

## 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 (2016 Repl. & 2018 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007 (Act), effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 18 (Health Care Benefit Grants) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The DHCF is authorized under the Act to execute grants with governmental bodies, public and private agencies, institutions and organizations. Chapter 18 of Title 29 DCMR governs the standards for determining who may receive a grant and under what circumstances, and the procedures for awarding a grant.

DHCF is proposing an amendment to Section 1807 of this chapter, governing the submission of grant applications. First, DHCF is amending Subsection 1807.4 to add new language to require that applicants certify that all costs incurred under any grant agreement shall be in accordance with the Office of Management and Budget Circular A-122, “Costs Principals for Non-Profit Organizations.” Second, DHCF is further amending Subsection 1807.4 to add new language to incorporate changes made to the concerning grant administration in the District by the “Fiscal Year 2016 Budget Support Act of 2015,” effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905 (August 14, 2015)). Finally, DHCF is proposing technical amendments to Subsection 1807.4(a) to correct grammar.

This emergency rulemaking is necessary for the immediate preservation of the health, safety and welfare of District residents. The health care grant program allows DHCF to direct funds to providers to fund critical health care services and innovative reform initiatives. Emergency action is necessary to ensure that there is no disruption of funding to health care providers who are providing health care services or implementing reform efforts aimed at improving the quality of care for District Medicaid beneficiaries.

The emergency rulemaking was adopted on November 21, 2018 and shall become effective upon publication of this rulemaking in the *D.C. Register*. The emergency rules will remain in effect for one hundred and twenty (120) days from the date of adoption or until March 21, 2019, 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 from the date of publication of this notice in the *D.C. Register*.

**Chapter 18, HEALTH CARE BENEFIT GRANTS, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Subsection 1807.4 of Section 1807, APPLICATION SUBMISSION, is amended as follows:**

- 1807.4 As part of the application packet, the applicant shall submit a Statement of Certification, signed by the duly authorized officer of the applicant organization, the truth of which is sworn or attested to by the applicant which states:
- (a) That the applicant has provided the individuals, by name, title, address, and phone number who are authorized to negotiate with the Department on behalf of the organization;
  - (b) That the applicant is able to maintain adequate files and records and can and will meet all reporting requirements;
  - (c) That all fiscal records are kept in accordance with Generally Accepted Accounting Principles (GAAP) and account for all funds, tangible assets, revenue, and expenditures whatsoever; that all fiscal records are accurate, complete, and current at all times; and that these records will be made available for audit and inspection as required;
  - (d) That all costs incurred under this grant shall be in accordance with the Office of Management and Budget Circular A-122, “Cost Principals for Non-Profit Organizations”;
  - (e) That the applicant is in compliance with requirements set forth in D.C. Official Code § 1-328.15;
  - (f) That the applicant is current on payment of all federal and District taxes, including Unemployment Insurance taxes and Workers’ Compensation premiums. This statement of certification shall be accompanied by a certificate from the District of Columbia Office of Tax and Revenue (OTR) stating that the entity has complied with the filing requirements of District of Columbia tax laws and has paid taxes due to the District of Columbia, or is in compliance with any payment agreement with OTR;
  - (g) That the applicant has the demonstrated administrative and financial capability to provide and manage the proposed services and ensure an adequate administrative, performance, and audit trail;
  - (h) That, if required by the Department, the applicant is able to secure a bond, in an amount not less than the total amount of the funds awarded, against losses of money and other property caused by fraudulent or dishonest act committed by any employee, board member, officer, partner, shareholder, or trainee;

- (i) That the applicant is not proposed for debarment or presently debarred, suspended, or declared ineligible, as required by Executive Order 12549, “Debarment and Suspension,” and implemented by 2 CFR § 180, for prospective participants in primary covered transactions and is not proposed for debarment or presently debarred as a result of any actions by the District of Columbia Contract Appeals Board, the Office of Contracting and Procurement, or any other District contract regulating agency;
- (j) That the applicant has the financial resources and technical expertise necessary for the production, construction, equipment, and facilities adequate to perform the grant or subgrant, or the ability to obtain them;
- (k) That the applicant has the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing and reasonably expected commercial and governmental business commitments;
- (l) That the applicant has a satisfactory record performing similar activities as detailed in the award or, if the grant award is intended to encourage the development and support of organizations without significant previous experience, that the applicant has otherwise established that it has the skills and resources necessary to perform the grant;
- (m) That the applicant has a satisfactory record of integrity and business ethics;
- (n) That the applicant has the necessary organization, experience, accounting and operational controls, and technical skills to implement the grant, or the ability to obtain them;
- (o) That the applicant is in compliance with the applicable District licensing and tax laws and regulations;
- (p) That the applicant complies with provisions of the Drug-Free Workplace Act;
- (q) That the applicant meets all other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations; and
- (r) That the applicant will, if successful, indemnify, defend, and hold harmless the Government of the District of Columbia and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this grant or subgrant from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the

District on account of any claim therefore, except where such indemnification is prohibited by law.

Comments on these rules should be submitted in writing to Melisa Byrd, State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4<sup>th</sup> Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742 or via email at [DHCFPubliccomments@dc.gov](mailto:DHCFPubliccomments@dc.gov) within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.