

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) 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 (2016 Repl. & 2019 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) (2018 Repl.)), hereby gives notice of an amendment to Section 995 (Medicaid Physician and Specialty Services Rate Methodology) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

This rule provides DHCF the authority to make recurring quarterly supplemental payments for one fiscal year to Medicaid-enrolled physician groups, with at least five hundred (500) physicians that are members of the group, that contract with a public, general hospital located in economically underserved areas of the District to deliver inpatient, emergency department, and intensive care physician services to Medicaid beneficiaries. These supplemental payments will mitigate the Medicaid losses of eligible physician group practices that offer these critically important services to Medicaid beneficiaries. DHCF projects an increase in aggregate expenditures of approximately four and a half (\$4.5) million dollars in Fiscal Year (FY) 2019.

DHCF also amended the District's State Plan for Medical Assistance. These rules correspond to the State Plan Amendment (SPA), which was approved by the Centers for Medicare and Medicaid Services (CMS) on October 23, 2018.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 27, 2018 at 65 DCR 007889. No comments were received. DHCF revised this rulemaking to align with the language of the approved SPA. DHCF also made amendments to clarify how payments were derived and the timing of supplemental payments. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on March 8, 2019 at 66 DCR 002796. DHCF received no comments and made no changes to this rulemaking.

This rulemaking was adopted as final on September 20, 2019, and shall become effective upon publication in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 995, MEDICAID PHYSICIAN AND SPECIALTY SERVICES RATE METHODOLOGY, is amended to read as follows:

Subsection 995.7 is amended to read as follows:

995.7 The Department of Health Care Finance (DHCF) shall use both the facility and non-facility rates that are derived from the Medicare physician fee schedule, which is effective on January 1 of each calendar year. For FY 2018, the District uses the Medicare physician fee schedule effective January 1, 2018 through December 31, 2018. DHCF shall reimburse either the facility or non-facility rates in accordance with the place of service (facility or non-facility) noted on the provider submitted claims.

Subsection 995.8 is amended to read as follows:

995.8 For services rendered on or after October 1, 2018 through September 30, 2019, quarterly supplemental payments in the amount of one million and one hundred and twenty-five thousand dollars (\$1,125,000.00) shall be equally distributed among physician groups that meet the criteria described in Subsection 995.9.

Subsection 995.9 is amended to read as follows:

995.9 To receive a supplemental payment, a physician group shall meet all of the following conditions:

- (a) Be a group practice, consistent with the conditions set forth under 42 CFR § 411.352, and additionally have at least five hundred (500) physicians that are members of the group (whether employees or direct or indirect owners) as defined at 42 CFR § 411.351;
- (b) Be screened and enrolled with the Department of Health Care Finance (DHCF) in accordance with the requirements set forth under Chapter 94 of the District of Columbia Municipal Regulations (DCMR);
- (c) Contract with a public, general hospital, as defined under Section 2099 of Title 22-B DCMR, located in an economically underserved area of the District of Columbia to provide at least two (2) of the following services to Medicaid beneficiaries:
 - (1) Inpatient services, as described in Supplement 1 to Attachment 3.1A, section 1.B, page 2, and Supplement 1 to Attachment 3.1B, section 1.B, page 2 and defined in 42 CFR § 440.10;

- (2) Emergency hospital services, as described in Supplement 1 to Attachment 3.1A, section 24.E, page 28; Supplement 1 to Attachment 3.1B, section 24.E, page 27; and Attachment 4.19B, Part 1, section 20.a, page 11; or
- (3) Intensive care physician services, as authorized under Supplement 1 to Attachment 3.1A, section 5, pages 6b-7, and Supplement 1 to Attachment 3.1B, section 5, pages 5b-6.

Subsection 995.10 is amended to read as follows:

995.10 Quarterly payments made in accordance with Subsection 995.7 shall not exceed four and a half (\$4.5) million for Fiscal Year (FY) 2019.

Subsection 995.11 is amended to read as follows:

995.11 All payments shall be made quarterly, no later than thirty (30) days after the end of each quarter.