(c) The maximum interest rate used shall be no more than the greater of:

(i) The current yield on 90-day Treasury bills; or

(ii) The current maximum adjustable policy loan interest rate as set forth in accordance with Insurance Article, § 16-208, Annotated Code of Maryland; and

(d) The interest rate accrued on the portion of the lien that is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

B. Effect on Cash Value.

(1) Except as provided in §B(2) of this regulation, when an accelerated benefit is payable, there may be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment; or

(2) The payment of accelerated benefits, any administrative expense charges, any future premiums and any accrued interest may be considered a lien against the death benefit of the policy or rider and the access to the cash value may be:

(a) Restricted to any excess of the cash value over the sum of any other outstanding loans and the lien; and

(b) Future access to additional policy loans may be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment. When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

.12 Actuarial Disclosure and Reserves.

A. Actuarial Memorandum.

(1) A qualified actuary shall describe the accelerated benefits, the risks, the expected costs, and the calculation of statutory reserves in an actuarial memorandum accompanying each filing.

(2) The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under this chapter. The descriptions shall be made available for examination by the Commissioner upon request.

B. Reserves.

(1) When benefits are provided through the acceleration of benefits under a group or individual life policy or a rider to such policies, an actuary shall determine policy reserves in accordance with the Standard Valuation Law referenced in Insurance Article, §§5-301 — 5-317, Annotated Code of Maryland.

(2) A member in good standing of the American Academy of Actuaries shall determine all valuation assumptions used in constructing the reserves as appropriate for statutory valuation purposes.

(3) Mortality tables and interest currently recognized for life insurance reserves by the National Association of Insurance Commissioners may be used by the actuary as appropriate assumptions for other provisions incorporated in the policy form.

(4) The actuary shall follow both actuarial standards and certification for good and sufficient reserves.

(5) Reserves in the aggregate shall be sufficient to cover:

(a) Policies upon which no claim has yet arisen; and

(b) Policies upon which an accelerated claim has arisen.

(6) The actuary is not required to establish additional reserves for policies and certificates that provide actuarially equivalent benefits.

(7) The insurer shall include policy liens and policy loans, including accrued interest, as assets of the company for reporting purposes as stated in Insurance Article, §5-101(3) — (7), Annotated Code of Maryland.

(8) For a policy on which the policy lien exceeds the policy's statutory reserve liability, the insurer shall hold the excess as a non-admitted asset.

ALFRED W. REDMER, JR.
Maryland Insurance Commissioner

Title 32
MARYLAND DEPARTMENT OF AGING

Subtitle 03 GRANTS AND SUBSIDIES

32.03.04 Congregate Housing Services Program

Authority: Human Services Article, §§10-209 and 10-210, Annotated Code of Maryland

Notice of Proposed Action

[18-060-P]

The Maryland Department of Aging proposes to amend Regulations **.01**, **.07**, **.14**, **.16—.19**, **.22**, **.23**, **.26**, **.28**, and **.32** under **COMAR 32.03.04 Congregate Housing Services Program**.

Statement of Purpose

The purpose of this action is to change the Congregate Housing Services Program from a contract to a grant process.

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 Andrew Ross, Chief of Staff, Maryland Department of Aging, 301 West Preston Street, Suite 1007, Baltimore, MD 21201, or call 410-767-1100, or email to mdoa.executiveoffice@maryland.gov, or fax to 410-333-7943. Comments will be accepted through April 30, 2018. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(25) (text unchanged)

[(26) " Purchase of services agreement" means an agreement between a provider and the Department that specifies the contractual obligations of both parties.**]**

[(27)**]** *(26)* —**[**(32)**]** *(31)* (text unchanged)

[(33)**]** *(32)* "Subsidy" means the State funds paid by the Department to a provider for providing congregate housing services to a participant in accordance with a **[**purchase of services**]** *subsidy services* agreement and this chapter.

(33) "Subsidy services agreement" means a grant agreement between a provider and the Department that specifies the obligations of both parties.

.07 Change of Provider During Term of [Purchase of Services] *Subsidy Services* Agreement.

A.—D. (text unchanged)

.14 Mandatory and Optional Services.

A. (text unchanged)

B. Meals

(1)—(5) (text unchanged)

(6) A provider or its food service [subcontractor] *contractor* shall prepare in advance a weekly menu of the meals to be serviced.

(7) If more than one food service [subcontractor] *contractor* is retained by a provider to prepare meals for participants in a facility, the provider shall assure that menus are coordinated to avoid duplication and to maintain overall nutritional balance.

(8)—(9) (text unchanged)

(10) If a provider [subcontracts] *contracts* with another entity to provide meal services for the participants, the provider shall solicit competitive bids from qualified food service establishments at least once every 3 years. Competitive bidding may be waived by the Department if the meals are provided by a food service establishment that is under contract with:

(a)—(b) (text unchanged)

(11) If a provider [subcontracts] *contracts* with another entity to provide meals to participants, the provider shall arrange for participants to meet periodically with the other entity to discuss menus and other concerns.

C.—G. (text unchanged)

.16 Renewal of Subsidy Award.

A subsidy award may be renewed annually if:

A.—B. (text unchanged)

C. The Department and the provider have executed a [purchase of services agreement] *subsidy services agreement* for the next fiscal year; and

D. (text unchanged)

.17 Award of Subsidies to New Sites.

If funds are made available in the Department's budget to award subsidies to more facilities than the budget supported in the past, the Department shall issue[, in accordance with the State's procurement laws and regulations,] a request for proposals to persons who want to be providers that are eligible to receive subsidies.

.18 [Purchase of Services] *Subsidy Services* Agreement.

A. A provider that is approved by the Department to receive State subsidies shall enter into a written [purchase of services] *subsidy services* agreement with the Department.

B. (text unchanged)

.19 Administration of Subsidy Award.

A. (text unchanged)

B. For the term of a [purchase of services] *subsidy services* agreement, the Department shall:

(1)—(2) (text unchanged)

C.—G. (text unchanged)

H. If the subsidies advanced to a provider during a fiscal year are less than the amount of subsidies earned, the Department shall pay the subsidy amount due the provider, up to the [contract] *maximum grant* amount of the [purchase of services] *subsidy services* agreement.

I. Not later than 10 days after the end of the third quarter of a fiscal year, a provider may request an amendment to its [purchase of services] *subsidy services* agreement if it projects that the amount of subsidies earned will exceed the [contract] *maximum grant* amount of the [purchase of services] *subsidy services* agreement. If funds are available, the Department may agree to amend the [purchase of services] *subsidy services* agreement for all or part of the projected amount.

J.—K. (text unchanged)

L. The Department shall review a report required by §J or K of this regulation and reconcile the report with the amount of subsidy payments made to the provider during the fiscal year. After the Department has reconciled the subsidy payments, it shall pay any subsidy amount due to the provider, up to the [contract] *maximum grant* amount in the provider's [purchase of services] *subsidy services* agreement.

.22 Participant Application for Subsidy.

If an individual resides in a facility that has a [purchase of services] *subsidy services* agreement with the Department, the individual may file an application for a subsidy with the provider at the facility on a form provided by the Department. An application for a subsidy may be filed at the same time as an application for eligibility is filed or may be filed after an application for eligibility is filed.

.23 Participant Eligibility for Subsidy.

A. An individual in a facility whose provider has a [purchase of services] *subsidy services* agreement for a Standard Congregate Housing Services Plan is eligible to receive a subsidy if:

(1) (text unchanged)

(2) The individual's net monthly income is insufficient to pay the full monthly fee approved by the Department in the [purchase of services] *subsidy services* agreement with the provider;

(3)—(5) (text unchanged)

B. A couple in a facility whose provider has a [purchase of services] *subsidy services* agreement for a Standard Congregate Housing Services Plan shall be eligible to receive a subsidy if:

(1) (text unchanged)

(2) The couple's net monthly income is insufficient to pay the full monthly fee for a couple approved by the Department in the [purchase of services] *subsidy services* agreement with the provider;

(3)—(5) (text unchanged)

C. An individual in a facility whose provider has a [purchase of services] *subsidy services* agreement for an Individualized Congregate Housing Services Plan shall be eligible for a subsidy if:

(1)—(4) (text unchanged)

D.—G. (text unchanged)

.26 Determination of Participant Subsidy Amount.

A. In the Standard Congregate Housing Services Program, the amount of the subsidy to be paid monthly on behalf of an eligible participant shall equal the difference between the participant's projected monthly income, less approved allowances set forth in §B of this regulation, and the monthly fee for congregate housing services as approved by the Department in the [purchase of services] *subsidy services* agreement.

B.—C. (text unchanged)

.28 Notification of Intent Not to Renew [Purchase of Services] *Subsidy Services* Agreement.

A. If a provider does not intend to seek the award of another [purchase of services] *subsidy services* agreement after the current one expires, the provider shall give the Department written notice of that intention at least 120 days before the expiration of the current agreement.

B. A notice provided to satisfy §A of this regulation shall include:

(1)—(2) (text unchanged)

(3) An assurance that the provider shall provide congregate housing services up to the termination date in the current [purchase of services] *subsidy services* agreement.

.32 Civil Money Penalties.

A. Violations Warranting Penalties. The Secretary, or the Secretary's designee, may impose a civil money penalty against a provider of congregate housing services for:

(1) A violation of this chapter or the provider's **[**purchase of services**]** *subsidy services* agreement that results in conditions presenting an imminent danger or substantial probability of death or serious physical harm to a participant;

(2)—(3) (text unchanged)

B.—I. (text unchanged)

RONA E. KRAMER
Secretary of Aging