

/* Maryland's lengthy administrative code on HIV and AIDS is presented in two parts. */

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 06 DISEASES

Chapter 01 Communicable Diseases

.01 Incorporation by Reference.

The following document is incorporated by reference: "Control of Communicable Diseases in Man", Fourteenth Edition (1985).

.02 Definitions.

A. The definitions of terms used in "Control of Communicable Diseases in Man", which is incorporated by reference in this chapter, are accepted as official and applicable to the control of diseases within this State under the regulations of the Secretary of Health and Mental Hygiene.

B. Terms Defined.

(1) "Body fluid" means an excretion or fluid from a human body that contains visible blood, and all other tissues, excretions, or fluids except feces, nasal secretions, sputum, vomitus, sweat, tears, urine, breast milk (except in situations with frequent exposure), and saliva (unless in dentistry) unless they contain visible blood.

(2) "Case of a condition" means a person who was bitten by an animal or who suffered an adverse reaction to pertussis vaccine.

(3) "Case" or "case of a disease" means a person who has laboratory or clinical evidence of being infected by an infectious agent. A case may or may not have symptoms of the infection.

(4) Child Care Facility.

(a) "Child care facility" means a licensed, registered, or unlicensed facility, institution, establishment, or home where children receive care or supervision for which money is paid when the child's parent has given the child's care over to another on a regular basis for some portion of a 24-hour day as a supplement to the parent's primary care of the child.

(b) "Child care facility" includes child care center, day care center, nursery, family day care home, and babysitter.

(5) "Department" means the Department of Health and Mental Hygiene.

(6) "Food-borne disease outbreak" means two or more epidemiologically related cases of illness following consumption of a common food item or items, or one case of botulism, cholera,

mushroom poisoning, or neuroparalytic shellfish poisoning.

(7) "Health officer" means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both.

(8) "Secretary" means the Secretary of Health and Mental Hygiene or the Secretary's designee.

(9) "Sexually transmitted disease or infection" means an infection which may be spread by sexual intercourse or other forms of sexual contact with an infected individual, including a disease or condition classified as a venereal disease.

(10) "Universal precautions means blood and body fluid precautions as defined in "Control of Communicable Diseases in Man", and incorporated by reference in this chapter, applied to all persons.

.03 Reportable Diseases, Conditions, Outbreaks, and Unusual Manifestations.

A. List of reportable diseases and conditions:

- (1) Amebiasis
- (2) Animal bites*;
- (3) Anthrax*;
- (4) Botulism*;
- (5) Brucellosis;
- (6) Chancroid;
- (7) Cholera*;
- (8) Diphtheria*;
- (9) Encephalitis;
- (10) Gonococcal infection;
- (11) Granuloma inguinale;
- (12) Haemophilus influenzae type b invasive disease*;
- (13) Hepatitis, viral (A, B, non-A/non-B, delta, undetermined);
- (14) Human immunodeficiency virus infection (AIDS and all other symptomatic infections);
- (15) Kawasaki syndrome;
- (16) Legionellosis;
- (17) Leprosy;
- (18) Leptospirosis;
- (19) Lyme disease;
- (20) Lymphogranuloma venereum;
- (21) Malaria;
- (22) Measles (Rubeola)*;
- (23) Meningitis (viral, bacterial, parasitic, and fungal);
- (24) Meningococcal disease*;
- (25) Mumps (infectious parotitis);
- (26) Mycobacteriosis, other than tuberculosis and leprosy;
- (27) Pertussis*;

- (28) Pertussis vaccine adverse reactions;
- (29) Plague*;
- (30) Poliomyelitis*;
- (31) Psittacosis;
- (32) Rabies*;
- (33) Rocky Mountain spotted fever;
- (34) Rubella (German measles) and congenital rubella syndrome*;
- (35) Salmonellosis;
- (36) Septicemia in newborns;
- (37) Shigellosis;
- (38) Syphilis;
- (39) Tetanus;
- (40) Trichinosis;
- (41) Tuberculosis.
- (42) Tularemia;
- (43) Typhoid fever (case or carrier, or both, of Salmonella typhi)*.

B. The diseases or conditions shown with an asterisk (*) in section A, above, shall be reported immediately by telephone and in accordance with Regulation .04.

C. Outbreaks and Single Cases of Diseases of Public Health Importance. An outbreak of a disease of known or unknown etiology that may be a danger to the public health is reportable. A single case of a disease not included in section A, above, of known or unknown etiology that may be a danger to the public health is reportable.

D. Unusual Manifestations. An unusual manifestation of a communicable disease in an individual is reportable.

.04 Reporting Procedures.

A. Sources of Reports.

(1) Health Care Providers. A health care provider, such as a physician, physician's assistant, osteopathic physician, dentist, chiropractor, nurse practitioner, nurse, podiatrist, or any other licensed health care provider, who knows of a case of a reportable disease, condition, outbreak, or unusual manifestation (see Regulation .03), and a medical examiner and an administrator of a hospital, clinic, dispensary, or nursing home who knows of a case of a reportable disease, condition, outbreak, or unusual manifestation shall report it to the health officer within the time limits specified in section B, below.

(2) School and Child Care Facility Personnel. A teacher at any public, private, or parochial school or a child care provider at any child care facility immediately shall report an occurrence of a reportable disease, condition, outbreak, or unusual manifestation to the principal, school nurse, superintendent or assistant superintendent or designee, who immediately shall

transmit to the health officer a report of the name and address of a child who appears to be affected with a reportable communicable disease or has been exposed to a reportable communicable disease.

(3) Masters of Vessels or Aircraft. The master or person in charge of a vessel or aircraft within the territory of the State shall report immediately to the health officer at the nearest port of landing, all known facts relating to the illness and physical condition of a person aboard the vessel or aircraft who may be affected with a reportable disease, condition, outbreak, or unusual manifestation.

(4) Medical Laboratory Personnel. The director of a medical laboratory shall report to the health officer:

(a) Laboratory evidence of a reportable condition as specified in Health-General Article, section 18-205, Annotated Code of Maryland; and

(b) Evidence of any other condition as requested by the Secretary.

(5) Persons listed in section A(1)-(4), above, and any other individual having knowledge of an animal bite shall report the bite to the health officer.

(6) A food establishment (see Health-General Article, section 21-301, Annotated Code of Maryland) shall report immediately to the health officer an occurrence of a reportable disease, condition, outbreak, or unusual manifestation.

B. Method and Timing of Reports.

(1) A person listed in section A of this regulation:

(a) Shall report a case of a disease, condition, outbreak, or unusual manifestation listed in Regulation .03 to the health officer within 48 hours in writing on a form provided by the Secretary and shall include information as prescribed on the form;

(b) Reporting a disease that is noted in Regulation .03A with an asterisk (*) shall report that disease immediately by telephone to the health officer;

(c) Shall report an outbreak immediately by telephone to the health officer.

(2) Within 24 hours after receiving notice of a disease, condition, outbreak, or unusual manifestation listed in Regulation .03, the health officer shall transmit to the Secretary, by mail or as otherwise specified by the Secretary, all information obtained.

.05 Record Maintenance and Confidentiality.

The custodian of a report identifying an individual that was filed by a reporting source (Regulation .04A) in compliance with

the provisions of Health-General Article, section 18-201, 18-202, and 18-205, Annotated Code of Maryland:

- A. Shall keep the report and record confidential;
- B. May not open a report or record to public inspection;
- C. Shall release a report or record or respond to a subpoena for a report or record in criminal or civil proceeding only pursuant to court order sealing the record; and
- D. Shall make a record or report available to a governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress when the Secretary determines that the release of information is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

.06 General Control Measures.

- A. Necessary Action. The Secretary or health officer shall:
 - (1) Take any action or measure necessary to prevent the spread of communicable disease or to control a reportable disease and condition; and
 - (2) Issue, when necessary, special instructions for control of a disease or condition.
- B. Epidemiologic Investigations.
 - (1) A health officer shall respond to each reported outbreak or suspected outbreak of disease within the health officer's jurisdiction in order to collect data to assist in establishing adequate control measures.
 - (2) A health officer shall investigate a reported case or suspect case of a condition as requested by the Secretary.
 - (3) The Secretary may, in conjunction with the health officers, conduct the epidemiologic investigation for each reported case or suspected case in an outbreak involving two or more jurisdictions or states.
 - (4) An individual, business, facility, or agency shall make available to the Secretary or the health officer all records and information necessary to the epidemiologic response or investigation.
- C. The health officer or Secretary shall order cessation of operation of a business or facility determined or suspected to be a threat to public health until the public health threat is determined by the health officer to have ceased.
- D. Carrier Approval.
 - (1) The health officer shall grant or deny approval to a carrier of a communicable disease to work in any of the following occupations involving:
 - (a) Care of young children;
 - (b) Care of the elderly;

- (c) Food handling; and
- (d) Patient care.
- (2) The health officer shall grant or deny approval to a carrier of a communicable disease to attend:
 - (a) School; or
 - (b) A child care facility.
- (3) The health officer shall consider the following when granting or denying approval to a carrier of a communicable disease to work in occupations or to attend settings listed under section D(1) and (2), above:
 - (a) The seriousness of the disease;
 - (b) The route or routes of transmission of the disease;
 - (c) The contagiousness of the disease;
 - (d) The behavior, neurological development and condition, and physical condition of the carrier;
 - (e) The susceptibility to the disease of those likely to be exposed to the carrier in the occupation or setting;
 - (f) The precautions that may be taken to minimize or eliminate the danger of transmission; and
 - (g) Precedents in the practice of public health.
- E. Control of Food Handlers. A case with any of the following diseases, or a confirmed or suspected carrier of the organisms causing any of the following diseases, may not serve or handle, in any manner whatsoever, food intended for public consumption:
 - (1) Amebiasis caused by *Entamoeba histolytica* (see Regulation .08);
 - (2) Cholera;
 - (3) Disease causing diarrhea, unless physician-certified as noninfectious;
 - (4) Diphtheria;
 - (5) Hepatitis A (see Regulation .10);
 - (6) Salmonellosis (see Regulation .16);
 - (7) Shigellosis (see Regulation .20);
 - (8) Streptococcal infection caused by group A beta-hemolytic *Streptococcus*;
 - (9) Typhoid fever or carrier of *Salmonella typhi* (see Regulation .23).
- F. Control of Communicable Diseases in Schools and Child Care Facilities.
 - (1) The health officer shall:
 - (a) Maintain the right to make physical inspections of pupils, teachers, or other persons attending, employed, or volunteering in schools or child care facilities whenever, in the judgment of the health officer, the inspections are necessary to investigate a suspected communicable disease; and
 - (b) Determine whether pupils, teachers, or other persons at

tending, employed, or volunteering in schools or child care facilities have received the immunizations required under COMAR 10.06.04, COMAR 10.05.01.40, or COMAR 07.02.18.09H.

(2) The principal or other person in charge of any school or child care facility shall comply with a measure or special instruction issued by the health officer under Regulation .06A.

.07 Minimum Control Measures for Specific Diseases or Conditions.

A. The definitions of terms used in the text and the recommendations for control included in the book "Control of Communicable Diseases in Man", and incorporated by reference in this chapter, are accepted as official and applicable to the control of disease within this State under the regulations of the Secretary, except in those instances in which the recommendations may be in conflict with the regulations of the Secretary, in which case the regulations of the Secretary shall take precedence.

B. The diseases described in Regulations .08 .23 are subject to specific requirements and control procedures as specified.

.08 Amebiasis.

A. Control of a Case. A case may not participate in an occupation involving patient care, care of young children or the elderly, and food handling until diarrhea has ceased.

C. Infection Control. A health care provider shall practice drainage/secretion precautions until 24 hours after the start of effective therapy on cases of syphilis.

D. Prevention of Gonococcal Ophthalmia Neonatorum.

(1) Except as otherwise provided in section D(2), below, a birth-attending physician or certified nurse-midwife shall apply to both eyes of the newborn the prophylactic agent of 1 percent silver nitrate solution provided in individual wax ampules for the prevention of gonococcal ophthalmia neonatorum.

(2) In selected cases, a birth-attending physician or certified nurse-midwife may substitute for the silver nitrate solution, tetracycline ophthalmic ointment or erythromycin ophthalmic ointment (USP), to be applied to both eyes of the newborn as prophylaxis against gonococcal ophthalmia neonatorum.

(3) A birth-attending physician or certified nurse-midwife shall document in the newborn's medical record any substitution for the silver nitrate solution citing the name of the agent used and dose strength.

.18 Sexually Transmitted Disease-Human Immunodeficiency Virus (HIV) Infection.

A. Control of Cases and Carriers.

(1) The Secretary, with the assistance of the health officer, shall provide professional and public education and informational materials on human immunodeficiency virus, modes of transmission, and prevention.

(2) A physician in attendance upon a person with human immunodeficiency virus infection shall:

(a) Provide or arrange for the provision of appropriate medical services;

(b) Educate that person on:

(i) The nature of the disease,

(ii) The modes of transmission,

(iii) Safer sex practices,

(iv) The risks of pregnancy,

(v) The risks of blood, organ, and semen donation,

(vi) The risks of transmission by the sharing of hypodermic paraphernalia,

(vii) The services available to a person infected with human immunodeficiency virus;

(c) If the physician desires, request assistance from the health officer in carrying out the physician's responsibilities under section A(2) (b);

(d) Request the assistance of the health officer if a person with human immunodeficiency virus infection refuses or is unable to comply with recommendations which reduce the risk of transmission to unsuspecting contacts.

(3) A health officer shall do all of the following:

(a) Investigate immediately all cases reported as not complying with risk reduction recommendations under section A(2) (d), above.

(b) Take the least restrictive action necessary to induce appropriate behavior changes to reduce the risk of transmission of the human immunodeficiency virus. This action includes:

(i) Providing ongoing counseling and support services through local health department programs, including outpatient mental health and substance abuse services when indicated;

(ii) Obtaining voluntary admission of the infected person to an appropriate supervised residential treatment program;

(iii) Obtaining voluntary admission of the infected person to an outpatient or inpatient facility for evaluation and development of a treatment plan; and

(iv) Consulting with the State's attorney about action, if appropriate, under Health-General Article, section 18-601, 18-601.1, or 18-602, Annotated Code of Maryland.

(c) Take the following into consideration in making recommendations regarding the activities of a person with human

immunodeficiency virus infection in any work or educational setting:

- (i) The prognosis and expected clinical course of the individual's infection;
 - (ii) The degree of functional impairment;
 - (iii) The appropriateness of behavior patterns;
 - (iv) The modes of transmission; and
 - (v) The precautions that may be taken to minimize or eliminate the risk of transmission.
- (4) A health officer may not restrict the activities of a person with human immunodeficiency virus infection within common educational or work settings on the basis of human immunodeficiency virus infection alone, because there is no known risk of casual transmission.

B. Control of Contacts.

- (1) The following constitute instances of potentially infective contact:
 - (a) Sexual contact since the date of infection or within the past year in cases when the date of infection is unknown;
 - (b) Needle contact (for example, sharing needles, syringes, or other drug paraphernalia) since the date of infection or within the past year when the date of infection is unknown;
 - (c) Parenteral or mucous membrane exposure to the blood or body fluids of a human immunodeficiency virus-infected person; and
 - (d) Receiving blood, semen, or body organs donated by a human immunodeficiency virus-infected person.
- (2) A physician in attendance upon any human immunodeficiency virus-infected person shall counsel the human immunodeficiency virus-infected person concerning the person's responsibility to assure that any person, unknown to the physician, with whom the human immunodeficiency virus-infected person has had potentially infective contact is informed of the person's exposure and offered counseling and testing services. The local health department, when requested, shall provide assistance in the notification of contacts to human immunodeficiency virus-infected persons.
- (3) A physician in attendance upon any human immunodeficiency virus-infected person may take steps to notify the person who had potentially infective contact when the identity of that person is known to a physician through the normal course of providing medical care, by one of the following means:
 - (a) Requesting the patient to notify and to endeavor to bring - the patient's contact or contacts to a medical care provider, or counseling and testing site, so that the contact may be informed of the contact's exposure and receive counseling and, if desired, testing services; or

(b) In circumstances in which the patient refuses to comply with the request to notify or bring known contacts to counseling, is physically or mentally unable to comply with this request, or requests local health department assistance, the physician may report to the local health department for each known contact the name, address (if known), telephone number (if known), type of exposure, and the criteria by which human immunodeficiency virus infection was diagnosed in the person to whom the contact was exposed.

(4) The health officer shall:

(a) Take appropriate steps so that all known locatable contacts to persons with human immunodeficiency virus infection reported by physicians or elicited during interviews are notified of their exposure; and

(b) Assist human immunodeficiency virus-infected persons with notification of contacts, if requested.

(5) The Department shall make available human immunodeficiency virus counseling and testing sites for interested persons, regardless of their ability to pay.

C. Infection Control. Health care providers shall practice universal precautions.

.19 Other Sexually Transmitted Diseases.

A. Control of a Case.

(1) Hepatitis, viral type B see Regulation .11.

(2) A physician in attendance upon a person who appears to have, or who has a sexually transmissible disease in a stage which is or may become communicable, shall:

(a) Instruct the person on the modes of transmission and the prevention of transmission;

(b) Render any necessary treatment to the case; and

(c) Advise the case to inform a sexual partner or partners of exposure and the need for examination and treatment.

B. Control of Contacts.

(1) Hepatitis, viral type B-see Regulation .11.

(2) A physician in attendance upon a person who is a sexual contact of a case of a sexually transmitted disease shall perform a medical examination and render indicated treatment.

Chapter 06 Communicable Disease Prevention - Handling, Treatment, and Disposal of Special Medical Waste

.01 Scope and Purpose.

A. Scope.

(1) These regulations apply to any person who generates, handles, treats, or disposes of special medical waste as defined below.

- (2) These regulations do not apply to a person who:
- (a) Generates special medical waste in the home of an individual; or
 - (b) Does not generate special medical waste in the ordinary course of business.
- (3) These regulations do not apply to waste generated in the handling of an animal unless the generator knows or has reason to know the animal has a disease that is capable of being transmitted to humans.
- B. Purpose. These regulations are intended to minimize the possibility of disease transmission by establishing procedures for the handling, treatment, and disposal of special medical waste.

.02 Definitions.

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

B. Terms Defined.

- (1) "Anatomical material" means human or animal body parts, including tissues and organs.
- (2) "Autoclaving" means a process by which an article is subjected to steam under pressure for documented periods of time, temperature, and pressure that results in rendering the article incapable of transmitting disease to humans.
- (3) "Blood" means human or animal blood.
- (4) "Blood-soiled article" means any article that contains blood in any form as a result of contact with blood.
- (5) "Chemical disinfection" means application of a chemical agent to an article that results in rendering the article incapable of transmitting disease to humans.
- (6) "Cremation" means the incineration of human or animal remains.
- (7) "Incineration" means a process of burning an article in an enclosed device or contrivance using controlled flame combustion for thermal destruction that results in rendering the article incapable of transmitting disease to humans.
- (8) "Infectious agent" means an organism (including viral, rickettsial, bacterial, fungal, protozoal, or helminthic) that is capable of producing infection or infectious disease in humans.
- (9) "Interment" means burial in a place, other than a landfill, which is approved for that purpose under applicable law.
- (10) "Mechanical destruction" means a mechanical process such as grinding or shredding which renders an article no longer recognizable.
- (11) "Microbiological laboratory waste" means waste from a clinical microbiological laboratory that contains an infectious agent, and includes cultures and stocks of infectious agents and

associated biologicals.

(12) "Sanitary sewer" means:

(a) A liquid waste piping network leading to a sewage treatment facility approved under the Environment Article, Title 9, Annotated Code of Maryland; or

(b) An on-site sewage disposal system approved under the Environment Article, Title 9, Annotated Code of Maryland.

(13) "Sharp" means a syringe, needle, surgical instrument, or other article that has:

(a) Cut or punctured human skin; or

(b) Come into contact with a known infectious agent.

(14) "Special medical waste" means waste that is composed of:

(a) Anatomical material;

(b) Blood in liquid form;

(c) Blood-soiled articles;

(d) Contaminated material;

(e) Microbiological laboratory waste; or

(f) Sharps.

.03 Handling, Treatment, and Disposal of Special Medical Waste -In General.

1A. A person who generates special medical waste shall assure that all special medical waste the person generates is handled, treated, and disposed of in accordance with these regulations.

B. Handling. Provisions of this chapter relating to the handling of special medical waste apply:

(1) From the creation of the waste until its disposal; and

(2) To any transportation of the waste from the site of its creation to a site of:

(a) Treatment before disposal, and

(b) Disposal.

C. Transporting Off Site for Treatment.

(1) Whenever special medical waste is transported before treatment, the generator of the waste shall place the:

(a) Special medical waste in a leakproof bag or bags with a combined thickness of at least 3 mils or equivalent strength; and

(b) Bag or bags in a clearly labelled rigid container to protect the bag or bags from puncture.

(2) If a person intends to use a container for any purpose after the use of the container for handling special medical waste, the person shall disinfect the container.

D. Disposal of infectious Waste in Landfill Prohibited.

(1) A person who generates special medical waste may not send to a solid waste landfill any special medical waste which meets the definition of "infectious waste" under the Environment Article, section 9.227, Annotated Code of Maryland.

(2) Special medical waste that is handled and treated according to these regulations does not meet the definition of "infectious waste" under the Environment Article, section 9-227, Annotated Code of Maryland.

.04 Blood and Blood-Soiled Articles.

A. Handling. Before disposal, a person shall handle any blood or blood-soiled article by placing it in a container that will prevent blood from spilling or otherwise leaving the container.

B. Treatment. A person may treat blood or blood-soiled articles only by:

(1) If the blood is in liquid form, depositing it in a sanitary sewer if allowed under any local ordinance or regulation and the Environment Article, Annotated Code of Maryland;

(2) Incineration;

(3) Autoclaving; or

(4) Chemical disinfection.

C. Disposal. After treatment, a person may dispose of blood and blood-soiled articles in:

(1) A place approved for the disposal of solid waste under the Environment Article, Title 9, Annotated Code of Maryland; and

(2) Accordance with any local ordinance or regulation.

.05 Anatomical Materials.

A. Handling.

(1) Before treatment of anatomical materials either on or off site, a person shall place the:

(a) Materials in a leakproof bag or bags with a combined thickness of at least 3 mils or equivalent strength; and

(b) Bag or bags in a clearly labelled rigid container to protect the bag or bags from puncture.

(2) If a person intends to use a container for a purpose after use of the container for handling anatomical material, the person shall disinfect the container.

B. Treatment and Disposal. A person may treat and dispose of anatomical materials only by:

(1) Interment;

(2) Cremation;

(3) Mechanical destruction followed by depositing it in a sanitary, sewer if allowed under any local ordinance or regulation and the Environment Article, Annotated Code of Maryland;

(4) Incineration followed by depositing in:

(a) A place approved for the disposal of solid waste under the Environment Article, Title 9, Annotated Code of Maryland, and

(b) Accordance with any local ordinance or regulation.

.06 Sharps.

A. Handling. Before disposal, a person shall place a sharp in a container which is impervious to puncture.

B. Treatment. A person may treat a sharp only by:

- (1) Incineration; or
- (2) Mechanical destruction after:
 - (a) Autoclaving, or
 - (b) Chemical disinfection.

C. Disposal. After treatment, a person may dispose of a sharp in:

- (1) A place approved for the disposal of solid waste under the Environment Article, Title 9, Annotated Code of Maryland; and
- (2) Accordance with any local ordinance or regulation.

.07 Contaminated Materials.

A. Sources of Contaminated Materials. A person shall treat as contaminated material:

- (1) Microbiological laboratory waste;
- (2) The feces of an individual diagnosed as having a disease that may be transmitted to another human being through the feces;
- (3) An article soiled with the feces of an individual diagnosed as having a disease that may be transmitted to another human being through the feces; and
- (4) An article that has come into contact with a known infectious agent.

B. Handling.

(1) A person handling clinical microbiological laboratory waste shall comply with any regulation adopted by the Secretary under Health-General Article, Title 17, Annotated Code of Maryland, intended to ensure safety in handling infectious agents.

(2) Before treatment of contaminated material, a person shall place the:

- (a) contaminated material in a leakproof bag or bags with a combined thickness of at least 3 mils or equivalent strength; and
- (b) Bag or bags in a clearly labelled rigid container to protect the bag or bags from puncture.

(3) If a person intends to use a container for any purpose after the use of the container for handling contaminated material, the person shall disinfect the container.

C. Treatment. A person may treat contaminated material only by:

- (1) If the material is feces, depositing it in a sanitary sewer if allowed under any local ordinance or regulation and the Environment Article, Annotated Code of Maryland;
- (2) Incineration;
- (3) Autoclaving; or

(4) Chemical disinfection.

D. Disposal. After treatment, a person may dispose of contaminated materials in:

- (1) A place approved for the disposal of solid waste under the Environment Article, Title 9, Annotated Code of Maryland; and
- (2) Accordance with any local ordinance or regulation.

.08 Enforcement.

A. The Secretary may enter the property of any person who generates, handles, treats, or disposes of special medical waste to investigate a complaint the Secretary receives regarding the handling, treatment, or disposal of special medical waste.

B. Criminal Penalties.

- (1) A person who violates these regulations is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding
- (2) Each day that a violation exists shall constitute a separate offense.

C. In addition to any penalty under section B, if a person violates these regulations, the Secretary may suspend or revoke any license, permit, or certificate issued to the person under the Health-General Article, Annotated Code of Maryland.

Subtitle 18 MARYLAND AIDS INSURANCE ASSISTANCE

Chapter 01 Maryland AIDS Insurance Assistance Pilot Program

.01 Definitions.

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

B. Terms Defined.

(1) "Appeal" means a process by which an applicant or recipient obtains review of a decision, action, or failure to act on the part of the Department.

(2) "Applicant" means an individual who has applied for, or is in the process of applying for, the program benefits of the Maryland AIDS Insurance Assistance Pilot Program.

(3) "Certification" means a physician's determination that an individual is HIV positive and is too ill to work in the individual's current position, or there is substantial likelihood that within 3 months the individual will be too ill to work in the individual's current position.

(4) "Child" means, for purposes of consideration of income and assets, an unmarried person who is younger than 21 years old and who lives with a parent or legal guardian.

(5) "COBRA eligibility date" means the date the applicant is terminated or resigns from gainful employment or the applicant's full-time position is reduced to part-time status, as determined by the individual's employer, and the applicant becomes eligible

for continuation of group health insurance benefits pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, P.L. 99-272 and any subsequent modifications to the Act.

(6) "Department" means Department of Health and Mental Hygiene.

(7) "Determination" means the Department's decision regarding an applicant's eligibility for the Maryland AIDS Insurance Assistance Pilot Program.

(8) "Family" means:

(a) The applicant or recipient;

(b) The applicant's or recipient's spouse, if the spouse lives with the applicant or recipient;

(c) The applicant's or recipient's children who are under 21 years old, if the children live with the applicant or recipient; and

(d) When the applicant or recipient is a child under 21 years old:

(i) The minor applicant's or recipient's parent or parents, and

(ii) At the option of the minor applicant's or recipient's parent or parents, the minor applicant's or recipient's unmarried siblings who are under 21 years old.

(9) "FEHBAA eligibility date" means the date the federal applicant becomes eligible for temporary continuation of group health insurance benefits pursuant to the provisions of the Federal Employees Health Benefits Amendments Act (FEHBAA) of 1988, P.L. 100-654, and any subsequent modification to the Act.

(10) "Group health insurance benefits" means a package of medical or other health benefits issued or delivered in this State under an insurance contract furnished by an employer.

(11) "Group health plan" or "Group health policy" means any plan contributed by or furnished by an employer, including a self-insured plan, to provide health care to the employer's employees or former employees.

(12) "HIV positive" means that a person has been determined as positive for human immunodeficiency virus (HIV) infection by the enzyme-linked immunosorbent assay (ELISA) and confirmed by the Western Blot, or another generally accepted diagnostic test for HIV infection.

(13) "Maryland AIDS Insurance Assistance Pilot Program (MAIAPP)" means a program to provide in certain circumstances for the continuation of health insurance benefits for certain individuals who are HIV positive. These benefits would be continued in accordance with the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, P.L. 99-272, or the Federal Employees Health Benefits Amendments Act (FEHBAA) of 1988, P.L. 100-654, and any subsequent modification to COBRA or FEHBAA.

(14) "Medical Assistance Program means a program of comprehensive medical and other health-related care for indigent and medically indigent persons.

(15) "Minor" means, for purposes of consideration of income and assets, an unmarried person who is younger than 21 years old and who lives with a parent or legal guardian.

(16) "Program" means the Maryland AIDS Insurance Assistance Pilot Program (MAIAPP).

(17) "Recipient" means an individual who has been determined to be eligible for and is receiving assistance from the MAIAPP.

(18) "Representative" means a person who is at least 18 years old and who, because of the applicant's or the recipient's mental or physical incapacity or youth, is acting on behalf of the applicant or recipient and is authorized to complete, sign, or withdraw an application for the benefits of the MAIAPP, to activate the appeal process, and to supply the survey data needed to evaluate the program on behalf of the applicant or recipient.

(19) "Self-insured group health benefits or plan" means a program or plan contributed by or furnished by an employer for the benefit of its employees providing hospital, surgical, medical, or major medical benefits on an expense-incurred basis similar to benefits which could be provided under a group health plan or policy.

(20) "Social Security Administration" means the administrative unit in the United States Department of Health and Human Services responsible for administering programs under Titles II, IV-A, IV-D, and XVI of the Social Security Act.

(21) "Termination" means the discontinuance of employment by the firing or layoff of an employee by the employer for reasons other than gross misconduct, as determined by the employer, or by the employee's voluntary resignation or retirement, which results in the loss of employer-based health insurance coverage.

.02 Licensing Requirements.

A. A physician who certifies an applicant, pursuant to Regulation .03A(1) of this chapter, shall be licensed and legally authorized to practice medicine in the state in which the service is provided.

B. Laboratories providing tests that are the basis for HINT diagnosis shall comply with the requirements of the Health-General Article, Title 17, Subtitles 2 and 3, Annotated Code of Maryland, or other applicable standards established by the state in which the service is provided.

.03 Recipient Eligibility.

A. An applicant is considered to be eligible for the Maryland

AIDS Insurance Assistance Pilot Program (MAIAPP) if the individual is:

- (1) Certified by a physician;
- (2) Eligible for continuation of insurance benefits through the employer and the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, P.L. 99-272, or the Federal Employees Health Benefits Amendments Act (FEHBAA) of 1988, P.L. 100-654, and any subsequent modifications to COBRA or FEHBAA;
- (3) Not eligible for health insurance through another family member; and
- (4) A recipient of benefits under the Medical Assistance Program or otherwise qualifies for MAIAPP based on the following standards:
 - (a) Meets the residency and citizenship requirements in Regulation .07 of this chapter,
 - (b) Does not have family assets, as defined in Regulation .09 of this chapter, with a cash value that exceeds \$10,000, and
 - (c) Does not have family income, as defined in Regulation .08 of this chapter, that exceeds 300 percent of the federal poverty level.

B. More than 150 recipients may not be enrolled in the Program at any one time. Available slots shall be filled based on the applicant's COBRA or FEHBAA eligibility date. Slots which have been filled can become available again upon a recipient's voluntary withdrawal from the program, death, or expiration of program benefits. If two or more applicants have the same COBRA or FEHBAA eligibility date, slots shall be filled based on the date the application was signed by the applicant or representative. If two or more applicants have the same COBRA or FEHBAA eligibility date and the same application signature date, slots shall be filled based on the date the applications were received by the Program. A waiting list of eligible applicants shall be maintained once the 150 slots are filled.

.04 Obligation of Program Recipients.

MAIAPP recipients shall participate in periodic surveys conducted by the Program which are for the purpose of gathering information for an annual report, as outlined in Regulation .17 of this chapter.

.05 Program Application Process.

A. A person who desires to participate in the MAIAPP shall be given the opportunity to file an application. Applicants shall be responsible for their applications but may be assisted in the completion of applications by persons of their choice.

B. An applicant, or the applicant's representative, shall

complete an application on the form designated by the Department. The Department may require further documentation of the applicant's eligibility.

C. Signature Requirements.

(1) For the purpose of establishing eligibility, the applicant or representative, as appropriate, shall complete and sign the application form.

(2) If an applicant is an unmarried person younger than 18 years old living with a parent or legal guardian, the applicant's parent or legal guardian shall complete and sign the application form.

(3) If an applicant is an unmarried individual younger than 18 years old not living with a parent or legal guardian, the individual's representative shall complete and sign the application form.

(4) If an applicant is physically or mentally unable to complete or sign the application form, a representative shall complete and sign it.

D. The applicant, or the applicant's representative, shall mail the completed application form and the physician's certification to the address designated on the forms.

E. Applicants are determined ineligible without prejudice when they fail to provide information sufficient for the determination of eligibility within 30 days from the date of application unless they have been granted an extension by the Department for good cause.

F. Determinations of eligibility will be made promptly, but not later than 30 days from the date of receipt of the completed application by the Department.

G. Applicants or their representatives shall sign a statement authorizing the Department to verify, from the application or any other source including banks and public or private agencies providing monetary benefits, qualifying information submitted to the Department as part of the application process. Refusal to sign an authorization is considered failure to provide sufficient information, and applicants are determined ineligible in accordance with section E, above.

H. An applicant, or the applicant's representative, may voluntarily withdraw the application at any time without prejudice.

I. A person previously determined ineligible for MAIAPP benefits may make a new application at any time.

.06 Disability Application Process.

A. Application.

(1) Recipients eligible for continuation of group health

insurance benefits pursuant to the provisions of the COBRA shall apply to the Social Security Administration for a disability determination.

(2) The recipient, or the representative, shall be notified in writing by the Department not later than 120 days after MAIAPP eligibility begins regarding how to apply for disability benefits under Title II or Title XVI of the Social Security Act.

(3) The recipient, or recipient's representative, shall apply to the Social Security Administration for a Title II Social Security and a Title XVI Supplemental Security Income disability determination within 5 months after the recipient's MAIAPP eligibility begins.

(4) If the recipient is determined disabled by the Social Security Administration, the recipient or representative shall notify both MAIAPP and the group health plan's administrator of the Social Security Administration's determination within 60 days of the determination, or before the end of the recipient's initial MAIAPP eligibility period date as described in Regulation .10C of this chapter.

(5) If the recipient is determined ineligible for the disability benefits described in section A(3) of this regulation, the Program shall notify the recipient in writing to reapply for disability benefits as the recipient's condition deteriorates, but not later than 120 days before MAIAPP eligibility expires.

(6) Verification shall be made by the Program that an application for disability determination and benefits has been made to the Social Security Administration and of the results of that disability determination.

B. Recipients eligible for continuation of group health insurance benefits pursuant to the provisions of the FEHBAA are not required to apply to the Social Security Administration for a disability determination. since the provisions of the Federal Employees Health Benefits Amendments Act (FEHBAA) of 1988, P.L. 100.654, and current modifications to the Act do not provide for the extension of health benefits due to disability for any period for federal employees who are disabled at the time of their termination of employment or other event that qualified them for the benefits of the FEHBAA.

.07 Residency and Citizenship.

To be eligible for participation in the MAIAPP, an applicant shall be a resident of the State of Maryland and shall qualify as one of the following:

A. A citizen of the United States;

B. An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color

of law, including an alien who is lawfully present in the United States pursuant to 8 U.S.C. section 101 et seq.; or

C. An alien lawfully admitted under authority of the Indochina Migration and Refugee Assistance Act of 1975, 22 U.S.C. section 2601 et seq.

.08 Income.

A. Income to be considered in determining financial eligibility shall include both the earned and unearned gross income of the family, projected for the 6-month period beginning with the month in which the application was filed with the Department.

B. Earned income includes:

- (1) Wages;
- (2) Commissions and fees;
- (3) Salaries and tips;
- (4) Profit from self-employment;
- (5) In-kind income;
- (6) Profit from rent received from a roomer, tenant, or boarder.

C. When profit as set out in section B(6) cannot be documented, the following apply:

- (1) When the source of payment is the rental of a room in the applicant's or recipient's own residence, profit is considered:
 - (a) 25 percent of payments when the tenant receives room and board, to the Social Security Administration for a disability determination. Since the provisions of the Federal Employees Health Benefits Amendments Act (FEHBAA) of 1988, P.L. 100-654, and current modifications to the Act do not provide for the extension of health benefits due to disability for any period for federal employees who are disabled at the time of their termination of employment or other event that qualified them for the benefits of the FEHBAA.

.07 Residency and Citizenship.

To be eligible for participation in the MAIAPP, an applicant shall be a resident of the State of Maryland and shall qualify as one of the following:

A. A citizen of the United States;

B. An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including an alien who is lawfully present in the United States pursuant to 8 U.S.C. section 101 et seq.; or

C. An alien lawfully admitted under authority of the Indochina Migration and Refugee Assistance Act of 1975, 22 U.S.C. section 2601 et seq.

.08 Income.

A. Income to be considered in determining financial eligibility

shall include both the earned and unearned gross income of the family, projected for the 6-month period beginning with the month in which the application was filed with the Department.

B. Earned income includes:

- (1) Wages;
- (2) Commissions and fees;
- (3) Salaries and tips;
- (4) Profit from self-employment;
- (5) In-kind income;
- (6) Profit from rent received from a roomer, tenant, or boarder.

C. When profit as set out in section B(6) cannot be documented, the following apply:

- (1) When the source of payment is the rental of a room in the applicant's or recipient's own residence, profit is considered:
 - (a) 25 percent of payments when the tenant receives room and board,
 - (b) 75 percent of payments when the tenant receives room only;
- (2) When the source of payment is the rental of a home or apartment, profit is considered:
 - (a) 30 percent of the payment when the applicant or recipient pays all utilities,
 - (b) 35 percent when the applicant or recipient pays part of the utilities, or
 - (c) 40 percent when the applicant or recipient does not pay for utilities.

D. Unearned income includes:

- (1) Payments from unemployment insurance, Veterans' and Workers' Compensations, Civil Service Annuities, private insurance, Black Lung Program, Railroad Retirement, Social Security, pensions, annuities, and other regular public and private benefits received;
- (2) Support from absent relatives, support from legally responsible relatives, and income which is received on a regular basis from relatives and friends who are not legally responsible;
- (3) Parental income received by a child as support from the natural or adoptive parents or putative father;
- (4) Income, not already included as earned income, from assets received as interest, dividends, or other income from bank accounts, certificates of deposit, stocks, bonds, insurance policies, mortgages, and real property; and
- (5) In-kind income not already included under earned income.

.09 Assets.

A. Assets to be considered in determining financial eligibility shall include cash assets available as of the date of the application, and include all of the family's cash wealth, such as savings accounts, checking accounts, money market certificates,

certificates of deposit, individual retirement accounts, mutual funds, stocks and bonds, and the cash value of life insurance.

(B) The following assets are excluded in determining the value of assets:

- (1) The cash value of life insurance, up to \$1,500 for each individual;
- (2) Lump sum benefits.

.10 Determination of Eligibility.

A. Program eligibility for a recipient shall begin on the first day of the month in which an approved completed application is received by the Department and is made retroactive as necessary to assure no gap in insurance coverage, as required by the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, or the Federal Employees Health Benefits Amendments Act of 1988, P.L. 100-654. This also applies to individuals who are found eligible after an appeal of a determination of ineligibility.

B. The Program shall grant presumptive eligibility for a period of 90 days, if the applicant appears to meet the requirements of Regulation .03 of this chapter. This shall be based on the applicant's physician's certification, verified COBRA or FEHBAA eligibility, and the applicant's or representative's self-declaration of income and assets, until the official documentation is obtained and verified as accurate and within the Program's guidelines for eligibility. If upon receipt of the documentation the individual is found to be ineligible for the Program or sufficient documentation is not received by the Program within an acceptable time frame as determined by the Program, the individual shall be cancelled from the Program. Recovery of any payments made by the Program shall be sought in accordance with Regulation .14 of this chapter.

C. An applicant who meets the Program's requirements shall be determined eligible for a period of not more than 18 months.

D. Recipients eligible for continuation of group health insurance benefits pursuant to the provisions of the COBRA shall be determined eligible for an additional 6 months, or the period of time up to the termination of MAIAPP, whichever is less, if they are found to meet the federal standards for disability and are eligible for receipt of benefits under Title II or Title XVI of the Social Security Act. This shall be done in accordance with Regulation .06A of this chapter.

E. The Program will promptly redetermine eligibility when it receives information concerning a recipient's circumstances that may affect eligibility.

.11 Payment Procedures.

- A. All requests for payment of health insurance premiums shall be submitted according to procedures established by the Department. Payment requests which are not properly prepared or submitted may not be processed, but shall be returned unpaid.
- B. Requests for payment shall be submitted on the form specified by the Program, or in a format found acceptable by the Program.
- C. Requests for payment can be made by either the insurer or the employer, as appropriate and approved by the Program.
- D. The Program shall receive the initial request for payment within 45 days after the recipient's COBRA or FEHBAA eligibility date or the date of eligibility determination, whichever is later. Any extensions shall be granted only upon agreement between the insurance carrier, or, for FEHBAA recipients, the federal employing office or the Office of Personnel Management and the Program.
- E. Subsequent payments shall be made by the Program before the due date on the request for payment, or on a later date as permitted under the insurance plan.

.12 Notification and Appeals.

- A. Recipients or their representatives shall notify the Department within 10 working days of any of the following changes in circumstances which would affect the recipient's continuing eligibility:
 - (1) Sale or transfer of property;
 - (2) Sale or transfer of assets;
 - (3) Acquisition of new assets;
 - (4) Change in income;
 - (5) Payments or lump benefits received from insurance plans or other sources;
 - (6) Payment in settlement of any cause of action
 - (7) Change in name or address;
 - (8) Changes in COBRA eligibility;
 - (9) Changes in FEHBAA eligibility;
 - (10) Availability of health insurance through another family member; and
 - (11) A change in the Social Security Administration's disability determination.
- B. If any of the changes reported in section A, above, would result in a recipient's no longer qualifying for Program eligibility under those regulations, the recipient shall be determined ineligible for MAIAPP benefits. Cancellation of the benefits shall be effective at the end of the month in accordance with COMAR 10.09.24.13B.

C. The Department shall inform an applicant, recipient, or the representative of the applicant's or recipient's legal rights and obligations and give written notification of the following:

(1) The final decision on an application, which shall include the reason or reasons if an applicant is found ineligible.

(2) The imminent expiration of MAIAPP eligibility and the necessity of applying for disability benefits in order to receive continued coverage under MAIAPP for an additional maximum period of 6 months, in accordance with Regulation .06A of this chapter. The notice shall be sent in sufficient time to permit continued coverage under MAIAPP if the recipient acts in a timely fashion.

(3) A notice of an intended action to deny, cancel, or suspend MAIAPP benefits. This will be sent by the Department to the applicant, the recipient, or the representative. The notice shall:

(a) Include a statement of the proposed action, the reasons for the action, and the regulatory citation supporting the action;

(b) For recipients, be mailed at least 15 calendar days the date on which the action becomes effective; and

(c) Include an explanation of the right to request a hearing.

.13 Hearings.

A. An applicant, recipient, or representative who is dissatisfied with a decision, action, or inaction of the Department may request and shall be granted a hearing.

B. The applicant, recipient, or representative requesting a hearing shall notify the Department, on the form designated by the Department, within 90 days of the date of the Department's inaction or of the mailing of the notice of final decision or intended action.

C. An applicant determined ineligible shall be notified in writing that he or she shall be responsible for any premium payments until eligibility has been determined after a hearing. If the appeal results in a finding of eligibility for the Program, the Program shall reimburse the individual directly for the premiums which were paid. The Program shall request, from the individual, proof of payment of the premiums.

D. A recipient shall be notified that the Department shall be responsible for the payment of all premiums until a decision has been made by the Office of Administrative Hearings. If the recipient is ultimately found ineligible for the Program at the conclusion of the appeal process, the Department shall seek recovery of the premium payments made from the recipient in accordance with Regulation .14 of this chapter.

E. Cases for which an appeal has been filed shall be considered as filled slots until a decision has been made by the Office of

Administrative Hearings.

F. Hearings shall be conducted according to COMAR 10.01.04 as it pertains to the MAIAPP.

G. The applicant, recipient, or representative may file, not later than 15 days before the hearing, written notice stating the intention not to appear but that the hearing be conducted according to COMAR 10.01.04.

.14 Recovery.

In all cases where MAIAPP benefits have been incorrectly paid, the Department shall seek recovery.

.15 Fraud.

Cases of suspected misrepresentation or fraud shall be investigated pursuant to Article 27, section 230A, Annotated Code of Maryland, or any other applicable statutory provision.

.16 Confidentiality.

Unless otherwise authorized by law, all information maintained by the Department in administering MAIAPP shall be maintained in a confidential fashion and may not be disclosed to any individual or organization without written consent of the applicant, recipient, or authorized representative.

.17 Program Evaluation.

The Department shall collect certain data periodically from recipients, in accordance with Regulation .04 of this chapter, and shall compile and submit to the Governor and the General Assembly on an annual basis a report which summarizes the program expenditures, numbers of recipients, program effectiveness, estimated savings to the Maryland Medical Assistance Program, additional costs incurred by private insurance companies, and any loss of federal funding.

.18 Program Termination.

This program shall be terminated and funds may not be distributed after June 30, 1992, except that, if a recipient were certified before that date and funds that were specifically appropriated for this program are still available, these funds may be distributed to provide benefits to that recipient until the termination date of that recipient's eligibility period or the exhaustion of the available funds, whichever comes first. If the Department receives a specific appropriation to continue this program on or before July 1, 1992, the program may be continued in accordance with procedures outlined in Regulations .03- .11 of this chapter.