



**MEDICAL CARE POLICY ADMINISTRATION
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

201 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201

Parris N. Glendening
Governor

Martin P. Wasserman, M.D., J.D.
Secretary

**MARYLAND MEDICAL ASSISTANCE PROGRAM
Podiatry Services Transmittal No. 26**

April 14, 1999

TO: Podiatrists

FROM: Susan J. Tucker *SJT*
Acting Director

NOTE: Please ensure that appropriate staff members in your organization are informed about the contents of this transmittal.

RE: Proposed Amendments to COMAR 10.09.15 Podiatry Services

ACTION:
Proposed Regulations

EFFECTIVE DATE:

WRITTEN COMMENTS TO:
Michele Phinney, 201 W. Preston Street,
Baltimore, Maryland 21201
FAX (410) 767-6489 or (410) 767-6499

PROGRAM CONTACT PERSON:
Robert Zielaskiewicz
(410) 767-1481

COMMENT PERIOD EXPIRES: April 26, 1999

The Maryland Medical Assistance Program proposes to amend Regulations .01, and .04 - .07 under COMAR 10.09.15 Podiatry Services. The purpose of these amendments is to comply with Executive Order 01.01.1996.04 which requires a regulatory review every eight years, and the Administrative Simplification provisions of the Health Insurance Portability Act of 1996. In addition, these amendments make the regulations consistent with the Maryland Podiatry Act, the practice of podiatry, 1999 CPT-4, and the reimbursement policy for physicians and nurse practitioners.

The proposed amendments, as they are published in the Maryland Register, are attached to this transmittal.

Attachment

SJT:rz

(2) Bank accounts opened for residents' personal funds in an assisted living program shall have minimal or no interest. Any interest earned on the bank accounts shall accrue to the residents.

(4) Any fees charged by the bank for the maintenance of the accounts shall be paid by the resident.

G. **Reserves of Resident Personal Funds.** For all resident funds entrusted to an assisted living program, the assisted living program shall:

(1) Maintain an individual record for each resident, which includes the following information for each transaction:

- (a) The date of the transaction,
(b) The type of transaction, whether it is a deposit, withdrawal, or any other transaction, and
(c) The balance of funds after the completion of the transaction;

(2) Make available for inspection to the resident, or, when applicable, the resident's agent, a statement of the resident's account; and
(3) Make available to the assisted living program, for audit by the Department of Health and Mental Hygiene, records pertaining to each resident's personal funds, including the written authorization required by §D of this regulation.

H. **Fire and Theft Coverage.** For all resident funds entrusted to an assisted living program, the assisted living program shall establish and maintain adequate fire and theft coverage to protect a resident's funds that are on the premises of the assisting living program.

I. **Availability of Personal Funds.**
(1) A resident has the right to access funds entrusted to the assisted living program.

(a) During normal business hours, if the funds are held within the facility;

(b) Within 3 banking days, if a bank, the State, or a county or municipal treasurer holds the money.

(2) If an assisted living program transfers or discharges a resident, the assisted living program shall:

(a) Request and follow the resident's written instructions for transferring the resident's funds;

(b) Return, upon the resident's or, when applicable, the resident's agent's demand, the resident's money that the assisted living program has in its possession and have the resident or agent sign a receipt for the money; or

(c) Make available to the resident or the resident's agent, within 3 banking days, the resident's money which is held in an account with a bank, the State, or county or municipal treasurer.

J. **Ownership Change.**

(1) If the ownership of an assisted living program changes, the previous owner, with the approval of each resident, shall give the new owner a certified written audit of all funds that residents have entrusted to the assisted living program.

(2) The new owner shall give to the previous owner a signed receipt acknowledging the receipt of the accounts.

The owner shall comply with the safeguarding requirements of §E of this regulation.

(3) If the resident wants the new owner to hold, safeguard, manage, or account for the residents' personal funds, a new written authorization in compliance with §D of this regulation shall be executed.

K. **Resident Liability.** A resident is not liable for the act or omission of the assisted living program concerning the finances of the assisted living program of the resident.

WASSERMAN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.15 Podiatry Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105.
Annotated Code of Maryland

Notice of Proposed Action
[99-085-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, and .04 — .07 under COMAR 10.09.15 Podiatry Services.

Statement of Purpose

The purpose of this action is to comply with Executive Order 01.01.1996.04 which directs the evaluation of regulations every 8 years and also the administrative simplification provisions of the federal Health Insurance Portability Act of 1996. This action makes the regulations consistent with the Maryland Podiatry Act and the practice of podiatry, and allows podiatrists to be reimbursed on the same payment basis as physicians and nurse practitioners.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed regulation.

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.

Opportunity for Public Comment

Comments on the proposed action may be sent to Michele Phinney, Regulations Coordinator, O'Connor Building, 201 West Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or call (410) 767-6499. These comments must be received by April 26, 1999.

.01 Definitions.

[A. "Chronic podiatric care" means a category of routine care requiring on-going treatment for an indefinite period to provide temporary relief for an existing or periodically recurring condition.

B. "Continued podiatric care" means a category of routine care requiring general podiatric care performed to achieve a specific treatment plan for any condition which is not chronic.]

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

B. Terms Defined.

(1) "Board" means the State Board of Podiatric Medical Examiners.

[C.] (2) — [I.] (8) (text unchanged)

[J.] (9) "Podiatrist" means a Doctor of Podiatry (D.P.M.) who is licensed to practice podiatry [in] by the Board or by the state in which the service is rendered.

(10) Practice Podiatry.

(a) "Practice podiatry" means to diagnose or surgically, medically, or mechanically treat any ailment of the:

- (i) Human foot or ankle; or
- (ii) Anatomical structures that attach to the human

foot.

(b) "Practice podiatry" does not include:

- (i) Surgical treatment of acute ankle fracture; or
- (ii) Administration of an anesthetic, other than a local anesthetic.

[K.] (11) — [N.] (14) (text unchanged)

[O.] (15) "Routine care" means [necessary general podiatry care and examinations requiring the professional knowledge and skill of a licensed podiatrist] the cutting or removing of corns and calluses, and the trimming, cutting, clipping, or debriding of toenails.

[P.] (16) (text unchanged)

.04 Covered Services

The Program covers the following services:

A. (text unchanged)

B. Office, home, [or] nursing home, or domiciliary care visits for podiatric care for recipients who are diabetic or who have a vascular disease affecting the lower extremities[.];

C. Drugs dispensed by the podiatrist in an emergency or drugs which cannot be self-administered, if the cost exceeds the minimum specified by the Program, and is billed according to Program criteria.] within the limitations of COMAR 10.09.03;

D. Injectable drugs administered by the podiatrist within the limitations of COMAR 10.09.03;

[D.] E. Medical equipment and supplies prescribed by the podiatrist within the limitations of COMAR 10.09.12[.] ; and

[E.] F. (text unchanged)

.05 Limitations.

A. [The following are not covered:] The Program does not cover the following under this chapter:

- (1) Services which are not medically necessary;
- (2) Investigational or experimental drugs or procedures;
- (3) Services prohibited by the Maryland Podiatry Act or the State Board of Podiatric Medical Examiners;
- (4) Services denied by Medicare as not medically justified;
- (5) Drugs and supplies which are acquired by the podiatrist at no cost;
- (6) Injections and visits solely for the administration of injections, unless medical necessity and the patient's inability to take oral medications are documented in the patient's medical record;
- (7) More than one visit per day unless adequately documented in the patient's medical record as an emergency;
- (8) Visits by or to the podiatrist solely for the purpose of the following:

(a) Prescription or drug pick-up,

(b) Collection of specimens for laboratory procedures, except by venipuncture, capillary or arterial puncture, and

(c) Interpretation of laboratory tests or panels;

[(1)] (9) — [(7)] (15) (text unchanged)

[(8)] (16) Routine care, except visits [for continued or chronic podiatric care] for recipients who are diabetic or who have a vascular disease affecting the lower extremities;

[(9)] (17) — [(11)] (19) (text unchanged)

[B. Continued podiatric care is limited to a maximum of five visits or 90 days care, whichever occurs first. Preauthorization is required for more than five visits or care beyond 90 days.

C. Chronic podiatric care is limited to a maximum of one visit every 6 weeks.]

B. Routine podiatric care is limited to one visit every 60 days for recipients who have diabetes or peripheral vascular diseases that affect the lower extremities when rendered in the podiatrist's office, the recipient's home, or a nursing facility.

C. A licensed podiatrist shall perform in a licensed hospital, subject to the provisions of Health-General Article, §19-351, Annotated Code of Maryland, all surgical procedures of the ankle below the level of the dermis, arthrodeses of two or more tarsal bones, and complete tarsal osteotomies.

.06 Preauthorization.

A. Preauthorization is required for [the following:

(1) Continued podiatric care in excess of either five visits or 90 days care;

(2) Any procedure not included in a current fee schedule.] any procedure not included in the current fee schedule.

B. — D. (text unchanged)

.07 Payment Procedures.

A. — B. (text unchanged)

C. Podiatrists shall bill their usual and customary fees, but they may not bill a fee in excess of that charged the general public for similar services, except for injectable drugs and dispensed medical supplies, in which case podiatrists shall charge the Program the podiatrists' acquisition cost.

D. [The Podiatry Services Fee Schedule, Revision 1997.] The Podiatry Services Provider Fee Manual, Revision, 1999 is contained in the Medical Assistance Provider Fee Manual, dated October 1, 1986, all the provisions of which are incorporated by reference.

E. — G. (text unchanged)

H. The provider may not bill the Department for:

(1) — (4) (text unchanged)

(5) Laboratory or X-ray services not performed by the provider or under the direct supervision of the provider[. The Program will pay the facility performing these services.]; and

(6) Photocopying of medical records.

I. (text unchanged)

J. [The provider may charge, and the Program will reimburse, the actual cost incurred by the provider for dispensed drugs costing more than 50 cents.] The Program shall reimburse providers for all laboratory services according to the fees established under COMAR 10.09.09.07 and for all radiological services under COMAR 10.09.02.07.

K. (text unchanged)

MARTIN P. WASSERMAN, M.D.
Secretary of Health and Mental Hygiene