual's placement on the voluntary exclusion list for video lottery facilities shall include:

(1) *A statement from each video lottery facility informing the individual not to enter the video lottery facility; and*

(2) *Notice that, if the individual enters a video lottery facility, the individual shall be subject to a criminal trespass charge.*

.03 Voluntary Surrender.

A. (text unchanged)

B. Term Defined. "Unredeemed item":

(1) Means a token, voucher, check, ticket, chip, coupon, or similar item that has monetary value, and that a player has:

(a)—(b) (text unchanged)

(c) Played at a table game; [or]

(d) Received by converting cash, check or wire transfer at a video lottery facility;

(e) *Obtained while trying to play a lottery game in the State; or*

(f) *Won by playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines.*

(2) (text unchanged)

C. (text unchanged)

.04 Voluntary Exclusion List.

The Commission shall:

A. [establish] *Establish* and maintain a list of individuals from whom it has received a completed application for voluntary exclusion;

B. *Provide the voluntary exclusion list to a video lottery facility, with periodic updates, to assist the video lottery facility in identifying an individual to be excluded;*

C. *Enter the voluntary exclusion list for lottery play into the Agency's control system to ensure that an excluded individual's winnings over \$600 will be surrendered under Regulation .03 of this chapter; and*

D. *Provide the voluntary exclusion list to an instant bingo facility with more than 10 instant bingo machines, with periodic updates, to assist the facility in identifying excluded individuals.*

.05 Removal from Voluntary Exclusion List.

A. (text unchanged)

B. An individual's request under §A of this regulation shall be submitted to the Commission in writing and shall be accompanied by documentation that the individual has:

(1) Completed:

(a) (text unchanged)

(b) A problem gambling treatment and prevention program [established under Health-General Article, Title 19, Subtitle 8, Annotated Code of Maryland] *approved by the Commission*; or

(c) A healthy decision-making program that is sponsored or approved by the Commission, *with a licensed professional counselor or other person approved by the Commission*;

(2)—(3) (text unchanged)

C. (text unchanged)

D. If the Commission:

(1) Grants the request, it shall:

(a) Deliver to the individual by *email* or regular [U.S.] mail a notice of removal from the voluntary exclusion list; and

(b) Notify the State's [facility operators] *video lottery facilities, instant bingo facilities with more than 10 instant bingo machines, or update the Agency's central system of the individual's removal from the voluntary exclusion list*; or

(2) Denies the request, it shall deliver to the individual by *email* or regular [U.S.] mail a notice that the:

(a)—(b) (text unchanged)

.06 Access to Voluntary Exclusion List.

A. All records pertaining to an individual's placement on the voluntary exclusion list are sociological information under [State Government Article, §10-617(c)] *General Provisions Article, §4-330*, Annotated Code of Maryland.

B. Access to records pertaining to an individual's placement on the voluntary exclusion list shall be limited to disclosures authorized under [State Government Article, §10-611, et seq.] *General Provisions Article, Title 4*, Annotated Code of Maryland, [and] COMAR 36.03.06, *and Regulation .04 of this chapter.*

.07 Responsible Gaming Program.

A. (text unchanged)

B. A responsible gaming program established by the Commission under §A of this regulation shall be designed to:

(1) Reduce or mitigate the effects of problem gambling in the State; and

(2) Maximize the access of individuals who have a gambling problem to problem gambling resources[, including treatment resources that are established under State Government Article, §9-1A-33, Annotated Code of Maryland].

Subtitle 02 LOTTERY PROVISIONS

36.02.01 General

Authority: State Government Article, §§9-103, 9-104, 9-109—9-111, and 9-122, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(6) *“Claim form” means a paper or computer-generated document that identifies a prize claimant, prize amount, game and ticket characteristics.*

[(6)] (7) *“Daily game” [or “game”] means [an on-line] a draw game for which the Agency offers a drawing every day.*

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

(9) *Draw Game.*

(a) *“Draw game” means a lottery game:*

(i) *Sold and redeemed through a subscription or a computer network at retailer locations; and*

(ii) *For which tickets are generated by a terminal and are a record of a transaction for a draw game.*

(b) *“Draw game” includes:*

(i) *A jackpot game;*

(ii) *A nonjackpot game;*

(iii) *A monitor game;*

(iv) *A multi-jurisdictional game played with draw game tickets; and*

(v) *Any other Agency-issued game played as described in this section.*

(10) *“Draw ticket” or “Draw game ticket” means a ticket purchased from a terminal or through a subscription.*

[(8)] (11) *“Drawing” means a random selection event used for determining [winners] winning numbers of certain lottery games.*

[(9)] (12) *“Drawing date” means the day [or], days of the week, or times of day on which the winning numbers for the lottery games are selected.*

[(10)] (13) (text unchanged)

[(11)] (14) *“Instant game” or “instant ticket game” means a lottery game [whose] where tickets [traditionally have a covered playing area or other area which] have an area that the player [removes] exposes in accordance with the game instructions, and includes:*

(a)—(b) (text unchanged)

[(12)] (15) (text unchanged)

[(13)] (16) *“Instant ticket vending machine” or “ITVM” means a machine from which an instant ticket may be purchased directly, without [a human] an individual receiving payment and delivering the ticket.*

[(14)] (17) *“Jackpot game” means a lottery game [whose] where the top prize amount varies depending on amounts wagered and on whether the top prize [is] was won in the preceding drawing.*

[(15)] (18) *“Lottery game” means a game, activity, or other enterprise [sponsored] offered by the Agency for consideration to win a prize by random chance and, unless specified by the Director, does not include a promotional game.*

[(16)] (19) *“Monitor” means a television screen or similar type of screen used to display draw game results.*

[(17)] (20) *“Monitor game” means [an on-line] a draw game [whose] where:*

(a) *Tickets are generated by an [Agency terminal] Agency vendor’s computer; [and]*

(b) *An Agency vendor’s computer generates results of the draw game; and*

[(b)] (c) (text unchanged)

[(18)] (21) (text unchanged)

[(19)] (22) *“Nonjackpot game” means a lottery game [whose] where the top prize remains constant.*

[(20)] (23)—[(21)] (24) (text unchanged)

[(22)] *On-Line Game.*

(a) *“On-line game” means a lottery game:*

(i) *Sold and redeemed through a computer network at retailer locations; and*

(ii) *Whose tickets are generated by a terminal and are a record of a transaction for an on-line game.*

(b) *“On-line game” includes:*

(i) *A jackpot game;*

(ii) *A nonjackpot game;*

(iii) *A monitor game;*

(iv) *A multi-jurisdictional game played with on-line tickets; and*

(v) *Any other Agency-issued game played as described in this section.*

(23) *“On-line ticket” or “on-line game ticket” means a ticket purchased from a terminal.]*

[(24)] (25)—[(25)] (26) (text unchanged)

[(26)] *“Player” or “purchaser” means a person who legally acquires an Agency ticket or presents a legally acquired ticket for payment.]*

(27)—(32) (text unchanged)

[(33)] *“Ticket” or “lottery ticket” means an authorized Agency lottery game ticket for an Agency lottery game.*

(34)] (33) *“Validate” or “validation” means the process of determining that a ticket is the rightful winner so that the claimant may be paid the prize.*

(34) *“Vendor” or “Agency vendor” means a person under contract to the Agency to provide services that support lottery games.*

36.02.02 Retailer Licensing

Authority: State Government Article, §§9-101, 9-111—9-116, and 9-119, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) *“Terminate” or “revoke” mean, with regard to any Lottery license, removal of the right to sell Lottery tickets.*

[(5)] (6) *“Total sales” means the amount of the sale of all lottery products by a retailer, minus the value of all cancelled lottery tickets.*

.02 License Required.

A.—C. (text unchanged)

D. A [department, commission, agency, or instrument of the State or its subdivisions] *governmental entity* that seeks a license as a lottery retailer shall demonstrate to the satisfaction of the Director the permission of any other person, board, commission, agent, or instrumentality of the State or its subdivisions that may have controlling authority over the applicant.

[E. An applicant for a license to be a lottery retailer whose proposed license location is in a public facility shall demonstrate to the satisfaction of the Director that the owner or lessor of the facility will allow the sale of tickets by the applicant.]

.05 Security.

At the discretion of the Director and in the amount determined by the Director, an applicant or a retailer may be required to post:

A. A surety bond;

B. An irrevocable letter of credit;

C. A cash security deposit; [or]

D. Lottery escrow deposit; or

[D.] E. Any other form of security deemed acceptable to the Director.

.06 Probationary License.

A. (text unchanged)

B. Termination.

(1) (text unchanged)

(2) The notice shall include:

(a) (text unchanged)

(b) A statement that the retailer, upon written request, may appear before the Director or the Director's designee to present [his] the retailer's views.

(3)—(5) (text unchanged)

.10 Sanctions.

A. The Director may impose sanctions on a retailer for:

(1)—(5) (text unchanged)

(6) [During a 10-week period within 30 days preceding a notice of deficiency or sanction, failing to] *Failing to meet the retailer's sales requirements as set by the Agency;*

[(a) Attain the lesser of:

(i) An average of \$5000 per week in total sales; or

(ii) 50 percent of the average total sales of the five closest daily lottery retailers; or

(b) Maintain an average cashing ratio of at least 25 percent of total sales;]

(7)—(17) (text unchanged)

B.—D. (text unchanged)

E. Agency Action. After the Director terminates a probationary or special license or imposes an emergency suspension or sanction on a retailer with a regular license, the Agency may:

(1) Disable [connectivity with lottery operations between the Agency and the retailer] *the retailer's lottery terminal;*

(2)—(4) (text unchanged)

F. (text unchanged)

36.02.03 Retailer Requirements

Authority: State Government Article, §§9-110—9-113, 9-115, 9-117, 9-119, 9-122, and 9-124, Annotated Code of Maryland

.01 General Responsibilities.

A. (text unchanged)

B. Services. A retailer shall:

(1)—(2) (text unchanged)

(3) *Sell lottery tickets only at the location specified on the retailer's license.*

[(3)] (4) — [(8)] (9) (text unchanged)

(10) *Keep playslips in stock and available to players;*

(11) *Not sell any lottery ticket or lottery-style ticket other than those made available for sale by the Agency;*

[(9)] (12) — [(10)] (13) (text unchanged)

C. Care of Terminals. A retailer shall:

(1)—(3) (text unchanged)

(4) [Attend such training sessions as the Agency shall determine to ensure that the retailer and employees are properly trained in the operation, maintenance, care, and security of the terminal] *Participate in training approved by the Agency;*

(5) Replace [printing equipment and supplies and] *lottery ticket stock when necessary;*

(6) Provide reasonable care and security for [printing materials] *lottery ticket stock;*

(7) (text unchanged);

(8) Perform no mechanical or electrical maintenance on the terminal *except as directed by the Agency or an Agency vendor;*

(9) [and, as] As directed by the Agency, immediately notify the technical support operations center in the event of any terminal malfunction;

[(9)] (10) — [(12)] (13) (text unchanged)

D. (text unchanged)

E. A retailer shall notify the Agency at least 14 days before the retailer temporarily or permanently ceases the operation of the retailer's business.

F. (text unchanged)

.02 Sale of Lottery Tickets—*Instant Ticket Procedure.*

[A. Specific Locations.

(1) The sale of lottery tickets shall be made only at the location specified in the license.

(2) Except as provided in the lottery laws or these regulations, no other sale of lottery tickets may be permitted.

B. Activation and sale.] Instant tickets that a retailer activates before a ticket's announced end of game may be sold by the retailer after the ticket's announced end of game and until the last date to claim a prize for that game.

[C. Playslip or ePlayslip Purchase Procedure. If a player wishes to purchase a ticket using a playslip or an ePlayslip, the retailer shall:

(1) Process the playslip or ePlayslip through the ticket terminal; and

(2) Issue to the player the specified on-line game ticket for the game being played.

D. Computer Generated Ticket Procedure.

(1) Randomly Selected Numbers.

(a) If a player wishes to have playable numbers generated as an on-line ticket, a retailer authorized to sell on-line games shall enter the game type and the dollar amount the player wants to wager.

(b) The retailer shall deliver to the player the ticket issued by the terminal with the randomly generated numbers for the game printed on the ticket.

(2) Player Selected Numbers.

(a) If the player wishes to provide playable numbers, a retailer may allow a player to vocalize the numbers.

(b) The retailer shall enter the information provided by the player, including:

(i) The game type;

(ii) The dollar amount the player wants to wager;

(iii) The numbers the player selects;

(iv) The number of games the player wishes to play; and

(v) Any other information required by the Agency.]

.03 Sale of Lottery Tickets—*Draw Game Ticket Procedure.*

A. *Playslip or ePlayslip Purchase Procedure. If a player wishes to purchase a ticket using a playslip or an ePlayslip:*

(1) *A player shall complete a playslip and give it to the retailer; and*

(2) *The retailer shall:*

(a) *Process the playslip or ePlayslip through the ticket terminal; and*

(b) *Issue to the player the specified draw game ticket for the game being played.*

B. *Vocalized Purchase Procedure.*

(1) *Randomly Selected Numbers.*

(a) *If a player wishes to have playable numbers randomly generated for a draw game ticket, a retailer shall enter the game type and the dollar amount the player wants to wager.*

(b) *The retailer shall deliver to the player the ticket issued by the terminal with the randomly generated numbers for the game printed on the ticket.*

(2) *Player Selected Numbers.*

(a) *If the player wishes to provide playable numbers, a retailer may allow a player to vocalize the numbers.*

(b) *The retailer shall enter the information provided by the player, including:*

(i) *The game type;*

(ii) *The dollar amount the player wants to wager;*

(iii) *The numbers the player selects;*

(iv) *The number of games the player wishes to play; and*

(v) *Any other information required by the Agency.*

C. *Player Activated Terminal.*

If a player wishes to purchase a ticket using a PAT, the player may purchase the ticket using any method offered on the PAT.

[.03] .04 Lost, Stolen, or Missing Tickets.

A.—B. (text unchanged)

C. The Agency is not liable to a retailer or [consumer] player for a lost or stolen ticket.

D.—F. (text unchanged)

[.04] .05 Posting of Winning [Prize] Numbers.

A.—C. (text unchanged)

[.05] .06 Payment of Prizes.

A.—D. (text unchanged)

E. [Once] *Unless a ticket is cashed at a PAT, after a ticket is validated and paid, the retailer:*

(1)—(2) (text unchanged)

F. (text unchanged)

[.06] .07 Expanded Cashing Authority Program.

A.—B. (text unchanged)

C. Retailer Requirements. A retailer in the Expanded Cashing Authority Program shall:

(1)—(2) (text unchanged)

(3) Report income tax information relating to holders of winning lottery tickets to the Agency as required by the Internal Revenue Service or the Agency;

(4) For prizes over \$600, *utilize the lottery terminal to determine, [through the Agency and before paying the prize,] whether a holder of a winning lottery ticket [has been certified under]:*

[(a) Criminal Procedure Article, §11-616(b), Annotated Code of Maryland;

(b) Family Law Article, §10-113.1(a), Annotated Code of Maryland; or

(c) State Finance and Procurement Article, §3-307(g), Annotated Code of Maryland; and]

(a) *Owes a State obligation; or*

(b) *Is on the Voluntary Exclusion list described in COMAR 36.01.03; and*

(5) (text unchanged)

D. *Recertification for the Program.*

The Director may establish a periodic recertification process for retailers in the Expanded Cashing Authority Program.

[D.] E. (text unchanged)

[.07] .08 Payments to Agency.

A. A retailer shall:

(1) Be financially responsible to the Agency for all:

(a)—(b) (text unchanged)

(c) [Tickets] *Except for tickets that the retailer cashed through a PAT, tickets that the retailer cashed or cancelled which are later submitted to the Agency for payment;*

(2)—(6) (text unchanged)

B.—D. (text unchanged)

[.08] .09 Americans with Disabilities Act.

A.—B. (text unchanged)

C. Compliance.

(1) (text unchanged)

(2) The Agency shall:

(a)—(b) (text unchanged)

(c) [Provide] *If necessary, provide the retailer with a corrective action plan on the ADA retailer compliance form.*

[.09] .10 Changes in Ownership.

A. General.

(1)—(2) (text unchanged)

(3) A transfer of interest to a spouse [or child] *currently identified as an owner on the retailer's license* by gift or through operation of law is not a transfer of ownership.

(4)—(6) (text unchanged)

B. (text unchanged)

[.10] .11 Prohibited Acts.

A. This regulation does not:

(1) (text unchanged)

(2) Prohibit the purchase of a ticket for the purpose of making a gift to a person younger than 18 years old.

B. No person other than a licensed lottery retailer or the retailer's employee *or the Agency* may sell a lottery ticket *or a lottery subscription.*

C. (text unchanged)

D. A retailer may not:

(1) (text unchanged)

(2) Sell to or cash a lottery ticket for a person younger than 18 years old; or

(3) (text unchanged)

E. Except as otherwise provided in these regulations or with the approval of the Director, a retailer may not cancel or accept ticket returns for [on-line] *draw games.*

F. All instant ticket sales are final and may not be cancelled once sold.

G. [All sales of tickets for a particular drawing are void after the drawing] *Void Ticket.*

(1) *A ticket may not be sold for a drawing after that drawing has occurred; and*

(2) *A ticket sold for a drawing after that drawing has occurred is void.*

H.—I. (text unchanged)

36.02.04 Common Provisions for All Lottery Games

Authority: State Government Article, §§9-109—9-111, 9-122, and 9-124, Annotated Code of Maryland

.02 Ticket Purchaser Responsibilities.

A. At the time of purchase, the purchaser of a lottery ticket is responsible for verifying that the information printed on the ticket accurately reflects:

(1) The numbers, or other symbols by which winning is determined, that the purchaser wants to play *if the purchaser is permitted to select their own numbers and has chosen to do so;*

(2) The [date of the] drawing date; and

(3) (text unchanged)

B. The sole remedy for an inaccurate ticket shall be cancellation of that ticket, *if permitted*, as set forth in Regulation .04 of this chapter.

C. (text unchanged).

.03 Methods of Purchase.**A. Playslips and ePlayslips.**

(1) (text unchanged)

(2) If a playslip or an ePlayslip may be used to play [an on-line] *a draw game*, the playslip or ePlayslip shall be available at no cost to the purchaser and may be used by the purchaser for selection of numbers.

B. Purchase by Playslip Through Retailer.

(1)—(7) (text unchanged)

C. Purchase by ePlayslip Through Retailer.

(1)—(5) (text unchanged)

D. Purchase Using a [Player Activated Terminal] *Player-activated Terminal*. If a game may be played using a [player activated terminal] *player-activated terminal*, the player shall:

(1) (text unchanged)

(2) Insert a playslip or *scan* an ePlayslip [if the desired game accepts player-selected numbers].

E. Purchase by Subscription.

(1) (text unchanged)

(2) Subscription Applications.

(a) A purchaser of a Lottery subscription shall be a resident of Maryland or use a Maryland address for the subscription application.

[(b) A gift recipient of a subscription shall be a Maryland resident or use a Maryland address for the subscription.]

[(c)] (b) If a game may be purchased by subscription, a subscription application form shall:

(i) (text unchanged)

(ii) Require the purchaser to supply identifying information[, including Social Security number,] as determined by the Agency.

(d) A subscription application form shall allow the purchaser to designate:

(i) (text unchanged)

(ii) If a game allows a player to select [ticket] numbers, the player's decision to supply particular numbers or *to* allow the [terminal] *Agency vendor's computer* to select random numbers.

(e) (text unchanged)

(3) Group Subscription Applications.

(a) An application for a subscription in the name of more than one person:

(i) Is a group subscription; *and*

[(ii) Shall include at least one member who is a resident of Maryland; and

(iii)] (ii) Shall designate a single group member [who is a Maryland resident to be the group's representative.] *to be the group manager;*

(b) *The group manager shall be:*

(i) A Maryland resident or have a Maryland mailing address; *and*

(ii) *Authorized to be the sole recipient of prizes up to an amount determined by the Director.*

[(b)] (c) An application for a group subscription shall include identifying information for each group member [, including the member's Social Security number], as determined by the Agency.

(d) *The application for a group will only be completed if the application form is fully completed and all requested information is provided about each group member.*

(4) Subscription [Membership Card] Email.

(a) The Agency shall provide a subscription purchaser or, if a group purchaser, the group's representative, a subscription [membership card] *confirmation email*.

(b) A subscription [membership card] *confirmation email* shall include information identifying the subscription, as determined by the Agency.

(5) [Determining] Subscription Play and Winning.

(a)—(c) (text unchanged)

(6) A subscription may be renewed *as allowed by the Agency*.

.04 Cancellation of Tickets.**A. [On-Line] Draw Games.**

(1) Unless cancellation is authorized by this regulation or the rules governing that ticket, a sale of [an on-line] *a draw game ticket* is final.

(2) A multi-jurisdictional game played with [an on-line] *a draw game ticket* may be cancelled only if authorized by the rules governing that game.

(3) A ticket purchased at a player-activated terminal may not be cancelled *at the PAT, but an eligible ticket may be canceled at a non-PAT terminal at the retailer where the ticket was purchased*.

(4) (text unchanged)

(5) [An on-line] *A draw game ticket* may be cancelled only:

(a) By the same retailer[, at the same terminal] from which the ticket was purchased;

(b) On the day of purchase;

(c) Before the designated cutoff time for the first drawing on the ticket; and

(d) [If the cancellation is completed prior to the first drawing on the ticket] *If allowed by the game*.

(6) Canceling [an on-line] *a draw game ticket*:

(a)—(c) (text unchanged)

(7) A retailer presented with [an on-line game lottery] *a draw game ticket* for cancellation shall cancel the ticket as authorized by this regulation.

(8) When a retailer cancels [an on-line] *a draw game ticket* in accordance with this regulation, the retailer shall:

(a)—(c) (text unchanged)

(9) (text unchanged)

B. (text unchanged)**.05 Game Liability Limit.****A.—B. (text unchanged)**

C. [A retailer may not sell a ticket that, if it won, would win above the liability limit established by the Director for that drawing or game] *A lottery ticket may not be issued if the ticket, if won, would exceed the game liability limit established by the Director for that drawing or game.*

36.02.05 Specific Game Provisions

Authority: State Government Article, §§9-109—9-111, 9-122, and 9-124, Annotated Code of Maryland

.01 [On-Line] Draw Games.**A. Drawings.**

(1) Except for multi-jurisdictional games, [on-line] *and raffles*, draw game drawings shall be open to the public and shall occur at least once a week.

(2) The Agency may use members of the general public as witnesses at [an on-line] *a draw game drawing*.

(3) Winning numbers for [an on-line] *a draw game* may be drawn by:

(a) (text unchanged)

(b) A random number generator; *or*

[(c) A computer; or]

[(d)] (c) (text unchanged)

(4) (text unchanged)

B. Draw Game Tickets.

(1) [An on-line] *A draw game ticket* shall be generated through the use of a [ticket] terminal *or a subscription purchase*.

(2) The [on-line] *draw* game ticket shall include the:

(a)—(d) (text unchanged)

C. Monitor Games.

(1) The results of a monitor game drawing [shall] *may* be displayed on the game's monitor.

(2) (text unchanged)

D. Consumer Game Information.

(1) The Agency shall provide information about:

(a) [On-line] *Draw* games; and

(b) Multi-jurisdictional games with [on-line] *draw* game tickets.

(2) (text unchanged)

(3) (text unchanged)

E. *To determine if a draw game ticket is a winning ticket, a player may present the ticket to a retailer, a PAT, or the Agency.*

.02 Instant Ticket Games.

A. (text unchanged)

B. To determine if an instant ticket is a winning ticket, a player may:

(1) [Remove] *Expose* the concealed area or areas in accordance with the game instructions on the instant ticket; or

(2) Present the ticket to a retailer, *PAT*, or the Agency.

36.02.06 Claims Procedures

Authority: State Government Article, §§9-101, 9-109—9-111, 9-113, and 9-122—9-124, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

[(6) “State obligation” means moneys due and certified to the Agency pursuant to:

(a) Criminal Procedure Article, §11-616(b), Annotated Code of Maryland;

(b) Family Law Article, §10-113.1(a), Annotated Code of Maryland; or

(c) State Finance and Procurement Article, §3-307, Annotated Code of Maryland.]

.04 Prize Claiming Locations.

A. (text unchanged))

B. Subscription Winner.

(1) [A subscription winner shall receive in the mail the prize payment or a claim form as determined by the Agency] *The Agency may decide whether to pay a subscription winner by check or to require a claim form to be submitted.*

(2) *The claim form may be sent by mail or e-mail, as determined by the Agency.*

[(2)] (3) A payment for a subscription winner may be made by mail or at Agency headquarters.

.05 Documents Required for Prize Payment.

A. (text unchanged)

B. [For all prizes] *To claim a prize*, a winner shall submit:

(1) [The] *For other than subscription winners, the actual original ticket*, which shall:

(a) (text unchanged)

(b) (text unchanged)

(2) (text unchanged)

C. For a prize claimed at an Agency claim center and for any prize over \$600 claimed at a retailer, in addition to the documents required

under §B of this regulation, a winner shall submit *a fully completed and signed claim form and sufficient information to identify the claimant, such as:*

[(1) A fully completed and signed claim form;]

[(2)] (1)—[(4)] (3) (text unchanged)

D. (text unchanged)

.06 Procedure for Authorized Claiming Locations.

A.—B. (text unchanged)

C. When a claim is submitted, an authorized claiming location shall review *and verify*:

(1)—(2) (text unchanged)

(3) If a claim form is required, the claim form; *and*

(4) If the *authorized* claiming location is a participating retailer under the expanded cashing authority program [location] or an Agency claim center, *the lottery terminal screen will indicate whether the winner owes a State obligation[; and] or whether the winner is prohibited by COMAR 36.01.01.05D.*

[(5) If the claiming location is an Agency claim center, whether the winner is prohibited by COMAR 36.01.01.05 from being paid a prize.]

D. If the winner owes a State obligation:

(1)—(2) (text unchanged)

(3) For a merchandise or experiential prize, if all other requirements of this subtitle are satisfied, an Agency claim center shall:

(a)—(b) (text unchanged)

(c) If the winner does not pay all State obligations within 5 [business] *work* days of claiming the prize, disqualify the winner and deem the claim invalidated.

E.—I. (text unchanged)

.08 Ticket Validation — [On-Line] Draw Tickets.

A. In addition to the requirements of Regulation .07 of this chapter, for a winning [on-line] *draw* ticket submitted to the Agency to be validated, the [on-line] *draw* ticket shall satisfy all of the conditions of this regulation.

B. [An on-line] *A draw* game ticket with that exact date and ticket data may not have been previously paid.

C. The [on-line] *draw* ticket shall have been:

(1)—(2) (text unchanged)

(3) Generated:

(a) From an Agency ticket terminal *or PAT*; and

(b) By the Agency through a licensed retailer *or as a subscription entry*.

D. The [on-line] *draw* ticket validation number shall:

(1)—(2) (text unchanged)

E. The ticket data on the [on-line] *draw* ticket shall:

(1)—(2) (text unchanged)

F. The official file of winning [on-line] *draw* tickets shall match the information that appears on the winning [on-line] *draw* ticket, including the:

(1)—(3) (text unchanged)

.11 Payment of a Lottery Prize.

A. All Tickets and Subscriptions.

(1)—(2) (text unchanged)

(3) Person to Be Paid.

(a) As long as the requirements of all other regulations in this subtitle are met, regardless of the name submitted on a claim form, the Agency shall pay the name appearing in the designated space on the back of the ticket or the name in which a subscription is held *or, in the case of a group subscription, the Agency may pay the group manager.*

(b) (text unchanged)

- (4) (text unchanged)
- B. [On-line] *Draw Game Ticket*. The owner of a winning [on-line] draw game ticket:
- (1)—(2) (text unchanged)
- C. (text unchanged)
- D. Subscription Prizes.
- (1) As determined by the Agency for subscription prize winnings, the Agency may:
- (a) Accumulate the prize winnings *up to an amount determined by the Director* and pay them within a reasonable time after *such amount is accumulated* or the end of the subscription period after all claims on the subscription are validated;
- (b)—(e) (text unchanged)
- (2) (text unchanged)
- (3) Jackpot Prize Winner on a Subscription.
- (a) (text unchanged)
- (b) The Agency shall forward [the completed forms] *a payment* to the Comptroller of Maryland for payment.
- (4) *Any member of the Group who is not eligible to purchase a lottery ticket from the Agency forfeits the right to any portion of the prize won by the group, and the ineligible group member's portion of that prize shall be paid to the unclaimed prize fund.*

.12 Prizes.

- A. (text unchanged)
- B. Jackpot [On-Line] *Draw Game Prizes*.
- (1) In a jackpot [on-line] draw game drawing, if no winning game ticket qualifies for the first prize category, the amount, portion, or percentage allocated for the first prize that is to be added to the next jackpot shall be determined by the Director.
- (2)—(3) (text unchanged)
- C. (text unchanged)

.15 Claims on Behalf of a Minor.

- A. (text unchanged)
- B. Claims Submitted.
- (1)—(4) (text unchanged)
- (5) The Director may petition a court of competent jurisdiction to request a determination for the payment of any prize [which] *that* is, or may become, due to a minor.
- (6) (text unchanged)

.18 Prizes Payable After Owner's Death.

- A.—G. (text unchanged)
- H. The person to receive payment on behalf of the deceased person shall submit to the Agency *a complete and notarized change of beneficiary form and sufficient information to identify the claimant, such as:*
- [(1) A complete and notarized change of beneficiary form;]
[(2)] (1)—[(3)] (2) (text unchanged)
- I. (text unchanged)

36.02.07 Unclaimed Lottery Prizes

Authority: State Government Article, §§9-109, 9-110, and 9-122, Annotated Code of Maryland

.02 Unclaimed Prize Fund.

- A.—C. (text unchanged)
- D. The Director may change the number of *bonus* prize categories and the allocation of prize money among the prize categories.
- E. The Agency shall announce any change to the number of *bonus* prize categories and to the allocation of prize money among the prize categories.

36.02.08 Voluntary Assignment of Monetary Prizes

Authority: *Criminal Procedure Article, §11-618; Family Law Article, §10-113.1; State Finance and Procurement Article, §3-307; State Government Article, §§9-109, 9-110, and 9-122; Annotated Code of Maryland*

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
- (1)—(7) (text unchanged)
- (8) "Court" means the [County] *court in the county* where the Agency's headquarters are located.
- (9)—(10) (text unchanged)
- (11) "Petition" means a written instrument filed in court [in accordance with the Assignment Law which seeks] *requesting* the assignment of a lottery prize payment.
- (12) (text unchanged)

.02 General.

- A. *An assignment is permitted as authorized by State Government Article, §9-122(b)(1)-(4), Annotated Code of Maryland.*
- B. *The manner by which an assignment may be processed is as provided in State Government Article, §9-122(b)(1)-(4), Annotated Code of Maryland.*
- C. *For purposes of determining annually whether an assignee or subsequent assignee owes State obligations, the Agency shall treat an assignee or subsequent assignee as if they won the prize.*

[.03].04 Affidavits Required.

- A.—B. (text unchanged)
- C. *The content of the affidavit shall be consistent with the requirements of §9-122(b)(4) of the State Government Article.*

.06 Fees.

- A. An administrative fee [in the amount] of \$1,000 shall be paid to the Agency to process a request for a voluntary assignment.
- B. The [\$1,000] administrative fee required in §A of this regulation is payable each time a lottery prize payment or any portion of a lottery prize payment is requested to be voluntarily assigned or reassigned.
- C.—F. (text unchanged)

.07 Special Requirements.

- [A. An assignee that enters into the contract of assignment shall be:
- (1) Registered to do business in Maryland; and
- (2) In good standing with the Maryland Department of Assessments and Taxation and any other licensing or regulatory unit whose approval is required in the conduct of the assignee's and subsequent assignee's business.

B. All subsequent assignees and their agents are bound by any voluntary assignment as the original assignee and its agents are bound by any voluntary assignment made under the Assignment Law.

C.] An assignor and an assignee shall provide written documentation to the Agency and the court that, as of the date of the court order approving the voluntary assignment, the voluntary assignment does not include or cover payments or parts of payments subject to:

- [(1)] A—[(4)] D. (text unchanged)

.08 Requirements for Court Order.

- A. (text unchanged)
- B. Content of Court Order. A court order shall:
- (1) Include all the information the Agency requires that is consistent with the Assignment Law; [and]

(2) *State that, if the assignee or subsequent assignee owes State obligations, all or part of a prize payment may be withheld;*

(3) *Where applicable, require that the assignee or subsequent assignee be in good standing with the Maryland Department of Assessments and Taxation and any other licensing or regulatory unit whose approval is required in the conduct of the assignee's and subsequent assignee's business prior to the Agency making any prize payment; and*

[(2)] (4) (text unchanged).

C. (text unchanged)

Subtitle 03 GAMING PROVISIONS

36.03.01 General

Authority: State Government Article, §§9-1A-02(b) and 9-1A-04(d), Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(22) (text unchanged)

[(23) "Player" means an individual who plays a video lottery terminal or a table game at a video lottery facility licensed by the Commission.]

[(24)] (23)—[(31)] (30) (text unchanged)

Subtitle 05 TABLE GAMES

36.05.02 Table Game Equipment

Authority: State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland

.15 Cards.

A. *Except as otherwise approved by the Commission, [Cards] cards used to play table games shall be in decks of 52 cards with each card identical in size and shape to every other card in the deck.*

(1)—(2) (text unchanged)

B. *Except as otherwise approved by the Commission, [Each] each deck shall be composed of cards in four suits: diamonds, spades, clubs and hearts.*

(1)—(2) (text unchanged)

C.—K. (text unchanged)

Subtitle 09 ONLINE FANTASY COMPETITION

36.09.01 Fantasy Competition

Authority: State Government Article, §9-1D-01, Annotated Code of Maryland; Ch. 853, Acts of 2018

.01 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. Terms Defined.

(1) *"Beginner player" means any fantasy competition player who:*

(a) *Has entered fewer than 51 fantasy competitions offered by a single fantasy competition operator; and*

(b) *Does not meet the definition of highly experienced player.*

(2) *"Entry fee" means cash or cash equivalents that may be required to be paid by a fantasy competition player to a fantasy competition operator in order to participate in a fantasy competition.*

(3) *"Fantasy competition" has the meaning stated in State Government Article, §9-1D-01(a), Annotated Code of Maryland and includes a competition in which:*

(a) *A prize is awarded;*

(b) *One or more players are subject to and may pay an entry fee; and*

(c) *The fantasy competition operator offering the competition receives compensation in connection with the competition regardless of the outcome.*

(4) *"Fantasy competition platform" means any website, program, application, or other portal providing access to a fantasy competition.*

(5) *"Fantasy contractor" means any person or corporate entity who:*

(a) *Works under an independent contract with a fantasy competition operator; and*

(b) *Has regular access to:*

(i) *Nonpublic portions of a fantasy competition operator's office;*

(ii) *Information on a fantasy competition operator's computer network that is not publicly available; or*

(iii) *A fantasy competition operator's proprietary information that may affect gameplay.*

(6) *Fantasy Competition Operator.*

(a) *"Fantasy competition operator" means any person that offers services in connection with fantasy competitions to individuals by means of:*

(i) *The Internet;*

(ii) *A smart phone application; or*

(iii) *Any other electronic, digital media, communication technology, or device.*

(b) *"Fantasy competition operator" does not include an individual who:*

(i) *Organizes a fantasy competition in which the individual also participates;*

(ii) *Receives no compensation for organizing the fantasy competition; and*

(iii) *Is not affiliated with any fantasy competition operator as defined under §B(7)(a) of this regulation.*

(7) *"Fantasy competition player" means an individual who participates in a fantasy competition offered by a fantasy competition operator.*

(8) *"Highly experienced player" means any fantasy competition player who has:*

(a) *Entered more than 1,000 fantasy competitions offered by a single fantasy competition operator; or*

(b) *Won more than three fantasy competition prizes valued at \$1,000 or more.*

(9) *"Minor" means any individual younger than 18 years old.*

(10) *"Player funds" means funds deposited by a fantasy competition player into an account to facilitate entry into fantasy competitions.*

(11) *"Prize" means anything of monetary value, including:*

(a) *Money;*

(b) *Competition credits;*

(c) *Merchandise; or*

(d) *Admission to another competition in which a prize may be awarded.*

(12) *"Scripts" means commands that a computer program can execute to automate processes on a fantasy competition platform created by:*

(a) *A fantasy competition player; or*

(b) *A third party for use by a fantasy competition player.*

(13) "Segregated account" means a financial account that segregates funds owned by a fantasy player from the operational funds of a fantasy competition operator.

.02 Prohibition on Fantasy Competition Play.

Participation in a fantasy competition for which there is an entry fee is prohibited for:

- A. A minor;
- B. A Commission member;
- C. An officer or an employee of the Agency;
- D. An individual who lives in the same principal residence as a Commission member or an officer or employee of the Agency and is the member's, officer's, or employee's:

- (1) Spouse or domestic partner;
- (2) Child;
- (3) Sibling; or
- (4) Parent or parent-in-law; or

E. An individual who has asked to be excluded under Regulation .06 of this chapter.

.03 Prohibition on Fantasy Competition Kiosks.

Fantasy competition operators may not permit players to enter a competition using a kiosk or machine physically located within a retail business location.

.04 Restrictions on Fantasy Competition Play by Individuals Associated with Operators.

A. Except as provided in §B of this regulation an employee, principal, officer, director, or contractor of a fantasy competition operator, or a member of that individual's immediate family, is prohibited from participating in a fantasy competition offered by any fantasy competition operator; and

B. Exception. An individual associated with a fantasy competition operator may participate in a fantasy competition only if:

- (1) The individual uses a clearly marked test account for testing purposes including evaluating a fantasy competition platform;
- (2) The individual fully discloses affiliation with a fantasy competition operator to each fantasy competition player in the fantasy competition;
- (3) The individual is not eligible to win a prize; and
- (4) The individual awards any prize won in a fantasy competition to the participant who would have won the prize if the individual associated with a fantasy competition operator had not participated.

.05 Prohibition on Fantasy Competition Play by Athletes and Others.

A. An athlete, sports agent, team employee, referee, or league official, or a member of that individual's immediate family, is prohibited from entering fantasy competitions based on underlying sporting events in which the individual is a participant.

B. An athlete, sports agent, team employee, referee, or league official, or a member of that individual's immediate family, may not enter fantasy competitions based on underlying sporting events in which the individual is a participant through another person as a proxy.

.06 Self Exclusion.

A. An individual may request exclusion from entering a fantasy competition by submitting to the fantasy competition operator a:

- (1) Completed Commission-approved self-exclusion request; or
- (2) Notarized self-exclusion request.

B. If an individual requests exclusion, a fantasy competition operator shall take reasonable measures to prevent that individual from entering a fantasy competition.

.07 Limits on Deposits.

A. Except as provided in §B of this regulation a fantasy competition player is prohibited from depositing more than \$1,000 in a single calendar month with a fantasy competition operator; and

B. Exception. A fantasy competition player may request a fantasy competition operator to temporarily or permanently increase a deposit limit above \$1,000 per calendar month only if:

(1) The fantasy competition operator has established and prominently published procedures for considering a request from a fantasy competition player to increase the deposit level;

(2) Procedures for considering a request from a fantasy competition player to increase a deposit level include evaluation of information, including evidence of income or assets, sufficient to confirm the financial ability of a fantasy competition player to afford losses which may result from fantasy competition play at the deposit level requested by the fantasy competition player; and

(3) After a temporary or permanent deposit level increase has been approved, the fantasy competition player undergoes an annual evaluation by the fantasy competition operator of information sufficient to confirm the continued financial ability of the fantasy competition player to afford losses that may result from fantasy competition play at the increased deposit level.

.08 Prohibition on Extensions of Credit.

A fantasy competition operator may not extend credit to a fantasy competition player.

.09 Prohibition on Fantasy Competitions Based on Amateur Sports.

A fantasy competition operator may not offer a fantasy competition that includes:

- A. Amateur sporting events;
- B. College sporting events;
- C. High school sporting events; or
- D. Student sporting events.

.10 Ensuring Fair Outcomes in Fantasy Competitions.

A. Fantasy Competition Scripts.

(1) A fantasy competition operator may not permit the use of unauthorized scripts on a fantasy competition platform and shall use commercially reasonable efforts to monitor for and prevent use of such scripts.

(2) For the purpose of §A(1) of this regulation, scripts shall be treated as offering a competitive advantage if potential uses include:

- (a) Facilitating changes in many line ups at one time;
- (b) Facilitating use of commercial products designed and distributed by third parties to identify advantageous game strategies; or

(c) Gathering information about the performance of others for the purpose of identifying or entering competitions against fantasy competition players who are less likely to be successful.

(3) Authorized scripts shall either be incorporated as a game feature or be prominently published and thereby made available to all fantasy competition players.

B. Beginner Games and Identification of Highly Experienced Players.

(1) Fantasy competition operators shall offer some fantasy competitions that are limited to beginner players and exclude highly experienced players.

(2) Fantasy competition operators shall clearly and conspicuously identify a highly experienced player in a fantasy competition by attaching a symbol to the username of a highly experienced player, or by other easily visible means.

C. Fantasy Competition Entries.

(1) A fantasy competition operator shall disclose the number of entries a fantasy competition player may submit for each fantasy competition.

(2) A fantasy operator shall take reasonable steps to prevent fantasy competition players from submitting more than the allowable number of entries.

D. *Limit on Number of Accounts.* A fantasy competition operator may not permit a player to establish more than one username with a fantasy competition operator.

.11 Financial Account Protections.

A. A fantasy competition operator that conducts competitions that require an entry fee shall create segregated accounts separating player funds from operational funds and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in an amount sufficient to pay all prizes offered to winning fantasy competition players.

B. A fantasy competition operator shall comply with all applicable State and federal requirements for data security.

.12 Notification.

A. Before offering services in connection with a fantasy competition to players physically located in Maryland, a fantasy competition operator shall notify the Commission that the fantasy competition operator is qualified to do business in the State.

B. The notification to the Commission shall include:

(1) The name and principal address of the fantasy competition operator;

(2) If a corporation, the state of incorporation and the full name and address of each officer, director, trustee, and principal salaried executive staff officer;

(3) If a foreign corporation, evidence of qualification to conduct business in the State;

(4) If a partnership or joint venture, the name and address of each owner and officer;

(5) The name and address of the fantasy competition operator's resident agent in the State; and

(6) The place where and the date when the fantasy competition operator was legally established and the form of its organization.

C. Information provided by the fantasy competition operator shall be available for public review.

D. In the event that information provided by the fantasy competition operator is no longer accurate due to a change in circumstances, a fantasy competition operator shall provide the Commission with the corrected information within 10 work days.

.13 Financial Auditing.

A. A fantasy competition operator that conducts competitions that require an entry fee shall have a financial audit performed annually by a certified public accountant that:

(1) Complies with generally accepted accounting principles; and

(2) Is submitted to the Agency within 90 days of the operator's fiscal year end.

B. The financial audit does not preclude any State or federal agency from conducting an audit of a fantasy competition operator.

C. The same certified public accountant may not perform more than two consecutive financial audits for a fantasy competition operator.

.14 Tax Laws and Disclosures.

A. A fantasy competition operator shall comply with all applicable tax laws and regulations.

B. A fantasy competition operator shall disclose tax reporting and withholding requirements to fantasy competition players before the fantasy competition begins and again at the time of award of any prize in excess of \$600.

.15 Advertising.

Fantasy competition operator advertisements may not depict:

A. Minors, except professional athletes who may be minors;

B. Students;

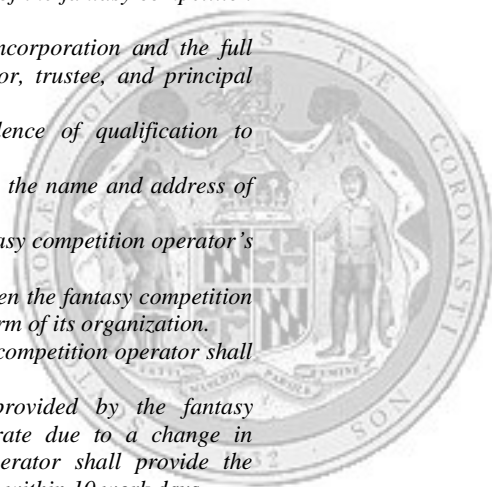
C. Schools or colleges; or

D. School or college settings.

GORDON MEDENICA

Director

Maryland State Lottery and Gaming Control Agency



Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: September 1-30, 2018.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(e) and §806.22 (f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(f):

Repsol Oil & Gas USA, LLC, Pad ID: MURPHY (07 075) D, ABR-201309002.R1; Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: September 10, 2018.

Repsol Oil & Gas USA, LLC, Pad ID: BUTLER (07 086) J, ABR-201309003.R1; Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: September 10, 2018.

Repsol Oil & Gas USA, LLC, Pad ID: OLYMPIC LAKE ESTATES (07 083), ABR-201309005.R1; Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: September 10, 2018.

SWN Production Company, LLC, Pad ID: Salt Lick Hunting Club-Range-Pad59, ABR-201310002.R1; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: September 10, 2018.

SWEPI LP, Pad ID: Bradford 481, ABR-201309008.R1; Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: September 21, 2018.

Cabot Oil & Gas Corporation, Pad ID: StoddardT P1, ABR-201309012.R1; Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: September 24, 2018.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 15, 2018.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[18-23-13]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: September 1-30, 2018.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(e) and §806.22(f) for the time period specified above:

Rescinded ABR Issued:

ARD Operating, LLC, Pad ID: COP Tr 343 Pad B, ABR-201007053.R1; Noyes Township, Clinton County, Pa.; Approval Rescinded: September 13, 2018.

XTO Energy, Inc., Pad ID: Houseweart 8527H, ABR-201009028.R1; Pine Township, Columbia County, Pa.; Approval Rescinded: September 14, 2018.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 15, 2018.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[18-23-14]

MARYLAND HEALTH CARE COMMISSION

MEDICAL CARE DATA BASE (MCDB) DATA SUBMISSION MANUAL

As required under COMAR 10.25.06, the Maryland Health Care Commission (MHCC) publishes the MCDB Data Submission Manual annually. This manual provides information to each reporting entity such as technical specifications, layouts, required reports, and definitions. The 2019 MCDB Data Submission Manual will be available on November 21, 2018, on the MHCC website at the following link:

http://mhcc.maryland.gov/mhcc/pages/apcd/apcd_mcd_b/apcd_mcd_b_data_submission.aspx

[18-23-24]



General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

CHESAPEAKE BAY TRUST

Subject: Public Meeting
Date and Time: November 28, 2018, 3 — 6 p.m.
Place: Morgan State University-Martin D. Jenkins Hall, Baltimore, MD
Contact: Heather Adams (410) 974-2941
 [18-23-10]

MARYLAND COLLECTION AGENCY LICENSING BOARD

Subject: Public Meeting
Date and Time: November 29, 2018, 10:30 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Devki Dave (410) 230-6019
 [18-23-18]

COMPTROLLER OF THE TREASURY/ADMINISTRATION AND FINANCE

Subject: Reduction of Bond Authorization Announcement
Add'l. Info: Pursuant to §8-128 of the State Finance and Procurement Article, which provides that if within 2 years after the date of an authorization of State debt no part of the project or program for which the enabling act authorized the State debt is under contract and the Board of Public Works has not committed money for any part of the project or program, the authorization terminates unless:

- (1) The enabling act provides otherwise; or
- (2) In an emergency, the Board unanimously grants a temporary exception for a period of 1 year.

Therefore, with Board of Public Works approval of item, #7-CGL DEPARTMENT OF GENERAL SERVICES Agenda Item, dated October 17, 2018, we submit for publication the following cancellation of bond authorizations in accordance with the above referenced articles:

MacDonald Knolls Center: Ch. 432, Acts of 2004, as amended by Ch. 707, Acts of 2007, and Ch. 372, Acts of 2012; \$60,156.75; authorized the funds for the repair, renovation, reconstruction, construction, and capital equipping of the MacDonald Knolls Center, located in Silver Spring (Montgomery County).

MacDonald Knolls Center: Ch. 445, Acts of 2005; \$150,000; authorized the funds for the planning, design, repair, renovation, reconstruction, construction, and capital equipping of a building used to provide services to developmentally disabled adults and children, located in Silver Spring (Montgomery County).

St. Agnes Healthcare: Ch. 488, Acts of 2007; \$57,446.51; authorized the funds for the planning, design, renovation, expansion, repair, construction, and capital equipping of the birthing center and neonatal intensive care unit at St. Agnes Hospital, located in Baltimore City.

Multicultural Use Center: Ch. 336, Acts of 2008; \$140,000.00; authorized the funds for the renovation of the Center for Educational Partnerships, located in Riverdale in Prince George's County.

Bohrer Park Miniature Golf Course: Ch. 396, Acts of 2011; \$864.00; authorized the funds for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of a miniature golf course at Bohrer Park, located in Montgomery County.

Harambee House Community Outreach: Ch. 495, Acts of 2015; \$26.00; authorized the funds for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Harambee House Community Outreach Center, located in Anne Arundel County.

Contact: Re Rentuma (410) 260-7909
 [18-23-15]

COMMISSION ON CRIMINAL SENTENCING POLICY

Subject: Public Hearing
Date and Time: December 11, 2018, 5 — 6:15 p.m.
Place: House of Delegates Office Bldg., 6 Bladen St., Judiciary Committee Rm. (Rm. 100), Annapolis, MD
Add'l. Info: The Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) invites public comment on criminal sentencing policy-related issues. The Commission asks those who wish to speak at the public hearing to register and submit written comments at least 3 days prior to the meeting. Please register and submit written comments by sending an email to dsoule@umd.edu.

Contact: David Soule (301) 403-4165
 [18-23-06]

COMMISSION ON CRIMINAL SENTENCING POLICY

Subject: Public Meeting
Date and Time: December 11, 2018, 6:30 — 8 p.m.
Place: House of Delegates Office Bldg., 6 Bladen St., Judiciary Committee Room (Rm. 100), Annapolis, MD
Contact: David Soule (301) 403-4165
 [18-23-07]

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subject: Call for Applications from Facilities Wishing to Be Considered for Designation as Freestanding Emergency Medical Facilities
Place: MIEMSS Office of Hospital Programs, 653 W. Pratt St., Ste. 407, Baltimore, MD 21201
Add'l. Info: The Maryland Institute for Emergency Medical Services Systems gives notice that facilities wishing to be considered for designation as freestanding emergency medical facilities under COMAR 30.08.15.02 should submit an application no later than 6 months from the date of this publication. Applications will be considered from freestanding medical facilities that are eligible for licensure under Health-General Article, §18-3A 07, Annotated Code of Maryland.

For more information contact Lisa Myers, Office of Hospital Programs at (410) 706-4740, or email lmyers@miemss.org. Written statements and applications should be sent to the name and address stated above.

Contact: Leandrea M. Gilliam (410) 706-4449

[18-23-25]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Hearing
Date and Time: December 4, 2018, 3 — 5 p.m.
Place: 201 W. Preston St., Rm. L-2, Baltimore, MD
Add'l. Info: The Maryland Department of Health (the Department) is proposing an

amendment to its §1115 demonstration waiver known as HealthChoice to establish a limited Collaborative Care Pilot. The Centers for Medicare and Medicaid Services (CMS) has authorized the Department's existing §1115 waiver through December 31, 2021. HealthChoice, first implemented in 1997 under the authority of §1115 of the Social Security Act, is Maryland's Statewide mandatory managed care program for Medicaid enrollees. Under HealthChoice, eligible families and individuals are required to enroll in a managed care organization (MCO) that has been approved by the Department. Each MCO is responsible for ensuring that HealthChoice enrollees have access to a network of medical providers that can meet their health needs.

The State's 30-day public comment period will open on November 20, 2018. Electronic copies of the draft waiver amendment application will be available on that date and may be downloaded from <https://mmcp.health.maryland.gov/Pages/1115-HealthChoice-Waiver-Renewal.aspx>. Hard copies of the application may be obtained by calling (410) 767-5208.

Interested parties may send written comments concerning the waiver amendment to Tricia Roddy, Planning Administration, Office of Health Care Financing, Maryland Department of Health, 201 West Preston Street, Room 224, Baltimore, Maryland 21201, or via email to mdh.healthchoicerenewal@maryland.gov. The Department will accept comments from November 20, 2018 until December 19, 2018.

The following public hearings will discuss the content of the waiver amendment and solicit feedback and input from public stakeholders:

Crownsville: Tuesday, November 27, 2018; 10:30 a.m. — 12:30 p.m., 100 Community Place, Conference Room Side A, Crownsville, Maryland

Baltimore City: Tuesday, December 4, 2018; 3 — 5 p.m., Maryland Department of Health, 201 West Preston Street, Room L-2, Baltimore, Maryland.

Webinar Access: To participate in the public hearing remotely, please visit: <https://mdhealth.webex.com/mdhealth/j.php?MTID=m8feab63e621c4ebe2f2016a851ecf86>.

Audio Conference Line: 1-240-454-0887

Meeting Number (access code): 643 875 572

Contact: Alyssa Brown (410) 767-9795

[18-23-17]

MARYLAND DEPARTMENT OF HEALTH/ TASK FORCE TO STUDY ACCESS TO HOME HEALTH CARE FOR CHILDREN AND ADULTS

Subject: Public Meeting

Date and Time: November 14, 2018, 2 — 4 p.m.

Place: 201 W. Preston St., Rm. L-1, Baltimore, MD

Add'l. Info: Meeting regarding the Report on Home- and Community Based Services as required by HB 1696 (Chapter 798, Acts of 2018).

Contact: Yasmine Haughton (410) 767-5186

[18-23-03]

DEPARTMENT OF INFORMATION TECHNOLOGY

Subject: Public Meeting

Date and Time: December 12, 2018, 1 — 3 p.m.

Place: 100 Community Pl., 1st Fl. Conf. Rm., Side B, Crownsville, MD

Add'l. Info: Maryland Statewide Interoperability Radio Control Board Meeting

Contact: Brittany Brothers (410) 697-9407

[18-23-11]

DEPARTMENT OF INFORMATION TECHNOLOGY

Subject: Public Meeting

Date and Time: December 21, 2018, 10 a.m. — 12 p.m.

Place: 100 Community Pl., 1st Fl. Conf. Rm., Side A, Crownsville, MD

Add'l. Info: Maryland Council on Open Data Quarterly Meeting

Contact: Brittany Brothers (410) 697-9407

[18-23-12]

MARYLAND DEPARTMENT LABOR, LICENSING, AND REGULATION, SECONDHAND PRECIOUS METAL OBJECT DEALER AND PAWNBROKER LICENSING PROGRAM

Subject: Public Hearing

Date and Time: December 13, 2018, 10 a.m. — 12 p.m.

Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD

Add'l. Info: The Maryland Department of Labor, Licensing, and Regulation, Secondhand Precious Metal Object Dealers and Pawnbrokers Licensing Program gives notice of a public hearing concerning Case No.: SPMG-DR-19-0001, In the Matter of: A Petition for Declaratory Ruling filed by EBTH.COM LLC, pursuant to State Government Article, §§10-304 and 10-305,

Annotated Code of Maryland, the Department of Labor, Licensing, and Regulation ("Department") and the Secondhand Precious Metal Object Dealers and Pawnbrokers Licensing Program ("Program") gives the following notice of the opportunity for a hearing on the petition for declaratory ruling filed by EBTH.COM LLC (Licensee: James Christopher Ashely, Everything But the House, Inc.).

The Petitioner requests that the Secretary issue a ruling declaring that:

(1) The use of any form of the term "acquire, acquired, and acquisition" when used in Business Regulation Article, Title 12, Annotated Code of Maryland, and in reference to "precious metal objects" "shall denote ownership as opposed to mere possession, of those objects";

(2) The holding period set forth in Business Regulation Article, §§12-301(e) and (f), 12-305(a), (c), and (d), Annotated Code of Maryland, and the record-keeping requirements in the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act ("Act"), contained in Business Regulation Article, §§12-301(a) and 12-302(a), Annotated Code of Maryland, do not apply to a dealer who "merely possesses, but does not own, a precious metal object."

By way of this Petition, EBTH requests the Secretary to determine whether the record-keeping requirements and requirements for a holding period prior to a dealer's release of precious metal objects that come into their possession, are applicable to all dealers of secondhand precious metal objects, including those who operate traditional auction sites and those who arrange for the sale of objects on Internet auction sites, and the application of the requirements is not restricted to only those dealers who "acquire" the objects.

Provisions of the Act subject to interpretation or relevant to the Petition: Business Regulation Article, §§12-301(a), (e), and (f), 12-302(a), and 12-305(a), (c), and (d), Annotated Code of Maryland.

The hearing will be conducted in accordance with the Department's hearing regulations in COMAR 09.01.02. The hearing is a public hearing and testimony or documentary evidence may additionally be taken from members of the public attending the hearing. Interested parties may submit written testimony or documentary evidence no later than November 26, 2018, to the Program to Shanai R. Jordan, Executive Director, Secondhand Precious Metal Object Dealers and Pawnbrokers Licensing Program, 500 N. Calvert Street, Third Floor, Baltimore, MD 21202, or by email at shanai.jordan@maryland.gov for

GENERAL NOTICES

consideration prior to the hearing date and to be presented at the hearing before the Secretary.

A ruling may be made at the conclusion of the hearing or the Secretary may elect to issue a written ruling within 90 days of the date of the hearing.

Submit questions to Shanai R. Jordan, Executive Director, Secondhand Precious Metal Object Dealers and Pawnbrokers Licensing Program, shanai.jordan@maryland.gov, or (410) 230-6318.

Contact: Shanai Jordan (410) 230-6318
[18-23-09]

MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

Subject: Public Meeting

Date and Time: November 15, 2018, 10 a.m. — 12 p.m.

Place: Montgomery Park Business Center, 1800 Washington Blvd., Studio, Baltimore, MD

Contact: Kathy Lingo (410) 230-8790
[18-23-05]

MARYLAND COMMISSION ON ARTISTIC PROPERTY

Subject: Public Meeting

Date and Time: November 15, 2018, 10:30 a.m. — 12:30 p.m.

Place: Maryland State House, Old House of Delegates Chamber, Annapolis, MD

Contact: Chirstopher J. Kinzel (410) 260-6475

[18-23-09]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: November 15, 2018, 1 — 4 p.m.

Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD

Contact: Valerie Wooding (410) 764-3570
[18-23-01]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting

Date and Time: November 30, 2018, 9 a.m. — 12 p.m.

Place: 55 Wade Ave., Bland Bryant Bldg., 4th Fl., Baltimore, MD

Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed.

It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255. The meeting may take place by teleconference. Please call the office to confirm.

Contact: Lauren Murray (410) 402-8556
[18-23-08]

RACING COMMISSION

Subject: Public Meeting

Date and Time: December 13, 2018, 12:30 — 1 p.m.

Place: Laurel Park, Laurel, MD

Add'l. Info: Public Meeting scheduled for November 29, 2018 at Laurel Park has been canceled.

Contact: J. Michael Hopkins (410) 296-9682

[18-23-23]

BOARD OF WELL DRILLERS

Subject: Public Meeting

Date and Time: November 28, 2018, 9 a.m. — 12 p.m.

Place: MDE, 1800 Washington Blvd., Baltimore, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Elaine Nolen (410) 537-4466
[18-23-02]

DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING/MARYLAND APPRENTICESHIP AND TRAINING COUNCIL

Subject: Public Notice

Add'l. Info: Effective October 18, 2018 the Maryland Apprenticeship and Training Council canceled and deregistered the defunct apprenticeship programs of American Metal Fabricators, Inc., Bowie Therapeutic Nursery Center, Inc., C & H Mechanical, Inc. CJM Electric Service, Delmarva Oil, Inc., Hatch & Kirk Manufacturing, Inc., Hillside Barber Shop, Hi-Tech Plastics, Inc. Irvington Tool & Die Company, J.S. Klapac & Co., J.R. Holbrook Electric, Inc., Kimmel Tire and Auto Service, Matt Hammett Plumbing, New Horizon Child Development Center, Top Roofing, Inc., Wallworks USA, Inc. and Wee Care Child Development Center

Contact: Christopher D. MacLarion (410) 767-2246

[18-23-16]

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- 19 Dangerous Devices and Substances
- 20 Kidney Disease Program
- 21 Mental Hygiene Regulations
- 22 Developmental Disabilities

Part 4

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
- 25 Maryland Health Care Commission
- 26 Board of Acupuncture
- 27 Board of Nursing
- 28 Board of Examiners in Optometry
- 29 Board of Morticians and Funeral Directors
- 30 Maryland Commission on Kidney Disease
- 31 Health Occupation Boards
- 32 Board of Physicians
- 33 Board of Examiners of Nursing Home Administrators
- 34 Board of Pharmacy
- 35 Postmortem Examiners Commission
- 36 Board of Examiners of Psychologists

Part 5

- 37 Health Services Cost Review Commission
- 38 Board of Physical Therapy Examiners
- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid
Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
- 48 Child Abuse and Neglect Medical Reimbursement Program
- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Forensic Laboratories
- 52 Preventive Medicine
- 53 Board of Nursing – Electrology Practice Committee
- 54 Special Supplemental Nutrition Program for Women,
Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program
Professionals
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies
- 60 Board of Environmental Health Specialists
- 61 Health Enterprise Zone Initiative
- 62 Natalie Laprade Medical Marijuana Commission
- 63 Community-Based Behavioral Health Programs and Services
- 64 Practice of Licensed Direct-Entry Midwives
- 65 Board of Massage Therapy Examiners
- 66 Office of the Inspector General

Title 11 Department of Transportation

Part 1

- 01 Office of the Secretary
 - 02 Transportation Service Human Resources System
 - 03 Maryland Aviation Administration
 - 04 State Highway Administration
 - 05 Maryland Port Administration
 - 06 Mass Transit Administration
 - 07 Maryland Transportation Authority
 - 08 State Railroad Administration
 - 09 Vacant
 - 10 Vacant
- Part 2**
- 11 Motor Vehicle Administration – Administrative Procedures
 - 12 MVA – Licensing of Businesses and Occupations
 - 13 MVA – Vehicle Equipment
 - 14 MVA – Vehicle Inspections
 - 15 MVA – Vehicle Registration
 - 16 MVA – Vehicle Operations
 - 17 MVA – Driver Licensing and Identification Documents
 - 18 MVA – Financial Responsibility Requirements
 - 19 MVA – School Vehicles
 - 20 MVA – Motorcycle Safety Program
 - 21 MVA – Commercial Motor Vehicles
 - 22 MVA – Preventive Maintenance Program
 - 23 MVA – Drivers' Schools, Instructors & Driver Education Program

Title 26 Department of the Environment

Part 1

- 01 General Provisions
- 02 Occupational, Industrial, and Residential Hazards
- 03 Water Supply, Sewerage, Solid Waste, and Pollution Control
Planning and Funding
- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
- 07 Board of Environmental Sanitarians

Part 2

- 08 Water Pollution
- 09 Maryland CO₂ Budget Trading Program
- 10 Oil Pollution and Tank Management
- 11 Air Quality
- 12 Radiation Management

Part 3

- 13 Disposal of Controlled Hazardous Substances
- 14 Hazardous Substance Response Plan
- 15 Disposal of Controlled Hazardous Substances —
Radioactive Hazardous Substances
- 16 Lead
- 17 Water Management
- 18 Susquehanna River Basin Commission

Part 4

- 19 Oil and Gas Resources
- 20 Surface Coal Mining and Reclamation under
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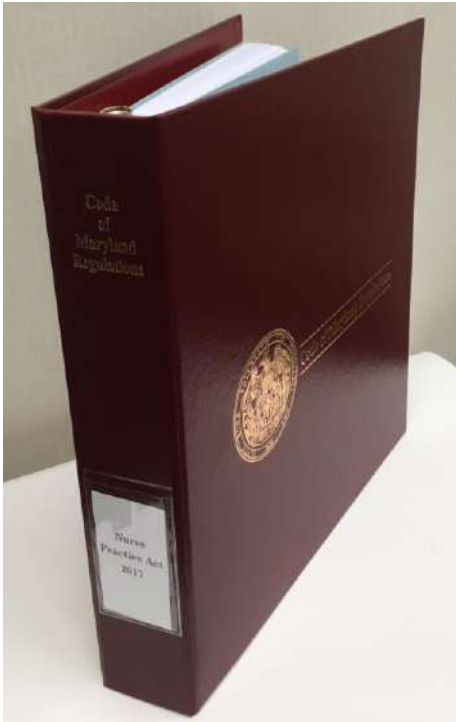
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