

## Notice of Proposed Action

[10-071-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.08, .14, .15, .17, .18, .21, and .22, repeal existing Regulations .10 and .19, and adopt new Regulations .10 and .19 under **COMAR 10.09.56 Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder**.

### Statement of Purpose

The purpose of this action is to delete Supported Employment and add Adult Life Planning as a waiver service, and to incorporate technical amendments to existing waiver services.

### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

### Estimate of Economic Impact

**I. Summary of Economic Impact.** The addition of a new covered service and reduction of current covered services are expected to offset, with no significant economic impact.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:		
Maryland State Department of Education	(E+)	Non-quantifiable
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:		
Autism Waiver Providers	(+)	Non-quantifiable
F. Direct and indirect effects on public:	NONE	

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

B. and E. The addition of Adult Life Planning Services will result in Program expenditures to providers of this service. However, the cost will be offset by Program savings resulting from reduction of reimbursement for Family Training. The elimination of Supported Employment as a waiver service has no impact, since there have been no Program expenditures for this service.

### Economic Impact on Small Businesses

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

### **Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows: The addition of Adult Life Planning as a waiver service is expected to benefit individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to [regs@dhhm.state.md.us](mailto:regs@dhhm.state.md.us), or fax to 410-333-7687. Comments will be accepted through March 1, 2010. A public hearing has not been scheduled.

#### **.02 Participant Eligibility.**

A. (text unchanged)

B. Technical Eligibility for the Autism Waiver. An applicant or participant shall be determined by the multidisciplinary team to meet the waiver's technical eligibility-criteria if the individual:

(1)—(3) (text unchanged)

(4) Uses at least one waiver service [within a 12-month period] *monthly, unless otherwise authorized by the Maryland State Department of Education;*

(5)—(10) (text unchanged)

C.—D. (text unchanged)

#### **.03 Care Planning Process.**

A. Multidisciplinary Team.

(1) (text unchanged)

(2) The multidisciplinary team shall include:

(a) The applicant's or participant's service coordinator *who shall attend at least one statewide Autism Waiver training session per year;*

(b)—(e) (text unchanged)

*A-1. Risk Assessment.*

*(1) Upon initial review, or if the participant's status changes, the service coordinator shall conduct a risk assessment to ensure the applicant can be safely maintained in a home and community-based setting utilizing Autism Waiver services.*

*(2) A risk assessment shall be conducted by the service coordinator using the Autism Waiver Risk Assessment form.*

B. (text unchanged)

#### **.04 Conditions for Participation—General.**

To provide Autism Waiver services, the provider:

A.—C. (text unchanged)

D. Shall assure that professional employees who render or delegate services under this chapter have the appropriate experience and health-related license or professional certification to meet the participant's needs, *including equivalency review by an accredited agency for credentials obtained outside of the United States, before rendering services to any Autism Waiver participant;*

E. Shall assure that direct care workers who render services under this chapter:

(1) Have at least a high school degree or GED, *including equivalency review by an accredited agency for credentials obtained outside of the United States, before rendering services to any Autism Waiver participant;*

(2) [Are adequately and appropriately trained] *Receive adequate and appropriate training, within 60 days of employment and annually thereafter, pertaining to care for children with autism spectrum disorder[;] including:*

*(a) Training concerning abuse, neglect, and exploitation; and*

*(b) Positive behavioral interventions and restraints;*

(3)—(6) (text unchanged)

F.—J. (text unchanged)

K. With the exception of [residential habilitation] *respite care and environmental accessibility adaptations* providers, shall submit *separate*, written treatment plans to service coordinators *within 30 calendar days of the initiation of services in accordance with State guidelines for each individual service and at least once in [a] each 12-month period thereafter, or more frequently if the treatment plan changes;*

L. (text unchanged)

M. If an agency, shall:

(1) Pay for the criminal background check; [and]

(2) Maintain the original child care criminal history report for all agency and contracted employees as well as any updated criminal history reports from the Department of Public Safety and Correctional Services in the employee's personnel record; *and*

*(3) Submit monthly Criminal Justice Information System's update reports to the Maryland State Department of Education;*

N. If self-employed, shall:

(1)—(2) (text unchanged)

(3) Pay for the criminal background check; [and]

(4) Not have been convicted of, received probation before judgment for, or entered a plea of nolo contendere to, a felony or crime involving moral turpitude or theft, or have other criminal history that indicated behavior that is potentially harmful to participants; *and*

*(5) Submit monthly Criminal Justice Information System's update reports to the Maryland State Department of Education.*

O.—R. (text unchanged)

S. Shall agree to maintain and have available *to the Department or the Maryland State Department of Education* personnel records and written documentation describing waiver services rendered, including dates and hours of services provided to participants, for a period of 6 years, in a manner approved by the Department or its designee;

T.—Y. (text unchanged)

Z. Shall implement and follow the Reportable Event policy in accordance with the Department's established policy by:

(1)—(2) (text unchanged)

(3) Notifying the local department of social services immediately if the provider has a reason to believe that the participant has been subject to abuse, neglect, self-neglect, or exploitation, in accordance with COMAR 07.06.04; [and]

AA. May not:

(1) (text unchanged)

(2) Render supervision to the direct care worker of the provider's own child[.];

*BB. With the exception of environmental accessibility adaptations providers, shall submit to the service coordinator monthly service tracking forms for each participant served within 20 calendar days of the end of each month;*

*CC. Shall attend at least one Autism Waiver training conducted by the State each year and shall participate in:*

*(1) One training annually regarding the prevention, identification, and reporting of abuse, neglect, and exploitation;*

*(2) One training annually regarding positive behavioral intervention and restraints; and*

*(3) All statewide Autism Waiver trainings during any year in which the provider is under recommendation for disenrollment from the waiver or has had Medicaid payments suspended; and*

*DD. Shall satisfactorily complete all aspects of the Autism Waiver provider application process.*

#### **.05 Specific Conditions for Participation—Residential Habilitation Services.**

To provide the services covered under Regulation .11 of this chapter, the provider agency shall:

A.—H. (text unchanged)

I. Demonstrate the capability and capacity of providing Autism Waiver residential habilitation services by submitting documentation of experience and a written implementation plan which includes *at a minimum* policies and procedures[;] *regarding*:

- (1) *Abuse, neglect, and exploitation;*
- (2) *Positive behavior interventions and restraints;*
- (3) *Implementation of treatment plans;*
- (5) *Transportation of participants;*
- (6) *Maintenance of required documentation;*
- (7) *Training and supervision of staff; and*
- (8) *Quality assurance;*

J.—M. (text unchanged)

N. For continued approval, maintain written documentation of compliance with applicable health, fire safety, and zoning regulations as a condition of occupancy of any facility used by the program; [and]

O. Assure that the participant's needs are met for shelter, food, clothing, and furnishings[, although these services are not reimbursed by Medicaid.] ;

*P. Maintain daily contact logs completed on the same day the service is provided and reflective of the individual plan's goals and activities; and*

*Q. Provide to the service coordinator, every 6 months, summaries for all participants regarding the participants status relative to each goal in the residential habilitation individual plan.*

**.06 Specific Conditions for Participation—Intensive Individual Support Services.**

To provide the service covered under Regulation .15 of this chapter, the provider shall:

A.—F. (text unchanged)

G. Demonstrate the capability and capacity of providing intensive individual support services by submitting documentation of experience and a written implementation plan which includes *at a minimum* policies and procedures[;] *regarding*:

- (1) *Abuse, neglect, and exploitation;*
- (2) *Positive behavior interventions and restraints;*
- (3) *Implementation of treatment plans;*
- (4) *Emergency backup plans;*
- (5) *Transportation of participants;*

(6) *Maintenance of required documentation;*

(7) *Training and supervision of staff; and*

(8) *Quality assurance;*

H.—I. (text unchanged)

J. Document arrangements to obtain medical services for participants in an emergency; [and]

K. Provide the treatment plan to the participant's service coordinator within 30 calendar days of initiation of service, and at least annually thereafter, or more frequently if the treatment plan changes[.] ;

*L. Maintain daily contact logs completed on the same day the service is provided and reflective of treatment plan goals and activities; and*

*M. Provide to the service coordinator, every 6 months, summaries for all participants regarding participants status relative to each goal in the intensive individual support services treatment plan.*

**.06-1 Specific Conditions for Participation—Therapeutic Integration Services.**

To provide one or more of the services covered under Regulation .14 of this chapter, the provider shall:

A.—G. (text unchanged)

H. Demonstrate the capability and capacity of providing therapeutic integration services by submitting documentation of experience and a written implementation plan which includes *at a minimum* policies and procedures[;] *regarding:*

(1) *Abuse, neglect, and exploitation;*

(2) *Positive behavior interventions and restraints;*

(3) *Implementation of treatment plans;*

(4) *Emergency backup plans;*

(5) *Transportation of participants;*

(6) *Maintenance of required documentation;*

(7) *Training and supervision of staff; and*

(8) *Quality assurance;*

I.—L. (text unchanged)

M. For continued approval, maintain written documentation of compliance with applicable health, fire safety, and zoning regulations as a condition of occupancy of any facility used by the program; [and]

N. Provide the treatment plan to the participant's service coordinator within 30 calendar days of initiation of service and at least annually or more frequently if the treatment plan changes[.] ;

*O. Maintain daily contact logs completed on the same day the service is provided and reflective of individual plan goals and activities; and*

*P. Provide to the service coordinator, every 6 months, summaries for all participants regarding participants status relative to each goal in the therapeutic integration treatment plan.*

**.07 Specific Conditions for Participation—Respite Care.**

A.—D. (text unchanged)

*E. A respite care provider shall demonstrate the capability and capacity of providing respite care services by submitting documentation of experience and a written implementation plan which includes at a minimum policies and procedures regarding:*

*(1) Abuse, neglect, and exploitation;*

*(2) Positive behavior interventions and restraints;*

*(3) Emergency backup plans;*

*(4) Transportation of participants;*

*(5) Maintenance of required documentation;*

*(6) Training and supervision of staff; and*

*(7) Quality assurance.*

**.08 Specific Conditions for Participation—Family Training.**

A.—D. (text unchanged)

*E. The provider shall demonstrate the capability and capacity of providing family training services by submitting documentation of experience and a written implementation plan.*

*F. The provider shall maintain family training contact logs completed on the same day the service is provided that are reflective of the family training plan goals and activities.*

*G. The provider shall provide to the service coordinator, every 6 months, summaries for all families regarding participants status relative to each goal in the family training plan.*

**.10 Specific Conditions for Participation—Adult Life Planning Services.**

*A. To provide the services covered under Regulation .19 of this chapter, the provider shall:*

*(1) Be an individual with a Master's Degree in Human Services; and*

*(2) Have 5 years of full-time experience serving adults with autism disabilities.*

*B. Adult life planning service providers shall work with the participants and the participants families to develop a treatment plan incorporating the principles of self-determination, person-centered planning, decision making, and planning for adulthood.*

*C. The provider shall submit the treatment plan to the participant's service coordinator within 30 calendar days of initiation of service delivery, and at least annually thereafter, or more frequently if the plan changes.*

*D. At the completion of each year of adult life planning services, the provider shall provide a report of documented evidence of progress towards self-determination, community integration, and coordination with adult services.*

*E. The provider shall maintain Adult Life Planning contact logs completed on the same day the service is provided and reflective of the Adult Life Planning treatment plan goals and activities.*

#### **.14 Covered Services—Therapeutic Integration Services.**

Therapeutic integration services under this regulation:

A. [Are available as a structured after-school or extended day program, lasting] *Shall last* a minimum of 2 hours, *not including transportation time*, and a maximum of 4 hours [including] , *which may include* transportation time, for participants identified by the multidisciplinary team as needing these [extended hours] *services*;

[B. Are not available as a weekend program or summer camp;]

[C.] B.—[M.] L. (text unchanged)

#### **.15 Covered Services—Intensive Individual Support Services.**

A. Intensive individual support services:

(1)—(4) (text unchanged)

[(5) Shall be available 24 hours a day, 7 days a week as approved in the participant's plan of care, if necessary for short-term or crisis intervention; ]

[(6) (5) May be provided by more than one direct care worker [during a 24-hour period] necessitating ongoing coordination between the direct care workers;

[(7) (6)—[(12) (11) (text unchanged)

B.—C. (text unchanged)

#### **.17 Covered Services—Family Training.**

A. Family training shall be provided as specified in the [participant's Autism Waiver plan of care.] *family training plan, and:*

*(1) Shall be based on family-oriented goals to benefit the participant;*

*(2) Shall be provided to one family at a time;*

*(3) May not include advocacy regarding a participant's IEP; and*

*(4) May not include training and supervision of direct care workers.*

B. A participant's family:

(1) (text unchanged)

(2) May be instructed in the treatment regimens, behavior intervention and modeling, skills training, and use of equipment specified in the participant's Autism Waiver plan of care; [and]

(3) Shall be provided with training updates as necessary to maintain the participant safely at home[.] ; *and*

*(4) Shall be present to receive family training services.*

C. (text unchanged)

*D. Family training does not include activities with family members that are not covered under §C of this regulation.*

**.18 Covered Services—Environmental Accessibility Adaptations.**

A. (text unchanged)

B. Environmental accessibility adaptations include:

(1)—(5) (text unchanged)

(6) Raised electrical switches and sockets; [and]

(7) Safety screen doors[.] ; *and*

*(8) Individual tracking devices.*

C.—J. (text unchanged)

**.19 Covered Services—Adult Life Planning Services.**

*A. Adult life planning services shall be provided as specified in the adult life planning treatment plan.*

*B. Adult life planning services shall:*

*(1) Result in the participant's transition from Autism Waiver services to comparable, necessary adult life services;*

*(2) Be based on the participant's need for services and support after disenrollment from the Autism Waiver; and*

*(3) Be provided only to participants age 18 years old or older.*

**.21 Limitations.**

A. (text unchanged)

B. Residential habilitation services may not be reimbursed for the same date of service as intensive individual support services, *therapeutic integration services*, or respite care.

C. Therapeutic integration services[,] *and* intensive individual support services [, and supported employment] under this chapter and school health-related services under COMAR 10.09.50 may not be reimbursed for the same period of the same day.

D.—E. (text unchanged)

F. The Program may reimburse for a participant not more than:

(1) (text unchanged)

[(2) Two units of supported employment services for a date of service; ]

(2) *20 hours of therapeutic integration services per week;*

(3) (text unchanged)

(4) [30] *25 hours of intensive individual support services per week;*

(5) (text unchanged)

(6) *168 hours of respite care [per] between January 1 and June 30, and 168 hours between July 1 and December 31 of each calendar year;*

(7) (text unchanged)

(8) [60] *40 units of family training per calendar year; [and]*

(9) *A total of \$1,500 for environmental accessibility adaptations over a 36-month period[.];*

(10) *8 hours of intensive individual support services per day;*

(11) *15 hours of adult life planning services per calendar year, for participants 18 years old or older;*

(12) *A lifetime maximum of 45 hours of adult life planning services per participant, for participants 18 years old or older; and*

(13) *15 units of residential habilitation services per calendar year at either the regular or intensive level when the participant is absent for the purposes of family visitation, hospitalization, or other overnight stays.*

G. Respite services may not be reimbursed for the same period of the same day as:

(1)—(4) (text unchanged)

[(5) Supported employment.]

(5) *Adult life planning services.*

H. (text unchanged)

*I. Adult life planning services under this chapter and school health-related services under COMAR 10.09.50 may not be reimbursed for the same period of the day.*

**.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)—(e) (text unchanged)

(f) [Supported employment] *Adult life planning* services: reimbursed at the [all-inclusive,] maximum rate of [\$96.25 for each half day of service totaling 2 to 4 hours] *\$95.53 per hour*;

(g) (text unchanged)

(3)—(4) (text unchanged)