

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. 744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 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 1922, entitled "Employment Readiness Services," of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities), Title 29 (Public Welfare), of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules combine two related provisions, state the required staff-to-person ratio, and change the reimbursement rate for employment readiness 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. & 2016 Supp.)). CMS approved the amendment to the ID/DD Waiver effective as of September 24, 2015.

Employment readiness services provide learning and work experiences, including volunteer work, where the person can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings. This emergency and proposed rulemaking amends the rules by rewriting Subsection 1922.20 to include the language in former Subsection 1922.25, adding a new Subsection 1922.25 to state the required staff-to-person ratio, and changing the reimbursement rate in Subsection 1922.26 for 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 staffing ratio must be clarified and the rates must be increased to correspond with Waiver Year 4.

The emergency rulemaking was adopted on June 14, 2016, and became effective immediately. The emergency rules shall remain in effect for one hundred and twenty (120) days from the adoption date, until October 12, 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:

Subsections 1922.20, 1922.25 and 1922.26 of Section 1922, EMPLOYMENT READINESS SERVICES, are amended to read as follows:

1922.20 Medicaid reimbursement will only cover services furnished to a person enrolled in the Waiver for up to eight (8) hours per day, not to exceed forty (40) hours per week, which will not include reimbursement for travel time spent in transportation to and from the program.

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1922.25 Each provider of employment readiness services shall maintain the required staff-to-person ratio, as indicated in the person's ISP and Plan of Care, with a maximum staffing ratio of 1:4.

1922.26 The billable unit of service for Medicaid reimbursable employment readiness services shall be fifteen (15) minutes. The reimbursement rate for employment readiness services shall be eighteen dollars and seventy-six cents (\$18.76) per hour or four dollars and sixty-nine cents (\$4.69) per billable unit. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes in order to be able to bill a unit of service.

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.