

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), 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 (2014 Repl. & 2015 Supp.)), and Section 6(6) 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) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1916, entitled “In-Home Supports Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of in-home supports provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, for a five-year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307(a)(8)(E) (2014 Repl. & 2015 Supp.)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

In-home supports services are essential to ensuring that persons enrolled in the ID/DD Waiver continue to receive services and supports in the comfort of their own homes or family homes. The Notice of Final Rulemaking for 29 DCMR § 1916 (In-Home Supports Services) was published in the *D.C. Register* on January 1, 2016, at 63 DCR 000043. This emergency and proposed rulemaking amends the previously published final rulemaking by increasing the rates, using the approved rate methodology, to reflect the \$.04 increase in the D.C. Living Wage, effective January 1, 2016, to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of in-home support services. The ID/DD Waiver serves some of the District’s most vulnerable residents. Timely rate increases are necessary to ensure a stable workforce and provider base. In order to ensure that the person’s health, safety, and welfare are not threatened, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on January 28, 2016 and these rules became effective immediately. The emergency rules shall remain in effect for not longer than one hundred and

twenty (120) days from the adoption date or until May 27, 2016, 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 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 1916.18 of Section 1916, IN-HOME SUPPORTS SERVICES, is amended to read as follows:

1916.18 In-home supports services, including those provided in the event of a temporary emergency shall be billed at the unit rate. The reimbursement rate shall be twenty-three dollars and thirty-six cents (\$23.36) per hour, billable in units of fifteen (15) minutes at a rate of five dollars and eight-four cents (\$5.84), and shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@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 these emergency and proposed rules may be obtained from the above address.