DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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 (2012 Repl. & 2013 Supp.)), and in 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 his intent to adopt an amendment to Title 29 (Public Welfare) of the District of Columbia Municipal Regulations ("DCMR"). The amendment will repeal Section 942, entitled "Family Training Services", of Chapter 9 (Medicaid Program), and adopt a new Section 1924, entitled "Family Training Services", of Chapter 19 (Home and Community-Based Waiver for Individuals with Intellectual and Developmental Disabilities).

These final rules establish standards governing reimbursement for professionals who provide family training services to caregivers of participants in the Home and Community-Based Waiver for Individuals with Intellectual and Developmental Disabilities ("ID/DD Waiver"), and conditions of participation for the Medicaid providers employing family training services professionals.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five-year period beginning November 20, 2012. Family training services are training, counseling, and other professional support services offered to the families of persons enrolled in the ID/DD Waiver or to other uncompensated persons providing support to an ID/DD Waiver participant. These amend the previously published final rules by: (1) deleting Section 942 and codifying the rules in a new Section 1924; (2) specifying the authorization requirements to obtain reimbursement for family training services; and (3) specifying various family training services utilization and monitoring requirements, including documents to be maintained for auditing.

A Notice of Emergency and Proposed rulemaking was published in the *D.C. Register* on November 29, 2013 at 60 DCR 16332. No comments were received. The Director adopted these rules on January 24, 2014 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 942 (Family Training Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is repealed.

A new Section 1924 (Family Training Services) is added to Chapter 19 (Home and Community-Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR to read as follows:

1924 FAMILY TRAINING SERVICES

1924.1 This section shall establish conditions of participation for Medicaid providers enumerated in § 1924.9 ("Medicaid Providers") and family training services professionals enumerated in § 1924.8 ("professionals") to provide family training services to caregivers of persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (ID/DD Waiver).

1924.2 Family training services are training, counseling, and other professional support services offered to uncompensated caregivers who provide support, training, companionship, or supervision to persons enrolled in the ID/DD Waiver.

1924.3 Uncompensated caregivers include any family member, neighbor, friend, companion, or co-worker who regularly provides uncompensated care to the person.

1924.4 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the Department on Disabilities Services (DDS) prior to providing, or allowing any professional to provide, family training services. In its request for prior authorization, the Medicaid provider shall document the following:

(a) The ID/DD Waiver participant's need for additional, uncompensated support;

(b) The family training services professional who will provide the family training services; and

(c) The individual caregivers who will receive the family training services.

1924.5 In order to be eligible for Medicaid reimbursement, each family training services professional shall conduct an assessment of family training needs within the first four (4) hours of service delivery, and shall develop a training plan with training goals and techniques that will assist the ID/DD Waiver participant's unpaid caregivers. The training plan shall include measurable outcomes and a schedule of approved family training services to be provided, and shall be submitted by the Medicaid provider to DDS before services are delivered.

1924.6 In order to be eligible for Medicaid reimbursement, each Medicaid provider shall document the following in the ID/DD Waiver participant's Individual Support Plan (ISP) and Plan of Care:

(a) The date and amount of family training services provided;

(b) The nature of the family training services provided;

(c) The professional who provided the family training services; and

(d) The individual caregivers who received the family training services.

1924.7 Medicaid reimbursable family training services shall include the following activities:

(a) Instruction about treatment regimens and other services included in the person's ISP and Plan of Care;

(b) Instruction on the use of equipment specified in the person's ISP and Plan of Care;

(c) Counseling aimed at assisting the unpaid caregiver in meeting the needs of the person; and

(d) Follow up training necessary to safely maintain the person at home.

1924.8 Medicaid reimbursable family training services shall be provided by the following professionals:

(a) Special Education Teachers;

(b) Licensed Graduate Social Workers;

(c) Licensed Clinical Social Workers;

(d) Physical Therapists;

(e) Occupational Therapists;

(f) Registered Nurses; or

(g) Speech Pathologists.

1924.9 In order to be eligible for Medicaid reimbursement, each family training services professional shall be employed by the following Medicaid providers:

(a) An ID/DD Waiver Provider enrolled by DDS; or

(b) A Home Health Agency as defined in Section 1999 of Chapter 19 of Title 29 of the DCMR.

1924.10 Each Medicaid provider shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.

1924.11 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:

(a) A copy of the most recent DDS approved ISP and Plan of Care, which shall include the documentation required by § 1924.6;

(b) The training plan developed in accordance with the requirements of § 1924.5 ; and

(c) The documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.

1924.12 Each Medicaid provider shall comply with Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 of the DCMR.

1924.13 Medicaid reimbursement shall not be available when family training services are provided concurrently with the following ID/DD Waiver services:

(a) Supported living;

(b) Residential habilitation; or

(c) Host home without transportation.

1924.14 Medicaid reimbursable family training services shall not exceed a total of four (4) hours per day and one hundred (100) hours per year. Any hours in excess of these limits must be pre-approved by DDS pursuant to § 1924.15.

1924.15 In order to be eligible for Medicaid reimbursement, professionals requesting pre-approval from DDS to provide family training services in excess of four (4) hours per day and one hundred (100) hours per year must demonstrate the need for such services. The decision of DDS to approve or disapprove the request for additional services, in whole or in part, shall be final.

1924.16 The Medicaid reimbursement rate for family training services shall be sixty dollars ($60) per hour. The billable unit of service for family training services shall be fifteen (15) minutes.

Section (1999) DEFINITIONS is amended to read as follows:

Special Education Teacher- An individual with a Master's Degree in Special Education from an accredited college or university and a teacher's certificate in the jurisdiction where services are provided.

Physical Therapist – An individual who is licensed to practice physical therapy pursuant to Section 501 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C.

Official Code § 3-1205.01) or licensed to practice physical therapy in the jurisdiction where services are provided.

Occupational Therapist – An individual who is licensed to practice occupational therapy 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.*) or licensed to practice occupational therapy in the jurisdiction where services are provided.