

## DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND 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. 744 ; 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 of a new Section 965 (Optometry Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The District of Columbia Medicaid program is required to cover certain mandatory benefits, and can choose to provide other optional benefits under federal law. One of these optional benefits is optometry services. Federal law also requires that all Medicaid programs provide services "...sufficient in amount, duration and scope to reasonably achieve their purpose." 42 C.F.R. § 440.230. These rules clarify the coverage and limitations for Medicaid reimbursement of optometry services consistent with the District of Columbia State Plan for Medical Assistance.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 6, 2015 at 62 DCR 001707. Substantive changes have been made based on comments from advocates and the Office of the Health Care Ombudsman to Subsections 965.5 and 965.9 regarding the circumstances under which Medicaid reimbursement may be authorized for repairs or replacements of eyeglasses for these second proposed rules.

The Director adopted these rules on October 14, 2015. The Director also gives notice of intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**A new Section 965 of Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is adopted as follows:**

**965 OPTOMETRY SERVICES**

965.1 Optometry services related to vision and vision disorders that are obtained for the purpose of diagnosis and treatment, including lenses, frames, other aids to vision, and therapeutic drugs, provided consistent with the requirements set forth in 42 C.F.R. Sections 440.60(a), 440.120(d), and 441.30, shall be eligible for Medicaid reimbursement.

965.2 Medicaid reimbursement of optometry services shall be limited to specific services set forth in this section and any additional optometry services, identified at [www.dc-medicaid.com](http://www.dc-medicaid.com), which have received prior authorization by the Department of Health Care Finance (DHCF) or its agent.

- 965.3 Medicaid reimbursement of eye exams for Medicaid beneficiaries over twenty-one (21) years of age shall be limited in the following manner:
- (a) The services shall be medically necessary and required to monitor a chronic condition that could harm a beneficiary's vision; or
  - (b) The beneficiary has an acute condition that, if left untreated, may cause permanent or chronic damage to the eye.
- 965.4 Medicaid reimbursement of eye exams for Medicaid beneficiaries from birth through twenty-one (21) years of age shall be based on Early Periodic Screening, Diagnosis, and Treatment program requirements, as set forth in 42 C.F.R. Section 440.40(b).
- 965.5 Medicaid reimbursement for eyeglasses for Medicaid beneficiaries shall be limited to one (1) complete pair of eyeglasses in a twenty-four (24) month period unless:
- (a) The beneficiary is under twenty-one (21) years of age;
  - (b) The new prescription represents a change of at least +/- 0.50 diopters from the prior prescription;
  - (c) A prescription represents a change from the prior prescription of at least + 0.75 sphere or - 0.50 sphere, 0.50 cylinder, 1/2 prism diopter vertical, or 3 prism diopter lateral;
  - (d) There has been a major change in visual acuity documented by an optometrist licensed 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.*), as amended; and the new lenses cannot be accommodated by a beneficiary's existing eyeglasses; or
  - (e) The frames or lenses have been lost, broken beyond repair or scratched to the extent that visual acuity is compromised, as determined by the dispensing provider.
- 965.6 Medicaid reimbursement for Medicaid beneficiaries under twenty-one (21) years of age shall be limited to one (1) complete pair of eyeglasses in a twelve (12) month period.
- 965.7 The limitations described at Subsections 965.5 through 965.6 shall apply to new, duplications, and changes in a prescription.

- 965.8 Medicaid reimbursement for repairs or replacements of eyeglasses, contact lenses, glass lenses, ultraviolet lenses, prosthetic eyes, lenses made of polycarbonate or equal material, tinted lenses, and photochromatic lenses shall require prior authorization from DHCF.
- 965.9 After receiving written documentation that the repair or replacement is medically necessary, DHCF may provide prior authorization for reimbursement.
- 965.10 Repairs or replacements of eyeglasses, under Subsection 965.8, shall only be reimbursed if ordered in writing by an optometrist licensed 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.*), as amended.
- 965.11 Reimbursement of optometry services shall be limited to those services provided by optometrists who are screened and enrolled as a District Medicaid program provider pursuant to Chapter 94 of Title 29 of the District of Columbia Municipal Regulations and who adhere to dispensing procedures in the Vision Billing Manual, published on the Department of Health Care Finance's Provider website at [www.dc-medicaid.com](http://www.dc-medicaid.com).

**965.99 DEFINITIONS**

For the purposes of this section, the following terms shall have the meanings ascribed:

**Eyeglasses:** Lenses, including frames, contact lenses, and other aids to vision that are prescribed by a physician skilled in diseases of the eye or by an optometrist.

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](mailto:DHCFPubliccomments@dc.gov), or online at [www.dcregs.dc.gov](http://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.

