DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF 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 (2016 Repl. & 2017 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) (2013 Repl.)), hereby gives notice of a proposed amendment to Chapter 48 (Medicaid Reimbursement for Inpatient Hospital Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulation (DCMR).

Section 1886(h) of the Social Security Act, as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Pub. L. 99-272) and implemented in regulations at existing 42 CFR 413.75 through 413.83, establish a methodology for determining payments to hospitals for the costs of approved graduate medical education (GME) programs. Direct and Indirect Medical Education adjustments to inpatient hospital services are meant to compensate hospitals for patient care costs related to teaching activities.

These proposed rules amend the Medicaid reimbursement for the inpatient hospital services section. DHCF is proposing amendments to clarify the longstanding policy that DHCF reimburses in-District hospitals for Direct Medical Education costs attributable to the District Medicaid population enrolled in managed care. Consistent with the authority DHCF previously exercised under 42 CFR 438.60, DHCF hereby gives notice that it will formalize its current policy in rulemaking. There is no anticipated fiscal impact associated with these proposed rules because this is only a technical change.

These rules correspond to a related State Plan Amendment (SPA), which requires approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Once approved by CMS, the corresponding SPA will be added to the District's Medicaid State Plan, which can be found on DHCF's website at https://dhcf.dc.gov/page/medicaid-state-plan.

The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*, contingent upon approval of the corresponding SPA by CMS.

Chapter 48, MEDICAID REIMBURSEMENT FOR INPATIENT HOSPITAL SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 4805, INPATIENT SERVICES: DIRECT MEDICAL EDUCATION (DME), is amended to read as follows:

4805 INPATIENT SERVICES: DIRECT MEDICAL EDUCATION (DME)

4805.1 For Medicaid reimbursement of inpatient hospital discharges, DME shall be a per-discharge add-on payment for each in-District general hospital that is eligible for DME. The DME add-on shall be calculated annually by dividing the Medicaid DME costs determined in accordance with Subsection 4805.2 by the number of Medicaid discharges in the base year, subject to the limits described in this section.

4805.2 For discharges occurring on or after October 1, 2014, and annually thereafter, the DME add-on payment for each in-District general hospital shall be based on costs from each hospital's submitted or audited cost report for the hospital's fiscal year that ends September 30 of the prior calendar year, subject to the limits described in this section.

4805.3 The District-wide average cost of DME per Medicaid patient day shall be based on submitted cost reports for the base year. The average cost per patient day is calculated by dividing total Medicaid DME cost for all DME eligible hospitals by the total number of Medicaid days for those hospitals, as reported on the hospital cost reports. The per-day amount is converted to a per discharge amount for each hospital, based on Medicaid utilization information in the cost report.

4805.4 For discharges occurring on or after October 1, 2014, DME shall be limited to two hundred percent (200%) of the average District-wide cost of DME per Medicaid patient day.

4805.5 For discharges occurring on or after October 1, 2015, and annually thereafter, DME costs for each hospital shall be limited to the per discharge equivalent of one-hundred fifty percent (150%) of the average District-wide cost of DME per Medicaid patient day.

4805.6 If, after an audit of the hospital's cost report for the base year period, an adjustment is made to the hospital's reported costs which results in an increase or decrease of five percent (5%) or greater of the DME add-on payment, the add-on payment for DME add-on costs shall be adjusted prospectively to reflect the revised costs.

4805.7 In accordance with 42 CFR 438.60, DHCF shall reimburse in-District general hospitals directly for DME on behalf of contracted managed care organizations.

4805.8 The per discharge DME add-on payment set forth in Subsection 4805.1 shall be payable by DHCF to in-District general hospitals for all District Medicaid beneficiaries enrolled in managed care plans and those receiving services under the District's fee-for-service benefit.

Comments on this proposed rulemaking shall be submitted in writing to Claudia Schlosberg, Senior Deputy Director, Department of Health Care Finance, 441 4th Street, N.W., 9th Floor, Washington, D.C. 20001, via email to DHCFPubliccomments@dc.gov or by telephone to (202) 442-9115, within thirty (30) days after the date of publication of this notice in the D.C. Register. Additional copies of these rules may be obtained from the above address.