

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF FINAL 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 the adoption of amendments to Chapter 1 (Vocational Rehabilitation Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends the financial sponsorship provisions of the post-secondary and education training regulations of DDS's Rehabilitation Services Administration (DDS/RSA) and 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 non-local educational placements, who need post-secondary education or training to achieve sustainable, competitive employment; 3) to clarify DDS/RSA's preference for local educational services; 4) by encouraging local 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 local and non-local educational services; and 6) to broaden the definition of Washington D.C. Metropolitan Area.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 12, 2014, at 61 DCR 009395. DDS received four sets of comments from the public concerning the emergency and proposed rules during the thirty (30) day comment period, which expired on October 14, 2014, and received a fifth set of comments shortly after October 14, 2014. During the thirty (30) day comment period, DDS learned that submissions to the email address identified in the Notice of Emergency and Proposed Rulemaking were undeliverable. As a result, a Notice of Extension of Public Comment Period for the Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 24, 2014, at 61 DCR 011250. DDS/RSA did not receive any public comments during the second thirty (30) day comment period, which expired on November 24, 2014. DDS considered all of the public comments it received and made minor clarifying or technical changes based on them.

The Director adopted these rules as final on December 8, 2014, and they shall become effective upon 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 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 or vocational certificate program of study and that same or similar 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).