

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED 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 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 the adoption, on an emergency basis, of an amendment to Section 1913, entitled "One-Time Transitional Services", of Chapter 19 (Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement for one-time transitional services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

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. One-time transitional services are one-time, non-recurring start-up expenses for persons in the Waiver who are transitioning from an institution or provider-operated living arrangement to a living arrangement in a private residence where the person is directly responsible for their own living expenses. These rules amend the previously published rules by: (1) specifying the service authorization requirement for one-time transitional services; and (2) specifying the documents to be maintained for audits and monitoring reviews.

Emergency action is necessary for the immediate preservation of the health, safety and welfare of waiver participants who are in need of one-time transitional services. One-time transitional services are essential to ensuring that persons enrolled in the ID/DD Waiver who transition from institutions or provider-operated living arrangements into the community are supported by the receipt of one-time funds to aid in their transition. Under current reporting and record maintenance requirements, there are insufficient safeguards in place to ascertain that providers are taking the necessary steps to ensure that beneficiaries are receiving appropriate, one-time, non-recurring services from qualified providers to aid in their transition to living independently.

The emergency rulemaking was adopted on December 13, 2013, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 11, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 1913 (One-Time Transitional Services) of Chapter 19 of Title 29, PUBLIC WELFARE of the DCMR is deleted in its entirety and amended to read as follows:

1913 ONE-TIME TRANSITIONAL SERVICES

1913.1 This section establishes the conditions of participation for Medicaid providers enumerated in § 1913.6 (“Medicaid Providers”) to provide one-time transitional (OTT) services to persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver).

1913.2 OTT services are one-time, non-recurring start-up expenses for persons enrolled in the Waiver who are transitioning from an institution or provider-operated living arrangement to a living arrangement in a private residence where the person is directly responsible for their own living expenses.

1913.3 In order to be eligible for reimbursement, each Medicaid provider shall obtain prior authorization from the Department on Disability Services (DDS) prior to providing OTT services. The request for prior authorization shall include a written justification that demonstrates how the services will aid the person in transitioning to their own living arrangements and that the person is unable to pay for the expenses or that the service cannot be obtained from other sources.

1913.4 In order to be eligible for Medicaid reimbursement, each Medicaid provider shall document the following in the person’s Individual Support Plan (ISP) and Plan of Care:

- (a) The date when OTT funds were provided; and
- (b) A description and amount of each expense as described in § 1913.5.

1913.5 Medicaid reimbursable OTT services may include the following:

- (a) Security deposits that are required to obtain a lease for an apartment or home;
- (b) Essential household furnishings and expenses required to occupy or maintain an apartment or home;
- (c) Start-up fees or deposits for utility or service access, including telephone, gas, electricity, and water;
- (d) Services necessary for the person's health, safety and wellbeing, such as pest eradication and one-time cleaning prior to occupancy;
- (e) Home accessibility adaptations including carpeting, one-time general home repair, including roof repair, painting and fence repair; and

- (f) Moving expenses related to transporting personal belongings.
- 1913.6 Medicaid reimbursable OTT services shall be provided by the following types of providers who possess a human care agreement with DDS:
- (a) A provider of supported living services as described under Section 1934 of Chapter 19 of Title 29 of the DCMR; and
- (b) A provider of residential habilitation services as described under Section 1929 of Chapter 19 of Title 29 of the DMCR.
- 1913.7 Each provider of Medicaid reimbursable OTT services shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.
- 1913.8 Each provider of Medicaid reimbursable OTT services shall maintain the following documents for monitoring and audit reviews:
- (a) Copy of receipts documenting the date, item, amount expended, and any related warranty; and
- (b) Any documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1913.8 Each provider of Medicaid reimbursable OTT services shall comply with the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1913.9 Medicaid reimbursement for OTT services shall not be available for:
- (a) Monthly rental or mortgage expenses;
- (b) Food;
- (c) Regular utility charges;
- (d) Household appliances or items that are intended for purely recreational purposes (*e.g.*, television, cable or satellite installation for television programming, stereo or other audio equipment, or computerized gaming equipment);
- (e) Environmental accessibility adaptation services that are of direct medical or remedial benefit to the person including specialized electric and plumbing systems necessary to accommodate medical equipment and supplies; and

(f) Any durable medical equipment.

1913.10 Medicaid reimbursement for OTT services shall be limited to a maximum of five thousand dollars (\$5,000) per person for the duration of the waiver period as a one-time, non-recurring expense.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-9115, via email at DHCFpubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.