

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

MARYLAND
HEALTH - GENERAL

§ 15-139. Amendment of State Medical Assistance Program to receive federal matching funds.

- (a) In general.- On or before December 1, 2003, the Department shall submit an application to the Centers for Medicare and Medicaid Services to amend the State Medical Assistance Program to allow the Department to receive federal matching funds for part of the nonroom-and-board portion of the costs of all eligible residential care that are related to the therapeutic components of care provided by State and local agencies through public or private providers to individuals under the age of 21 years.
- (b) Application.- The application submitted by the Department under subsection (a) of this section:
 - (1) Shall apply to a residential care placement providing therapeutic or rehabilitative services in addition to room and board services to an individual who is:
 - (i) Under the age of 21 years; and
 - (ii) In the care or custody of, committed to, or voluntarily placed by any State or local agency in the State; and
 - (2) Shall include placements in residential programs that have rates set by the interagency rates committee.
- (c) Funding for the Children's Cabinet Fund.-
 - (1) For fiscal year 2004 and each subsequent fiscal year, the Governor shall provide funds in the budget for the Children's Cabinet Fund established under Title 8, Subtitle 5 of the Human Services Article in an amount equal to the amount of federal funds received under subsection (a) of this section during the most recently completed fiscal year:

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

- (i) Less any administrative costs incurred by the Department, the Department of Juvenile Services, and the Department of Human Resources in implementing the programs required under this section; and
 - (ii) Subject to adjustment in accordance with subsection (e) of this section.
- (2) The funds provided under paragraph (1) of this subsection shall be used by the Children's Cabinet to create an interagency pool of funds to provide services to children with disabilities.
- (3) The pool of interagency funds established under this subsection shall be used to fund the community-based services and community-based out-of-home placements needed by children with mental or developmental disabilities not in State custody, regardless of eligibility for the State Medical Assistance Program, if:
 - (i) The child is in an out-of-home placement and has been recommended for discharge but the child's family is unwilling or unable to have the child return home; or
 - (ii) The child remains in the home but the child's family is unable to provide appropriate care for the child without additional services and the child is either at risk of requiring an out-of-home placement or the treating professionals have recommended an out-of-home placement.
- (d) Regulations.-
 - (1) The Governor's Office for Children, Youth, and Families shall adopt regulations to carry out the provisions of subsection (c)(3) of this section.
 - (2) The regulations shall:
 - (i) Include the criteria for eligibility and for prioritization of eligible children; and

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

(ii) Be developed with input from parents of a child with disabilities, groups representing families of potentially eligible children, advocacy organizations, the protection and advocacy system for persons with disabilities, providers, local agencies serving children with disabilities, and Subcabinet agencies.

(e) Federal funds.-

- (1) Nothing in this section is intended to result in the reduction of federal funds available to the Department of Human Resources or the Department of Juvenile Services under Title IV-E of the Social Security Act for the room and board costs of eligible residential care.
- (2) If, as a result of actions taken under this section, the federal matching funds available to the Department of Human Resources and the Department of Juvenile Services under Title IV-E of the Social Security Act are reduced because the percentage of residential care costs allocated to Title IV-E is reduced, the Governor shall adjust the amount of funds provided under subsection (c) of this section to prevent any resulting loss to the Department of Human Resources and the Department of Juvenile Services.
- (3) The adjustment of funds under paragraph (2) of this subsection shall be based on determining the amount of Title IV-E reimbursement that would have been received by the Department of Human Resources and the Department of Juvenile Services prior to October 1, 2003 using the current percentage of residential care costs that is allocated to Title IV-E.

[2003, ch. 53, § 10; ch. 428; 2004, ch. 430, § 1; 2006, ch. 243; 2007, ch. 5; ch. 8, § 1.]

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

COMAR
Title 14 INDEPENDENT AGENCIES
Subtitle 31 OFFICE FOR CHILDREN
Chapter 08 Eligibility and Prioritization for Services for Interagency Funds
Authority: Health-General Article, §15-139(d), Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to:

- A. Establish the criteria for eligibility for interagency funding from funds available under Health-General Article, §15-139, Annotated Code of Maryland;
- B. Prioritize the manner in which the Governor's Office for Children (Office) awards these funds; and
- C. Establish the process for obtaining funded services.

.02 Definitions.

- A. In this chapter, terms have the meanings stated in COMAR 14.31.01.02 and in this regulation.
- B. Term Defined. "Treating professional" means a licensed health care professional such as a physician, psychologist, clinical social worker, or professional counselor.

.03 Eligibility.

- A. A child with a mental illness or a developmental disability not in State custody, regardless of whether the child is eligible for the Maryland Medical Assistance Program, is eligible for funded services if:
 - (1) The child:
 - (a) Is in an out-of-home placement and has been recommended for discharge but the child's family is unwilling or unable to have the child return home; or
 - (b) Remains in the home but the child's family is unable to provide appropriate care for the child without additional services and the child is at risk of requiring an out-of-home placement or the treating professionals have recommended an out-of-home placement;
 - (2) The services requested for the eligible child:
 - (a) Are not covered or available from either the Maryland Medical Assistance Program or the legal parent, legal guardian, or caretaker's health insurance plan; or
 - (b) Cannot be funded by the parent, legal guardian, or caretaker based on the family income and resources; and
 - (3) Services:

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

- (a) Are not intended for long-term care;
- (b) Are time-limited, not to exceed 2 years from the first date of service; and
- (c) Include a transition plan.

B. A determination of eligibility is not an entitlement for being funded for services and funding of services is also dependent upon:

- (1) The availability of funding in the budget; and
- (2) The prioritization of need.

.04 Funding.

A. The Office shall allocate proportionally 80 percent of the funds to each local coordinating council (LCC), through the local management board (LMB), based on:

- (1) Need within each jurisdiction to serve eligible children; and
- (2) Local plans developed by the LMB in consultation with the local coordinating council (LCC).

B. Need. The need within each jurisdiction shall be determined by a formula developed by the Office with the concurrence of the Children's Cabinet which may be based on factors such as:

- (1) The number of children younger than 18 years old in each jurisdiction;
- (2) The percentage of individuals in poverty in each jurisdiction;
- (3) The amount of funding already available to each jurisdiction through the Office that may be available to serve children with mental illness or developmental disabilities through community-based services;
- (4) The number of children in out-of-home placements; or
- (5) The number of children in residential treatment center placements in State or out-of-State, or both.

C. Local Plans and Instructions.

- (1) Local plans shall:
 - (a) Be consistent with the instructions developed, and adjusted annually as appropriate, by the Office with the concurrence of the Children's Cabinet; and
 - (b) Specify the role of the LCC in approving individual plans of care for eligible children.
- (2) The instructions shall permit the:
 - (a) Development of regional plans at the discretion of the various jurisdictions; and
 - (b) Setting of caps on the annual cost of services to a child within a 12-month period.

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

(3) The Office shall publish instructions for local plans and for the determination of local need.

D. Reserve Funds.

(1) The Office shall reserve 20 percent of the available funds to allocate for children who are eligible for services to be used when:

- (a) The LCC has spent its allocation;
- (b) The cost of care for a child is disproportionate to the amount of funds allocated to the LCC;
- (c) The child's needs require a multiservice approach which cannot otherwise be met by the LCC; or
- (d) A specialized service provider needs to be developed.

(2) Resource Development.

- (a) Any portion of the 20 percent of available funds held in reserve by the Office that are not anticipated to be expended on children who are eligible for services during the fiscal year shall be used, by the end of that fiscal year, for resource development to serve the eligible population.
- (b) Pursuant to Article 49D, §5-101, and Human Services Article, §8-503, Annotated Code of Maryland, at the end of each fiscal year, any unspent funds shall revert to the General Fund.

.05 Priority for Funding for Service.

A. The LMB/LCC shall fund services for eligible children in the following priority ranking:

- (1) Children in a residential treatment center who are eligible for the psychiatric residential treatment demonstration waiver referenced in Health-General Article, §15-130.1, Annotated Code of Maryland;
- (2) Children whose families have requested a voluntary placement agreement if the child or family needs interim or alternative services for the purpose of:
 - (a) Keeping the child at home in the community; or
 - (b) Providing an interim residential placement while the family is seeking a voluntary placement agreement;
- (3) Children with or without Medical Assistance whose families have requested placement in a residential treatment center or intermediate care facility for the mentally retarded and who have been determined medically eligible for this placement if services under this chapter would enable the child to continue to live at home; and

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

(4) Children in need of services to return home who are in hospitals, emergency rooms, residential treatment centers, and other out-of-home placements after they have been identified as ready for discharge when the family is:

- (a) Unwilling to have the child return home; or
- (b) Unable to meet the child's needs at home without additional services.

B. The Office may fund services to eligible children:

- (1) As set forth in §A of this regulation; or
- (2) On a case by case basis dependent on the need presented, consistent with Regulation .03 of this chapter.

.06 Services to be Funded.

A. If a service to be funded is subject to State or local regulation, the provider shall provide appropriate documentation of compliance, such as a valid license or permit to operate, in order to receive payment.

B. The LMB/LCC or the Office may fund services that are not provided by licensed health or child caring professionals or agencies, dependent on the child's need, including but not limited to:

- (1) Vocational classes;
- (2) Sports activities;
- (3) Camps;
- (4) Recreational programs;
- (5) After school or holiday programs;
- (6) Mentoring;
- (7) Occupational/vocational therapies; or
- (8) Social skill development training.

C. Individual services may be funded only if the services:

- (1) Are authorized in the child's plan of care as specified in Regulation .08 of this chapter; and
- (2) Include a transition plan.

D. Out-of-home placement services shall be:

- (1) Short-term in duration; and
- (2) Limited to those designed to respond to the needs for crisis and respite care.

E. This regulation does not prevent drawing on multiple sources of funds to meet the needs of children and their families, including the Interagency Fund, as appropriate.

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

F. The parent, legal guardian, caretaker, and agency representatives may propose services and service providers to the LCC to be included in the development of the individual plans of care.

G. Services are limited to 2 years.

H. Before terminating services under this chapter, in order that the child will not be at high risk of custody relinquishment, the LMB and LCC shall work with the family to develop a transition plan.

I. The transition plan referred to in §H of this regulation may include, but is not limited to:

- (1) Making application for admission to waivers;
- (2) Wraparound programs;
- (3) Services through the Developmental Disabilities Administration, Core Service Agencies, or local school systems;
- (4) A voluntary placement agreement; and
- (5) Any other appropriate services or programs.

J. Services and related plans should be child-centered and family-driven, individualized, community-based, and culturally competent.

.07 Application for Services.

A. The parent, legal guardian, or caregiver of the child may apply for services to be funded on an application approved by the Office. The application may be supported by a provider, agency, or advocate.

B. The LMB/LCC or the Office shall only consider applications when the parent, legal guardian, or caretaker:

- (1) Executes a release for:
 - (a) Relevant records related to the services requested; and
 - (b) Relevant financial and insurance information;
- (2) Consents to interagency sharing of the eligible child's records as is necessary to consider the application and provide services; and
- (3) Signs an agreement reflecting their understanding that these services are:
 - (a) Not an entitlement;
 - (b) Subject to change and termination; and
 - (c) Subject to the availability of funds.

C. The LMB/LCC or the Office shall review the application and may interview the parents and, if appropriate, the child.

D. Within 14 days after receipt of the application, the LCC or the Office shall:

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

- (1) Make a decision as to whether it can fund services for the child; and
- (2) Notify the parent, legal guardian, or caretaker.

E. The decision shall be based on the eligibility of the child for services, whether the child is in a priority classification, and the availability of funds.

F. Appeals of a determination regarding a child's eligibility and priority for services may be made to the State Coordinating Council within 30 days, pursuant to the procedures set forth in COMAR 14.31.01.12C(1)(b), (2), and (3) governing local coordinating councils. There is no appeal from a decision to deny services based on unavailability of funding.

.08 Authorization of Services and Individual Plans of Care.

A. All services provided through these interagency funds shall be authorized in the child's individual plan of care.

B. All individual plans of care shall be developed consistent with the local plan, as submitted by the LMB, and as approved by the Office.

C. All individual plans of care shall be developed in collaboration with and agreed to by the parent, legal guardian, and lead agency, if any.

D. Individual plans of care shall be:

- (1) Reviewed at least every 6 months; and
- (2) Revised as appropriate and as agreed upon by the parties to meet the needs of the child and family.

E. During the initial development of each plan of care and during the periodic review of each plan of care, consideration shall be given to the availability of services through other funding sources, including:

- (1) The Maryland Medical Assistance Program;
- (2) The parent's or legal guardian's private health insurance; or
- (3) Contributions from:
 - (a) The parent's or legal guardian's personal income; or
 - (b) Any other public source.

F. Individual plans of care may be limited by any cap on the annual cost of services for an individual child that is included in the LMB's local plan as approved by the Office.

.09 Contracting for Services.

A. In contracting for services for an eligible child, the LCC shall follow the county or LMB procurement polices, depending on whether the LMB is a county entity or nonprofit organization.

REHAB OPTION
Heath General § 15-139
And
COMAR 14.31.08

B. In contracting for services for an eligible child, the Office is bound by State procurement laws and regulations.

C. The contract with the provider shall specify the services, the amount and cost of services, the start and termination of services, and the outcomes to be achieved by the services provided. The child, parent, legal guardian, or caretaker is the third party beneficiary of the contract.

D. The service provider shall:

(1) Provide monthly documentation of services rendered and costs incurred for each child and family served to the:

- (a) Parent;
- (b) Legal guardian;
- (c) Lead agency; and
- (d) LMB or the Office, as appropriate; and

(2) Certify that the services have been provided.

E. The contract shall contain a provision that, if any authorized services become funded under the Maryland Medical Assistance Program, the parent's or legal guardian's private health insurance policy, contributions from the parent's or legal guardian's personal income, or other public funding sources, the payment for these services from the Interagency Fund shall be terminated.

F. The parent, legal guardian, or caretaker shall submit a consumer satisfaction form regarding the benefit of the services approved by the Office:

- (1) After 90 days;
- (2) At 6 month intervals; and
- (3) At the end of service.

G. Each individual who provides a service to an eligible child shall:

- (1) Have a criminal background check, as required by State law; and
- (2) Be approved to provide that service by the LCC or the State, or both, as appropriate.

Administrative History

Effective date:

Regulations .01—.09 adopted as an emergency provision effective September 17, 2007 (34:21 Md. R. 1911); adopted permanently effective October 8, 2007 (34:20 Md. R. 1741)