

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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 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 the adoption of an amendment to Chapter 41 (Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

In this final rulemaking, DHCF makes amendments to Section 4105 (Rebasing) that revises the effective date of the rebasing schedule for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) reimbursement rates and clarifies the effective date and schedule for updates to the ICF/IID rates based on the rebasing. This rulemaking also adds language to Section 4102 (Reimbursement Methodology), referencing Section 4105. The final rule revises the effective date of the ICF/IID reimbursement rate rebasing schedule, from October 2017 to October 2018; and clarifies that the rate rebasing will always be based on the cost reports from the most recently audited year. The final rule also clarifies that, effective October 1, 2019 and every three years thereafter, the ICF/IID reimbursement rates will be updated based on the rebasing done in the previous fiscal year.

This rulemaking is needed to clarify DHCF's schedule for rebasing and updated ICF/IID reimbursement rates. No changes are being made to the methods or standards for setting ICF/IID reimbursement rates. DHCF does not anticipate any fiscal impact resulting from the implementation of these final rules.

These rules correspond to a related State Plan Amendment (SPA), which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) on October 4, 2018 with an effective date of October 1, 2018. The corresponding SPA has been 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>.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 28, 2018 – Part 1 at 65 DCR 009997. DHCF received no comments and made no changes to these rules.

These final rules were adopted on December 21, 2018 and shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 41, MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 4102.6 of Section 4102, REIMBURSEMENT METHODOLOGY, is amended to read as follows:

4102.6 For dates of service on or after October 1, 2016 through September 30, 2017, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF. Reimbursement rates shall be rebased in accordance with § 4105.

Section 4105, REBASING, is amended to read as follows:

4105 REBASING

4105.1 Effective October 1, 2018, and every three (3) years thereafter, reimbursement rates shall be rebased based on the cost reports from the most recently audited year, as determined by DHCF. Effective October 1, 2019, and every three (3) years thereafter, reimbursement rates shall be updated based on the rebasing done in the previous fiscal year.

4105.2 The rate schedule set forth in § 4102.16 shall be updated any time that the reimbursement rates are updated based on a rebasing, as described in § 4105.1. The rates for ICF/IID services, effective January 1, 2018, are included in the Medicaid Fee Schedule located on the DHCF website at:
<https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.