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**TO:** Members of the State Board of Education  
**FROM:** Lillian M. Lowery, Ed.D. *L. Lowery*  
**DATE:** July 24, 2012  
**SUBJECT:** COMAR 13A.11.01, .02, .06 and .08 (AMEND)  
Programs for Adults with Disabilities  
PERMISSION TO PUBLISH

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**PURPOSE:**

The purpose of this action is to request permission to publish amendments to COMAR 13A.11.01, .02, .06 and .08, Programs for Adults with Disabilities.

**HISTORICAL BACKGROUND:**

Amendments in Chapter .01, Vocational Rehabilitation Services have been proposed to: 1) update the sliding scale used to determine financial participation of eligible individuals in cost of services, and 2) update the Division's fee schedule that is incorporated by reference.

DORS has a financial need policy which requires that consumers who have the ability to pay contribute to the cost of certain rehabilitation services, unless the consumer is a recipient of Social Security disability benefits. The consumer's contribution is based on a sliding scale which takes into account family income and the number of dependents. It is based on the Poverty Guidelines established annually by the United States Department of Health and Human Services.

The Division has a fee schedule which includes general fees for medical and rehabilitation services, fees paid to community rehabilitation programs for approved rehabilitation services, and fees which DORS charges for services provided at the Workforce & Technology Center.

Amendments in Chapter .02, Maryland Disability Employment Tax Credit have been proposed consistent with legislation passed by the 2012 Maryland General Assembly regarding extension of this tax credit.

Amendments in Chapter .06, Records of Services, have been made to correct an inaccurate reference.

Amendments in Chapter .08, Workforce and Technology Center, have been proposed to provide technical updates and clarification regarding administration and service provision.

**EXECUTIVE SUMMARY:**

To comply with the Federal Regulations and the Rehabilitation Act Amendments of 1998 and to implement other technical changes and clarifications, revisions are being proposed in the following chapters:

**Changes in Chapter 01, Vocational Rehabilitation Services**

**Regulation .03-1 Incorporation by Reference**

- The Division of Rehabilitation Services Fee Schedule, Rehabilitation Services Manual V (RSM V) has been updated as of June 2012. Updates reflect changes in fees paid by the Division for services for applicants and eligible individuals, and fees charged by the Division for services provided by its Workforce and Technology Center.
- One of the primary changes in the fee schedule is an increase in fees paid by the Division for Career Assessment Services. These fees have not been updated for approximately ten years. This service is important in establishing employment options for individuals with significant disabilities from which to develop the consumer's Individualized Plan for Employment.
- The other main change in the fee schedule is the inclusion of benefits counseling services. These are provided to individuals who receive Social Security Disability payments, so they will understand the impact of working on their benefits as well as the work incentives that make it attractive to work.

**Regulation .15 Financial Participation Schedule.**

- The sliding scale has been updated consistent with the 2012 Poverty Guidelines of the U.S. Department of Health and Human Services.

**Changes in Chapter 02, Maryland Disability Employment Tax Credit**

**Regulation .06 Limitations on Claim of Credit by Employers**

- Revisions have been made consistent with the 2012 Maryland General Assembly's extension of the Maryland Disability Employment Tax Credit.

### **Changes in Chapter 06, Records of Services**

#### **Regulation .16 Retention of Records of Services**

- Revisions have been made to correct the reference to the Health-General Article §4-403.

### **Changes in Chapter 08, Workforce & Technology Center**

#### **Regulation .05 Admission Decision and Appeal Process**

- Revisions have been made to clarify that while WTC staff notify applicants and referral sources of pending admissions, applicants who are denied admission are provided written information about the denial, to include appeal rights.

#### **Regulation .12, Client Orientation**

- Revisions have been made to clarify the written information provided to consumers upon admission to the Workforce and Technology Center.

#### **Regulation .14, Career Assessment Services**

- Revisions have been made to clarify the timeframe for completion of the report for consumers completing Career Assessment Services at the Workforce and Technology Center.

**Fiscal Impact.** There will be a modest fiscal impact by these regulations.

While the Tax Credit regulations have been updated, MSDE DORS only processes documentation for this credit; state regulations of the Maryland Department of Labor, Licensing and Regulation would speak to the cost of the credits.

The Division will mitigate the impact of increased cost of career assessment services by assuring that the appropriate service is requested and provided rather than having the majority of requests for the longest and most expensive service.

It is anticipated that funding for benefits counseling services will be in large measure offset by the Social Security Administration reimbursing DORS for the cost of services provided to individuals who receive Social Security Disability Insurance and Supplemental Security Income who later earn substantial gainful employment for a period of time and leave the Social Security roles.

**Impact on Individuals with Disabilities.** There will be a modest impact on individuals with disabilities. The small minority of individuals who are required to contribute financially to the cost of services may see a small change in that amount. Certain individuals may be able to achieve employment with employers interested in hiring them and taking advantage of the Maryland Disability Employment Tax Credit.

Members of the State Board of Education  
July 24, 2012  
Page 4

The impact on DORS consumers who are provided benefits counseling would be very positive in that they would learn about the many work incentives available to them so that they can seriously consider working up to their potential and possibly discontinuing benefits. While staying on benefits gives individuals with disabilities a secure income, it often relegates them to a lifestyle barely above the poverty level. Benefits counseling promotes independence, self-sufficiency and employment.

**ACTION:**

I request permission to publish the proposed amendments following the TENTATIVE timelines below:

Maryland Register Issue Date: October 5, 2012  
Hearing: N/A  
30 Day Open Comment Period Ends: November 5, 2012  
Adoption: December 11, 2012

LML:ph

Attachments

# Title 13A

## STATE BOARD OF EDUCATION

### Subtitle 11 PROGRAMS FOR ADULTS WITH DISABILITIES

#### Chapter 01 Vocational Rehabilitation Services

Authority: Education Article, §§21-301—21-306 and 21-402—21-404, Annotated Code of Maryland

**.03-1 Incorporation by Reference.**

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) Division of Rehabilitation Services Fee Schedule, Rehabilitation Services Manual V (RSM V) (Maryland State Department of Education, updated through [May 2009] *June 2012*).

(2) (text unchanged)

**.15 Financial Participation Schedule.**

Annual Amount of Individual/Family Financial Participation								
Available Income	1	2	3	4	5	6	7	8
\$22,000 and below	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
\$22,001—\$26,000	210	0	0	0	0	0	0	0
\$26,001—\$30,000	350	245	0	0	0	0	0	0
\$30,001—\$34,000	520	400	0	0	0	0	0	0
\$34,001—\$38,000	720	585	315	0	0	0	0	0
\$38,001—\$42,000	950	800	500	0	0	0	0	0
\$42,001—\$46,000	1,210	1,045	715	385	0	0	0	0
\$46,001—\$50,000	1,500	1,320	960	600	0	0	0	0
\$50,001—\$54,000	1,820	1,625	1,235	845	455	0	0	0
\$54,001—\$58,000	2,170	1,960	1,540	1,120	700	0	0	0
\$58,001—\$62,000	2,550	2,325	1,875	1,425	975	525	0	0
\$62,001—\$66,000	2,960	2,720	2,240	1,760	1,280	800	0	0
\$66,001—\$70,000	3,400	3,145	2,635	2,125	1,615	1,105	595	0
\$70,001—\$74,000	3,870	3,600	3,060	2,520	1,980	1,440	900	0
\$74,001—\$78,000	4,370	4,085	3,515	2,945	2,375	1,805	1,235	665
\$78,001—\$82,000	4,900	4,600	4,000	3,400	2,800	2,200	1,600	1,000
\$82,001—\$86,000	5,460	5,145	4,515	3,885	3,255	2,625	1,995	1,365
\$86,001+ *	6.5%	6.125%	5.375%	4.625%	3.875%	3.125%	2.375%	1.625%

\* To determine amount of individual/family participation when the available income is above \$86,000, multiply the individual/family income times the percentage. The Financial Participation Scale is based on 2009 Poverty Guidelines of the U.S. Department of Health and Human Services.

Annual Amount of Individual/Family Financial Participation								
Available Income	1	2	3	4	5	6	7	8



\$23,000 and below	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
\$23,001—\$27,000	219	0	0	0	0	0	0	0
\$27,001—\$31,000	363	254	0	0	0	0	0	0
\$31,001—\$35,000	536	413	0	0	0	0	0	0
\$35,001—\$39,000	740	602	324	0	0	0	0	0
\$39,001—\$43,000	974	820	513	0	0	0	0	0
\$43,001—\$47,000	1,238	1,069	731	394	0	0	0	0
\$47,001—\$51,000	1,531	1,348	980	613	0	0	0	0
\$51,001—\$55,000	1,855	1,656	1,259	861	464	0	0	0
\$55,001—\$59,000	2,209	1,995	1,568	1,140	713	0	0	0
\$59,001—\$63,000	2,593	2,364	1,906	1,449	991	534	0	0
\$63,001—\$67,000	3,006	2,762	2,275	1,787	1,300	813	0	0
\$67,001—\$71,000	3,450	3,191	2,674	2,156	1,639	1,121	604	0
\$71,001—\$75,000	3,924	3,650	3,103	2,555	2,008	1,460	913	0
\$75,001—\$79,000	4,428	4,139	3,561	2,984	2,406	1,829	1,251	674
\$79,001—\$83,000	4,961	4,658	4,050	3,443	2,835	2,228	1,620	1,013
\$83,001—\$87,000	5,525	5,206	4,567	3,931	3,294	2,656	2,019	1,381
\$87,001+ *	6.5%	6.125%	5.375%	4.625%	3.875%	3.125%	2.375%	1.625%

\* To determine amount of individual/family participation when the available income is above \$87,000, multiply the individual/family income times the percentage. The Financial Participation Scale is based on 2012 Poverty Guidelines of the U.S. Department of Health and Human Services.

## Chapter 02 Maryland Disability Employment Tax Credit

Authority: Education Article, §21-309, Annotated Code of Maryland

### .06 Limitations on Claim of Credit by Employers.

A. The Maryland disability employment tax credit shall be applicable to all taxable years beginning after December 31, 1996[, but before January 1, 2013].

B. An employer may claim the credit only for employees hired on or after October 1, 1997[, but before July 1, 2010].

C. — E. (text unchanged)

[F. A business entity may not claim the credit if the business entity is claiming a tax credit for the same employee under Article 88A, §54, Annotated Code of Maryland.]

[G.] F. (text unchanged)

## Chapter 06 Records of Services

Authority: Education Article, §§21-304—21-306 and 21-308, Annotated Code of Maryland

### .16 Retention of Records of Services.

Records of services shall be maintained for a minimum of 3 years following the closure of a record of services, and then destroyed, except for records held by the Workforce and Technology Center and those approved by the Social Security Administration for reimbursement, which shall maintain records for a minimum of 5 years pursuant to Health-General Article, §[4-305] 4-403, Annotated Code of Maryland.

## Chapter 08 Workforce and Technology Center

Authority: Education Article, §§21-301—21-304, Annotated Code of Maryland

**.05 Admission Decision and Appeal Process.**

A. [The admission office] *WTC staff* shall notify the applicant and referral source [in writing] of the [pending] *scheduled* admission [decision]. If the applicant is being denied admission, the admission committee shall *respond in writing and:*

(1) — (3) (text unchanged)

B. — C. (text unchanged)

**.12 Client Orientation.**

A. (text unchanged)

B. The Center's *Consumer Handbook and Admission Packet which includes the* rules and regulations shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client's representative, shall acknowledge receipt of a copy of the regulations and procedures associated with participation in a program of services at the Center by signing the document.

C. — D. (text unchanged)

E. The *Center's Consumer Handbook and Admission Packet which includes the* Consumer Bill of Rights shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client's representative, shall acknowledge receipt of a copy of the Consumer Bill of Rights and confirm that they have been provided the opportunity for clarification of their rights at the Center and of the methods and procedures available to present a complaint, seek review or appeal of any decisions involving the provision or denial of services, or address any other matter which may be of concern while enrolled in the Center, by signing the document.

**.14 Career Assessment Services.**

A. — G. (text unchanged)

H. *Career Assessment Services staff person will provide preliminary information about the assessment results at the conclusion of the service.* A written[, functional] evaluation report shall be prepared for each client served in career assessment, [interpreted to the client,] and disseminated [in a timely fashion] to [the case manager and] the referral source *within 14 working days of discharge from the Center.* The evaluation report may be disclosed to other appropriate agencies or individuals only in accordance with the standards of Regulation .17 of this chapter.

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