

## 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 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) 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)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 112 (Doula Services), of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), and of the intent to adopt these rules as a final rulemaking in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The rulemaking is being promulgated pursuant to Section 5042 of the Fiscal Year 2022 Budget Support Emergency Act of 2022, effective November 13, 2021 (D.C. Law 24-45; 68 DCR 12567), which amended the Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), to require the District to cover doula services in Medicaid by October 1, 2022. Under the rulemaking, the District will provide Medicaid reimbursement for doula services for pregnant individuals throughout the perinatal, labor and delivery, and postpartum periods, with the goal of improving outcomes for birthing parents and infants.

The BSA also required DHCF to consult with community stakeholders as it designs this benefit. As a result, DHCF established a Maternal Health Stakeholder group, comprised of doulas, health care providers, health care insurers, community members, and stakeholders from the Department of Health. The Maternal Health Stakeholder group met eight (8) times over a six (6) month period to discuss services to be included in the doula benefit, and the reimbursement mechanism and rates for doula services.

This rulemaking corresponds to a related State Plan amendment (SPA), which requires approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Implementation of the proposed rules is contingent upon approval of the corresponding SPA by CMS with an effective date of October 1, 2022, or the effective date established by CMS in its approval of the corresponding SPA, whichever is later. The addition of doula services is projected to result in an increase of five hundred seventy-eight thousand, five hundred and eighty-six dollars (\$578,586) in total Medicaid expenditures in fiscal year (FY) 2023 and a cost of approximately five hundred and forty-eight thousand nine hundred and eighty dollars (\$548,980) in total Medicaid expenditures in FY 2024.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries who are pregnant or postpartum, their families, and newborns. This emergency rulemaking will enable Medicaid beneficiaries in the District to receive doula services,

which is critically important to improving maternal health outcomes in the District and protecting the health of pregnant and postpartum Medicaid beneficiaries, their families, and newborns.

The emergency rulemaking was adopted by the DHCF Director on (INSERT DATE) and shall become effective upon publication of this notice in the *D.C. Register*. The emergency rules will remain in effect for one hundred and twenty (120) days or until (INSERT DATE), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Director of DHCF gives notice of the intent to take final rulemaking action to adopt these proposed rules as final in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**Title 29, PUBLIC WELFARE, of the DCMR is amended by adding a new Chapter 112, MEDICAID REIMBURSEMENT FOR DOULA SERVICES, to read as follows:**

**CHAPTER 112      MEDICAID REIMBURSEMENT FOR DOULA SERVICES**

- 11200      GENERAL PROVISIONS**
- 11201      SCOPE OF SERVICES**
- 11202      PROVIDER SCREENING AND ENROLLMENT**
- 11203      REIMBURSEMENT**
- 11299      DEFINITIONS**

**11200      GENERAL PROVISIONS**

- 11200.1      These rules establish the standards and conditions for Medicaid reimbursement of doula services under the District of Columbia Medicaid program.
- 11200.2      The provisions of this chapter govern conditions of participation for providers of doula services to optimize birth outcomes, prevent preterm births, lower neonatal intensive care admissions, reduce Caesarean sections, reduce epidural use, and improve beneficiary experience of birthing care.

**11201      SCOPE OF SERVICES**

- 11201.1      Doula services are provided during the perinatal and postpartum periods of a beneficiary's pregnancy and provide support to the birthing parent throughout the pregnancy and postpartum periods to improve maternal health outcomes.
- 11201.2      The following doula services, included in this chapter, shall be provided consistently with the regulations set forth herein:
  - (a)      During the perinatal period (before, during, and up to six (6) weeks after delivery), services shall include:

- (1) Perinatal counseling and education, including infant care, to prevent adverse outcomes;
  - (2) Labor support and attendance at delivery, including the development of a birth plan; and
  - (3) Coordination with community-based services to improve beneficiary outcomes; and
- (b) During the doula services postpartum period (beginning on the last day of pregnancy and extending through the end of the calendar month in which one hundred eighty (180) days after the end of the pregnancy falls), services shall include:
- (1) Visits with the beneficiary to provide basic infant care;
  - (2) Accompanying the beneficiary to a clinician visit;
  - (3) Lactation support; and
  - (4) Emotional and physical support.

11201.3 Doula services shall be limited to a total of twelve (12) doula visits, across the perinatal (including labor and delivery) and postpartum periods, for each pregnancy.

11201.4 Each beneficiary is entitled to a maximum of one (1) doula consultation visit, which is counted toward their twelve (12) doula visits limit.

11201.5 In order to be eligible for Medicaid reimbursement, doula services shall be recommended by a physician or other licensed practitioner of the healing arts within their scope of practice under District law. This includes recommendations for doula services from the providing doula or any other licensed doula.

11201.6 Doula services may be provided in a clinic, physician's office, freestanding birth center, or the home, or via telehealth (when appropriate).

**11202 PROVIDER SCREENING AND ENROLLMENT**

11202.1 To provide Medicaid-reimbursable doula services an individual providing doula services must:

- (a) Be at least eighteen (18) years of age;
- (b) Possess a high school diploma or equivalent;

- (c) Possess a current certification from a doula-certifying entity approved by DHCF and listed at [dcpdms.com](http://dcpdms.com); and
- (d) Enroll as a Medicaid provider pursuant to Chapter 94 of Title 29 DCMR; and
- (e) Complete an orientation session on billing provided by DHCF or its agent.

11202.2 To enroll as a Medicaid provider, a doula shall comply with all provider screening and enrollment requirements set forth under Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 DCMR.

11202.3 If a doula who meets the qualifications in Section 11202.1 or 11202.2 is employed by or has a contract with an entity that provides doula services, that entity is permitted to enroll and bill for doula services on the behalf of contracted doulas.

### **11203 REIMBURSEMENT**

11203.1 DHCF shall establish fees and reimbursement for only those doula services outlined in Subsection 11201.2. Reimbursement for doula services shall be made according to the District of Columbia Medicaid fee schedule available online at <http://www.dc-medicaid.com>.

11203.2 Doula services shall only be billed once per visit for each pregnancy. Doula services provided for a beneficiary experiencing a multiple pregnancy (i.e., twins, triplets, etc.) are not eligible for additional payment.

11203.3 Doula services may be reimbursed for dates of service from the date of confirmed pregnancy through one hundred and eighty (180) days after the end of a pregnancy.

11203.4 Each perinatal service visit, including labor and delivery, shall be billed and reimbursed on a per visit basis.

11203.5 Each postpartum service visit shall be billed and reimbursed as a unit of service, billed in fifteen (15) minute increments and shall not exceed twenty-four (24) units or six (6) hours per visit.

11203.6 A value-based incentive payment shall be provided to a qualifying doula when:

- (a) A labor and delivery claim has been received for a beneficiary;
- (b) At least one (1) postpartum service visit has been provided by the doula to the beneficiary; and

- (c) The beneficiary is subsequently seen by an obstetric clinician for at least one (1) postpartum visit within seven (7) to eighty-four (84) days following the doula visit.

## 11299 DEFINITIONS

11299.1 For the purposes of this Chapter, the following terms shall have the meanings ascribed:

**Birthing parent** – the individual giving birth.

**Cesarean section**- a surgical procedure in which a fetus is delivered through an incision in the birthing parent's abdomen and uterus.

**Doula** – a nonmedical professional who assists a pregnant individual before, during or after childbirth, as well as the pregnant individual's partner and/or family, by providing information, physical assistance, and emotional support.

**Doula services** –physical, emotional, and informational support to the birthing parent throughout the perinatal and postpartum periods, provided by a certified doula.

**Labor and delivery** – the period during which the fetus, membranes, umbilical cord, and placenta are expelled from the uterus through vaginal birth or through surgical delivery by a Cesarean section.

**Perinatal care** – care occurring or existing during the period before birth, labor and delivery, and up to six (6) weeks following the end of a pregnancy. The perinatal period refers to the regular medical and nursing care recommended for an individual during pregnancy. Perinatal care is a type of preventative care with the goal of providing regular check-ups that allow doctors and other medical professionals to treat and prevent potential health problems throughout the course of a pregnancy.

**Postpartum period** – the period beginning immediately after childbirth.

**Pregnant individual** – an individual during pregnancy and the doula services postpartum period

**Preterm** – prior to the thirty-seventh (37th) week of gestation.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street NW, Suite 900, Washington DC 20001, via telephone at (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.