

Department of Health Care Finance & Department on Disability Services
Revised Public Notice of Proposed Amendments and Proposed Transition Plan
to the Home and Community-Based Waiver for
Persons with Intellectual and Developmental Disabilities

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 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.)), and the Director of the Department on Disability Services (DDS), pursuant to authority set forth in Title I of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 *et seq.*), hereby give notice of their intent to submit a transition plan for and amendments to, the District of Columbia Medicaid program's Home and Community-Based Services (HCBS) Waiver for Persons with Intellectual and Developmental Disabilities (IDD) to the Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) for review and approval. This is a revised notice to correct the email address for public comments.

CMS regulations, published in the Federal Register on January 16, 2014 and effective March 17, 2014, changed the definition of home and community-based services settings for HCBS Waiver services. Additionally, the new rule requires that, at the time HCBS Waiver amendments are submitted, DHCF and DDS must develop and submit to CMS a transition plan identifying how the HCBS Waiver will be brought into compliance with the new outcome-oriented definition of HCBS settings; provide a thirty (30) day public notice and comment period; and at least one additional opportunity for public comment.

The amendments contain proposed changes to the methods and standards for setting payment rates for some services and substantive changes to the amount, duration, and scope of some services.

The following summarizes the changes proposed in rate methodologies and reimbursements to be effective upon approval by CMS:

- 1) The Residential Habilitation and Supported Living services rate methodologies to be modified to match the overtime, paid time -off correction implemented in the Intermediate Care Facility for Individuals with Intellectual Disabilities rate methodology implemented in FY 2014.

- 2) Residential Habilitation, Supported Living, In-Home Supports, Host Home, Behavioral Support Non-Professional and Respite services to include increases in the hourly wage rates for the Direct Support Professionals (DSPs), and associated percentage rate increases for the House Manager and Qualified Intellectual Disabilities Professionals to be in compliance with the D.C. Living Wage Act of 2006 for FY 2014 and FY 2015.
- 3) The Day Habilitation services rate methodology to be changed to include nursing for staff training and oversight of Health Care Management Plans (HCMPs) at a ratio of 1:20, to be paid at the current nursing rate for a Registered Nurse of \$70,000. This change is to improve the health and welfare of Waiver beneficiaries who have complex health support needs.
- 4) Host Home services rate to include a vacancy factor of 93% (1.07), to promote parity with all other residential services which also have a vacancy factor.
- 5) Employment Readiness, Day Habilitation, Supported Employment (all), Group Supported Employment, and Family Training services wage rates to be increased by the market basket rate for nursing homes for FY 2015 of 1.3%. The rates for these services have not changed in six (6) years.
- 6) Clinical therapy rate research: to address the on-going problem with access to a qualified and adequate provider network in Physical Therapy (PT), Occupational Therapy (OT), Speech, Nutrition and Behavioral Support services, a rate review of other provider networks operating in the District was completed. Two primary competitors for clinicians are working in the schools and early intervention. The Office of the State Superintendent for Education's (OSSE) published rates under 5 DCMR § A-2853 pay \$98.90 per hour for PT, \$100.90 for Speech and \$105.57 for OT. Health Services for Children with Special Needs reports PT and OT at \$125 per hour, and Speech Therapy sessions at \$71.18. Master's prepared counselors through OSSE, the Department of Behavioral Health and the Children and Family Services Administration are paid at \$65.00. Based on the above the following rates are proposed: increase Behavior Paraprofessional from \$60 to \$65 per hour; increase OT, PT and Speech from \$65 to \$100 per hour; and, Nutrition from \$55 to \$60 per hour.
- 7) Art Therapies: Based on the comments from Art and Drama Therapy Institute, Inc. and market research, to increase Art Therapy to \$75 per hour, and to introduce a group rate.
- 8) Fitness: Based on current market conditions, to reduce the rate from \$75 to \$50 per hour, and to introduce a group rate.
- 9) Individualized Day Supports rate to be reduced from \$24.44 per hour to \$21.79 per hour, based on market research and to promote parity with other individualized supports.
- 10) Upon approval of the IDD HCBS waiver by CMS, DHCF and DDS intend to increase all rates in subsequent years based on requirements of the D.C. Living Wage Act of 2006 and the market basket index for nursing homes to keep pace with inflation using appropriate Medicaid long-term care services indicators.

The estimated increase in the approved annual aggregate expenditures in the HCBS IDD Waiver will be dependent upon the CMS approval date and subsequent publication date of the implementing rules. The estimated increase in the CMS approved annual aggregate expenditures in IDD HCBS Waiver Year 3 is estimated to be \$7,800,452 of which \$2,340,136 represents the local share.

Substantive changes to services proposed to be effective in IDD HCBS Waiver Year 2, or upon approval by CMS, may include but may not be limited to:

- 1) Behavioral Supports: Modify to a tiered service, utilizing low intensity behavioral supports, moderate behavioral supports, and high intensity behavioral supports, with corresponding caps on level of service, based on the person's assessed needs.
- 2) Day Habilitation: Add a nursing component to the service definition for the purpose of medication administration, and staff training and monitoring of the participants' HCMPs.
- 3) Individualized Day: Increase the cap on the number of service hours per week from thirty (30) to forty (40). Modify requirements for DSP qualifications. Allow relatives to provide DSP services for the person.
- 4) One-to-One Supports (Non-Behavioral): Add authority for one-to-one support for a person with a medical need who does not require skilled nursing.
- 5) Transportation Community Access: This service is not utilized and will be omitted because transportation is available through the Medicaid transportation provider.
- 6) Shared Living: This service is not utilized and will be omitted. In the future, it will be an available service under the Individual and Family Supports Home and Community-Based Services waiver that is in development.
- 7) Skilled Nursing: Skilled nursing services will no longer be prohibited in a Supported Living setting.
- 8) Supported Employment: Amends provider qualifications by requiring that all Supported Employment providers become Rehabilitation Services Administration service providers within one year of approval of these amendments.
- 9) Supported Living: Add specialized rate authority when needed to provide intensive individualized staffing to support a person due to complex behaviors that may involve a serious risk to the health safety or wellbeing of the person or others, or when required by court order.
- 10) Supported Living: Modify service to allow skilled nursing to be provided in this setting.
- 11) Wellness: Modify requirements for fitness trainers to include people who have obtained a bachelor's level degree in physical education, health education or exercise science. Modify provider qualifications for bereavement counselors to ensure access to a larger group of qualified providers.
- 12) DHCF shall use spousal impoverishment rules to determine eligibility for the home and community-based waiver group, whereby a certain amount of the couples' combined income and assets are protected for the spouse not receiving services under the HCBS waiver, to be effective in IDD HCBS Waiver Year 2, or upon approval by CMS

Copies of the proposed amendments and proposed transition plan may be obtained on the DDS website, no later than March 24, 2014, at <http://dds.dc.gov/> or upon request from Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005.

There are two opportunities to provide comments on the proposed waiver amendments and transition plan:

Written comments on the proposed waiver amendments and proposed transition plan shall be submitted to Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005, or via e-mail at DDSPublicComments@dc.gov, during the thirty (30) day public comment period, from March 24, 2014 through April 23, 2014.

DHCF and DDS will hold a public forum during which written and oral comments on the proposed amendments and transition plan will be accepted. The public forum will be held at St. Elizabeth East Gateway Pavilion, 2700 Martin Luther King Avenue SE, Washington, D.C. 20032, on April 9, 2014 from 4:00 – 6:00 PM.

Copies of this notice also will be published on the DDS website at <http://dds.dc.gov> and on the DHCF website at <http://dhcf.dc.gov>.

For further information contact Erin Leveton, (202) 730-1754, erin.leveton@dc.gov.