

## Opening a Maryland Residential Service Agency Fact Sheet

### What is a Residential Service Agency (RSA)?

In Maryland, a Residential Service Agency, or RSA, means an individual, partnership, firm, association, corporation, or other entity of any kind that is engaged in a nongovernmental business of employing or contracting with individuals to provide at least one home health care service for compensation to an unrelated sick or disabled individual in the residence of that individual; or an agency that employs or contracts with individuals directly for hire as home health care providers. A Residential Service Agency is **not** a Home Health Agency, a personal care provider, or a household or family support service.

### What is a Home Health Agency (HHA)?

In Maryland, a Home Health Agency means a health-related institution, organization, or a part of an institution that is owned or operated by one or more persons, whether or not for profit and whether as a public or private enterprise; and directly or through a contractual arrangement, provides to a sick or disabled individual in the residence of that individual skilled nursing services, home health aide services, and at least one other home health care service, that are centrally administered.

### What are the differences between Residential Service Agencies and Home Health Agencies?

#### State and Federal Regulations and Licensing Requirements

Licensing requirements for RSAs in Maryland are regulated by state and local laws. In order to open a residential service agency in Maryland, an RSA applicant needs to apply for an RSA license from the Maryland Department of Health's Office of Health Care Quality (OHCQ), Maryland's licensing and certification agency for health facilities. OHCQ has regulatory oversight of residential service agencies under Code of Maryland Regulation [COMAR 10.07.05 Residential Service Agencies](#). Unlike home health agencies, the Maryland Health Care Commission (MHCC) has no regulatory authority over RSAs. An applicant seeking an RSA license from the OHCQ does not need to first obtain a Certificate of Need (CON) from the MHCC.

In Maryland, licensed Home Health Agencies (HHAs) must meet local, state, and federal regulations. The federal regulations that home health agencies must adhere to are found in Code of Federal Regulations, [Title 42 Chapter IV Subchapter G Part 484](#). In Maryland, the MHCC regulates establishment, as well as expansion, of home health agencies through its [Certificate of Need](#) (CON) program under Code of Maryland Regulation [COMAR 10.24.16 State Health Plan for Facilities and Services, Home Health Agencies](#). CON procedural regulations may be found under [COMAR 10.24.01 Certificate of Need for Health Care Facilities](#). Unlike an RSA applicant, an applicant for an HHA license must first obtain a CON from the MHCC, prior to seeking a license from the OHCQ. OHCQ's HHA licensing regulations may be found under [COMAR 10.07.10 Home Health Agencies](#).

*See Page 6 for Definitions of Common Medical Terminology*

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### Medicare and Medicaid Certification

Durable Medical Equipment (DME) providers are required to be licensed in Maryland as an RSA— *Other-Durable Medical Goods* provider. This type of RSA may qualify to be Medicare Part B certified. Because RSAs are a Maryland-specific type license, they do not qualify for other federal Medicare reimbursement. With the exception of RSAs providing durable medical equipment, most RSA services will not be reimbursed by Medicare or other private insurances. Some RSAs that are licensed to provide Skilled Nursing services may apply to bill the Maryland Medicaid waiver for reimbursement. In order to meet minimum criteria for the Medicaid Waiver Program, the RSA must hold a license for Level 1 or 2 services. According to the Waiver program standards an RSA provider cannot advertise itself, nor bill for services, as a home health agency.

MHCC regulations require Maryland HHAs to be both Medicare and Medicaid certified. Medicare pays home health agencies for six disciplines of medical services: skilled nursing, home health aides, physical therapy, occupational therapy, speech/language pathology, and medical social services.

### Levels of Care and Services Provided

Under the *RSA – Skilled Nursing and Aide Services* license, there are three different levels of care, all of which must be provided under the supervision of a Registered Nurse (RN):

- **RSA Level 1 – Skilled Nursing and Aides**  
RN supervision of Aides without medication management. - Provide one or more home health services including assistance with activities of daily living (ADLs) and medication reminders.
- **RSA Level 2 – Skilled Nursing and Aides**  
RN supervision of Aides with medication management. - Provide one or more home health services including assistance with ADLs and medication administration.
- **RSA Level 3 – Skilled Nursing and Aides**  
Complex care provided by RN/Licensed Practical Nurse (LPN), and RN supervision of Aides- Provide complex care nursing services by an LPN or RN, and RN supervision of Aides with medication management.

When comparing Maryland's RSA Level 3 license to that of an HHA license, the services may be similar. However, the frequency of the services provided are different. RSAs may provide services for any length of time. Medicare-certified HHAs typically provide post-acute type services; its Medicare payment for services is based on 30 days per episode, but can be renewed for 30 days, if medically necessary.



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### Other Differences

RSAs operate in specific jurisdictional service areas that are identified by providers during the licensure application process. RSAs must be able to realistically service the selected jurisdictions. HHAs have MHCC authorized service areas, depending on the jurisdictional need granted with its Certificate of Need (CON).

HHA patients must be both financially and medically eligible for the Medicare HHA benefit. For example, an HHA patient is required to be under a physician's plan of care and must have a "face-to-face" with one's primary care physician or certain other non-physician provider to affirm the HHA patient is "homebound" and requires intermittent skilled care as required by CMS Conditions of Participation. RSA providers do not have to meet CMS Conditions of Participation.

### Obtaining an RSA License

The Office of Health Care Quality (OHCQ) within the Maryland Department of Health is the State's licensing and certification office for all types of health care facilities. Visit the OHCQ Programs [webpage](#) and select **Residential Service Agency**. This webpage provides important information for those seeking an RSA license. You will find [COMAR 10.07.05 Residential Service Agency](#) regulations, as well as the [RSA license application form](#) with instructions at that site. For those interested in seeking an RSA license, please refer your questions to OHCQ staff at 410-402-8040, as MHCC has no regulatory authority over RSA providers.

### Obtaining a Certificate of Need for a Home Health Agency



CON procedural regulations may be found in [COMAR 10.24.01 Certificate of Need Health Care Facilities](#). The Home Health Agency Chapter of the State Health Plan ([COMAR 10.24.16](#)) regulates the development and expansion of HHA services based on the determination by the Maryland Health Care Commission that consumers need a choice of high quality HHA providers. At the time the MHCC determines the jurisdictional need for additional HHAs, the HHA CON review schedule is posted on the MHCC [website](#) as well as published in the *Maryland Register*. For those interested in opening a new or expanding an existing home health agency, please contact MHCC CON staff. Click [here](#) for the current MHCC Staff Directory.



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### Types of RSA Licenses

There are two separate license types for Residential Service Agencies: *RSA – Other* and *RSA – Skilled Nursing and Aides*. The RSA is a Maryland-specific license, meaning it is required to meet state laws. Except for the Durable Medical Equipment (DME) provider license, the RSA is not recognized by the federal government to qualify as a Medicare-certified provider. In Maryland, RSAs are licensed and regulated by the OHCQ to provide one of the following types of care to patients:

RSA – Other		RSA – Skilled Nursing
<p><b>Durable Medical Equipment</b></p> <p>DME with Oxygen DME without Oxygen Medical Social Work</p> 	<p><b>Skilled Services</b> (Provided by licensed staff only, without aides)</p> <p>Skilled Nursing (RN/LPN only) Medical Social Services Intravenous Therapy Occupational Therapy Physical Therapy Speech Therapy</p>	<p><b>Skilled Nursing and Aide Services</b> (RN supervision of Aides required)</p> <p>Level 1 Level 2 Level 3</p> 

### RSA – Other License

The *RSA – Other* license consists of other skilled disciplines that can only be provided by licensed staff without any Aide services: Physical Therapy, Speech Therapy, Occupational Therapy, Medical Social Services, Skilled Nursing (RNs/LPNs only), and Durable Medical Equipment.

- RSA – Other License for Durable Medical Equipment**

The *RSA – Other - Durable Medical Equipment (DME)* license allows an RSA to provide for the delivery, installation of and client instruction on the use of specialized medical equipment such as oxygen tanks, hospital beds, ventilators, and feeding pumps. AN RSA with a DME license is the only type of RSA provider that may be eligible to participate in the Medicare Part B plan.
- RSA – Other License**

Residential service agencies that are licensed to provide at least two home health care services may provide skilled nursing services by an RN/LPN, in addition to one or more other home care therapy or PT, OT, SPT or medical social services. Under this license, an *RSA – Other* may NOT offer Aide services.

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### RSA – Skilled Nursing License for Skilled Nursing and Aides Services

The *RSA – Skilled Nursing* license permits an RSA to provide skilled nursing and aides services that assist with activities of daily living, such as bathing, dressing and grooming. There are three different Levels of Care that an RSA can be licensed to provide. Note that all three Levels of Care require RN supervision of the aides. Supervision of aides by an LPN is not authorized.

Level 1	Level 2	Level 3
<p><b>ADLs without Medication Management</b></p> <ul style="list-style-type: none"> <li>• RN supervision of Aides <b>without</b> medication management</li> </ul>	<p><b>ADLs with Medication Management</b></p> <ul style="list-style-type: none"> <li>• RN supervision of Aides <b>with</b> medication management</li> </ul>	<p><b>Complex Care* Provided by RN, LPN; RN Supervision of Aides</b></p> <ul style="list-style-type: none"> <li>• Complex care provided by RN/LPN</li> <li>• RN supervision of Aides</li> </ul> <p>* Complex care includes Wound Care, Tube Feeding, Tracheostomy Care, Ventilator Management, Intravenous or Related Therapies</p>

**Level 1 RSA** care from an aide, overseen by an RN, might include assistance with activities of daily living or “ADLs.” Level 1 care might include medication “reminders,” but not medication management or administration.

**Level 2 RSA** care might include assistance from an aide with ADLs, as well as skilled nursing services such as medication management provided by Certified Medication Technicians (CMT) or LPNs that are overseen by an RN.<sup>1</sup>

**Level 3 RSA** care involves more complex medical care provided by an RN and LPN, medication administration by a CMT and skilled nursing services provided by aides that are overseen by an RN.

<sup>1</sup> Note that the only type of licensed staff that are allowed to administer medications in an RSA are CMTs and LPNs under the supervision of an RN, and RNs. Refer to the Maryland Nurse Practice Act for further guidance.

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### Common Terminology

- **Activities of Daily Living**<sup>2</sup>(ADL) means normal daily activities including:
  - Eating or being fed
  - Grooming, bathing, oral hygiene including brushing teeth, shaving, and combing hair
  - Mobility, transferring, ambulation, and access to the outdoors, when appropriate
  - Toileting
  - Dressing in clean, weather-appropriate clothing
- **Aide**<sup>3</sup> means an individual who provides care in a client’s home who at minimum has received instruction and supervised practice in relevant personal care services of the sick or disabled at home; identification of situations that require referral to a registered nurse, including significant changes in a client’s condition; record keeping; ethical behavior and confidentiality of information; cardiopulmonary resuscitation (CPR); standard precautions for infection control; and prevention of abuse and neglect.
- **Certified care**<sup>2</sup> means a service or services that may be performed for compensation only by an individual who is certified by the Board of Nursing, including a certified medication technician, a certified medicine aide, or a certified nursing assistant; and include nursing functions that are routinely delegated by a registered nurse.
- **Certified Medication Technician**<sup>2</sup> means an individual who has completed a Board-approved medication technician training program and is certified by the Board of Nursing as a medication technician.
- **Durable Medical Equipment**<sup>2</sup> means technologically sophisticated medical devices including but not limited to:
 

○ Electrically powered hospital beds	○ Oxygen and oxygen delivery systems
○ Feeding pumps	○ Sequential compression devices
○ Neonatal home phototherapy devices	○ Sleep Apnea monitors
○ Electronic and computer-driven wheelchairs and seating systems	○ Respiratory disease management devices
○ Low air loss cutaneous pressure management devices	○ Transcutaneous electrical nerve stimulator (T.E.N.S.) units
○ Ventilators	

<sup>2</sup> COMAR [10.07.05.02](#) Residential Service Agencies – Definitions; last accessed September 9, 2022

<sup>3</sup> COMAR [10.07.05.11](#) Residential Service Agencies – Training; last accessed September 9, 2022



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- **Home Health Agency<sup>4</sup>** means a health-related institution, organization, or a part of an institution that is owned or operated by one or more persons, whether or not for profit and whether as a public or private enterprise; and directly or through a contractual arrangement, provides to a sick or disabled individual in the residence of that individual skilled nursing services, home health aide services, and at least one other home health care service, that are centrally administered.
- **Home health aide<sup>4</sup>** means a non-licensed person who has at least one year of practical experience in a hospital, nursing home, home care program; or has satisfactorily completed the Maryland Red Cross Home Care Course or an equivalent program; and provides personal and health care services to an individual in the place of residence, under supervision of the appropriate health professional.
- **Home health care<sup>2</sup>** includes any of the following services:
  - Audiology and speech pathology
  - Dietary and nutritional services
  - Drug services
  - Home health aide
  - Laboratory
  - Medical social services
  - Nursing
  - Occupational therapy
  - Physical therapy
  - Provision of invasive medical equipment
  - Home medical equipment services
- **Home medical equipment services<sup>2</sup>** means the delivery, installation, maintenance, or replacement of, or instruction in the use of, medical equipment used by a sick or disabled individual to allow the individual to be maintained in a noninstitutional environment.
- **Personal care provider under the Medical Assistance Personal Care Program<sup>2</sup>** means an individual or personal care agency that has been approved by the Department as meeting requirements set forth in COMAR 10.09.20 and 10.09.36 to provide personal care services to individuals who are certified for and receiving Medical Assistance benefits.
- **Skilled care<sup>4</sup>** means a service or services which can only be safely and effectively provided by a person licensed under Health Occupations Article, Annotated Code of Maryland, and exercising specialized knowledge, judgment, and skill.
- **Skilled nursing services<sup>4</sup>** means services provided by or under the supervision of a registered nurse and in accordance with the plan of treatment.

<sup>4</sup> COMAR [10.07.10.02](#) Home Health Agencies – Definitions; last accessed September 9, 2022



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### Similarities of Residential Service and Home Health Agencies

- Care provided in residence
- Medical Therapies available
- Regulated by State Regulations
- Skilled Nursing Services
- Licensed by OHCQ
- Non-medical, non-skilled services such as housekeeping are not provided

### Differences Between Residential Service and Home Health Agencies

#### Residential Service Agency (RSA)

- Certificate of Need is not required
- Assistance with ADLs
- Number or types of medical services provided limited based on type of RSA license
- Care can be provided 24/7
- Care may be provided for an unlimited time period
- Aides available for RSAs licensed under Skilled Nursing & Aides
- Durable Medical Equipment provider
- RSA – Other – DME license – might participate with Medicare Part B
- RSA – Skilled Nursing and Aides (Level 2 or 3) license may apply for Maryland Medicaid program
- May be covered by private health insurance
- May be covered by long term care insurance
- Regulated by State laws
- Services may be provided anywhere in Maryland consistent with its RSA License

#### Home Health Agency (HHA)

- Certificate of Need is required to establish or expand
- Assistance with ADLs along with other required skilled services only if specified in the physician's plan of care
- Must provide Skilled Nursing Services, Home Health Aides, and one or more medical services or therapies
- Care typically limited to 30 days
- Physician's certification for services necessary
- Must be homebound and require intermittent skilled services
- Post-acute care typically provided
- Covered by Medicare Part A
- Providers required to participate in Medicare and Maryland Medicaid
- Usually covered by private health insurance
- Regulated by both State and Federal Regulations
- Required to meet or exceed the health and safety standards of CMS Conditions of Participation
- Services may be provided only in MHCC authorized jurisdictions





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