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. & 2015 Supp.)), 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 amendments to Section 1930, entitled "Respite Services," of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Development Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules change the reimbursement rate for respite services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307.02(a)(8)(E) (2014 Repl. & 2015 Supp.)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Respite care provides relief to the family or primary caregiver to meet planned or emergency situations. The two most recent Notices of Final Rulemaking for 29 DCMR § 1930 (Respite Services) were published in the *D.C. Register* on February 7, 2014, at 61 DCR 000993 (for Subsections 1930.1 to 1930.7, 1930.10, 1930.12 to 1930.13. 1930.15 to 1930.17, and 1930.19 to 1930.20), and on November 27, 2015, at 62 DCR 015334 (for Subsections 1930.8, 1930.9, 1930.11, 1930.14, 1930.18, and 1930.21). This emergency and proposed rulemaking amends the previously published final rulemakings by changing the hourly rate in Subsection 1930.14 to twenty dollars and sixty cents ($20.60) and the daily rate in Subsection 1930.18 to four hundred one dollars and twenty cents ($401.20). Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of these services as the rates must be increased to correspond with Waiver Year 4.

The emergency rulemaking was adopted on March 9, 2016, and these rules became effective immediately. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until July 7, 2016, 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 proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 1930.14 and 1930.18, of Section 1930, RESPITE SERVICES, are amended to read as follows:

1930.14 Medicaid reimbursement for hourly respite services shall be twenty dollars and sixty cents ($20.60) per hour and shall be limited to seven hundred twenty (720) hours per calendar year.

...

1930.18 Medicaid reimbursement for daily respite services shall be four hundred one dollars and twenty cents ($401.20) per day and shall be limited to thirty (30) days per calendar year.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of these emergency and proposed rules may be obtained from the above address.