

## 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 (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. & 2017 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, on an emergency basis, of an amendment to Section 5213 (Reimbursement), of Chapter 52 (Medicaid Reimbursement for Mental Health Rehabilitative Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these emergency and proposed rules is to increase the per unit reimbursement rate for the Crisis/Emergency service codes H2011 and H2011HK. The Crisis/Emergency service codes H2011 and H2011HK represent authorized services under the Mental Health Rehabilitation Services (MHRS) section of the District Medicaid State Plan. The MHRS benefit is administered on behalf of DHCF by the District Department of Behavioral Health. Based on the findings of a DHCF rate study, DHCF's current payment rate is below current operating costs and below other states' average rate. To redress the shortfall of MHRS providers screened and enrolled as District Medicaid providers, DHCF is proposing to increase the H2011 code per unit reimbursement rate from thirty-six dollars and ninety-three cents (\$36.93) to fifty-nine dollars and eighteen cents (\$59.18) for services provided to beneficiaries other than the deaf or hard of hearing; and to increase the H2011HK code per unit reimbursement rate from forty-nine dollars and eighty-five cents (\$49.85) to fifty-nine dollars and eighteen cents (\$59.18) for services provided to beneficiaries who are deaf or hard of hearing.

These emergency and proposed rules also establish authority for DHCF to reimburse MHRS providers in accordance with the rates set forth in the District of Columbia Medicaid fee schedule. Effective May 1, 2018, updates to MHRS reimbursement rates shall comply with the public notice requirements for Medicaid fee schedule updates, as set forth at 29 DCMR § 988. This change will enable DHCF to periodically and prospectively update the fee schedule for MHRS services while complying with public notice requirements set forth at 29 DCMR § 988, rather than promulgating a new rule every time the procedure codes or reimbursement rates for MHRS services change.

Finally, minor changes are made to §§ 5213.3 through 5213.8 to correct formatting and clarify intent.

These rules are being enacted on an emergency basis to ensure MHRS providers, certified by DBH for the provision of crisis and emergency services, can continue to operate and serve the needs of District Medicaid beneficiaries in need of crisis and emergency services. The aggregate fiscal impact of the rate change is an increase in Medicaid expenditures of \$375,498 in fiscal year (FY) 2018 and \$901,196 in FY 2019.

These rules correspond to a related State Plan amendment (SPA), which requires approval by the U.S. Department of Health and Human Services, Center for Medicaid and Medicare Services (CMS) and the Council of the District of Columbia (Council). The Council authorized the SPA on July 31, 2017, in the “Fiscal Year 2018 Budget Support Act of 2017” (D.C. Act 22-130; 64 DCR 7652). Implementation of the proposed rules is contingent upon approval of the corresponding SPA by CMS with an effective date of May 1, 2018 or the effective date established by CMS in its approval of the corresponding SPA, whichever is later.

The emergency and proposed rules was adopted on March 29, 2018 and will become effective for services rendered beginning May 1, 2018 and shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until July 27, 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 these rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 52, MEDICAID REIMBURSEMENT FOR MENTAL HEALTH REHABILITATIVE SERVICES, Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Section 5213, REIMBURSEMENT, is amended to read as follows:**

**5213 REIMBURSEMENT**

5213.1 Effective May 1, 2018, reimbursement for Mental Health Rehabilitative Services (MHRS) shall be made according to the District of Columbia Medicaid fee schedule available online at [www.dc-medicaid.com](http://www.dc-medicaid.com). All future updates to the reimbursement rates for MHRS services shall comply with the public notice requirements set forth under Section 988 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations.

5213.2 A public notice of MHRS rate changes shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the change, and shall include a link to the Medicaid fee schedule.

5213.3 Medicaid reimbursement for MHRS provided to beneficiaries, other than beneficiaries who are deaf or hard of hearing, shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Diagnostic/ Assessment	T1023HE	An assessment, at least 3 hours in duration	\$256.02
	H0002	An assessment, 40 – 50 minutes in duration to	\$85.34

		determine eligibility for admission to a mental health treatment program	
Medication Training & Support	H0034	15 minutes	\$44.65 – Individual
	H0034HQ	15 minutes	\$13.52 – Group
Counseling	H0004	15 minutes	\$26.42 – Individual
	H0004HQ	15 minutes	\$8.00 – Group
	H0004HR	15 minutes	\$26.42 – Family with Consumer On-Site
	H0004HS	15 minutes	\$26.42 – Family without Consumer On-Site
	H0004HETN	15 minutes	\$27.45 – Individual Off-Site

<b>SERVICE</b>	<b>CODE</b>	<b>BILLABLE UNIT OF SERVICE</b>	<b>RATE</b>
Community Support	H0036	15 minutes	\$21.97 – Individual
	H0036HQ	15 minutes	\$6.65 – Group
	H0036UK	15 minutes	\$21.97 – Collateral
	H0036AM	15 minutes	\$21.97 – Physician Team Member
	H0038	15 minutes	\$21.97 – Self-Help Peer Support
	H0038HQ	15 minutes	\$6.65 – Self-Help Peer Support Group
	H0038HS	15 minutes	\$21.97 – Family/Couple Peer Support without Consumer
	H0038HQHS	15 minutes	\$6.65 – Family/Couple

			Peer Support Group Without Consumer
	H0036HR	15 minutes	\$21.97 – Family with Consumer
	H0036HS	15 minutes	\$21.97 – Family without Consumer
	H0036U1	15 minutes	\$21.97– Community Residence Facility
	H2023	15 minutes	\$18.61– Supported Employment (Therapeutic)
Crisis/ Emergency Day Services	H2011	15 minutes	\$59.18
	H0025	One day, at least 3 hours in duration	\$116.90
Intensive Day Treatment	H2012	One day, at least 5 hours in duration	\$164.61
Community-Based Intervention (Level I – Multi-Systemic Therapy)	H2033	15 minutes	\$57.42
Community-Based Intervention (Level II and Level III)	H2022	15 minutes	\$35.74

<b>SERVICE</b>	<b>CODE</b>	<b>BILLABLE UNIT OF SERVICE</b>	<b>RATE</b>
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Community-Based Intervention (Level IV – Functional Family Therapy)	H2033HU	15 minutes	\$57.42
Assertive Community Treatment	H0039	15 minutes	\$38.04 – Individual
	H0039HQ	15 minutes	\$11.51 – Group
Trauma Focused	H004ST	15 minutes	\$35.74

Cognitive Behavioral  
Therapy

Child-Parent Psychotherapy for Family Violence	H004HT	15 minutes	\$35.74
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5213.4 Medicaid reimbursement for MHRS provided to beneficiaries who are deaf or hard of hearing shall be determined as follows:

<b>SERVICE</b>	<b>CODE</b>	<b>BILLABLE UNIT OF SERVICE</b>	<b>RATE</b>
Diagnostic/ Assessment	T1023HEHK	An assessment, at least 3 hours in duration	\$345.63
	H0002HK	An assessment, 40 – 50 minutes in duration to determine eligibility for admission to a mental health treatment program	\$115.21
Medication Training & Support	H0034HK	15 minutes	\$60.28 – Individual
	H0034HQHK	15 minutes	\$18.25 – Group
Counseling	H0004HK	15 minutes	\$35.67 – Individual
	H0004HQHK	15 minutes	\$10.80 – Group
	H0004HRHK	15 minutes	\$35.67 – Family with Consumer On-Site
	H0004HSHK	15 minutes	\$35.67 – Family without Consumer On- Site
Community Support	H0036HK	15 minutes	\$29.66 – Individual

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
	H0036HQHK	15 minutes	\$8.98 – Group
	H0036UKHK	15 minutes	\$29.66 – Collateral
	H0036AMHK	15 minutes	\$29.66 – Physician Team Member
	H0038HK	15 minutes	\$29.66 – Self-Help Peer
	H0038HQHK	15 minutes	Support
	H0038HSHK	15 minutes	\$8.98 –Self-Help Peer Support Group
	H0038HQHK	15 minutes	\$29.66 – Family/Couple Peer Support
	H0036HRHK	15 minutes	without Consumer
	H0036HSHK	15 minutes	
	H0036U1HK	15 minutes	\$8.98 – Family/Couple Peer Support Group Without Consumer
		15 minutes	\$29.66 – Family with Consumer
		15 minutes	\$29.66 – Family without Consumer
		15 minutes	\$29.66– Community Residence Facility

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
	H2023HK	15 minutes	\$25.12 Supported Employment (Therapeutic)
Crisis/ Emergency	H2011HK	15 minutes	\$59.18
Day Services	H0025HK	One day, at least 3 hours in duration	\$166.12
Intensive Day Treatment	H2012HK	One day, at least 5 hours in duration	\$222.22
Community-Based Intervention (Level I – Multi-Systemic Therapy)	H2033HK	15 minutes	\$77.52
Community-Based Intervention (Level II and Level III)	H2022HK	15 minutes	\$48.25
Community-Based Intervention (Level IV – Functional Family Therapy)	H2033HUHK	15 minutes	\$77.52
Assertive Community Treatment	H0039HK	15 minutes	\$51.35 – Individual
	H0039HQHK	15 minutes	\$15.54 – Group
Trauma	H004STHK	15 minutes	\$48.25

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
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Focused  
Cognitive  
Behavioral  
Therapy

Child-Parent  
Psychotherapy  
for Family  
Violence

H004HTHK

15 minutes

\$48.25

5213.5 The Department of Behavioral Health (DBH) shall be responsible for payment of the non-federal share of total expenditures under the District of Columbia Medicaid State Plan (State Plan), or the local match, for all MHRS in accordance with the terms and conditions set forth in the Memorandum of Understanding between Department of Health Care Finance (DHCF) and DBH.

5213.6 DHCF shall claim the federal share of Medicaid financial participation, or the federal match, for all MHRS services.

5213.7 MHRS providers shall not bill the Medicaid beneficiary or any member of the Medicaid beneficiary's family for MHRS services.

5213.8 In accordance with the Medicaid third-party liability requirements set forth under 42 CFR Part 433 and outlined in the District of Columbia Medicaid State Plan, DBH shall bill all known third-party payors prior to billing the Medicaid Program.

5213.9 Medicaid reimbursement for MHRS is not available for:

- (a) Room and board costs;
- (b) Inpatient services (including hospital, nursing facility services, intermediate care facility for persons with mental retardation services, and Institutions for Mental Diseases services);
- (c) Transportation services;
- (d) Vocational services;
- (e) School and educational services;
- (f) Services rendered by parents or other family members;



- (g) Socialization services;
- (h) Screening and prevention services (other than those provided under Early and Periodic, Screening Diagnostic Treatment requirements);
- (i) Services which are not medically necessary, or included in an approved Individualized Recovery Plan for adults or an Individualized Plan of Care for children and youth;
- (j) Services which are not provided and documented in accordance with DBH-established MHRS service-specific standards; and
- (k) Services furnished to a person other than the Medicaid client, when those services are not used exclusively for the well-being and benefit of the Medicaid client.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Senior Deputy/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.