

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of Department of Health Care Finance (DHCF), 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 (2016 Repl. & 2019 Supp.)) and 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) (2018 Repl.)), hereby gives notice of the adoption of an amendment to Section 5003 (PCA Service Authorization Request and Submission) and Section 5006 (Program Requirements) of Chapter 50 (Medicaid Reimbursements for Personal Care Aide Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

In these rules, DHCF amends Subsection 5003.11 by adding Licensed Independent Clinical Social Worker (LICSW) as a provider type allowed to conduct the Long-Term Care Services and Supports (LTCSS) face-to-face assessment. This rulemaking also amends Subsections 5003.9 and 5006.2 to clarify that LTCSS reassessments for beneficiaries receiving State Plan PCA services are conducted in accordance with the requirements set forth in the LTCSS Assessment Process rules at 29 DCMR § 989.

To be eligible to receive State Plan Personal Care Aide (PCA) services, beneficiaries are required to receive an initial LTCSS face-to-face assessment, as well as subsequent reassessments upon any significant change in health status. Under the previous rules, Registered Nurses (RNs) were the sole provider type allowed to conduct the LTCSS assessments; similarly authorizing LICSWs will improve the ability of beneficiaries to receive assessments in the timely manner required to obtain or retain eligibility for necessary services. DHCF does not anticipate any fiscal impact resulting from the implementation of these rules.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on March 29, 2019 at 66 DCR 003900. No comments were received, but substantive changes were proposed by DHCF. A Second Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 21, 2020 at 67 DCR 010016. No comments were received and DHCF made no changes to the rule.

The initial emergency and proposed rules corresponded 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 May 21, 2019 with an effective date of April 1, 2019. 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>. Subsections 5003.9 and 503.11 of this second emergency and proposed rulemaking correspond to a subsequent related SPA, which was approved by CMS on August 14, 2020 with an effective date of July 1, 2020.

The Director adopted these rules as final on January 19, 2021 and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

Chapter 50, MEDICAID REIMBURSEMENT FOR PERSONAL CARE AIDE SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 5003.9 of Section 5003, PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION, is amended to read as follows:

5003.9 The supervisory nurse employed by the home health agency shall conduct an evaluation of each beneficiary's need for the continued receipt of State Plan PCA services at least once every twelve (12) months or upon a significant change in the beneficiary's health status, and submit requests for face-to-face reassessments, in accordance with the requirements set forth in 29 DCMR 989.16.

Subsection 5003.11 of Section 5003, PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION, is amended to read as follows:

5003.11 An R.N. or Licensed Independent Clinical Social Worker (LICSW) employed by DHCF or its agent shall conduct a face-to-face reassessment, in accordance with the requirements of Subsection 5003.3, of each beneficiary referred by the supervisory nurse as described in Subsection 5003.9 and for whom a reassessment is requested pursuant to Subsection 5003.10 to determine PCA service needs.

Subsection 5006.2 of Section 5006, PROGRAM REQUIREMENTS, is amended to read as follows:

5006.2 A written order for PCA services issued in accordance with Section 5006.1 shall be renewed every twelve (12) months.