

07.06.12.00

Title 07 DEPARTMENT OF HUMAN RESOURCES

Subtitle 06 COMMUNITY SERVICES ADMINISTRATION

Chapter 12 In-Home Aide Services

Authority: Human Services Article, §§6-501—6-505; Family Law Article, §§5-524, 5-710, and 14-207; Annotated Code of Maryland (Agency Note: Federal Regulatory Reference—45 CFR 1357)

07.06.12.01

.01 Purpose.

The purpose of the In-Home Aide Services Program (IHAS) is to complement other social services programs by providing specific services to individuals of all ages in the community in order to:

- A. Prevent or reduce the length of institutional placement;
- B. Prevent or reduce the length of out-of-home placement of children;
- C. Prevent or remedy abuse, neglect, self-neglect, or exploitation; or
- D. Promote self-sufficiency.

07.06.12.02

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Abuse" means the sustaining of any physical injury of an IHAS client receiving service as a result of:
 - (a) Cruel or inhumane treatment; or
 - (b) A malicious act by a person.
 - (2) "Administration" means the Community Services Administration of the Department of Human Resources.

(3) "Case manager" means an individual designated by the local department or other social service agency to:

- (a) Assess the individual's need for services;
- (b) Develop a plan to meet these needs;
- (c) Assist the individual to obtain necessary services; and
- (d) Monitor the services provided, and the individual's continued need for services.

(4) "Client" means an eligible individual receiving In-Home Aide Services.

(5) "Exploitation" means any action which involves the misuse of an IHAS client's funds, property, or person.

(6) "Functional disability" means difficulty in performing activities of daily living because of:

- (a) A physical, cognitive, or psychiatric condition; or
- (b) Environmental factors.

(7) "Institutionalization" means placement in a hospital, psychiatric hospital, or nursing home.

(8) "Local department" means the Department of Social Services in one of the 23 counties or Baltimore City or the Montgomery County Department of Health and Human Services, where the applicant resides or will reside.

(9) "Neglect" means the willful deprivation of an IHAS client of adequate food, clothing, essential medical treatment, or habilitative therapy, shelter, or supervision.

(10) "Self-neglect" means the inability of an IHAS client to perform activities of daily living or to provide the IHAS client with the services:

- (a) That are necessary for the client's physical and mental health; and
- (b) The absence of which impairs or threatens the client's well-being.

07.06.12.03

.03 Eligibility.

A. An individual is eligible for IHAS if the individual:

(1) Is receiving case management in a social service program from the local department, or from a social service agency through an arrangement with the administration, and requires the service as a part of a treatment plan to:

- (a) Prevent or reduce the length of institutional placement;
- (b) Prevent or reduce the length of out-of-home placement of children;

- (c) Prevent or remedy abuse, neglect, self-neglect, or exploitation; or
- (d) Promote self-sufficiency;
- (2) Is unable to obtain the necessary paraprofessional services from another resource;
- (3) Is willing to accept IHAS; and
- (4) Agrees to pay any fee required in a fee schedule published by the administration.

B. Waiver of Fees.

- (1) The director of a local department or the designee may waive a fee for service for applicants or clients who require services as part of a treatment plan to prevent or remedy abuse, neglect, self-neglect, or exploitation.
- (2) The local department shall document in the case record every 90 days the continued need for the waiver.

07.06.12.04

.04 Application Process.

A. Application.

- (1) Local departments shall accept and process requests for In-Home Aide Service by, or on behalf of, any individual or family.
- (2) The local department shall assign requests for IHAS that do not come from a case manager in the local department or other social services agency to a case manager in the local department.

B. If the case manager in a local department or other social service agency decides that IHAS services are needed, the case manager shall make a request for services to an IHAS supervisor on behalf of an eligible individual. The request shall include:

- (1) An assessment of the individual's functional capacity, if required;
- (2) A medical evaluation by the individual's physician, if required;
- (3) A ranking scale scored according to Regulation .10F of this chapter;
- (4) A copy of the service plan which the IHAS is required to complete;
- (5) Income documentation;
- (6) Documentation of eligibility; and
- (7) An application for IHAS signed by the individual or individual's representative.

C. A functional assessment, medical evaluation, or personal care plan is required if necessary to determine the amount and type of the IHAS to be delivered.

07.06.12.05

.05 Local Department Response to Application for IHAS.

A. The IHAS supervisor shall review the request for completeness, and inform the case manager of additional information required to determine the applicant's need for IHAS. If the request is complete, and the IHAS supervisor decides that the applicant is eligible, the IHAS supervisor shall insert the applicant's name in the appropriate order on the waiting list for IHAS.

B. The IHAS supervisor shall notify the case manager of the applicant's ranking and of the availability of service within 2 working days of the receipt of the completed request.

C. When the service is to begin, the IHAS supervisor, with the case manager, shall develop a written plan for aide services for the individual that includes:

- (1) The goals to be met;
- (2) Tasks to be performed;
- (3) Amount and the length of service to be provided including a personal care plan prepared by a registered nurse or physician if personal care is required;
- (4) The specific results expected from the provision of aide services; and
- (5) The date service is expected to begin.

D. If the IHAS supervisor agrees with the case manager that an applicant requires immediate service in order to prevent abuse, neglect, self-neglect, exploitation, institutional placement, or foster care for children, and there is a resource available, the IHAS supervisor shall request the case manager to forward a complete written request within 5 working days.

E. If the local department is notified by another local department that a client who is in danger of immediate institutionalization, child foster care, or death, without IHAS, has moved to the area of the local department, the local department shall begin IHAS immediately if funds or staff are available. The local department shall forward a copy of the case record within 3 working days of the notification of the move.

07.06.12.06

.06 Delivery of Service.

A. If funds or staff are available, the local department may provide the services by:

- (1) Assigning a local department staff member;
- (2) Purchasing the services from a private for-profit or nonprofit agency that has contracted with the Administration to provide the service; or
- (3) Purchasing the services from a self-employed individual.

B. The local department shall, if funds or staff are available, make available during weekends and evenings as well as during normal working hours, the following services:

- (1) Meal planning and preparation;
- (2) Personal care services which include:
 - (a) Help with dressing, bathing, feeding, grooming, and assistance with the bedpan or urinal;
 - (b) Assistance in and out of bed, with ambulation, and transfers from bed to wheel chair;
 - (3) Cleaning the eligible individual's bedroom, bath, kitchen, and personal laundry;
 - (4) Providing transportation to health and shopping facilities as well as other community resources required by the service plan.

C. The local department shall have available, during weekends and evenings as well as during normal working hours, the following therapeutic aide services:

- (1) Teaching meal planning and meal preparation; and
- (2) Providing therapeutic aide services that include emotional support, introducing the client to neighborhood resources, and reinforcing appropriate self-care and caretaking behaviors, and teaching budgeting and home management.

D. Provision of Additional Services.

- (1) The local department may make arrangements for the provision of additional types of in-home aide services including heavy chore services to the eligible individual.
- (2) If the case manager documents in the case record that intensive aide service, that is, more than 20 hours of aide service per week, is necessary to prevent imminent nursing home placement, or abuse, neglect, or self-neglect, and funds or staff are or become available, the local department shall provide the number of hours and days of care, including evening and weekend care, necessary to prevent nursing home placement, or abuse, neglect, or self-neglect, subject to the limitations in Regulation .07B of this chapter.
- (3) A family with children shall receive intensive aide service, that is more than 20 hours of aide service per week, if funds or staff are or become available, and if the:
 - (a) Need for the additional amount of service is documented in the case record as necessary to prevent foster care, or to reduce the length of foster care placement; and
 - (b) Case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the service plan for effecting reunification or preventing out-of-home placement.

E. The local department shall establish procedures to ensure the delivery of the aide service as required by the plan for aide service.

F. Status Reports.

(1) Regardless of the method by which service is delivered, the local department shall require the service provider to complete a report to the IHAS supervisor on the client's current situation as often as necessary, and not less than monthly, to record any change in the client's situation. The report is required if the client prevents the aide from performing the tasks agreed to in the plan for aide services or the aide:

- (a) Identifies a change in the client's functional capacity;
 - (b) Identifies a physical deterioration or improvement;
 - (c) Receives a request for services which are not part of the plan for aide services;
 - (d) Has a poor relationship with the client, or a household member;
 - (e) Identifies abuse, neglect, self-neglect, or exploitation of the client;
 - (f) Identifies a change in the client's environment;
 - (g) Receives a request from the client to terminate service;
 - (h) Notes termination or initiation of services from another source; or
 - (i) Identifies a threat to the aide's well-being because of environmental hazards, contagious disease, or because the client, or a member of the household threatens physical harm or is verbally abusive to the aide.
- (2) The IHAS supervisor shall keep the report in the case record in the local department, and shall forward a copy of the report to the case manager.

G. If the aide suspects that the client or a dependent in the client's care is in physical danger, the aide shall report the circumstances immediately to the IHAS supervisor, the case manager, or the local department's after-hours emergency service.

H. Significant Change in Client's Status.

- (1) If there is a change in the client's status which the IHAS supervisor determines may affect the case management plan or the plan for aide service, the supervisor shall inform the case manager within 2 working days.
- (2) The IHAS supervisor shall send a current report on the client's situation to the case manager with a request that the client be reassessed, and a medical reevaluation and revised personal care plan be prepared if indicated.
- (3) The IHAS supervisor, with the case manager, shall develop a new or revised plan for aide services within 5 working days of receipt of the reassessment and personal care plan.

I. The local department may suspend services up to 4 weeks:

- (1) While the client is absent from the home; or

(2) If the client requests termination.

J. The IHAS supervisor shall:

(1) Notify the case manager when the client is not at home; and

(2) Notify the case manager if the client has requested termination, and include a copy of the aide's status report.

K. Emergency Suspension.

(1) If the IHAS supervisor determines that there is an immediate threat to the aide's health, safety, or welfare from environmental hazards, or from a client, a member of the client's household, or someone regularly present during times of service, the local department may immediately suspend services on an emergency basis.

(2) If services are suspended on an emergency basis, the notice provisions of Regulation .09B of this chapter do not apply. The local department shall send by certified mail written notice of the suspension to the client stating:

(a) The regulatory basis for the suspension;

(b) That the client is entitled to a hearing within 7 calendar days of a request for a hearing;

(c) That the Secretary's designee shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(d) That if the emergency suspension order is upheld, aide services shall be suspended until it is determined that the health, safety, or welfare of the aide is no longer threatened; and

(e) That the suspension may lead to termination.

07.06.12.07

.07 Limitation on Service.

A. The local department may provide aide services up to the maximum of 20 hours per week for each eligible individual except for individuals identified in Regulation .06D(2) and (3) of this chapter.

B. For a client requiring intensive service as identified in Regulation .06D(2) of this chapter, the IHAS supervisor shall determine the total cost for 6 months of IHAS. The local department may not provide IHAS to a client if the total public cost for 6 months of IHAS exceeds 67 percent of the average Statewide cost of nursing home care for 6 months as determined by the Administration.

C. The local department may only provide intensive services to individuals identified in Regulation .06D(2) or (3) if the case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the service plan for effecting reunification or preventing out-of-home placement.

07.06.12.08

.08 Redetermination and Termination.

A. The local department shall redetermine the client's income and whether the client is required to pay a fee at least every 6 months.

B. The local department shall reconsider the client's need for In-Home Aide Services, including any required change in the personal care plan, and complete a current ranking scale, at least every 6 months or sooner if the client's situation has changed significantly.

C. The local department shall terminate services under any of the following circumstances:

(1) Objectives of service have been reached and the IHAS supervisor and case manager agree that service is no longer needed;

(2) The family, client, or case manager is able to secure the necessary service from an alternative source;

(3) The case manager evaluates the client as no longer in need of IHAS;

(4) The client is deceased;

(5) The client moves to the jurisdiction of another local department;

(6) The client is hospitalized, placed in a long-term care facility, or is receiving community-based waiver program services;

(7) The client is no longer eligible;

(8) The limit in Regulation .07A of this chapter has been reached;

(9) The case manager, with the IHAS supervisor, determines that the service has not been effective in achieving the specific changes in the client's condition or family's situation which were expected to result from providing services;

(10) If an individual on the waiting list has a ranking score of seven or above, the local department shall:

(a) Terminate the client with the lowest score below seven; or

(b) If there is more than one client with the lowest score, terminate the client whose service began first;

(11) If the resources of the local department are insufficient to serve the existing clients, the local department shall terminate the client with the lowest ranking score below seven on the IHAS Ranking Scale, and continue terminating until the remaining clients can be served with the resources available;

(12) The service is suspended for 4 weeks;

(13) The client requests termination;

(14) The client declines IHAS service; or

(15) The client has prevented the IHAS aide from performing tasks agreed upon in the care plan for aide service.

D. If a local department terminates service under §C(5) of this regulation, and if the client or individual in the client's care is in danger of immediate institutionalization, child foster care, or death without IHAS, the local department shall notify the new local department immediately in order that IHAS may begin at the earliest possible moment. If the client's new address is near enough, the local department may continue IHAS until the new department begins IHAS.

E. Except when the services are suspended on an emergency basis, the local department shall send notice to the client at least 15 days before taking action which will deny, reduce, suspend, or terminate services. The notice shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to, and the method to request, a fair hearing.

07.06.12.09

.09 Appeal Rights and Nondiscrimination.

A. The local department shall give written notification of the right to and the procedures for requesting and obtaining a fair hearing, to each applicant or client of IHAS at the time of application, and if the local department notifies the applicant or client of an action which might deny, delay, suspend, reduce, or terminate service. The procedures are set forth in COMAR 07.01.04.

B. Emergency Action Hearing Requests.

(1) All emergency action hearing requests shall be filed with the local department within 30 days of the certified mailing of the notice of the local department's action, and shall state the name and address of the client, and the effective date of the action appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

C. Discrimination. The local department may not discriminate in the delivery of service, as required by the nondiscrimination regulations procedures as set forth in COMAR 07.01.03.

07.06.12.10

.10 Ranking Applicants and Consumers.

A. Local departments shall use the ranking scale shown in §F of this regulation, for applicants who are eligible for aide services.

B. Local departments shall keep a waiting list if they are unable to serve eligible applicants immediately upon request for services. If a local department has more than one office, it may maintain a separate waiting list for each office.

C. Subject to Regulation .08C(10) of this chapter, if there is a waiting list, local departments shall provide aide services to applicants with the highest point total first. Applicants with equal scores shall be served according to the date of application, and those with earlier application dates shall be served first.

D. Individuals on the waiting list shall be served as resources become available.

E. If a rescoring is required by Regulation .08B of this chapter, the local department shall score the client based on the case manager's assessment of the client's condition if IHAS were removed.

F. IHAS Ranking Scale.

(1) IHAS is necessary in order to prevent eviction, or correct environmental conditions which are unsafe or detrimental to the applicant's or the client's health. — 1

(2) Applicant's or client's income is equal to or below the amount for the appropriate family size in a fee schedule published by the administration. — 1

(3) The wage earner would lose job income or job if aide service is not provided. — 1

(4) The applicant or client has suffered a personal or financial loss within the last 6 months which affects the individual's emotional or social functioning. — 1

(5) A community resource is not available and willing to assist the applicant or client with the problem which is causing the need for aide service, or the applicant or the client is socially and psychologically isolated. — 1

(6) The applicant or client is not currently receiving in-home aide service from any other agency, or aide service is being discontinued. — 1

(7) An applicant can be discharged from institutional or child foster care only if aide service is provided — 3

(8) The applicant or client or an individual cared for by the applicant or client is in danger of immediate institutionalization or child foster care if aide services are not provided. — 3

(9) The request for service is related to care of children between:

(a) 10—17 years old — 1

(b) 6—9 years old — 2

(c) 5 years old and under — 3

(10) The client, or individual cared for by the client, is in danger of abuse or neglect by the client or other individual:

(a) Mild — 1

(b) Moderate — 2

(c) Severe — 3

(d) High risk for death — 4

(11) The applicant or client has a physical, psychiatric, or cognitive disability, and needs assistance in order to perform activities of daily living:

(a) Mild — 1

(b) Moderate — 2

(c) Severe — 3

(d) Eligible for institutionalization — 4

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Administrative History

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