

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in Sections 6(6) and 8(2) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code §§ 7-771.05(6) and 7-771.07(2) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to sections 3304 and 3305 of chapter 33 (Health Care Safety Net Administration) of subtitle B (Public Health and Medicine) of title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The D.C. HealthCare Alliance Program (Alliance) was designed to be a safety net for District residents without health insurance. Since its inception, the Alliance enrollment has expanded rapidly. The program currently provides health benefits to more than twenty thousand (20,000) low-income residents through a managed-care delivery system.

On July 1, 2010, the District implemented the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; Pub. L. No. 111-148), and D.C. HealthCare Alliance recipients, who are U.S. citizens or who have qualified alien or refugee status, became eligible for Medicaid. U.S. citizens and/or qualified aliens must meet all financial and non-financial eligibility requirements including verification of U.S. citizenship or qualified alien status in order to qualify for Medicaid. Non-qualified aliens, who do not meet citizenship requirements for the Medicaid program are eligible for the Alliance.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of the Alliance beneficiaries by ensuring that all applicants seeking enrollment or recertification in the Alliance, are residents of the District and meet the appropriate eligibility criteria. By taking emergency action, these proposed rules provide safeguards that are necessary to preserve the availability of resources for the proper administration of the Alliance and afford greater integrity and accuracy in the enrollment process.

Pursuant to Section 7a of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405.01 (2008 Repl.)), these rules will be submitted to the Council of the District of Columbia for a thirty (30) day period of review.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on September 30, 2011 (58 DCR 008388). No comments were received and no substantive changes have been made.

The emergency rulemaking was adopted on January 24, 2012, and became effective on that date. The emergency rules will remain in effect for one hundred twenty days (120) or until May 23, 2012, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt

these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 33, HEALTH CARE SAFETY NET ADMINISTRATION, of subtitle B, PUBLIC HEALTH AND MEDICINE, of title 22, HEALTH, of the DCMR is amended as follows:

Section 3304, ELIGIBILITY CRITERIA EFFECTIVE JUNE 1, 2006, is amended by adding a new subsection 3304.9 to read as follows:

3304.9 If the applicant declares that he or she is a U.S. citizen or a qualified alien, but the social security or alien number the applicant provides does not support that assertion, the applicant shall have a reasonable opportunity to present the appropriate documentation as provided in Subsections 3304.4, 3304.5 and 3304.6 of Chapter 33.

Section 3305, ELIGIBILITY PROCEDURES EFFECTIVE JUNE 1, 2006, is amended to read as follows:

3305 ELIGIBILITY PROCEDURES EFFECTIVE JUNE 1, 2006

3305.1 Effective immediately, applicants shall complete, sign, and date an application form (as designated by the Mayor), present this form to the Department of Human Services (DHS), and complete a face-to-face interview to establish eligibility for enrollment in the D.C. HealthCare Alliance Program (Alliance).

3305.2 DHS shall determine eligibility and send a notice to applicants within the same timeframe as required under the Medicaid program at 42 C.F.R. § 435.911.

3305.3 Eligibility shall begin on the first day of the month of application, which is consistent with the Medicaid requirement at 42 C.F.R. § 435.914(b).

3305.4 Alliance program enrollees shall be required to recertify their enrollment in person every six (6) months and complete a face-to-face interview. Those enrollees that had previously received an annual recertification shall be required to comply with a reduced recertification period of no less than six (6) months upon receipt of a notice from DHS. Such notice shall contain the date by which the enrollee must complete all recertification requirements, including a face-to-face interview.

3305.5 A notice of the requirement to recertify shall be mailed to an enrollee no less than thirty (30) days in advance of the scheduled recertification date. The recertification date shall be set by DHS based upon the eligibility date.

3305.6 An Alliance program enrollee, or his or her authorized representative, who fails to complete and sign a recertification package and complete the required face-to-face interview shall be subject to termination in accordance with section 555 of

District of Columbia Public Assistance Act of 1982, effective April 6, 1982, (D.C. Law 4-101; D.C. Official Code § 4-205.55 (2008 Repl.)).

- 3305.7 A recertification package shall include:
- (a) A signed District of Columbia medical assistance recertification form;
 - (b) Acceptable proof of residence as provided in subsection 3304.4;
 - (c) Acceptable proof of income as provided in subsection 3304.5;
 - (d) Acceptable proof of countable resources as provided in subsection 3304.6; and
 - (e) A valid and verifiable social security number if the enrollee declares himself or herself to be a U.S. citizen or qualified alien and has not previously provided a valid and verifiable social security number.
- 3305.8 If an Alliance program enrollee fails to recertify within the prescribed time period, but completes the recertification package and face-to-face interview within the next calendar month after the termination date, the Alliance program enrollee shall not be required to complete a new application.
- 3305.9 An applicant or recipient who is hospitalized, disabled or aged may request an exemption from the in-person requirements set forth in Subsections 3305.1 and 3305.4, if they are hospitalized, disabled, or aged during the application or recertification period, and therefore unable to complete the required face-to-face interview. To qualify for this exemption, the Alliance beneficiary or their authorized representative shall submit the following:
- (a) Documentation from a hospital or medical professional attesting to the customer's unavailability due to medical incapacity or disability, if the customer is unavailable due to medical incapacity or disability during the period of recertification; or
 - (b) A request for an exemption detailing the reason why the customer cannot complete the required face-to-face interview, which DHS may approve on a case-by-case basis, if the customer is sixty-five (65) years or older.
- 3305.10 The Alliance program enrollee shall be required to submit a new application if he or she fails to recertify, as indicated in subsection 3305.4.
- 3305.11 DHS shall take no action to terminate, discontinue, or suspend eligibility without giving the Alliance program enrollee adequate and timely notice consistent with the Medicaid requirement, as set forth in section 555 of District of

Columbia Public Assistance Act of 1982, effective April 6, 1982, (D.C. Law 4-101; D.C. Official Code § 4-205.55).

- 3305.12 To determine countable income, DHS shall aggregate earned income and disregard the first one hundred dollars (\$100) in income. Further, DHS shall apply the exclusions detailed in Supplement 8a to Attachment 2.6-A of the District of Columbia State Plan for Medical Assistance (Medicaid State Plan).
- 3305.13 To determine countable resources, DHS shall aggregate resources that are available to the applicant and apply the exclusions detailed in Supplement 8b to Attachment 2.6-A of the District's Medicaid State Plan.
- 3305.14 All of an applicant's resources shall be presumed available. An applicant may rebut this presumption by proving to the satisfaction of the District that a resource is not available to the applicant. An applicant shall be deemed to have rebutted the presumption if he or she establishes that there is a legal or other actual barrier to disposing of the asset that cannot be reasonably overcome. Resources that are not available are not included in the calculation of an applicant's countable resources.

Comments on the proposed rules shall be submitted, in writing, to Linda Elam, Ph.D., Deputy Director/Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, N.E., Sixth Floor, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCFFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the above address.