

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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 Suppl.)) 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 of an amendment to Section 4209 of Chapter 42 (Home and Community-Based Services Waiver For Persons Who Are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These final rules increase the reimbursement rates for services rendered by a personal care aide (PCA) by eight cents (\$0.08) per hour to comply with the 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.)).

A Notice of Emergency and Proposed Rulemaking was adopted and became effective on December 31, 2015, and remains in effect until April 29, 2016, or publication of this final rulemaking in the *D.C. Register*, whichever occurs first. That Notice was published in the *D.C. Register* on January 29, 2016 at 63 DCR 001099. No public comments were received and no substantive changes were made to the emergency and proposed rules.

The Director of DHCF adopted these rules as final on April 13, 2016, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 4209, REIMBURSEMENT RATES: PERSONAL CARE AIDE SERVICES, is amended to read as follows:

4209 REIMBURSEMENT RATES: PERSONAL CARE AIDE SERVICES

4209.1 A home care agency seeking reimbursement for personal care aide services shall meet the conditions of participation for home health agencies set forth in 42 C.F.R. § 484, and shall comply with the requirements set forth in the Health-Care and Community Residence Facility Act, Hospice, and Home-Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*).

4209.2 For dates of services beginning November 3 through December 31, 2015, each Provider shall be reimbursed five dollars (\$5.00) per unit of service for allowable

services in accordance with the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat. 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved January 5, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) and the District of Columbia Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.*). The reimbursement rate includes administrative costs following the recent review of the FY 2013 Home Health Agencies cost reports. No less than three dollars and forty-five cents (\$3.45) shall be paid to the PCA 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.)).

- 4209.3 For dates of services beginning January 1, 2016, each provider shall be reimbursed five dollars and two cents (\$5.02) per unit for allowable services as authorized in the approved plan of care, of which no less than three dollars and forty-six cents (\$3.46) per fifteen (15) minutes for services rendered by a PCA, shall be paid to the PCA 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.)).
- 4209.4 Subsequent changes to the reimbursement rate(s) shall be posted on the Medicaid fee schedule at www.dc-medicaid.com. DHCF shall also publish a notice in the *D.C. Register* which reflects the change in the reimbursement rate (s).
- 4209.5 A unit of service for PCA services shall be fifteen (15) minutes spent performing allowable tasks.
- 4209.6 Reimbursement for personal care aide services shall not exceed sixteen (16) hours of service per day per recipient.
- 4209.7 A provider of waiver services shall not bill the recipient or any member of the recipient's family for personal care aide services.
- 4209.8 DHCF may limit or deny services, if the cost of the services in addition to other home care services exceeds the estimated cost of institutional care.