



Larry Hogan | Governor Boyd K. Rutherford | Lt. Governor Rona E. Kramer | Secretary

Title 32
MARYLAND DEPARTMENT OF AGING
Subtitle 03 GRANTS AND SUBSIDIES

32.03.03 Senior Assisted Living [Group Home] Subsidy Program

Authority: Human Services Article, §10-211, Annotated Code of Maryland

Notice of Proposed Action

[20-095-P]

The Maryland Department of Aging proposes to amend Regulations **.01— .03, .05, .07, and .08** under **COMAR 32.03.03 Senior Assisted Living Subsidy Program**.

Statement of Purpose

The purpose of this action is to generally update the Senior Assisted Living Subsidy (SALS) Program regulations by removing references to outdated cross-references, removing ancillary references, and providing new definitions.

More substantial changes to the SALS Program include increasing the subsidy amount, raising the resource limit, clarifying provisions relating to artificial impoverishment, expanding monthly personal expense allowance, and allowing for funeral and burial expenses.

Increasing the subsidy amount allows the Department of Aging to move away from one Statewide maximum subsidy amount for the SALS Program to a localized maximum subsidy amount. The proposed change will permit local jurisdictions to set the maximum at a number between \$650 and \$1,000 that best serves their locale. Additionally, this \$650 to \$1,000 range will be tied to the Consumer Price Index (CPI) so that it will adjust with inflation. The hope is that by allowing flexibility in the subsidy amount at the local level, jurisdictions will be able to maximize participation in the Program.

The resource limit for the SALS Program has not changed since 1994. The purposes of raising the resource limit are: updating the outdated resource limit; tying the new resource limit to the CPI so it will adjust for inflation moving forward; and disqualifying people who artificially impoverish themselves by giving away or re-arranging assets. The establishment of a 5-year look back and 5 percent limit for disposition or transfer of resources is prudent to prevent individuals or couples from hiding resources in order to become eligible for the SALS subsidy.

Expanding the monthly personal expense allowance and tying this figure to the CPI establishes an expense allowance that is in accord with the current cost of living and ensures this figure will remain accurate into the future.

Lastly, the proposed amendments allow for seniors to save money for funeral and burial expenses. This allows seniors to adequately plan for a funeral and ancillary burial or funeral expenses at a reasonable fee without the value of those plans being counted against them as resource.

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 a meaningful economic impact on small businesses. An analysis of this economic impact follows.

The proposed changes to the regulation of the Senior Assisted Living Subsidy (SALS) Program have a positive impact or no impact at all to Maryland small businesses.

By establishing a personal expense allowance in accord with current costs of living, seniors will have more money to buy basic essentials and thus decrease the asset portion of their eligibility calculation by up to \$70 a month. This change, in combination with other asset limit increases, will increase the number of seniors eligible for the subsidy. This in turn will increase the business potential and revenue for small business assisted living providers across the State.

Establishing asset limits that are up to date with inflation will allow more seniors to become eligible for the subsidy. This in turn will increase the demand for assisted living services, along with the business potential and revenue for small business assisted living providers across the State.

Additionally, accounting for inflation in eligibility criteria, such as resources that a senior must claim when applying for the subsidy, increases the likelihood individuals will be accepted into the SALS Program. This increases demand and the potential increase in revenue for the small business assisted living providers that seek to serve Maryland seniors.

Excluding reasonable funeral expenses, up to \$5,000 per person, from the list of assets a senior must claim on the SALS eligibility form will increase the number of seniors who are eligible for the subsidy. More applicants ensure more resident clients for small business assisted living providers in Maryland.

Lastly, increasing the range a local jurisdiction can set as its subsidy will increase the amount each assisted living provider will be paid per SALS resident. In addition, the Subsidy Program will be more attractive to small business assisted living providers who do not currently participate because the subsidy is too low. The growth potential is enormous. In 2019 only 204 assisted living providers (with a 4- to 16-bed capacity) participated in the SALS Program across Maryland (excluding Calvert, Garrett, and St. Mary's counties). Assisted living providers with the same capacity total 1,265 across the State. More assisted living facilities that are motivated by a larger subsidy to defray their costs will apply for the Program, accept more SALS seniors, and assure

their business growth. Jurisdictions who have chosen not to even apply for the Subsidy Program might reconsider once the rate is increased.

All other changes proposed to the SALS Program will not impact Maryland small businesses.

Impact on Individuals with Disabilities

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

The proposed regulatory amendments to the Senior Assisted Living Subsidy Program will have a positive impact on individuals with disabilities. By bringing the level of assets in line with inflation, this increases the likelihood more seniors will become eligible for the subsidy. Many of our seniors are seeking assisted living quarters and services because they are not ambulatory or have a disability. Easing up on the eligibility criteria increases the likelihood more disabled seniors will have safe, secure homes in which to age.

Opportunity for Public Comment

Comments may be sent to Grace Fielhauer, Legislative Liaison, Department of Aging, 301 W. Preston Street, Suite 1007, Baltimore, MD 21201, or call 410-767-5953, or email to grace.fielhauer@maryland.gov, or fax to 410-333-7943. Comments will be accepted through June 8, 2020. A public hearing has not been scheduled.

.01 Purpose.

The purpose of the Senior Assisted Living [Group Home] Subsidy Program is to provide subsidies on behalf of eligible elderly residents of [group homes] *facilities* that are licensed as an assisted living program pursuant to COMAR 10.07.14, and [monitored by the Maryland Department of Aging pursuant to Health-General Article, §19-1804, Annotated Code of Maryland] *enrolled in the Program*.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Applicant" means an individual who has applied for a subsidy *or a current participant whose eligibility is being redetermined in accordance with Regulation .06C of this chapter.*

(2) (text unchanged)

(3) "Assisted living program" has the meaning stated in COMAR [10.07.14.02B(10)] *10.07.14.02B(11).*

(4) "*Burial funds*" means a revocable burial contract, burial trust, or other burial or funeral arrangement or any other separately identifiable fund which is clearly designated as set aside for a person's burial or funeral expenses.

(5) "*Burial spaces*" means conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(6) "*Consumer Price Index*" means the Consumer Price Index for all urban consumers (CPI-U), U.S. City Average, All Items (1982—84=100) published by the United States Department of Labor for each calendar year, January through December.

[(4)] (7)—[(9)] (12) (text unchanged)

[(10)] "Group home" means a facility that the Maryland Department of Aging is responsible for monitoring and inspecting pursuant to the interagency agreement required by Health-General Article, §19-1804, Annotated Code of Maryland (which means the facility shall have a minimum of four residents and a maximum of 16 residents).]

[(11)] (13)—[(12)] (14) (text unchanged)

(15) "*Irrevocable burial fund*" means an irrevocable burial contract, an irrevocable burial trust, or other irrevocable arrangement, the assets of which are only available for funeral or burial expenses or both.

[(13)] (16)—[(15)] (18) (text unchanged)

(19) "*Monthly allowance for personal expenses*" equals \$130 per month. Subject to the limitations of the State budget, the amount shall increase on July 1 of each year beginning July 1, 2021, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year, rounded to the nearest dollar. The Department shall publish annually the monthly allowance for personal expenses.

[(16)] (20) (text unchanged)

[(17)] (21) "Net monthly income" means total monthly income from all sources, minus:

(a) (text unchanged)

(b) [An] *The monthly allowance for personal expenses [of \$60 per month].*

[(18)] (22) "Program" means the Senior Assisted Living [Group Home] Subsidy Program.

[(19)] (23) "Representative" means an agent, guardian of the person, guardian of the property, or any other person referred to in COMAR [10.07.14.25] 10.07.14.34.

[(20)] (24) "Resident" means an elderly individual who resides in [a group home] *an assisted living facility* for the purpose of obtaining assisted living services.

[(21)] (25) "Resident agreement" has the meaning stated in COMAR [10.07.14.02B(55)] 10.07.14.02B(65).

[(22)] (26) (text unchanged)

[(23)] (27) "Subsidy" means funds paid or approved to be paid by the local office to a licensee on behalf of a subsidized resident [in a group home].

.03 Enrollment of [Group Home] Assisted Living Facility Licensee.

A. If [a group home] *an assisted living facility* wants to participate in the Program and receive subsidies on behalf of eligible residents, the licensee shall:

(1)—(3) (text unchanged)

B. (text unchanged)

C. If the local office determines that the information submitted on the enrollment form is accurate and satisfactory, and the resident agreement is consistent with COMAR [10.07.14.12 and .13] 10.07.14.24 and .25, it shall:

(1)—(2) (text unchanged)

D.—E. (text unchanged)

.05 Resident Eligibility for Subsidy.

A. An applicant is eligible to receive a subsidy paid to the licensee on the applicant's behalf when the following conditions are met:

(1) The applicant is a resident *62 years old or older*, or has been accepted for admission as a resident, in a facility operated by a licensee, which has enrolled in the [subsidy program] *Program* and executed a service agreement with the local office;

(2)—(4) (text unchanged)

B. (text unchanged)

C. To be financially eligible for a subsidy, an applicant shall meet the following conditions:

(1) (text unchanged)

(2) The applicant's net annual income is not higher than 60 percent of the State median income as determined by the U.S. Department of Housing and Urban Development; [and]

(3) [The] *Subject to §H of this regulation, the applicant's resources are not greater than [\$11,000] \$19,000 if single, or [\$14,000] \$25,000 if married[.]; and*

(4) *The applicant may not have disposed of or transferred more than 5 percent of such applicant's net worth in the previous 5 years for less than fair market value unless the transfer was into a:*

(a) *Trust for an immediate family member who was medically dependent; or*

(b) *Special needs trust that meets the requirements of COMAR 10.09.24.08-2C.*

D. *Calculation of Resources.*

(1) When calculating the amount of an applicant's or subsidized resident's resources, the net fair market value of all assets owned by the applicant or subsidized resident shall be [totalled] *totalled*, with the exception of the following:

[(1)] (a)—[(3)] (c) (text unchanged)

[(4)] (d) *Life insurance policies with a total cash surrender value of not more than \$5,000, including available accrued dividends and interest; [and]*

[(5)] (e) *Real property that satisfies the exclusion requirements of §§E—G of this regulation[.];*

(f) *Burial spaces for a person and the person's immediate family;*

(g) *An irrevocable burial fund of any amount, which has been set aside for the burial or funeral of the individual or the individual's spouse; and*

(h) *Amounts in burial funds that satisfy the requirements of §D(2) of this regulation.*

(2) *Burial Funds.*

(a) *In determining the resources of a person and the person's spouse, if any, there shall be excluded an amount up to \$5,000 per person of funds specifically set aside in a burial fund for the person or the person's spouse.*

(b) *Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements shall be excluded from resources if left to accumulate and become a part of the burial fund.*

(c) *Funds or interest earned on funds and appreciation in the value of burial arrangements, which have been excluded from resources because they are burial funds, shall be used solely for that purpose.*

(d) *An individual's \$5,000 exclusion as described under §D(2)(a) of this regulation shall be reduced by amounts in an irrevocable burial fund as described under §D(1)(g) of this regulation.*

E. Real property that [is the primary residence of the applicant, or] was the primary residence *of the applicant* at the time of admission to a facility is excluded from the calculation of the applicant's resources for 1 year from the date of admission. After 1 year, the *value of the applicant's interest in the property* shall be counted as part of an applicant's or subsidized resident's resources, unless the:

(1)—(2) (text unchanged)

F. For the purposes of [§E] §§C and E of this regulation, an unmarried child younger than 21 years old shall be considered financially dependent without documentation other than age, and an immediate family member who has been determined to be blind or disabled by the Social Security Administration or by the State Medical Review Team as a part of determining their eligibility for Medical Assistance, shall be considered medically dependent.

G. (text unchanged)

H. *The resource limit for applicants shall increase on July 1 of each year beginning July 1, 2021, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year, rounded to the nearest dollar. The Department shall publish annually the resources limits.*

.07 Amount of Subsidy.

A. *Maximum Monthly Subsidy Amount.*

(1) The monthly subsidy amount paid by the local office to a licensee on behalf of a subsidized resident is equal to the lesser of:

[(1)] (a) (text unchanged)

[(2)] (b) [\$650] *The maximum monthly subsidy amount set forth in writing annually by the local office, which amount shall be between the minimum rate of \$650 and the maximum rate of \$1,000 per month, inclusive.*

(2) *The maximum rate shall increase on July 1 of each year beginning July 1, 2021, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year, rounded to the nearest dollar.*

(3) *The Department shall publish annually the maximum subsidy amount limit.*

B.—E. (text unchanged)

.08 Administration of [Group Home] Subsidies.

A. The Department shall designate, in writing, a local office to:

(1) Administer the [group home] *Program's* subsidies;

(2)—(3) (text unchanged)

B.—D. (text unchanged)

RONA E. KRAMER
Secretary of Aging

For any questions or concerns, please contact:

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Title 32

DEPARTMENT OF AGING

Subtitle 03 GRANTS AND SUBSIDIES

32.03.05 Senior Call-Check Service and Notification Program

Authority: State Finance and Procurement Article, § 3a-702, Annotated Code of Maryland

.01 Purpose.

The purpose of the Program is to offer a free, opt-in, telephonic service to check on eligible elderly Maryland residents at a regularly scheduled time each day. The Program may be provided by the Department through a private vendor, non-profit organization, or other entity. The Program may also provide automated telephonic “notifications” in the form of public service announcements related to emergency conditions. These notifications will be separate from the daily call process.

.02 Definitions.

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

B. Terms Defined.

(1) “Department” means the Maryland Department of Aging.

(2) “Program” means the Senior Call-Check Service and Notification Program.

(3) “Secretary” means the Secretary of the Department.

.03 Eligibility.

An individual is eligible to participate in the Program if the following conditions are met:

A. The individual is a Maryland resident who is 65 years of age or older who has a landline phone or a cell phone that does not block automated calls from the Program; and

B. The individual is capable of answering and appropriately responding to a daily phone call.

.04 Application.

In order to enroll in the Program, an individual must submit a complete application on a form made available by the Department.

.05 Assessment of Application.

A. Upon receipt of an enrollment application for the Program, the Department or an entity it has retained to administer the Program shall determine whether the applicant is eligible to participate in the Program.

B. If an applicant is determined to be eligible for the Program, the applicant will be enrolled as a participant in the Program.

C. Applicants whose applications are not complete or legible will be classified as not eligible.

D. If the Department or an entity it has retained to administer the Program determines that an applicant is not eligible for the Program, and if the applicant has provided such applicant’s current name and address in a legible format, the Department will provide the applicant with a written notification of ineligibility. The notice shall include the following information:

(1) Decision;

(2) Reason for ineligibility;

(3) Specific regulation supporting the action;

(4) Applicant’s right to appeal the decision; and

(5) Method for obtaining a hearing.

E. If an applicant was determined to be ineligible because the applicant’s application was incomplete or illegible, the notification of ineligibility shall also inform the applicant that he or she may apply again by submitting a new, complete, and legible application. An individual whose application is determined ineligible may appeal the determination of ineligibility to the Department in accordance with COMAR 32.01.01.

.06 Revocation or Suspension of Participation.

A. If Department determines that a participant is no longer eligible to participate in the Program, the Department shall provide the participant with a written notification of enrollment revocation at least 10 business days before the effective date of revocation.

B. The Department may revoke or suspend a participant from the Program if the Department determines that a participant misused or abused the service provided by the Program or repeatedly failed to follow the Program's protocols or other requirement, including any Program limitations or requirements specified in the application form supplied by the Department.

C. If the Department determines to revoke or suspend a participant's enrollment, the Department shall notify the Participant in writing of the suspension or revocation. The notice shall include the following information:

- (1) Decision;*
- (2) Reason for the suspension or revocation;*
- (3) Specific regulation supporting the action;*
- (4) The effective date of the suspension or revocation;*
- (5) Applicant's right to appeal the decision; and*
- (6) Method for obtaining a hearing.*

D. An individual whose enrollment is revoked or suspended may appeal the determination to the Department in accordance with COMAR 32.01.01.

.07 Appeals.

An appeal of any action taken by the Department or the Secretary under this chapter shall be conducted in accordance with COMAR 32.01.01 and the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

For any questions or concerns, please contact:

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