## DEPARTMENT OF HEALTH

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 942 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Family Training Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for family training services provided by qualified professionals to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

This rule amends existing section 942, previously published at 50 DCR 8476 (October 10, 2003), to provide more effective reporting, to update the prohibition against concurrent payments to reflect the new Waiver services, and to expand family training services to include uncompensated caregivers other than family. The District of Columbia Medicaid Program is also modifying the Waiver to reflect these changes. The Council of the District of Columbia has approved the Waiver modification, and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services has also approved the modified Waiver with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published in the *DC Register* on December 7, 2007 (54 DCR 011753). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *DC Register*.

Section 942 (Family Training Services) of Chapter 9 of Title 29 DCMR is amended to read as follows:

**942 FAMILY TRAINING SERVICES**

942.1 The District of Columbia Medicaid Program shall provide reimbursement for family training services for each participant with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Developmental Disabilities and Mental Retardation (Waiver) subject to the requirements set forth in this section.

942.2 Family training services are training, counseling, coordination, and other professional support services offered to the families of persons enrolled in the Waiver or other uncompensated individuals providing support to Waiver participants. For purposes of family training services, an uncompensated

individual may be a neighbor, friend, companion, or co-worker who provides uncompensated care, training, guidance, companionship or support to a Waiver participant.

942.3 Each family training provider, within the first four (4) hours of service, shall conduct an assessment and develop a Training Plan with training goals and techniques that will assist the caregivers to better support the participant in achieving the choices, goals and prioritized needs identified in the individual habilitation plan (IHP) or individual support plan (ISP) and Plan of Care.

942.4 If the caregivers decide to continue with the training, the Training Plan shall include measurable outcomes and a schedule for ongoing services. The family training provider shall send the Training Plan to the Department on Disability Services (DDS) Case Manager for prior authorization of ongoing services.

942.5 Family training services eligible for reimbursement shall include the following services:

(a) Instruction on strategies to assist the participant in meeting his or her IHP or ISP and Plan of Care goals;

(b) Training on the use of equipment specified in the participant's IHP or ISP and Plan of Care;

(c) Training on meeting the needs of the participant;

(d) Counseling to address the psychological needs of the family;

(e) Training and supports to prepare a family to make informed decisions on how to select and coordinate the services of a family member; and

(f) Follow up training necessary to safely maintain the participant at home.

942.6 Family training services may be used by the participant, family, guardian, or other uncompensated caregiver to help with the development of the participant's IHP or ISP and Plan of Care.

942.7 Family training services may be used by the participant, family, guardian, or other uncompensated caregiver to help coordinate the delivery of behavioral support services, community support services, and other professional, therapeutic or support services under the Waiver.

942.8 Each provider of family training services shall:

(a) Be a public or private agency or home health agency licensed to do business in the District of Columbia, Maryland or Virginia;

(b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for family training services under the Waiver;

(c) Ensure that all family training services staff are qualified and properly supervised;

(d) Ensure that the service provided is consistent with the participant's IHP or ISP and Plan of Care;

(e) Maintain a copy of the participant's most recent IHP or ISP and Plan of Care;

(f) Participate in the participant's annual IHP or ISP and Plan of Care meeting or case conferences when indicated;

(g) Maintain records which document staff training and licensure, for a period of not less than six (6) years;

(h) Offer the Hepatitis B vaccination to each caregiver providing services pursuant to these rules and maintain a copy of the acceptance or declination of the vaccine;

(i) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor, as set forth in 29 CFR § 1910.1030; and

(j) Maintain documentation in each participant's clinical record regarding the initial assessment of the family's training needs, the goals to be accomplished, the training provided on each visit, and the outcomes of each training.

942.9 Each person providing family training services shall:

(a) Be licensed to practice graduate social work, independent clinical social work, occupational therapy, physical therapy, speech, hearing and language therapy or registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*);

(b) Be licensed to practice his or her profession within the jurisdiction where services are provided; or

(c) Be a special education teacher with a Master's Degree in Special Education from an accredited college or university with an emphasis in

developmental disabilities and have experience working with persons with mental retardation and developmental disabilities.

942.10 Each person providing family training services shall meet all of the following requirements:

(a) Be at least eighteen (18) years of age;

(b) Be acceptable to the participant to whom services are provided;

(c) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual PPD Skin Test or documentation from a physician;

(e) Have at least one (1) year of experience working with persons with mental retardation and developmental disabilities;

(f) Agree to carry out the responsibility to provide services consistent with the person's IHP or ISP;

(g) Complete pre-service and in-service training approved by DDS;

(h) Have the ability to communicate with the participant to whom services are provided;

(i) Be able to read, write, and speak the English language; and

(j) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551 *et seq.*).

942.11 The reimbursement rate for family training services shall be sixty dollars ($60) per hour. The billable unit of service for family training services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

942.12 Family training services shall not be used concurrently with:

(a) Supported Living;

(b) Residential Habilitation; or

(c) Host Home.

**942.99 DEFINITIONS**

When used in this section, the following terms and phrases shall have the meanings

ascribed:

**Behavioral support services** – Services that are designed as an ongoing preventive and consultative service to improve and maintain outcomes in the health, attitude and behavior of the person.

**Communicable Disease** – Shall have the same meaning as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

**Community support services** – Services that are designed to address immediate crisis events and to improve and maintain outcomes in the health, attitude and behavior of the person.

**Family** – Any person who is related to the participant receiving services by blood, marriage, adoption, or some other legal relationship, such as a foster relative, who lives with or provides care to the participant. A family member may include a parent, spouse, child, relative, foster relative, or in-law. The term does not include individuals who are employed to care for the participant.

**Individual Habilitation Plan (IHP)** – The plan set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

**Individual Support Plan (ISP)** – The successor to the individual habilitation plan (IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

**Participant** – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Waiver for Persons with Mental Retardation and Developmental Disabilities.

**Plan of Care** – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

**Waiver** – The Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities as approved by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as may be further amended and approved by the Council and CMS.