

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. 744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 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) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 903 of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled “Outpatient and Emergency Room Services.”

The effect of these rules is to extend the provision of supplemental payments to eligible hospitals located within the District of Columbia that participate in the Medicaid program for outpatient hospital services rendered through September 30, 2017.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries who are in need of outpatient hospital services. By taking emergency action, this proposed rule will ensure that appropriate and needed payments to District hospitals are sustained and allow Medicaid beneficiaries access to needed outpatient medical services.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance (“State Plan”) requires approval by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The Council has approved the State Plan through the Fiscal Year 2017 Budget Support Act of 2016, effective July 20, 2016 (D.C. Act 21-463; 63 DCR 009843 (July 29, 2016)). These rules shall become effective for outpatient hospital services provided by Medicaid participating hospitals located within the District of Columbia occurring on or after: (1) October 1, 2016, if the corresponding State Plan amendment has been approved by CMS with an effective date of October 1, 2016; or (2) the effective date established by CMS in its approval of the corresponding State Plan amendment, whichever is later. DHCF projects an aggregate increase in expenditures of approximately \$15,304,400 for Fiscal Year 2017.

The emergency rulemaking was adopted on September 21, 2016 and shall become effective for outpatient hospital services occurring on or after October 1, 2016. The emergency rules will remain in effect for one hundred and twenty (120) days or until January 19, 2017 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 after 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:

Subsection 903.31 of Section 903, OUTPATIENT AND EMERGENCY ROOM SERVICES, is amended as follows:

903.31 Beginning FY 2017, each eligible hospital shall receive a supplemental hospital access payment calculated as set forth below:

- (a) For visits and services beginning October 1, 2016 and ending on September 30, 2017, quarterly access payments shall be made to each eligible private hospital. Each payment shall be an amount equal to each hospital's District Fiscal Year (DFY) 2014 outpatient Medicaid payments divided by the total in District private hospital DFY 2014 outpatient Medicaid payments multiplied by one quarter (1/4) of the total outpatient private hospital access payment pool. The total outpatient private hospital access payment pool shall be equal to the total available spending room under the private hospital outpatient Medicaid upper payment limit for DFY 2017;
- (b) United Medical Center: For visits and services beginning October 1, 2016 and ending on September 30, 2017, quarterly access payments shall be made as follows: (1) Each payment shall be equal to one quarter (1/4) of the total outpatient public hospital access payment pool; and (2) The total outpatient public hospital access payment pool shall be equal to the total available spending room under the District-operated hospital outpatient Medicaid upper payment limit for DFY 2017;
- (c) Payments shall be made fifteen (15) business days after the end of the quarter for the Medicaid visits and services rendered during that quarter; and
- (d) For purposes of this section, the term District Fiscal Year shall mean dates beginning on October 1st and ending on September 30th.

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