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 in 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 1924, entitled "Family Training 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 establish standards governing reimbursement for professionals who provide family training services to caregivers of participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities ("ID/ID Waiver"), and conditions of participation for the Medicaid providers employing family training services professionals.

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 (5) 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; 61 DCR 9990). The amendment must also be approved by CMS, which will affect the effective date of the emergency rulemaking.

Family training services are training, counseling, and other professional support services offered to the families of persons enrolled in the ID/DD Waiver or to other uncompensated persons providing support to an ID/DD Waiver participant. The Notice of Final Rulemaking for 29 DCMR § 1924 (Family Training Services) was published in the *D.C. Register* on January 31, 2014, at 61 DCR 000846. These rules amend the previously published rules by: (1) modifying rates to reflect increased costs of providing service; (2) allowing Medicaid reimbursement of family training provided to uncompensated caregivers of people receiving supported living periodic services; and (3) excluding Medicaid reimbursement of family training services provided to people receiving supported living with transportation services, with the exception of family training provided to uncompensated caregivers of people receiving supported living with transportation periodic services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of family training services. Based upon current service authorization, reporting and record maintenance requirements, there are insufficient safeguards in place to ensure that providers are taking the necessary steps to deliver adequate family training services. By taking emergency action, this rule will clarify the duties and

responsibilities of family training services professionals and Medicaid providers employing these professionals, and enable the District to increase oversight and enhance quality of care.

The emergency rulemaking was adopted on October 20, 2015 and became effective on that date. The corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of September 25, 2015. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until February 17, 2016, 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*.

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 1924.13 and 1924.16 of Section 1924 (Family Training Services) are amended to read as follows:

1924.13 Medicaid reimbursement shall not be available when family training services that are included in a person's ISP are provided concurrently with the following ID/DD Waiver services:

(a) Supported living and supported living with transportation, with the exception of family training services which may be provided to uncompensated caregivers for people receiving supported living periodic or supported living with transportation periodic services;

(b) Residential habilitation; or

(c) Host home without transportation.

1924.16 The Medicaid reimbursement rate for family training services shall be sixty dollars and eighty cents ($60.80) per hour. The billable unit of service for family training services shall be fifteen (15) minutes.

Comments on the 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 the emergency and proposed rules may be obtained from the above address.