



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Rental Assistance Benefits – Increase of Benefits	Number 20-22
Originating Department Department of Health and Human Services	Effective Date

Department of Health and Human Services
Montgomery County Regulation on:

Rental Assistance Benefits – Increase in Benefits

Issued by: County Executive
COMCOR 41A.05.01

Authority: Code Section 41A-5

Supersedes: Executive Regulation 10-21

Council Review Method (3) Under Code Section 2A-15

Register Vol. 9, No. 10

Comment Deadline: 10/31/2022

Effective Date: _____

Sunset Date: None

SUMMARY: The regulation updates COMCOR Section 41A.05.01.04; makes formatting changes to COMCOR Sections 41A.05.01.02, 41A.05.01.04, and 41A.05.01.06; and corrects a typographical error in COMCOR Section 41A.05.01.09.

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COMCOR 41A.05.01 Requirements for the Rental Assistance Program

41A.05.01.01 Definitions

1.1 Definitions

In this regulation, unless more specifically defined, the following words have the meanings stated:

- a. Applicant means a person, other than a recipient, who applies for benefits on behalf of a household. An applicant must be at least 18 years old, reside at the application rental unit and be a member of the household.

- b.
 1. Asset means any property or interest in property, including:
 - A. cash;
 - B. time or demand deposits in a financial institution or money market fund;
 - C. stock;
 - D. bonds;
 - E. shares in a mutual fund;
 - F. trusts; or
 - G. real estate.

 2. Asset does not include:
 - A. furniture and furnishings used in the rental unit;
 - B. clothing; or



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- C. one automobile for each member of the household who is a licensed driver.
- c. Coordinated Entry means the list of names that is managed by the Montgomery County Department of Health and Human Services of Montgomery County residents experiencing homelessness.
- d. Department means the Montgomery County Department of Health and Human Services.
- e. Director means the Director of the Department or the Director’s designee.
- f. Eligible rental unit means a rental unit in Montgomery County:
 - 1. for which the household has a written rental agreement; and
 - 2. that maintains all licenses and permits as required by Chapter 29.
 - 3. Eligible rental units include, but are not limited to:
 - A. a detached or attached single-family home or townhouse;
 - B. an apartment in a multi-family facility;
 - C. a condominium or cooperative unit on a multi-family facility;
 - D. a rental mobile home in a licensed mobile home park; or a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park; and
 - E. a room or group of rooms in an attached or detached single-family home or townhouse, apartment, condominium or cooperative.
- g. 1. Gross income means total household income, taxable and nontaxable, from all sources, whether or not reported on a federal or state income tax return, including, but not limited to:
 - A. wages and tips received as compensation for employment or services rendered, before taxes and other deductions;



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- B. interest and dividends from all financial accounts;
 - C. benefits under Supplemental Security, the Social Security Act, or Railroad Retirement Act;
 - D. bequests and inheritances;
 - E. child or spousal support payments;
 - F. recurring monetary gifts and loans (excluding student loans) made to the household by other persons not living in the household to assist with rent, groceries and other living expenses;
 - G. strike benefits where there is no employee contribution;
 - H. Temporary Cash Assistance, Refugee Assistance and Temporary Emergency Medical and Housing Assistance benefits;
 - I. pensions and annuity benefits, including, veterans, railroad and mine worker benefits;
 - J. unemployment compensation benefits;
 - K. trust fund disbursements;
 - L. capital gains;
 - M. net profits from business and property rentals;
 - N. worker's compensation benefits;
 - O. stipends for educational or research fellowships for living expenses, excluding that portion that covers tuition and required fees;
 - P. foster care benefits; and
 - Q. net income from self-employment.
2. Gross Income excluded from eligibility determination includes:
- A. losses from business, rental, or capital transactions;
 - B. third-party payments from someone outside of the household for rent or other expenses. Payments for which the applicant has no



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discretion over the use of the funds that are given directly to the landlord or other provider;

- C. employment income of household members under 18 years old, unless emancipated;
- D. Pell Grants, Supplemental Educational Opportunity Grants, National Direct Student Loan, State Student Incentive Grant, Guaranteed Student Loans, College Work Study, State, Local and Federal Loans, Grants and Scholarships, Civic and Fraternal Scholarships, Private Company Scholarships, loans with established repayment plans;
- E. Medicare payments deducted from Social Security benefits; and
- F. Nazi Restitution payments to victims of Nazi persecution.

3. Allowable Deductions from Gross Income

For the purposes of determining benefit amount, the Department may deduct medical and childcare expenses from household gross income. A deduction may only be granted if the applicant provides documentation that the household makes regular out-of-pocket payments for the following:

- A. childcare expenses up to the Montgomery County average cost of childcare, by type of care, as determined by the Working Parents Assistance Program;
- B. medical expenses for doctor and dental fees, prescription drugs and prescribed medical procedures that are not reimbursed by insurance or other sources;
- C. over-the-counter medical products if prescribed by a doctor to treat a medical condition; and
- D. medical insurance premiums for individuals with a documented disability or who are 55 years of age or older.

h. Household means:



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1. an individual, or two or more persons, whether or not related, who live together and are subject to the same rental agreement and one member meets at least one of the following criteria:
 - A. is a person with a documented disability; or
 - B. is a person 55 years of age or older; or
 - C. a person who is a participant designated by the Director as eligible for participation.
- i. Person with a documented disability means a person who:
 1. receives disability benefits under the Social Security Act or the Railroad Retirement Act, or from a federal, state, or local government disability retirement system; or
 2. has a physical, mental, or emotional impairment that substantially limits one or more major life activities of the individual as the Department determines after the individual submits a statement of condition of disability from the individual's physician.
- j. Recipient means a person who is currently receiving benefits on behalf of a household. A recipient includes a person who reapplies for benefits before the end of the person's eligibility period.
- k. Relative means a parent/step-parent, grandparent, child/step-child, sibling, father-in-law, mother-in-law, son-in-law or daughter-in-law, or spouse.

41A.05.01.02 Eligibility for Rental Assistance

2.1 Eligibility Criteria under Section 41A-3.

- a. An applicant must meet the following criteria to be eligible for monthly benefits as authorized by Section 41A-3 of the Montgomery County Code:
 1. an applicant must pay rent and occupy an eligible rental unit or have an executed rental agreement or lease for an eligible rental unit as of the date that the benefit will be paid;



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2. an applicant leasing a unit owned by a relative of any member of the household is not eligible;
3. an applicant or any member of the household must not have been previously excluded by the Director from participation in the program as provided in 41A.05.01.06 of this Regulation.
4. the actual monthly rent paid by the household, excluding any payments made directly to the landlord on behalf of the household, including any allowance for utilities paid by the tenant, as established in 41A.05.01.04, 4.3, of these regulations, must exceed the rent-to-income ratios suitable for the household size as established in 41A.05.01.04, 4.1, of this [Regulation] regulation;
5. a household that rents a room or group of rooms within a detached or attached single-family home or townhouse, apartment, condominium or cooperative must have a separate rental agreement with the property owner. If the household is renting a room or group of rooms from a primary lessee, then the primary lessee must have a written agreement with the property owner to sublet. Each household with its own lease or rental agreement is eligible to be an applicant for the Rental Assistance Program. Otherwise, all occupants must be considered as a single household and must meet the income eligibility criteria established in this section;
6. the rental cost for the unit occupied must not exceed 120 percent of the average cost for a suitable size rental unit calculated in accordance with 41A.05.01.04, 4.3, of this regulation;
7. the value of the assets of the members of the household, after deducting debts owed by the members of the household, must not exceed \$10,000 as of the date the application is approved;
8. the combined gross income of the members of the household must not exceed fifty percent of the median income in the Metropolitan Area for a household of comparable size as must recently published by the United States Department of Housing and Urban Development on the date the application is approved;
9. an applicant must be experiencing homelessness or the imminent threat of homelessness, including applicants who would become homeless but for their participation in the Rental Assistance Program, and:



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- A. a member of the household is a person with a documented disability;
 - B. a member of the household is 55 years of age or older; or
 - C. a member of the household is a person who is designated by the Director as eligible for participation.
10. if a household receives a benefit prior to the date of the enactment of this regulation and the household’s rental agreement assistance program benefit expires within six [month] months from the date of enactment but is no longer eligible for the program under this regulation, the household may continue to receive the same benefit amount until one year from the date of enactment of this regulation;
11. an applicant or any member of the household must not be receiving a Housing Choice Voucher; and
12. an applicant must have a referral from the coordinated entry system or from an established referral agency.

41A.05.01.03 Application for Rental Assistance

3.1 Applicant Procedure for Article I

- a. In order to be considered for Rental Assistance Program benefits, an applicant must submit an application on a form provided by the Department, together with supporting documentation or information verifying household income, household assets, and rent paid for the rental unit. The applicant must certify in writing on the application or on an accompanying form that all information reported on the application form is accurate and true. The applicant is responsible for obtaining the landlord’s certification.
- b. 1. The applicant applying for benefits pursuant to Article I of this Chapter must submit any information determined by the Department necessary to verify that all eligibility criteria have been met. At a minimum, all applicants must submit the following documentation for each household member as determined to be applicable by the Department:
 - A. a copy of the most recent Federal tax return, including all attachments filed with the return, or certification that no tax return has been filed for the last three years;



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- B. financial statements documenting assets and indicating interest or dividends earned and the principal account balances;
- C. documentation of wages, tips and other income for at least 30 days preceding the date of application; and
- D. any other information as may be required by the Department to determine if all standards of eligibility have been met.

3.2 Approval of Rental Assistance

- a. The Rental Assistance Program manager must certify applications as approved within 30 days of receiving all of the documentation required to determine if the application household meets the established eligibility criteria.
- b. Each applicant must be notified in writing if approved. A copy of the approval notice will also be forwarded to the rental unit landlord.
- c. Monthly benefit payments begin on the first day of the month following the date of application approval. Benefits must be approved for a maximum period of 12 consecutive months. The program manager may approve benefits for a shorter time period if the manager finds that a change in the household's income or other status may affect eligibility.
- d. Only one household per eligible rental unit may receive benefits.
- e. After notification of application approval, the applicant must notify the Rental Assistance Program when any one of the following occurs before the benefit period expires:
 - 1. household moves from the application address;
 - 2. household gross income changes ten percent or more;
 - 3. household assets increase;
 - 4. number of household members increases or decreases; or
 - 5. amount of rent paid increases or decreases.

3.3 Reapplication

- a. A recipient must reapply for benefits:



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1. at the end of each eligibility period; or
 2. at any time a recipient moves from the rental unit for which a benefit is paid.
- b. A recipient must not continue to receive benefits after the expiration of an eligibility period unless the recipient reapplies for benefits during the eligibility period and continues to meet the eligibility criteria then in effect.

3.4 Denial of Application for Rental Assistance

- a. A denial must be based on a determination by the program manager that the applicant is not eligible for benefits or has failed to provide adequate information or documentation with respect to one or more eligibility criteria.
- b. An applicant who is denied benefits must be notified in writing of the denial by the program manager, or their designee, within 30 calendar days of the application's denial.
- c. The notice must include:
 1. the decision, the reasons for the decision, and regulations supporting the decision;
 2. the right to request an informal case review;
 3. the method by which a case review may be requested;
 4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
 5. the right to appeal an unfavorable decision of a case review by requesting an administrative review hearing;
 6. the right, upon request, to have an interpreter present in an administrative review hearing; and
 7. the waiver of the right to an administrative review hearing if a case review is not timely requested.
- d. The Department may discontinue benefit payments or terminate the recipient from participation in the Program under the following circumstances:



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1. the Department may immediately discontinue benefit payments when any one of the following occurs:
 - A. recipient notifies the Department that assistance is no longer required; or
 - B. Department is notified that recipient is no longer residing in the eligible rental unit, except when the recipient is temporarily absent from the rental unit because of institutionalization.
2. the Department may discontinue benefit payments and terminate the recipient from Program participation when any one of the following occurs:
 - A. household no longer meets all eligibility requirements;
 - B. recipient or any household member fails to provide information required to determine continued eligibility recertification;
 - C. recipient fails to reapply for Program benefit payments before the end of their current eligibility period;
 - D. recipient household is evicted from the rental unit;
 - E. lease is terminated by the landlord or the recipient household; or
 - F. recipient or any member of the household violates the terms of their service agreement.
- e. The Department may discontinue benefit payments, terminate the recipient from the Program, and exclude the recipient from future program participation for any one of the following reasons:
 1. recipient, or any household member, has improperly obtained benefit payments or improperly used benefit payments; or
 2. recipient, or any household member, is convicted of criminal activity that would adversely affect the health, safety or wellbeing of other persons.
- f. If the recipient or any household member is the victim of domestic violence, dating violence or stalking, the Department may not discontinue benefit payments or terminate Program participation because of the violence committed against them.



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- g. A recipient who receives an adverse decision under any provision in this section may seek a review of the adverse decision in accordance with the procedures specified in this regulation.

3.5 Applicant Case Review

- a. An applicant has 30 calendar days from the date of the program manager’s notice of denial to request a case review. The applicant may make the request in writing or in person, to either the Rental Assistance Program manager or the caseworker.
- b. A case review will consist of a review by the Rental Assistance Program manager or the caseworker of the oral and documentary information pertinent to the application and any information provided by the applicant relating to the denial of the application.
- c. Within 15 calendar days of the case review, the program manager must send the applicant a notice of the decision from the case review. The notice must state the basis for the decision. If the decision is adverse to the applicant, the notice must state that the applicant has the right to appeal the decision by requesting an administrative review hearing. The program manager must include a copy of the form for appealing the decision with the notice.
- d. The Department must, upon request, assist an applicant with requesting a case review and provide an interpreter to assist an applicant with requesting a case review.

41A.05.01.04 Amount of Rental Assistance Benefit

4.1 Benefit Calculations for the Rental Assistance Program

The amount of monthly benefits that may be granted for Rental Assistance recipients is that amount by which the monthly rent exceeds, less any other housing subsidizes, including any payments made by sublessors, or payments made on the household’s behalf directly to the property:

- a. 40 percent of the combined monthly gross income of a household of no more than three members; or
- b. 35 percent of the combined monthly gross income of a household with four or more members.

4.2 Method of Benefit Payment



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- a. Benefit payments must be made by monthly checks payable jointly to the head of household and either the:
 1. owner of the rental unit;
 2. rental agent or management authority for the rental unit;
 3. rental facility; or
 4. primary leaseholder from whom the household is a sublessee.

4.3 Rental Cost Limitations

The monthly rental cost used to calculate benefits or determine eligibility is subject to the following limitations.

- a. Garage, pet, pool, housekeeping, food, health aide services or other such fees must not be included in the rental cost.
- b. The actual rent paid for a rental unit, including any allowance for utilities paid by the tenant, must not exceed 120 percent of the average cost for a suitable size rental unit. The average Montgomery County rental costs must be determined periodically by the Department as most recently published by the Montgomery County Department of Housing and Community Affairs.
- c. Utilities (lights, cooking fuel, water/sewer, and heating fuel) not included in the rent and paid for by the tenant must be included in the actual rental cost whenever the program manager determines that the cost of the utilities will have an effect on the provision of benefits. Utility allowances must be determined periodically by the Department as most recently published by the Housing Opportunities Commission, Department of Housing and urban Development Rental Assistance (Section 8) and Public Housing utility allowance chart.
- d. If the rental unit occupied by the household is larger than that required for the household, the average cost for a suitably sized unit must be used. The suitable size is determined by the number and composition of the household as follows:
 1. one or two persons – one-bedroom unit[.];
 2. three of four persons – two-bedroom unit[.];
 3. five or six persons – three-bedroom unit[.]; and



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- 4. seven persons or more – four-bedroom unit or larger, depending on the number of additional household members.

4.4 Limitations on Benefit Payment Amounts

The following limitations on the amount of the benefit are hereby adopted pursuant to the authority contained in Section 41A-5 of the Montgomery County Code, as amended, and in accordance with method (3) of Section 2A-15 of the Montgomery County Code.

The limitations on benefits are as follows:

- a. [The] the maximum benefit authorized pursuant to Section 41A-5 is [\$400] \$503 a month[.];
- b. [Benefit] benefit payments less than \$100 a month must not be paid[.]; and
- c. [Only] only one household per eligible rental unit may receive benefits.

4.5 Payment Upon Death or Institutionalization of the Recipient

If a recipient of benefits dies or becomes institutionalized during the eligibility period for which benefits have been approved:

- a. [Benefit] benefit payments may be paid until the expiration of the eligibility period, upon written request, to:
 - 1. the spouse, as long as the spouse continues to reside in the rental unit; or
 - 2. another surviving member of the household who continues to reside in the rental unit[.]; and
- b. [At] at the end of the approval period, the household must reapply to determine if the remaining household members continue to be eligible for benefits.

4.6 Availability of Benefits

- a. Benefits for this program are subject to the availability of funds appropriated and any limitations set on the number of recipients of the program by the County Executive.
- b. At any time that the Director estimates that the amount of money needed for benefit payments for new and renewal applicants to the Rental Assistance Program, when added to the projections of benefit expenditures required for those households already in the Rental Assistance Program, is likely to exceed the



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amount of unexpended appropriated funds for the remainder of the fiscal year, the Director may order the program administrator to defer commencement of payments of benefits to new or renewal applicants, and to place those newly approved eligible applicants onto a waiting list. When the Director determines that one or more additional households may be put into the program without causing the total expenditures to exceed the amount of appropriated funds, eligible applicants, to the extent funding permits, must be processed to receive benefits.

41A.05.01.05 Waiver Authority

5.1 Waivers

The Director may waive any Rental Assistance eligibility requirement upon a finding of good cause.

5.2 Waiver Procedures

All waivers must be requested in writing. The waiver must clearly state the eligibility requirement for which the waiver is being requested. Upon a finding of good cause, the Director may grant a waiver, which must be in writing, and must clearly state the reason the requirement is being waived.

41A.05.01.06 Penalties

6.1 Falsification of Information

Any person who knowingly makes or helps another person to make a false or misleading statement in order to obtain benefits under Chapter 41A:

- a. upon conviction shall be guilty of a class A violation;
- b. may be required to repay the County any rental assistance benefit improperly paid in reliance on the false or misleading statement; and
- c. may be required to pay the County interest on the total amount improperly paid at the rate of one percent per month on the outstanding balance owed until the total benefit improperly paid is repaid.

6.2 Discontinuation of [payments] Payments and [exclusion] Exclusion from [future participation] Future Participation in the Rental Assistance Program

- a. If the program manager believes any household has improperly obtained benefits, improperly used benefits, or has violated provisions of Chapter 41A, the program



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manager may discontinue benefits or request the Director to exclude the household from future participation in the Rental Assistance Program.

- b. The applicant or recipient who receives an adverse decision under any provision in this section may seek review of the adverse decision in accordance with the procedures specified in 41A.05.01.07 and 41A.05.01.08 of this regulation.

41A.05.01.07 Right of Recipients to In-Person Case Review

7.1 Notice to Recipients of Adverse Action

- a. The program manager must notify a recipient in writing of an adverse action. An adverse action includes a denial of a reapplication of benefits, a decision that the recipient failed to provide documentation requested in a reapplication, a decision to suspend, discontinue, reduce, or terminate assistance, a decision to seek to recover an overpayment or over issuance of rental assistance, or a decision that the program intends to take any adverse action listed in 41A.05.01.06, 6.2, of this regulation.
- b. The notice of adverse action must include:
 - 1. the decision, reasons for the decision, and regulations supporting the decision;
 - 2. the right to request an in-person case review;
 - 3. the method by which an in-person case review may be requested;
 - 4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
 - 5. the right to appeal an unfavorable decision of an in-person case review by requesting an administrative review hearing;
 - 6. the right, upon request, to have an interpreter present in any in-person case review or administrative review hearing; and
 - 7. the waiver of the right to an administrative review hearing if a case review is not timely requested.

7.2 In-Person Case Reviews



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- a. A recipient has 30 calendar days from the date of the program manager’s notice of adverse action to request an in-person case review. Such request must be made in writing or in person to either the program manager or the caseworker. The Department must, upon request, assist a recipient with requesting an in-person case review and provide an interpreter to assist the recipient with requesting an in-person case review and attend the in-person case review.
- b. An in-person case review consists of an informal, in-person meeting of the recipient with a Rental Assistance Program manager or the caseworker. The program manager or the caseworker must review the oral and documentary information pertinent to the applicant and must explain the basis for the proposed adverse action. The recipient must be provided the opportunity to present his or her reasons and explanations for why the adverse action is not warranted.
- c. Within 15 calendar days of the in-person case review, the program manager must send the recipient a notice of the decision from the in-person case review. The notice must state the basis for the decision. If the decision is adverse to the recipient, the notice must state that the recipient has the right to appeal the decision by requesting an administrative review hearing. The program manager must include a copy of the form for appealing the decision with the notice.

41A.05.01.08 Administrative Review Hearing

8.1 Appeals by Applicants and Recipients

- a. An applicant or recipient who requested a case review in a timely manner may appeal an adverse case review decision by filing a written request for an administrative review hearing with the program administrator, within 30 calendar days of the date of the notice of the adverse case review decision. Such request must be on the form provided with the notice of the adverse case review decision.
- b. The Department must, upon request, assist an applicant or a recipient with requesting an administrative review hearing or provide an interpreter to assist the applicant or recipient with requesting an administrative review hearing and attend the administrative review hearing.

8.2 Conduct of the Administrative Review Hearing

The Director will conduct the administrative review hearing. During the administrative review hearing, the Director must review the decision of the Rental Assistance Program manager, the relevant Rental Assistance Program file, and the record of the case review. The Director must also hear and consider materials presented and arguments made by the



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appellant as to why the decision of the Rental Assistance Program manager is in error and should be reversed. The Director must conduct the hearing in a fair, even-handed manner, giving the appellant an adequate opportunity to fully present the appellant's case, with due regard for the appellant's education, experience and communication skills.

41A.05.01.09 Implementation of Adverse Action Against Recipients

- 9.1 Except as provided in [41A.05.01.06] 41A.05.01.09, 9.3, and in 41A.05.01.06 of this regulation, no adverse action must be taken against a recipient until the expiration of the following periods, to the extent applicable:
- a. the period for requesting an in-person case review;
 - b. the appeal period following an adverse decision in an in-person case review; or
 - c. issuance of the decision in an administrative review hearing.
- 9.2 Except as provided in 41A.05.01.06 of this regulation, a recipient will incur no repayment liability until, as applicable, the later of the date of:
- a. the notice of the decision in the in-person case review; or
 - b. the decision in the administrative review hearing.
- 9.3 The program manager may discontinue benefits immediately when:
- a. a recipient notifies the program manager that assistance is no longer required;
 - b. the rental unit landlord verifies that the recipient is no longer a tenant at the recipient's latest rental address; or
 - c. benefit checks are returned by the post office as undeliverable and attempts to contact the recipient are unsuccessful.

The immediate discontinuation of benefits does not change the recipient's right to request an in-person case review as provided in 41A.05.01.07.

41A.05.01.10 Legal Challenge

If an applicant or recipient is aggrieved by a final decision of the Department in an administrative review hearing, that applicant or recipient may file an original complaint in the Circuit Court for Montgomery County, Maryland.



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41A.05.01.11 Effective Date

11.1 This regulation takes effect 30 days after approved by the County Council and any benefit adjustment takes effect on the first day of the next month.

Approved:

Marc Elrich, County Executive

Date

Approved as to form and legality:



Associate County Attorney

9/30/22

Date