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 (2012 Repl. & 2014 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 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 Register (DCMR).

These emergency and proposed rules amend the previously published final rules governing reimbursement of providers of personal care services under the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) by increasing the rates by one dollar and twenty cents ($1.20) per hour, or thirty (30) cents per fifteen (15) minute increment. This adjustment was made after DHCF analyzed the home health care agency cost reports.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of beneficiaries who are in need of personal care aide services. A rate increase is necessary at this time to ensure that there is an adequate provider supply and to maintain continuity of care for beneficiaries who are receiving personal care aide services. To preserve beneficiaries' health, safety, and welfare and to avoid any lapse in access to personal care aide services, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on October 10, 2014 and shall become effective for services rendered on or after November 1, 2014. The emergency rules shall remain in effect for one hundred and twenty (120) days or until February 7, 2015 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.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*.

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

Subsection 4209.2 and 4209.3 are amended to read as follows:

4209.2 Each Provider shall be reimbursed four dollars and sixty-five cents ($4.65) per fifteen (15) minutes for allowable services rendered by a personal care aid (PCA), of which no less than three dollars and forty cents ($3.40) per fifteen minutes 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 §§ 2-220.1 *et seq.* (2012 Repl.)).

4209.3 A unit of service for PCA services shall be fifteen (15) minutes spent performing the allowable services in accordance with Subsection 4222.5.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Acting Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via 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 the emergency and proposed rule may be obtained from the above address.