

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department on Disability Services, pursuant to the authority set forth in Section 109 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264, D.C. Official Code § 7-761.09 (2012 Repl.)), and Mayor's Order 2007-68, dated March 20, 2007, hereby gives notice of its adoption, on an emergency basis, of amendments to Chapter 1 (Vocational Rehabilitation Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), which is administered by the Department on Disability Services, Rehabilitation Services Administration (DDS/RSA).

This rulemaking amends the financial sponsorship provisions of DDS/RSA's post-secondary and education training regulations. This emergency action is necessary for the following reasons: 1) to maximize the public funding available to DDS/RSA; 2) to facilitate and ensure that DDS/RSA uses its limited financial resources to serve the maximum number of eligible individuals, including those at out-of-state educational placements, who need post-secondary education or training to achieve sustainable, competitive employment; 3) to clarify DDS/RSA's preference for in-state educational services; 4) by encouraging in state-educational services, to improve outcomes for people receiving these service by providing for continuity of the local support network; 5) to clarify the amount DDS/RSA will fund for both in-state and out-of-state educational services; and 6) to broaden the definition of Washington D.C. Metropolitan Area. The amendments are specifically in Sections 122.6, 122.7, 122.9, and 199.

Emergency action is necessary for the immediate preservation of the welfare of District residents who are or will be attending post-secondary education or training in the Spring 2015 semester, because it will better enable them to work with DDS/RSA vocational rehabilitation counselors in planning for financial sponsorship and whether to seek in-state or out-of-state services to meet their individualized needs. It will also permit DDS/RSA to provide such services to more District residents. The emergency rulemaking was adopted and became effective on August 29, 2014. The emergency rules will remain in effect for 120 days from the adoption date or until December 27, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first.

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

Section 122, POST-SECONDARY EDUCATION AND TRAINING, of Chapter 1, VOCATIONAL REHABILITATION SERVICES, of Title 29, PUBLIC WELFARE, of the DCMR is amended as follows:

Subsection 122.6 is amended to read as follows:

122.6

- (a) If either a public or private institution located in the Area offers an academic program necessary to achieve the consumer's vocational goal, but the consumer chooses to attend a post-secondary institution (whether public or private) that is located outside of the Area, the Rehabilitation Services Administration's support for tuition shall be based on:
 - (1) The tuition rate published by the University of the District of Columbia for the applicable number of credit hours and academic term; or
 - (2) The published tuition rate for the necessary training program that is available within the Area if the training program is not based on credit hours.
- (b) If there is no public or private institution located in the Area that offers an academic program necessary to achieve the consumer's vocational goal, the Rehabilitation Services Administration will pay the full tuition and fees, room and board, and related transportation costs for the out of state institution necessary to achieve the consumer's vocational goal, subject to all relevant provisions of this chapter.

Subsection 122.7 is amended to read as follows:

122.7

- (a) The individual shall be responsible for educational/training costs in excess of the payment rates and restrictions established in this chapter.
- (b) Daily transportation associated with educational/training costs shall be paid in accordance with the Rehabilitation Services Administration written policy, procedures and protocols.
- (c) Non-daily transportation associated with educational/training costs shall be paid by the Rehabilitation Services Administration if such costs are not covered through the financial needs test under § 124, or when an exceptional circumstance is established under § 122.9. Non-daily transportation will be paid using the most cost-effective means of travel subject to the following conditions:
 - (1) When an individual resides in on-campus housing, the Rehabilitation Services Administration will pay for non-daily transportation at the beginning and end of each academic term/semester, and otherwise when on-campus college/university housing is closed during the academic calendar year in which the individual is actively enrolled and engaged in a program of study; or

- (2) When an individual resides in off-campus housing, the Rehabilitation Services Administration will pay for non-daily transportation at the beginning and end of each academic term/semester in which the individual is actively enrolled and engaged in a program of study.

Subsection 122.9 is amended to read as follows:

- 122.9 The Rehabilitation Services Administration shall not fund on or off-campus room and board, except in exceptional circumstances. Exceptional circumstances shall be documented annually, comply with § 122.11, and be limited to the following:
- (a) Room and board are necessary to accommodate a client’s disabilities, as documented annually by a medical professional with expertise in the area of the individual’s disability, and the individual is actively engaged in an educational or training program; or
 - (b) Room and board are necessary for the individual receiving services outside of the Washington, D.C. Metropolitan Area, as follows:
 - (1) If an individual is enrolled and actively engaged in a college/university (two year community college or vocational certificate programs, four-year college or university) program of study and that same or similar degree program is not available at any post-secondary institution (whether public or private) within the Washington, D.C. metropolitan area; or,
 - (2) If an individual is enrolled and actively engaged in a training program of one year or less in duration, and the same or similar training program is not available within the Washington, D.C. metropolitan area.

Section 199 is amended to include the definition for “Washington D.C. Metropolitan Area” to read as follows:

Washington D.C. Metropolitan Area – for purposes of receiving services under this Chapter, the Washington D.C. Metropolitan Area is defined as areas in the District of Columbia, Maryland and Virginia accessible by public transportation, including cities accessible by the Washington Metropolitan Area Transit Authority (Metro), Maryland Area Regional Commuter (MARC), and the Virginia Railway Express (VRE).

Comments on the proposed rules shall be submitted in writing to Andrew Reese, Deputy Director, Department on Disability Services/Rehabilitation Services Administration, 1125 15th

Street NW, 9th Floor, Washington, D.C. 20005, within thirty (30) days from the date of publication of this notice in the *D.C. Register*. Emailed comments should be submitted at ddsrsa-regcomments@dc.gov. Copies of the emergency and proposed rules may be obtained from the Martin Luther King, Jr. Memorial Library, 902 G Street NW, or via online access on the agency's website at www.dds.dc.gov.