

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.)), 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 on an emergency basis of the intent to repeal Chapter 7 (Medicaid Day Treatment Programs) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

Medicaid day treatment programs are nonresidential programs operated for the purposes of providing medically supervised day treatments for the following individuals: (1) adults who are elderly; (2) adults who have a developmental disability; (3) adults who have mental disorders; and (4) infants and children who are aged three (3) or younger.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has required the termination of all existing fee-for-service day treatment programs. In January 2013, pursuant to this directive, DHCF ceased enrollment of new admissions into existing day treatment programs.

Accordingly, this emergency action is necessary for the immediate preservation of the health, safety and welfare of District Medicaid beneficiaries. Based upon the District's need to continue delivering day treatment type services in the wake of eliminating services, on an emergency basis, DHCF and other District agencies have since developed and transitioned many day treatment users to existing alternative services. On April 24, 2015, DHCF published rules governing Adult Day Health Services, a new service designed to encourage older adults to live in the community by offering non-residential medical supports; provide supervised therapeutic activities in an integrated community setting that foster opportunities for community inclusion; and deter more costly facility-based care.

The emergency and proposed rules were adopted on October 14, 2015 and will become effective on December 31, 2015. The emergency rules will remain in effect for one hundred and twenty (120) days or until February 11, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to take final rulemaking action to adopt these emergency and proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, MEDICAID DAY TREATMENT PROGRAMS, of Title 29 DCMR, PUBLIC WELFARE, is repealed in its entirety, effective December 31, 2015.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, 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 proposed rule may be obtained from the above address.