

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.744; 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 1915 of Chapter 19 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Host Home Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid program for host home services provided by community homeowners and qualified professionals to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver), which was by approved the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published on April 4, 2008 (55 DCR 003538). No comments were received. This rulemaking amends the April 4th rules by changing the allocation of the daily reimbursement rate between the host home and Contract Provider and requiring each host home and Contract Provider to be certified by the Department on Disability Services.

A notice of emergency and proposed rulemaking was published on July 4, 2008 (55 DCR 007322). 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*.

New section 1915 (Host Home Services) of Chapter 19 of Title 29 DCMR is added to read as follows:

1915 HOST HOME SERVICES

1915.1 Host Home 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.

1915.2 To be eligible for reimbursement, Host Home services shall be provided in a Host Home that meets the Department on Disability Services (DDS) Certification Standards as set forth in the Human Care Agreement between the Host Home, the Contract Provider, and DDS.

- 1915.3 Each Host Home and supporting Contract Provider located out-of-state shall be licensed and/or certified in accordance with the host state's laws and regulations and/or consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state. Each out-of-state Host Home and Contract provider shall comply with the following additional requirements:
- (a) Remain in good standing in the jurisdiction where the program is located;
 - (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action to DDS;
 - (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews; and
 - (d) Successfully meet certification review requirements of DDS.
- 1915.4 Host Home services shall only be available to a person with a demonstrated need for training, assistance, and supervision, and shall be authorized and provided in accordance with the person's current Individual Habilitation Plan (IHP) or Individual Support Plan (ISP) and Plan of Care.
- 1915.5 Host Home services refer to a residential arrangement in which a homeowner provides room, board, personal supports and assistance to a person in a Host Home. The services provided by a Host Home shall include, but are not limited to:
- (a) Room and board (not included in the Waiver reimbursement rate);
 - (b) Light homemaker tasks, such as assistance with meal preparation;
 - (c) Light chore tasks, such as assistance with laundry, shopping, and general housekeeping;
 - (d) General supervision of the person as described in the IHP or ISP and Plan of Care;
 - (e) Maintenance of medical records;
 - (f) Maintenance of financial records;
 - (g) Maintenance of the IHP or ISP and Plan of Care;
 - (h) Assistance with attending health care appointments, including coordinating, but not providing, transportation to and from the appointments;
 - (i) Assistance with planning and attending community events; and
 - (j) Providing habilitative support in activities of daily living and/or therapeutic goals and objectives as described in the IHP or ISP and Plan of Care.
- 1915.6 Host Homes services shall be administered by Supported Living Service or Residential Habilitation Service providers, which in this section shall be referred to as the Contract Provider. Each Contract Provider of Host Home

services shall be a social services agency as described in Chapter 19 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), Section 1903.1. In addition, the Contract Provider agrees to:

- (a) Be a member of the person's interdisciplinary team;
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for Residential Habilitation Services or Supported Living Services under the Waiver;
- (c) Maintain a copy of the most recent IHP or ISP and Plan of Care that has been approved by DDS for each person;
- (d) Ensure that all persons associated with Host Home services are qualified and properly supervised to include having a plan to provide staff interpreters for non-English speaking individuals;
- (e) Ensure that the service provided is consistent with the person's IHP or ISP and Plan of Care;
- (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules;
- (g) Provide staff training in infection control procedures consistent with the standards established by the Federal Centers for Disease Control and Prevention;
- (h) Ensure compliance with DDS policies governing reporting of unusual incidents, human rights, behavior management, and protection of person's funds; and
- (i) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238), as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code § 44-551 *et seq.*).

1915.7 Each person providing Host Home services shall meet all of the requirements in Chapter 19 to Title 29 of the District of Columbia Municipal Regulations (DCMR), section 1911, "Requirements for employees providing direct services."

1915.8 Each person providing Host Home services agrees to cooperate and attend mandatory trainings sessions provided by DDS and the Contract Provider and to allow DDS case managers and other DDS employees free and unfettered access to the Host Home.

1915.9 The role of the Contract Provider in Host Home placement shall be to:

- (a) Receive and review packets submitted by the DDS requesting development of a Host Home for a particular applicant;
- (b) Respond to inquiries for Host Home development in a timely manner;
- (c) Recruit appropriate Host Home settings for persons;

- (d) Identify and develop on-going working relationships with needed local professional resources (*e.g.*, dentist, physician, psychiatrist, psychologist, occupational therapist, physical therapist, etc.);
- (e) Provide for a minimum of one (1) visit by the participant to the prospective home, one of which may be an overnight stay if more visits are possible;
- (f) Coordinate transportation in cooperation with the DDS case manager for visits to the prospective Host Home;
- (g) Participate in a person centered planning process to develop the participant's IHP or ISP and Plan of Care;
- (h) Arrange for essential supports to be in place prior to a participant's move into a Host Home setting, including provision of training to support persons and provision of necessary supplies and equipment;
- (i) Arrange for non-essential but recommended and necessary supports to be put into place subsequent to a participant's move into a Host Home setting; and
- (j) Provide information as needed to the participant and responsible party, DDS and the Host Home.

1915.10 The Contract Provider shall be responsible for coordinating compliance with DDS policies and procedures governing reporting of unusual incidents, human rights, behavior management, and protection of person's funds using, but not limited to, by the following means:

- (a) Contract Providers shall provide Host Homes with appropriate training on DDS policies;
- (b) Contract Providers shall provide Host Homes with appropriate training on incident reporting procedures; and
- (c) Contract Providers shall coordinate each incident investigation at Host Homes.

1915.11 The Contract Provider shall coordinate the delivery of professional services to persons in Host Homes that may include, but are not limited to, the following disciplines or services:

- (a) Health Care;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Behavioral Support;
- (i) Community Supports;
- (j) Social work;
- (k) Speech, hearing and language therapy; and

- (l) Recreation.
- 1915.12 The Contract Provider shall coordinate the use of transportation for persons in Host Homes to day programs, places of employment, and/or community outings as needed.
- 1915.13 The Contract Provider shall coordinate general support monitoring at least twice per month to update activity schedules, reviewing medical and other appointments, making progress notes, and reviewing conditions in the Host Home and the status of the person.
- 1915.14 The Contract Provider shall coordinate health care monitoring for persons in Host Homes including, at a minimum, monitoring by a registered nurse at least every sixty (60) days for persons with no medications, and monthly for charting, progress notes, and a general review of persons receiving medications.
- 1915.15 The Contract Provider shall provide respite to the caregiver and emergency support up to a total of fourteen (14) days per year. If respite and emergency support services are provided in the Host Home, then host home services payments shall continue. If respite and emergency support services are provided in another location, then the host home services percentage of the reimbursement rate shall be paid to the Contract Provider.
- 1915.16 Each Host Home and Contract Provider shall assist residents in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social adaptive skills necessary to enable the person to reside in the community. To accomplish these goals, the Host Home and Contract Provider shall:
- (a) Within the first month of residence, use observation, conversation, and other interactions as necessary to develop a functional analysis of the person's capabilities;
 - (b) Develop a plan with measurable outcomes using the functional analysis, the IHP or ISP and Plan of Care, and other information available to identify to the extent possible the skills necessary to enable the person to reside in the community while maintaining the person's health and safety; and
 - (c) On a quarterly basis, report to the person, family, guardian, DDS Case Manager on the programming and support provided to help the person to achieve the identified outcomes.
- 1915.17 Each Contract Provider of Host Home services shall ensure the coordination of transportation services to enable the person to gain access to Waiver and other community services and activities.

- 1915.18 Each Contract Provider of Host Home services shall maintain all records and reports for at least six (6) years after the person's date of discharge.
- 1915.19 The following individuals shall not be permitted to provide host home services:
- (a) Legal guardian;
 - (b) Parent of a minor child; or
 - (c) Spouse.
- 1915.20 The reimbursement rate for Host Home services is a daily inclusive rate based on acuity of the participant. The acuity level will be determined by DDS based on the results of the Support Intensity Scale or as documented in the person's ISP or IHP. The basic support rate shall be one hundred thirty-six dollars (\$136.00) per day; the moderate support rate shall be one hundred fifty-three dollars (\$153.00) per day; and the intensive support rate shall be one hundred ninety-six dollars (\$196.00) per day. A specialized rate also shall be available by negotiation for individuals with extraordinary medical support needs as set by DDS with Department of Health, Medical Assistance Administration approval. The host home services reimbursement rate shall include:
- (a) All training for Host Home workers;
 - (b) Programmatic supplies;
 - (c) Oral/topical medication management;
 - (d) General and administrative fees for waiver services;
 - (e) Relief of the caregiver and emergency support;
 - (f) All direct support costs based on the needs of the individual; and
 - (g) Additional in-home supports from five (5) to twenty (20) hours per week.
- 1915.21 Forty (40) percent to fifty (50) percent of the daily reimbursement rate shall be paid to the Host Home by the Contract Provider for support services. The remaining fifty (50) percent to sixty (60) percent of the daily reimbursement rate shall be retained by the Contract Provider for training, additional in-home support services based on the needs of the individual, medication management, general and administrative fees for waiver services, general supervision, and relief and emergency coverage. The actual percentage of the daily reimbursement rate allocated between the Host Home and Contract Provider shall be negotiated between the parties based on the specific support needs of the person.
- 1915.22 Host Home services shall not be payable or be billed for the same day that the following other Waiver services are provided to the person:
- (a) Supported Living;
 - (b) Residential Habilitation;

- (c) Personal Care;
- (d) Live-In Caregiver;
- (e) Respite; or
- (f) In-Home Supports.

1915.23 Host Home services shall not be payable or be billed when the person is hospitalized, on vacation, or for any other period in which the person is not residing at the Host Home.

1915.99 DEFINITIONS

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

Contract Provider – A Supported Living Service provider or Residential Habilitation Service provider which, in accordance with this section, is administering Host Home Services at a Host Home on behalf of a Homeowner.

Direct Care Staff – Individuals employed to work in the Host Home who render the day-to-day personal assistance that person's require in order to meet the goals of their IHP or ISP and Plan of Care.

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*.

Interdisciplinary Team – A group of persons with special training and experience in the diagnosis and habilitation of mentally retarded persons who have the responsibility of performing a comprehensive person evaluation while participating in the development, implementation, and monitoring of the person's IHP or ISP and Plan of Care.

Homeowner – A person(s) who is(are) the primary owner or leasor of a residential property. Evidence satisfactory to the Department on Disability Services of a title or a lease must be provided annually or any time a move is proposed.

Host Home – The residence owned or leased by the Home Owner where the person will reside for purposes of host home services under the Waiver.

Licensed Practical Nurse – A person who is licensed to practice practical nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985,

effective March 25, 1986, (D.C. Law 6-99; D.C. Official Code § 3-1201 *et seq.*) or licensed as a practical nurse in the jurisdiction where services are provided.

Person – 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.

Registered Nurse – A person who is licensed to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986, (D.C. Law 6-99; D.C. Official Code § 3-1201 *et seq.*) or licensed as a registered nurse in the jurisdiction where services are provided.

Waiver – Shall mean 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.