

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) 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 (2012 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) (2012 Repl. & 2017 Supp.)), hereby gives notice of an amendment, on an emergency basis, Section 995 (Medicaid Physician and Specialty Services Rate Methodology) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules provide DHCF the authority to make recurring quarterly supplemental payments for one fiscal year to Medicaid-enrolled physician groups, with at least five hundred (500) physicians that are members of the group, that contract with a public, general hospital located in economically underserved areas of the District to deliver inpatient, emergency department, and intensive care physician services to Medicaid beneficiaries. These supplemental payments would mitigate the Medicaid losses of eligible physician group practices that offer these critically important services to Medicaid beneficiaries. DHCF projects an increase in aggregate expenditures of approximately four and a half (\$4.5) million dollars in Fiscal Year (FY) 2019.

DHCF is also proposing to amend the District's State Plan for Medical Assistance (State Plan). These proposed rules correspond to the amendment, which requires approval by the Centers for Medicare and Medicaid Services (CMS). These rules shall become effective for services rendered on or after October 1, 2018 through September 30, 2019, if the corresponding State Plan Amendment (SPA) has been approved by CMS with an effective date of October 1, 2018, or the effective date established by the CMS in its approval of the corresponding SPA, whichever is later.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries in need of inpatient, emergency, and intensive care physician services that are delivered by physicians. This emergency rulemaking will ensure that physicians that deliver these services are able to continue delivering critically important healthcare services to vulnerable District Medicaid beneficiaries in the District without interruption.

The emergency rulemaking was adopted on July 11, 2018, and shall become effective for dates of services rendered beginning October 1, 2018 if the corresponding State Plan amendment has been approved by CMS with an effective date of October 1, 2018 or the effective date established by CMS, whichever is later. The emergency rules will remain in effect for one hundred and twenty (120) days or until November 8, 2018, 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 this emergency and proposed rule not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 995.7 through 995.9 of Section 995, MEDICAID PHYSICIAN AND SPECIALTY SERVICES RATE METHODOLOGY, are amended to read as follows:

- 995.7 For services rendered on or after October 1, 2018 through September 30, 2019, quarterly supplemental payments in the amount of one million and one hundred and twenty-five thousand dollars (\$1,125,000.00) shall be equally distributed among physician groups that meet the criteria described in Subsection 995.8.
- 995.8 To receive a supplemental payment, a physician group shall meet all of the following conditions:
- (a) Be a group practice, consistent with the conditions set forth under 42 CFR § 411.352, and additionally have at least five hundred (500) physicians that are members of the group (whether employees or direct or indirect owners) as defined at 42 CFR § 411.351;
 - (b) Be screened and enrolled with the Department of Health Care Finance (DHCF) in accordance with the requirements set forth under Chapter 94 of the District of Columbia Municipal Regulations (DCMR);
 - (c) Contract with a public, general hospital, as defined under Section 2099 of Title 22-B DCMR, located in an economically underserved area of the District of Columbia to provide at least two (2) of the following services to Medicaid beneficiaries:
 - (1) Inpatient services, as described in Supplement 1 to Attachment 3.1A, section 1.B, page 2, and Supplement 1 to Attachment 3.1B, section 1.B, page 2 and defined in 42 CFR § 440.10;
 - (2) Emergency hospital services, as described in Supplement 1 to Attachment 3.1A, section 24.E, page 28; Supplement 1 to Attachment 3.1B, section 24.E, page 27; and Attachment 4.19B, Part 1, section 20.a, page 11; or
 - (3) Intensive care physician services, as authorized under Supplement 1 to Attachment 3.1A, section 5, pages 6b-7, and Supplement 1 to Attachment 3.1B, section 5, pages 5b-6.
- 995.9 Quarterly payments made in accordance with Subsection 995.7 shall not exceed four and a half (\$4.5) million for Fiscal Year (FY) 2019.

Subsections 995.10 through 995.11 are deleted in their entirety.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D, Senior Deputy and Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742 or via email at 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.