

## 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 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 an amendment to Section 4209 of Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (“DCMR”).

These emergency and proposed rules amend the previously published standards governing reimbursement of providers of personal care services under the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (“EPD Waiver”) by increasing the rates for services rendered by a personal care aid (PCA) to comply with the Living Wage Act of 2006 (“Living Wage Act”), effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)). These rules increase the previous living wage rates by twenty cents (20¢) per hour, or five cents (5¢) per fifteen (15) minute increment. This adjustment was made to comply with the Department of Employment Services’ recent increases to the living wage rate effective January 1, 2015.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD Waiver participants who are in need of personal care services. Based upon current reimbursement requirements, payments to home care providers are not adequate to ensure compliance with the Living Wage Act of 2006. By taking emergency action, this rule will ensure that providers of personal care services are compensated for providing personal care services in accordance with the Living Wage Act of 2006. Therefore, in order to ensure that the participants’ health, safety, and welfare are not threatened by the lapse of access to personal care aid services provided by qualified and equitably paid providers, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 31, 2014 and will become effective for services rendered beginning January 1, 2015. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 30, 2015 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*.

**Section 4209, REIMBURSEMENT RATES: PERSONAL CARE AIDE SERVICES, of Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Subsections 4209.2 and 4209.3 are amended to read as follows:**

- 4209.2 Each Provider shall be reimbursed four dollars and seventy-two cents (\$4.72) per fifteen (15) minutes for services rendered by a PCA, of which three dollars and forty-five cents (\$3.45) per fifteen (15) minutes shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.1 *et seq.* (2012 Repl.)).
- 4209.3 A unit of service for PCA services shall be fifteen (15) minutes spent performing the allowable tasks.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D., Interim Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4<sup>th</sup> Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at [DHCFPublicComments@dc.gov](mailto:DHCFPublicComments@dc.gov), or online at [www.dcregs.dc.gov](http://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 rule may be obtained from the above address.