

## DEPARTMENT OF HEALTH

## NOTICE OF PROPOSED 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, 1987 hereby gives notice of the intent to adopt an amendment to Chapter 42 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Home and Community-Based Waiver Services for Persons who are Elderly and Individuals with Physical Disabilities".

The proposed rules establish standards governing the provision of assisted living services and reimbursement of those services by the Medicaid program. Assisted living services were approved as waiver services by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. These rules will enhance the range of health services available to low income senior citizens within the District of Columbia who are 65 years and older or eighteen years of older with physical disabilities. The Medicaid program anticipates 100 waiver recipients will select assisted living as a service between fiscal year 2007 and fiscal year 2008. The estimated cost of this service for fiscal year 2007 is \$2.0 million dollars.

The Director also gives notice of intent to take final rulemaking action to adopt these rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 42 (Home and Community-Based Waiver Services for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 DCMR is amended as follows:**

A. Section 4200.1 is amended to read as follows:

4200.1 The following home and community-based waiver services are included in this chapter, consistent with the regulations set forth herein:

- (a) Case management services;
- (b) Personal case aide services;
- (c) Personal emergency response system services;
- (d) Respite services;
- (e) Homemaker services;
- (f) Chore aide services;

- (g) Environmental accessibility adaptations services; and
- (h) Assisted living services.

B. By adding section 4238 (Reimbursement Rates: Assisted Living Services) to read as follows:

**4238 REIMBURSEMENT RATES: ASSISTED LIVING SERVICES**

- 4238.1 The reimbursement rate for assisted living services shall be sixty dollars (\$60.00) per day.
- 4238.2 The rate is an all-inclusive rate for all services provided. A provider shall not bill for individual services.

C. By adding section 4239 (Specific Provider Requirements: Assisted Living Services) to read as follows:

**4239 SPECIFIC PROVIDER REQUIREMENTS: ASSISTED LIVING SERVICES**

- 4239.1 Each facility providing assisted living services shall be licensed by the District of Columbia and comply with the requirements set forth in the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 et seq.) and attendant rules.
- 4239.2 Each assisted living residence shall support the resident's dignity, privacy, independence, individuality, freedom of choice, decision making, spirituality and involvement of family and friends.
- 4239.3 Staff shall also comply with the requirements set forth in the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official §§ 3-1201.01 et seq.).

D. By adding section 4240 (PROGRAM SERVICES: ASSISTED LIVING SERVICES) to read as follows:

**4240 PROGRAM SERVICES: ASSISTED LIVING SERVICES**

- 4240.1 Assisted living services may consist of any combination of the

services which meet the resident's needs as outlined in the written individualized service plan required pursuant to section 4202 of these rules. Services may include the following:

- (a) Personal care aide services;
- (b) Homemaker;
- (c) Chore Aide;
- (d) Attendant care;
- (e) Medication administration;
- (f) Therapeutic social and recreational services;
- (g) Transportation; and
- (h) Intermittent skilled nursing.

E. By adding the following terms to section 4299 Definitions: Waiver Services:

**Assisted Living Services**-hands-on care provided in an assisted living residence, of both a supportive and health-related nature, specific to the needs of the medically stable, physically handicapped individual.

**Assisted Living Residence**-shall have the same meaning as set forth in D.C. Official Code § 44-102.01 (4).

**Attendant Care**-those basic and ancillary services that enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care and mobility.

**Intermittent skilled nursing**-consists of those services that must, under State law, be provided by a licensed registered or practical nurse, on a periodic basis. Care may be provided: (1) up to 28 hours a week when combined with home health aide services as long as the services are not received more than three days per week; (2) up to 35 hours a week when combined with home health aide services and the need is documented, as long as the services are not received more than four days per week; or (3) up to seven days when combined with home health aide services if the need is documented and the services are received temporarily, usually up to 21 days.

All persons wishing to comment on these proposed rules shall submit written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Robert T. Maruca, Senior Deputy Director, Department of Health, Medical Assistance Administration, 825 North Capitol Street, N.E. , 5<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the same address between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.