DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, 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), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of a new section 1912 of Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Community Support Team Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for preventive, consultative and crisis support services provided by health care professionals to participants with dual diagnosis of mental retardation and mental illness in the Home and Community-based Services Waiver for persons with Mental Retardation and Developmental Disabilities (Waiver).

The former Preventive, Consultative and Crisis Support Services rules in Section 937 of Chapter 29 DCMR incorporate two discrete services into a single rule: preventive and consultative services, which focus on long-term behavioral support, and crisis services, which focuses on short-term response to an immediate crisis. This rule adopts a new rule focusing on the crisis portion of the former rule and changes the name of the service to Community Support Team Services.

The District of Columbia Medicaid Program also is modifying the Waiver to reflect these changes. The Council of the District of Columbia has approved the corresponding Waiver. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services have also approved the corresponding Waiver with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published in the *DC Register* on December 28, 2007 (54 DCR 012699). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *DC Register*.

Section 1912 (Community Support Team Services) of Chapter 19 of Title 29 DCMR is adopted to reads as follows:

1912 COMMUNITY SUPPORT TEAM SERVICES

1912.1 Community support team (CST) services shall be reimbursed by the District of Columbia Medicaid Program for each participant in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

1912.2 To be eligible for CST services, the following criteria shall be identified during each participant's Diagnostic Assessment:

(a) An ongoing pattern of behavior that includes physical harm to self or others and /or behaviors/psychiatric symptoms which have led to institutionalization in the past or have a high probability of resulting in institutionalization (*e.g.*, self-injurious behavior, physical aggression, illegal or inappropriate sexual acts, reckless endangerment, psychiatric conditions leading to the denial of self-preservation or extremely poor hygiene);

(b) An imminent risk of institutionalization; or

(c) A need for twenty-four (24) hour supports and crisis planning to support health and safety.

1912.3 CST services shall not include onsite crisis intervention services and is not designed to adequately serve people who threaten or attempt suicide or homicide or who have a pattern of felony violations involving violence or the victimization of others.

1912.4 CST services are designed to support and encourage the participant in his or her decision to reside within the community; decrease the impact of a behavioral and/or psychiatric event; assist the participant in developing alternative and more effective communication skills, adaptive and coping mechanisms; and enable the participant to achieve positive personal outcomes.

1912.5 CST services provide intensive behavioral and psychiatric supports for participants who are at imminent risk of institutionalization. The CST is a specialized professional treatment team that consists of a psychologist, psychiatrist, licensed independent clinical social worker, advance practice registered nurse, licensed professional counselor, registered nurse, and/or behavior management specialist, as needed. The most clinically appropriate CST member(s) represents the CST in providing direct services to the participant. Each CST member shall be involved as needed, but CST member(s) shall spend a minimum of one (1) hour weekly meeting with the participant and/or care givers at the onset of treatment. Each CST member shall review summary data at least weekly with other CST staff who are involved in participant's care. Written behavioral support strategies shall be reviewed and updated at least monthly, based on the participant's response to services.

1912.6 CST services shall include the following services:

(a) Medication/Somatic Treatment services, which may be delivered onsite or offsite;

(b) Crisis/Emergency services, which may be delivered face-to-face or by telephone; and
(c) Assertive Community Treatment (ACT) services, which shall be delivered onsite.

1912.7 CST services shall be authorized and provided in accordance with each person's Individual Habilitation Plan (IHP) or Individual Support Plan (ISP) and Plan of Care.

1912.8 The provider shall provide Medication/Somatic Treatment services in accordance with the Diagnostic Assessment Report.

1912.9 Medication/Somatic Treatment services shall be delivered by the following professionals:

(a) Psychiatrist;
(b) Advance Practice Registered Nurse; or
(c) Registered Nurse.

1912.10 Medication/Somatic Treatment services shall be reimbursed at one hundred twenty-nine dollars ($129.00) per hour. The billable unit of service shall be fifteen (15) minutes at a rate of thirty-three dollars and twenty-five cents ($33.25) per billable unit. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

1912.11 Crisis/Emergency services shall be provided to a participant involved in an active mental health crisis and shall consist of an immediate response to evaluate and screen the presenting situation, assist in immediate crisis stabilization and resolution, and ensure the participant's access to care at the appropriate level.

1912.12 Crisis/Emergency services may be delivered in natural settings and the Crisis/Emergency provider shall adjust its staffing levels, as needed to provide an immediate response. Each Crisis/Emergency provider shall provide consultation, locate other services and resources, and provide written and oral information to assist the participant in obtaining follow-up services.

1912.13 Crisis/Emergency services may be provided based on a recommendation from DDS but shall not be extended beyond ten (10) hours unless the services are included in the Diagnostic Assessment Report.

1912.14 Crisis Emergency services shall be delivered by the following professionals:

(a) Psychiatrist;
(b) Psychologist;
(c) Advanced Practice Registered Nurse;

(d) Licensed Independent Clinical Social Worker; or
(e) A registered nurse, licensed professional counselor, or behavior management specialist working under the supervision of any of the professionals set forth in sections 1912.14 (a), (b), (c) or (d).

1912.15 Crisis/Emergency services shall be reimbursed at one hundred thirty-four dollars and sixteen cents ($134.16) per hour. The billable unit of service shall be fifteen (15) minutes at a rate of thirty-three dollars and fifty-four cents ($33.54) per billable unit. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

1912.16 Eligibility for Assertive Community Treatment (ACT) services is established in the Diagnostic Assessment Report and services shall be provided in accordance with the report. Service coverage by the ACT Team shall be available twenty-four (24) hours per day, seven (7) days per week. After the initial intervention, the ACT Team shall complete a self care-oriented Community-based Intervention plan that focuses on:

(a) Diffusing the current situation to reduce the likelihood of a recurrence;
(b) Coordinating access to mental health services; and
(c) Providing support interventions for participants that develop and improve the ability of parents, legal guardians or significant others to care for the participant in the community.

1912.17 Services offered by the ACT team shall include:

(a) Mental health-related medication prescription, administration and monitoring;
(b) Crisis assessment and intervention;
(c) Symptom assessment, management, and individual support therapy;
(d) Substance abuse treatment for persons with a co-occurring addictive disorder;
(e) Psychosocial rehabilitation and skill development:
(f) Interpersonal social and interpersonal skill training; and
(g) Education, support and consultation to participant's families and/or their support system, which is directed exclusively to the well being and benefit of the participant.

1912.18 ACT services shall be reimbursed at one hundred five dollars and ninety-two cents ($105.92) per hour. The billable unit of service shall be fifteen (15) minutes at a rate of twenty-six dollars and forty-eight cents ($26.48) per billable unit. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

1912.19 ACT services shall be delivered by the following professionals:

(a) Psychiatrist;
(b) Registered Nurse: or
(c) Addiction Counselor.

1912.20 Each provider of CST services shall be:

(a) A provider of residential habilitation services as defined in Title 29 DCMR, Chapter 9, Section 946;
(b) A home health agency as defined in Title 29 DCMR, Chapter 19 General Provisions, Section 1903.3;
(c) A provider of supportive living services as defined in Title 29 DCMR, Chapter 9, Section 993; or
(d) A Freestanding Mental Health Clinic as defined in Title 29 DCMR, Chapter 8.

1912.21 Each provider shall have a current Medicaid Provider Agreement that authorizes the provider to bill for CST Services.

1912.22 Each person providing CST services shall have a minimum of two (2) years experience providing professional services to persons with developmental disabilities or receive supervision by professional staff that have the requisite experience. Psychologists shall provide support clinical leadership and provide supports consistent with person-centered practices and positive behavioral support practices.

1912.23 Each person providing CST services shall meet the requirements set forth in section 1911 of Chapter 19, Title 29 DCMR.

1912.99 DEFINITIONS

When used in this section, the following terms and phrases shall have the meanings ascribed:

Addiction Counselor- A person who provides addiction counseling services to persons with co-occurring psychiatric and addictive disorders and is licensed or certified in accordance with applicable District laws and regulations.

Advanced Practice Registered Nurse – A person who is licensed to practice as a registered nurse pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201 *et seq.*), and meets the additional licensure requirements for practice in a particular area as an advance practice registered nurse or nurse-practitioner in accordance with D.C. Official Code § 3-1206.08(a) or (c), or is licensed as a registered nurse and meets additional national certification standards for practice in a particular area as an

advance practice registered nurse or nurse-practitioner in the jurisdiction where services are provided.

Assertive Community Treatment (ACT) - An intensive integrated rehabilitative, crisis, treatment and mental health rehabilitative community support provided by an interdisciplinary team to children and youth with serious emotional disturbance and to adults with serious and persistent mental illness. .

Assertive Community Treatment team or ACT Team- The mobile interdisciplinary of qualified practitioners and other staff involved in providing ACT to a participant.

Behavior Management Specialist – A person who has the training and experience in the theory and technique of changing the behavior of individuals to enhance their learning of life skills, adaptive behaviors, and to decrease maladaptive behaviors and works under the supervision of a licensed practitioner.

Community Support Team Services – Services set forth in this section that is designed as an ongoing, preventive service to improve and maintain outcomes in the health, attitude and behavior of the person.

Crisis/Emergency Services- Face-to-face or telephone immediate response to an emergency situation experienced by a participant that is available twenty-four (24) hours per day, seven (7) days per week.

Diagnostic Assessment – Includes (1) indirect assessment techniques such as interviews, written record reviews and questionnaires; (2) direct assessment techniques such as observation of the person, documentation of the frequency, duration and intensity of problem behaviors; and (3) the evaluation of the relationship between the environmental and emotional variables and the occurrence of problem behaviors.

Diagnostic Assessment Report – The report that summarizes the results of the Diagnostic Assessment.

Individual Habilitation Plan (IHP) – That plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

Individual Support Plan (ISP) – The successor to the individual habilitation plan (IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

Licensed Independent Clinical Social Worker – A person who is licensed as an independent clinical social worker pursuant to the District of Columbia Health

Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) or licensed as an independent clinical social worker in the jurisdiction where the services are being provided.

Licensed Professional Counselor- A person who is licensed to practice professional counseling pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) or licensed as a professional counselor in the jurisdiction where the services are being provided.

Medication/Somatic Treatment – Are medical interventions including: physical examinations; prescription, supervision or administration of mental health-related medications; monitoring and interpreting results of laboratory diagnostic procedures related to mental health-related medications; and medical interventions needed for effective mental health treatment provided as either an individual or group intervention.

Person or Participant – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Services Waiver for persons with Mental Retardation and Developmental Disabilities (Waiver).

Plan of Care – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

Psychiatrist – A person who is licensed to practice psychiatry pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) or licensed as a psychiatrist in the jurisdiction where the services are being provided.

Psychologist – A person who is licensed to practice psychology pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) or licensed as a psychologist in the jurisdiction where the services are being provided.

Registered Nurse – A person who is licensed as a registered nurse pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) or licensed as a registered nurse in the jurisdiction where the services are being provided.

Waiver – The Home and Community-based Services Waiver for persons with Mental Retardation and Developmental Disabilities as approved 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), as may be further amended and approved by the Council and CMS.