

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 amendments to Section 1936, entitled "Wellness 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 change the reimbursement rate for wellness services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

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 (CMS) for a five-year period beginning November 20, 2012. The corresponding 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 § 1-307.02(a)(8)(E) (2014 Repl. & 2015 Supp.)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Wellness services are designed to promote and maintain good health and assist in increasing the person's independence, participation, emotional well-being, and productivity in their home, work, and community. Wellness services consist of the following five (5) types of services: bereavement counseling, fitness training, massage therapy, nutrition evaluation/consultation, and sexuality education. The most recent Notice of Final Rulemaking for 29 DCMR § 1936 (Wellness Services) was published in the *D.C. Register* on January 8, 2016, at 63 DCR 000289. This emergency and proposed rulemaking amends Subsection 1936.23 of the previously published final rulemaking by providing the reimbursement rate for these services in terms of both billable unit and hourly, and by increasing the rates to correspond with Waiver Year 4. Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of these services, as the rates must be increased to correspond with Waiver Year 4.

The emergency rulemaking was adopted on March 9, 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 July 7, 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 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 1936.23 of Section 1936, WELLNESS SERVICES, is amended to read as follows:

- 1936.23 The Medicaid reimbursement rate for wellness services shall be:
- (a) Fifteen dollars and twenty-five cents (\$15.25) per billable unit or sixty-one dollars (\$61.00) per hour for Massage Therapy;
 - (b) Nineteen dollars and five cents (\$19.05) per billable unit or seventy-six dollars and twenty cents (\$76.20) per hour for Sexuality Education;
 - (c) Eighteen dollars and eighty-one cents (\$18.81) per billable unit or seventy-five dollars and twenty-four cents (\$75.24) per hour for Fitness Training;
 - (d) Eleven dollars and twenty-eight cents (\$11.28) per billable unit or forty-five dollars and twelve cents (\$45.12) per hour for Small Group Fitness Training;
 - (e) Sixteen dollars and thirty cents (\$16.30) per billable unit or sixty-five dollars and twenty cents (\$65.20) per hour for Nutrition Counseling; and
 - (f) Sixteen dollars and thirty cents (\$16.30) per billable unit or sixty-five dollars and twenty cents (\$65.20) per hour for Bereavement Counseling.

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.