

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 (2014 Repl.)) 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 4209.2 of Chapter 42 (Home and Community-Based Services Waiver For Persons Who Are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

These emergency and proposed rules amend the previously published final rules governing reimbursement of providers of personal care services under the District of Columbia Home and Community-Based Waiver for persons who are elderly and individuals with physical disabilities by increasing the rates for services rendered by a personal care aide (PCA). These rules amend the previously published final rules by increasing the reimbursement rate by one dollar and twelve cents (\$1.12) per hour, or twenty eight (28) cents per fifteen (15) minute increment.

These rules adjust the rates paid to the provider to incorporate: (a) the benefits requirement under the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat. 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved January 5, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) and the District of Columbia Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.* (2012 Repl.)) and (b) administrative costs following the recent review of the FY 2013 Home Health Agencies cost reports.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of beneficiaries who are in need of personal care aide services. A rate increase is necessary at this time to ensure that there is an adequate provider supply and to maintain continuity of care for beneficiaries who are receiving personal care aide services. To preserve beneficiaries' health, safety, and welfare, and to avoid any lapse in access to personal care aide services, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on November 3, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until March 2, 2016, 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*.

Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 4209, REIMBURSEMENT RATES: PERSONAL CARE AIDE SERVICES, is amended as follows:

Subsection 4209.2 is amended to read as follows:

4209.2 Each Provider shall be reimbursed five dollars (\$5.00) per unit of service for allowable services in accordance with the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat. 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved January 5, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) and the District of Columbia Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.*) and (b) administrative costs following the recent review of the FY 2013 Home Health Agencies cost reports as authorized in the approved plan of care, of which no less than three dollars and forty-five cents (\$3.45) shall be paid to the PCA to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, 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.