

**DEPARTMENT OF HEALTH**

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**NOTICE OF FINAL RULEMAKING**

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The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 76 of Title 17 (Respiratory Therapy) of the District of Columbia Municipal Regulations (DCMR).

These rules were previously published as proposed rulemaking on November 17, 2006 at 53 DCR 9296. No comments were received in connection with this notice.

The purpose of these amendments is to delay implementation of the requirement in 17 DCMR § 7606.5 that respiratory therapists must complete a minimum of three (3) unit hours of continuing education in ethics each renewal period until the renewal period ending January 31, 2009.

These final rules will be effective upon publication of this notice in the D.C. Register.

**17 DCMR Chapter 76, RESPIRATORY THERAPY, is amended as follows:**

**Section 7606.5(a) is amended to read as follows:**

7606.5 To qualify for renewal of a license an applicant shall:

- (a) Have completed sixteen (16) CEUs in approved continuing education programs during the two (2) year period preceding the date the license expires. Beginning with the renewal period ending January 31, 2009, a minimum of three (3) hours of the total continuing education credits shall have been in ethics;

**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 an amendment to section 933 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Skilled Nursing Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid program for skilled nursing services provided by a practical nurse, registered nurse or trained unlicensed personnel to participants in the Home Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish Medicaid reimbursement rates for skilled nursing services.

This rulemaking will amend the previously published rules by clarifying those nursing interventions which may be delegated to trained unlicensed personnel consistent with the scope of practice requirements for registered and practical nursing set forth in Chapters 54 and 55 of Title 29 DCMR. This change will ensure that standards governing Medicaid reimbursement for skilled nursing services are consistent with District law and rules. This rule also establish a residential services rate for skilled nursing services provided to consumers in need of skilled nursing services while receiving independent habilitation or residential habilitation services.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on December 22, 2006 (53 DCR 10140). Comments were received. No substantive changes have been made. Section 933.17 was amended to clarify that the reimbursement rate is \$65.00 per day, for services provided by a registered or practical nurse, four hours or less in duration, regardless of the number of visits.

These rules shall become effective one day following the date of publication of this notice in the *D.C. Register*.

Section 933 (Skilled Nursing Services) of Chapter 9 of Title 29 DCMR is deleted in its entirety and amended to read as follows:

**SECTION 933****SKILLED NURSING SERVICES**

- 933.1 Skilled nursing services shall be reimbursed by the Medicaid Program for each participant in the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 933.2 To be eligible for reimbursement, skilled nursing services shall be:
- (a) Ordered by a physician;
  - (b) Provided by a registered nurse, or by a practical nurse under the supervision of a registered nurse or unlicensed trained personnel in accordance with the standards governing delegation of nursing interventions set forth in Chapters 54 and 55 of Title 17 of the District of Columbia Municipal Regulations (DCMR); and
  - (c) Reasonable and necessary to the treatment of the consumer's illness or injury.
- 933.3 Skilled nursing services shall be authorized and provided in accordance with each consumer's individual habilitation plan (IHP) or individual service plan (ISP).
- 933.4 Each person providing skilled nursing services shall:
- (a) Be employed by a home health agency, nurse staffing agency or provider of independent habilitation services or residential habilitation services that has a current District of Columbia Medicaid Provider agreement authorizing the service provider to bill for skilled nursing services;
  - (b) Be at least eighteen (18) years of age;
  - (c) Be acceptable to the consumer;
  - (d) Be a citizen of the United States or an alien who is lawfully authorized to work in the United States;
  - (e) Be certified in cardiopulmonary resuscitation (CPR) and thereafter maintain current CPR certification;
  - (f) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual purified protein of tuberculin (PPD) skin test or documentation from a physician;
  - (g) Have the ability to read and write the English language;
  - (h) Have the ability to communicate with the consumer;
  - (i) Be able to recognize an emergency and execute emergency procedures;
  - (j) Complete pre-service and in-service training approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
- 933.5 Each home health agency or nurse staffing agency shall be certified or licensed by the District of Columbia prior to providing services and meet all standards set forth in the applicable licensure statute and implementing rules.
- 933.6 All nurses shall wear a pictured identification badge with lettering clearly visible to a client bearing the name of the nurse and the nurse's title "Registered Nurse" or "RN" or "Practical Nurse" or "PN".

- 933.7 The duties of a registered nurse shall be consistent with the scope of practice standards for registered nurses set forth in § 5414 of Title 17 DCMR. They may include, at a minimum, but not be limited to the following duties:
- (a) Preparing an initial assessment and evaluation;
  - (b) Coordinating the consumer's care and referrals;
  - (c) Administering medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia; and
  - (d) The administration of nursing services.
- 933.8 The duties of a practical nurse shall be consistent with the scope of practice standards for a practical nurse set forth in Chapter 55 of Title 17 (DCMR). They may include, at minimum, but not be limited to the following duties:
- (a) Recording progress notes on each visit and summary notes at least quarterly;
  - (b) Reporting, immediately, any changes in the consumer's condition to the supervising registered nurse;
  - (c) Providing wound care, tube feeding, diabetic care and other treatment regimens prescribed by the physician; and
  - (d) Administering medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia.
- 933.9 Nursing interventions may be delegated to trained unlicensed personnel in accordance with the requirements set forth in Chapters 54 and 55 of Title 17 of the District of Columbia Municipal Regulations.
- 933.10 The registered nurse shall monitor and supervise the provision of services provided by the practical nurse including a site visit at least once every sixty-two (62) days or as specified in the consumer's ISP.
- 933.11 The registered nurse shall be responsible for documenting in the consumer's clinical record, notes that are clearly written and contain a statement of the consumer's progress or lack of progress, medical conditions, functional losses and treatment goals which demonstrate that the consumer's services are and continue to be reasonable and necessary.
- 933.12 Each provider shall maintain a copy of the IHP or ISP approved by MRDDA for at least six (6) years after the consumer's date of discharge.
- 933.13 Each provider shall ensure that the practical nurse or the trained unlicensed personnel are properly supervised and that the service provided is consistent with the consumer's IHP or ISP.

- 933.14 Each provider shall review and evaluate skilled nursing services provided to each consumer, at least quarterly.
- 933.15 Medicaid reimbursement governing the provision of skilled nursing services shall be developed using the following three (3) rate structure:
- (a) Skilled nursing services rate;
  - (b) Extended skilled nursing services rate; and
  - (c) Residential services skilled nursing services rate.
- 933.16 All skilled nursing services provided in accordance with the requirements set forth in this section shall be prior authorized by the consumer's case manager as a condition of reimbursement by the Medicaid program.
- 933.17 The reimbursement rate for skilled nursing services shall be sixty-five dollars (\$65.00) per day for services provided by a registered nurse or practical nurse four (4) hours or less in duration. The reimbursement rate shall be thirty-two dollars and sixty cents (\$32.60) per day for services provided by delegated trained unlicensed personnel in accordance with section 993.9, four (4) hours or less in duration. Providers shall obtain prior authorization for skilled nursing services in excess of four (4) hours per day. Services that extend beyond four (4) hours shall be billed at the extended skilled nursing services rate.
- 933.18 The reimbursement rate for extended skilled nursing services shall be seven dollars (\$7.00) per billable unit for services provided by a registered nurse, five dollars (\$5.00) per unit for services provided by a practical nurse and four dollars and eight cents (\$4.08) per billable unit for services provided by trained unlicensed personnel in accordance with section 933.9.
- 933.19 The billable unit of service for the extended skilled nursing services shall be 15 minutes. A provider shall provide at least eight (8) minutes of service in a span of 15 continuous minutes to be able to bill a unit of service.
- 933.20 The residential services skilled nursing services rate shall be a daily rate. The rate shall be billed according to the ratio the service is provided as set forth in the following ratios and rates:
- a. For Services Provided by a Registered Nurse

RN Staff	Consumers	Daily Rate
1	1	\$56.00
1	2	\$28.00
1	3	\$18.67
1	4	\$14.00
1	5	\$11.20

1	6	\$9.33
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b. For Services provided by a Practical Nurse

PN Staff	Consumers	Daily Rate
1	1	\$40.00.
1	2	\$20.00
1	3	\$13.33
1	4	\$10.00
1	5	\$8.00
1	6	\$6.67

c. For services delegated to trained unlicensed personnel in accordance with section 933.9.

Delegated trained Staff	Consumers	Daily Rate
1	1	\$32.60
1	2	\$16.30
1	3	\$10.87
1	4	\$8.15
1	5	\$6.52
1	6	\$5.43

d. In addition to the rates set forth in sections 933.20 (a), (b) and (c), each consumer may also receive one (1) skilled nursing service visit per month at sixty-five (\$65.00) per visit.

933.21 If the services provided by the skilled nurse is to provide respite on a short-term basis because of the absence or need for relief of the primary caregiver who is responsible for providing some skilled aspect of care, the reimbursement rate for the skilled nursing services shall be seven dollars (\$7.00) per billable unit for services provided by a registered nurse and five dollars (\$5.00) per billable unit for services provided by a practical nurse consistent with the requirements set forth in § 994 of Title 29 DCMR. Respite services shall be limited to seven hundred and twenty (720) hours or thirty (30) days per year.

933.99 **DEFINITIONS**

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

**Consumer-** an individual who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

**Clinical Record-** A comprehensive compilation of medical and other data that identifies the consumer, justifies and describes the diagnosis and treatment of the consumer.

**Home health agency-** Shall have the same meaning as "home care agency" as set forth in the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*), and implementing rules.

**Individual Habilitation Plan (IHP) -** The same meaning 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 2-13 ; D.C. Official Code § 7-1304.03)

**Individual Service Plan (ISP) -** The successor to the individual habilitation plan (IHP) as defined in the court-approved *Joy Evans* Exit Plan.

**Nurse Staffing Agency –** The same meaning as set forth in the Nurse Staffing Agency Act of 2003, effective November 25, 2003 (D.C. Law 15-74; D.C. Official Code §§ 44-1051.01 *et seq.*) and implementing rules.

**Physician-** A person who is authorized to practice medicine pursuant to the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.*) or licensed as a physician in the jurisdiction where services are provided.

**Practical Nurse-** A person who is license or authorized to practice practical nursing pursuant to the District of Columbia Health Occupations Revision 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.

**Progress Note-** A dated, written notation by a member of the health care team that summarizes facts about the consumer's care and response to treatment during a given period of time.

**Registered Nurse-** A person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revision 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.

**Skilled Nursing Service-** Health care services that are delivered by a registered or practical nurse acting within the scope of their practice as defined in the District of Columbia Health Occupations Revision Act of 1985, effective March

25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.*) and implementing rules.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

TELEPHONE TARIFF 06-7, IN THE MATTER OF THE APPLICATION OF  
VERIZON WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE  
GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding.

2. On November 13, 2006, Verizon filed its Application<sup>2</sup> requesting expedited review of this Application under Chapter 35 of the Commission's rules<sup>3</sup> and authority to amend the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203**  
**Section 31, 5th Revised Page 4**

3. Specifically, Verizon proposed to increase the monthly recurring rates for Verizon Local Package, Verizon Local Package Extra, Verizon Regional Package, and Verizon Regional Package Extra. Verizon stated that the above packages are not classified under Price Cap Plan 2004.

4. A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 1, 2006.<sup>4</sup> No comments were filed. Thus, in accordance with Chapter 35, the Application was deemed approved as of January 11, 2007.<sup>5</sup> Verizon's Application to increase the monthly recurring rates of certain local and regional package services will

<sup>1</sup> D.C. Official Code § 2-505 (2001 Ed.).

<sup>2</sup> *TT06-7, In the Matter of the Application of Verizon Washington, DC Inc. For Authority to Amend the General Services Tariff, P.S.C.-D.C. - No. 203 ("TT06-7")*, Letter from J. Henry Ambrose of Verizon Washington, D.C. Inc. to Dorothy Wideman, Commission Secretary, filed November 13, 2006 and the two Errata filings received November 14, 2006 (hereinafter referred to as "Application") to correct errors in the original cover page filed on November 13, 2006.

<sup>3</sup> 15 D.C.M.R. § 3501.1

<sup>4</sup> 53 D.C. Reg. 9596 (December 1, 2006).

<sup>5</sup> 15 D.C.M.R. § 3501.9 (2000), states in pertinent part that [i]f no objection to the application is filed . . . then the tariff issuance . . . is deemed approved.

become effective upon the date of publication of the Notice of Final Rulemaking in the *D.C. Register*.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

TELEPHONE TARIFF 06-8, IN THE MATTER OF THE APPLICATION OF  
VERIZON WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE  
GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding.

2. On November 14, 2006, Verizon filed an Application<sup>2</sup> requesting expedited review of this Application under Chapter 35 of the Commission's rules<sup>3</sup> and authority to amend the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203**  
**Section 31, 2nd Revised Page 6**

3. Verizon proposed to introduce a bundled discount option associated with the Regional Essential Bundled service. Specifically, Verizon stated that customers who subscribe to the Regional Essential Bundled Service and an unlimited domestic long distance calling plan will have the option of receiving a specified discount on their monthly bill for a period of 12 months if they also subscribe to one or all of the following affiliated services: Verizon Online Broadband (Up to 3M package); Verizon Wireless One-Bill®; or DirecTV® (Total Choice or Higher).<sup>4</sup> Verizon stated that the above bundled service is not classified under Price Cap Plan 2004.

4. A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 12, 2007.<sup>5</sup> No comments were filed. Thus, in accordance with Chapter 35, the

<sup>1</sup> D.C. Official Code § 2-505 (2001 Ed.).

<sup>2</sup> *Telephone Tariff 06-8, In The Matter Of The Application Of Verizon Washington, DC Inc. For Authority To Amend The General Services Tariff, P.S.C.-D.C.-No. 203 ("TT06-8")*, Letter from J. Henry Ambrose of Verizon Washington, D.C. Inc. to Dorothy Wideman, Commission Secretary, filed November 14, 2006 (hereinafter referred to as "Application").

<sup>3</sup> 15 D.C.M.R. § 3501.1

<sup>4</sup> *TT06-8, Application* at 1.

<sup>5</sup> 54 D.C. Reg. 299 (January 12, 2007).

Application was deemed approved as of February 21, 2007.<sup>6</sup> Verizon's Application to introduce a bundled discount option associated with its Regional Essential Bundled Service will become effective upon the date of publication of the Notice of Final Rulemaking in the *D.C. Register*.

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<sup>6</sup> 15 D.C.M.R. § 3501.9 (2000), states in pertinent part that [i]f no objection to the application is filed . . . then the tariff issuance . . . is deemed approved.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

TELEPHONE TARIFF 06-9, IN THE MATTER OF THE APPLICATION OF  
VERIZON WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE  
LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C.-NO. 202

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding.

2. On November 21, 2006, Verizon filed an Application<sup>2</sup> requesting expedited review of this Application under Chapter 35 of the Commission's rules<sup>3</sup> and authority to amend the following tariff page:

**LOCAL EXCHANGE SERVICE TARIFF, P.S.C.-D.C.-NO. 202**

**Section 2, 7th Revised Page 2**

**8th Revised Page 3**

**1st Revised Page 8**

3. Specifically, Verizon proposed to increase the monthly recurring rates for Business Message Rate Line and Business Message Units. In addition, Verizon is grandfathering the Business Message 24-month Optional Term Agreement rate of \$12.30. Verizon classifies these services as Basic under the Price Cap Plan 2004.<sup>4</sup>

4. A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 15, 2006.<sup>5</sup> No comments were filed. Thus, in accordance with Chapter 35, the

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<sup>1</sup> D.C. Official Code § 2-505 (2001 Ed.).

<sup>2</sup> *TT06-09, In the Matter of the Application of Verizon Washington, DC Inc. For Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C. - No. 202 ("TT06-9")*, Letter from J. Henry Ambrose of Verizon Washington, D.C. Inc. to Dorothy Wideman, Commission Secretary, filed November 21, 2006.

<sup>3</sup> 15 D.C.M.R. § 3501.1

<sup>4</sup> *See Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370, rel. September 9, 2004 ("Price Cap Plan 2004").

<sup>5</sup> 53 D.C. Reg. 9939 (December 15, 2006).

Application was deemed approved as of January 26, 2007.<sup>6</sup> Verizon's Application to increase the monthly recurring rates of certain local and regional package services will become effective upon the date of publication of the Notice of Final Rulemaking in the *D.C. Register*.

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<sup>6</sup> 15 D.C.M.R. § 3501.9 (2000), states in pertinent part that [i]f no objection to the application is filed . . . then the tariff issuance . . . is deemed approved.