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Title 07 DEPARTMENT OF HUMAN RESOURCES Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.08 Substance-Exposed Newborn Safe Care Plan

*Authority: Family Law Article, §5-704.2, Annotated Code of Maryland
(Federal Authority: U.S.C. 42 §5106b)*

Notice of Proposed Action

[13-290-P]

The Secretary of the Department of Human Resources proposes to adopt new Regulations **.01—.06** under a new chapter, **COMAR 07.2.08 Substance-Exposed Newborn Safe Care Plan**.

Statement of Purpose

The purpose of this action is to require health care practitioners to report newborns affected by prenatal exposure to controlled substances or by a fetal alcohol spectrum disorder (FASD) to the Local Department of Social Services (LDSS). The LDSS will be required to consult with the health care practitioner, interview the mother, visit the infant, and complete safety and risk assessments. If services are needed, the caseworker from the LDSS will develop a plan of safe care and make the appropriate referrals. The action also brings Maryland law into compliance with federal law.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

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 Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga Street, Room 270, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through November 4, 2013. A public hearing has not been scheduled.

.01 Purpose and Goals.

A. *The purpose of the Substance-Exposed Newborns Program is to address the needs of infants born with and identified as being affected by prenatal exposure to controlled substances or by a fetal alcohol spectrum disorder (FASD) by:*

(1) Requiring health care practitioners who deliver or care for substance-exposed newborns to make a report to a local department of social services;

(2) Assessing the safety of, and risk to, substance-exposed newborns;

(3) Developing a plan of safe care for substance-exposed newborns if necessary; and

(4) Referring the family for appropriate services.

B. *The goals of the Substance-Exposed Newborns Program are to:*

(1) Provide for the safe discharge of substance-exposed newborns from the hospital;

- (2) Assist the mother, and other family members, in obtaining treatment related to alcohol or drug use or any other appropriate services or resources that may be needed to address child safety; and
- (3) Generate accurate reports to assist in the evaluation of this program.

.02 Definitions.

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

B. Terms Defined.

(1) "Controlled drug" means a controlled dangerous substance included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Criminal Law Article, Title 5, Subtitle 4, Annotated Code of Maryland.

(2) "FASD" means fetal alcohol spectrum disorder, which is an umbrella term for the wide range of effects from prenatal alcohol exposure, including a broad array of physical defects and cognitive, behavioral, emotional, and adaptive functioning deficits.

(3) "Health care practitioner" has the meaning stated in Health Occupations Article, §1-301, Annotated Code of Maryland.

(4) "Local department" means the local department of social services in the county where the mother of the substance-exposed newborn resides.

(5) "Newborn" means a child younger than 30 days old who is born or who receives care in the State.

(6) "Substance-exposed newborn" means a newborn:

- (a) Who has a positive toxicology screen for a controlled drug as evidenced by an appropriate test after birth;
- (b) Who displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel;
- (c) Who displays the effects of FASD; or
- (d) Whose mother had a positive toxicology screen for a controlled drug at the time of delivery.

.03 Reports by Health Care Practitioners.

A. Except as provided in §C of this regulation, a health care practitioner involved in the delivery or care of a substance-exposed newborn shall:

(1) Make an oral report to the local department as soon as possible; and

(2) Make a written report to the local department not later than 48 hours after the contact, examination, attention, treatment, or testing that prompted the report.

B. To the extent known, a report made pursuant to this section shall include the following information:

(1) The name, date of birth, and intended home address of the newborn;

(2) The names and home addresses of the newborn's parents;

(3) The nature and extent of the effects of the prenatal alcohol or controlled drug exposure on the newborn;

(4) The newborn's medical condition and any current or ongoing health care needs, including an extended hospital stay prior to discharge, specific medical procedures, medication, specialized equipment, or ongoing monitoring;

(5) Whether and when the newborn's mother had prenatal care;

(6) The nature and extent of the mother's current drug use;

(7) The extent to which the mother is responsive to the newborn's needs and is involved with providing care;

(8) The extent of any limitation of the mother's cognitive skills;

(9) The nature and extent of any history of mental illness; and

(10) Any additional information regarding:

(a) The nature and extent of the impact of the prenatal alcohol or controlled drug exposure on the mother's ability to provide proper care and attention; and

(b) The nature and extent of the risk of harm to the newborn.

C. A health care practitioner is not required to make a report under this section if the health care practitioner:

(1) Has knowledge that the head of an institution, a designee of the head, or another individual at that institution has made a report regarding the substance-exposed newborn;

(2) Has verified that, at the time of delivery, the mother was using a controlled drug as currently prescribed for the mother by a licensed health care practitioner; or

(3) Has verified that, at the time of delivery, the presence of the controlled drug was consistent with a prescribed medical or drug treatment administered to the mother or the newborn.

D. The provisions of §C of this regulation do not relieve the health care practitioner of the obligation as a mandated reporter to make a report to the local department if the health care practitioner has reason to believe that the substance-exposed newborn has been abused or neglected.

.04 Receiving Reports of Substance-Exposed Newborns.

Within 48 hours after receiving a report of a substance-exposed newborn, the local department shall:

A. See the newborn in person;

B. Consult with a health care practitioner with knowledge of the newborn's condition and the effects of any prenatal alcohol or controlled drug exposure; and

C. Attempt to interview the newborn's mother and any other individual responsible for care of the newborn.

.05 Assessment.

A. Promptly after receiving a report, the local department shall assess the safety of, and risk of harm to, the newborn to determine whether any further intervention is necessary.

B. The assessment may include but is not limited to consideration of the following:

(1) Prior child protective services involvement;

(2) The mother's prior delivery of a substance-exposed newborn;

(3) The nature and extent of mother's alcohol and controlled drug use and treatment history;

(4) The mother's level of cooperation and willingness to address concerns;

(5) The extent and availability of the newborn's family or other individuals to assist with caregiving and the provision of other support;

(6) Evidence of preparations for the newborn's birth;

(7) Availability of stable housing with no apparent safety or health hazards; and

(8) The nature and extent of drug use in the home.

C. If, after the assessment, intervention is necessary, the local department shall:

(1) Develop a plan of safe care for the newborn;

(2) Refer the family for appropriate services including alcohol or controlled drug treatment; and

(3) As necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services.

.06 Scope.

Reports made under this chapter do not create a presumption that a child has been or will be abused or neglected.

THEODORE DALLAS
Secretary of Human Resources