

**FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT****NOTICE OF PROPOSED AND EMERGENCY RULEMAKING**

The Chief of the Fire and Emergency Medical Services Department, pursuant to the authority set forth in § 8(a) of the Fire-Standard-Compliant Cigarettes Act of 2008, effective May 13, 2008 (D.C. Law 17-157; D.C. Official Code § 7-1757(a)), and Mayor's Order 2008-90, dated June 23, 2008, hereby gives notice of the adoption of the following amendments, on an emergency basis, to Title 20 of the District of Columbia Municipal Regulations, (DCMR). The Chief also gives notice of his intent to take final rulemaking action to adopt the amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Emergency action is necessary to prevent one of the most common sources of fires by requiring safer self-extinguishing fire-standard-compliant cigarettes in place of standard cigarettes that continue to smolder when left unattended.

The Emergency Rules were adopted and became effective on June 26, 2008, and shall expire on October 26, 2008, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever first occurs.

The proposed amendments would add a new Chapter 26 to Title 20 of the DCMR to establish standards for fire-standard-compliant cigarettes as well as testing standards for such cigarettes and penalties for failing to comply with the requirements of this new chapter.

**Title 20 (Environment) (February 1997) of the District of Columbia Municipal Regulations is amended as follows:**

A new Chapter 26 is added to read as follows:

**CHAPTER 26 FIRE-STANDARD-COMPLIANT CIGARETTES**

**2600 GENERAL PROVISIONS**

- 2600.1 This chapter shall apply to manufacturers and retail and wholesale dealers of cigarettes sold or offered for sale in the District of Columbia after July 1, 2008, except as provided in § 2600.3.
- 2600.2 This chapter governs the possession, manufacture, storage, handling, sale, and use of fire-standard-compliant cigarettes.
- 2600.3 A wholesale dealer or retail dealer may continue to sell after July 1, 2008, cigarettes that are not labeled as fire-standard-compliant cigarettes, provided that the cigarettes were part of its inventory on or before July 1, 2008, and the dealer can demonstrate each of the following:

- (a) Tax stamps were fixed to the cigarettes before July 1, 2008, and

- (b) The dealer purchased the inventory before July 1, 2008, in comparable quantity to the inventory purchased during the same period of the prior year.

2600.4 A manufacturer may continue to manufacture cigarettes that are not fire-standard-compliant, provided that the cigarettes will be stamped for sale outside of the District of Columbia and the manufacturer has taken reasonable steps to ensure that the cigarettes will not be sold in the District. A wholesale dealer may continue to sell cigarettes that are not fire-standard-compliant, provided that the dealer has taken reasonable steps to ensure that the cigarettes will be sold outside of the District.

2600.5 This chapter shall not apply to cigarettes distributed solely for the purpose of consumer product testing.

## **2601 FIRE-STANDARD-COMPLIANT CIGARETTES**

2601.1 No person shall sell or offer for sale a cigarette unless:

- (a) The cigarette has been tested by a method approved under § 2602;
- (b) The cigarette satisfies the performance standards required by § 2602;
- (c) The cigarette manufacturer has filed a written certification with the Department as required by § 2603; and
- (d) The cigarette bears fire-standard-compliant markings as required by § 2603.

## **2602 TESTING AND PERFORMANCE STANDARDS**

2602.1 The testing methods and performance standards for cigarettes to be sold or offered for sale in the District shall be as follows:

- (a) A laboratory that conducts a test under this section shall implement a quality control and quality assurance program;
- (b) Except as provide in § 2602.2, manufactures shall test cigarettes to determine compliance with this chapter in accordance with the American Society of Testing and Materials (ASTM) "Standard Test for Measuring the Ignition Strength of Cigarettes" (ASTM Standard E2187-04);
- (c) Cigarette testing shall be conducted on ten (10) layers of filter paper;

- (d) No more than twenty-five per cent (25%) of the cigarettes tested in a test trial shall exhibit fill-length burns;
- (e) The performance standard required by this section shall apply only to a complete test trial; and
- (f) A complete test trial shall consist of forty (40) replicate tests for each cigarette tested.

2602.2 If the Chief determines that a manufacturer's cigarettes cannot be tested according to the test method prescribed by § 2602.1, the Chief may approve a test method or performance standard the manufacturer, or another entity, proposes if the Chief determines that the alternative method is equivalent to and as effective as the test method or performance standard prescribed by § 2602.1.

2602.3 If the Chief approves an alternative test method or performance standard, the manufacturer may use that test method or performance standard as the test method or performance standard required by § 2602.1

### **2603 CERTIFICATION, PACKAGING, AND MARKING**

2603.1 A manufacturer shall submit a written certificate to the Chief attesting that its cigarettes have been tested according to an approved method under § 2602 and has achieved the required performance standard for sale in the District. A cigarette certified under this subsection shall be recertified every 3 years.

2603.2 A cigarette that is listed for certification under § 2603.1 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standards in § 2602 shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters (15 mm.) from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two (2) bands fully located at least fifteen millimeters (15 mm.) from the lighting end and ten millimeters (10 mm.) from the filter end of the tobacco column, or ten millimeters (10 mm.) from the labeled end of the tobacco column for non-filtered cigarettes.

2603.3 A cigarette manufacturer shall submit a complete description of each cigarette being certified, including the:

- (a) Brand;
- (b) Style;
- (c) Length in millimeters;

- (d) Circumference in millimeters;
- (e) Flavor, if applicable;
- (f) Filter or non-filter;
- (g) Package description, such as a soft pack or box; and
- (h) Mark required pursuant to § 2603.5.

2603.4 Packaging for certified fire-standard-compliant-cigarettes shall be marked in eight (8) point type or larger to indicate that the cigarettes have been tested using the test method and meet the performance standard required by this chapter.

2603.5 A manufacturer shall use only one (1) mark and the mark shall consist of:

- (a) The letters "FSC," which signify that the cigarette is fire-standard-compliant: or
- (b) Any mark approved for sale in New York State or another state that has enacted fire-standard-compliance standards for cigarettes that include the test method and performance standard specified in § 2602.

## 2604 DATA REQUIREMENTS

2604.1 A manufacturers shall retain and make data available as follows:

- (a) Retain data from tests conducted on cigarettes that are offered for sale in the District pursuant to this chapter for three (3) years; and
- 2. Make data available to the Chief and the Attorney General upon written request to verify compliance with the performance standard required under § 2602.

## 2605 PENALTIES

2605.1 A manufacturer or wholesale dealer who knowingly fails to comply with the provisions of the Act or of this chapter shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation and not to exceed one hundred thousand dollars (\$100,000) for all violations within a thirty (30) day period. Each day of violation shall constitute a separate offense. This penalty shall apply for a violation of D.C. Official Code § 7-1755(b) for each day after the sixtieth (60<sup>th</sup>) day of noncompliance.

- 2605.2 A retail dealer who knowingly fails to comply with the provisions of the Act or of this chapter shall be subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each violation and not to exceed twenty-five thousand dollars (\$25,000) for all violations within a thirty (30) day period. Each day of violation shall constitute a separate offense.
- 2605.3 A manufacturer that knowingly makes a false certification under § 2603.1 shall be subject to a minimum civil penalty of seventy-five thousand dollars (\$75,000) and a maximum civil penalty of two hundred and fifty thousand dollars (\$250,000) for each knowing false certification.
- 2605.4 The Chief, law enforcement personnel, or other duly authorized representatives of the Mayor may seize and take possession of cigarettes that do not bear proper markings as required by § 2603. Cigarettes seized pursuant to this subsection shall be turned over to the Attorney General for forfeiture to the District and destruction. Before cigarettes seized under this section are destroyed, the true holder of the trademark rights in the cigarette brand may inspect the cigarettes.

2606 **INSPECTIONS**

- 2606.1 Inspections of wholesale and retail dealers shall be conducted on a random basis by the Chief or any other law enforcement or government entity authorized by the Chief.

2699 **DEFINITIONS**

- 2699.1 When used in this chapter, the following terms shall have the meanings ascribed:

**Act**—the Fire-Standard-Compliant Cigarettes Act of 2008, effective May 13, 2008 (D.C. Law 17-157; D.C. Official Code § 7-1751 *et seq.*).

**Chief**—the Chief of the Fire and Emergency Medical Services Department.

**Cigarette**—a product that contains any amount of nicotine, regardless of size, shape, or presence of other ingredients, that is intended to be burned or heated and consists of or contains any roll of tobacco wrapped in paper, or in any other substance other than tobacco, and because of its appearance, the type of tobacco used, and its packing or labeling is offered to or purchased by consumers for smoking.

**Consumer testing**—an assessment of cigarettes that a manufacturer conducts or is under the control and direction of a manufacturer for the purpose of evaluating consumer acceptance of the cigarette, utilizing only the quantity of cigarettes that is reasonably necessary for the assessment, and in a controlled setting where the cigarettes are either consumed on-site or returned to the testing administrators at the conclusion of the testing.

**Fire-standard-compliant-cigarette**—a cigarette that has been tested pursuant to, and has met the performance standards of, the Act and its implementing rules.

**Manufacturer**—a person or entity that manufactures or produces cigarettes or causes cigarettes to be manufactured or produced, whether in or outside the District, for sale in the District, directly or through an importer, wholesale dealer, or retailer dealer, including any first purchaser that intends to resell cigarettes.

**Quality control and quality assurance program**—Laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing and that maintain a repeatability value of no greater than nineteen hundredths (0.19).

**Repeatability**—a range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

**Retail dealer**—a person, other than a manufacturer or wholesale dealer, engaged in the sale of cigarettes.

**Sale or selling**—a transfer of title or possession, or both, exchange or barter, conditional or otherwise, including the giving of cigarettes as samples, prizes, or gifts and the exchange of cigarettes for any consideration.

**Wholesale dealer**—a person, including a wholesale dealer's agent that sells cigarettes to retail dealers or other persons for resale, including any person that owns, operates, or maintains a cigarette vending machine in the District of Columbia.

Persons desiring to comment on these proposed rules should submit comments in writing to the Fire and Emergency Medical Services Agency, Office of the General Counsel, 1923 Vermont Ave., NW, Washington, D.C. 20001, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of these proposed rules may be obtained between 8:30 A.M. and 5:00 P.M. at the address stated above.

## DEPARTMENT OF HEALTH

## NOTICE OF EMERGENCY AND 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, 1997, hereby gives notice of the adoption, on an emergency basis, of a new section 1915 of Chapter 19 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Host Home Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid program for host home services provided by community homeowners and qualified professionals to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver), which was by approved the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published on April 4, 2008 (55 DCR 003538). No comments were received. This rulemaking amends the April 4<sup>th</sup> rules by changing the allocation of the daily reimbursement rate between the host home and Contract Provider and requiring each host home and Contract Provider to be certified by the Department on Disability Services. Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of host home services.

The emergency rulemaking was adopted on June 13, 2008, and became effective on that date. The emergency rules will remain in effect for 120 days or until October 10, 2008, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first.

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

New section 1915 (Host Home Services) of Chapter 19 of Title 29 DCMR is added to read as follows:

**1915            HOST HOME SERVICES**

1915.1            Host Home services shall be reimbursed by the District of Columbia Medicaid Program for each participant in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 1915.2 To be eligible for reimbursement, Host Home services shall be provided in a Host Home that meets the Department on Disability Services (DDS) Certification Standards as set forth in the Human Care Agreement between the Host Home, the Contract Provider, and DDS.
- 1915.3 Each Host Home and supporting Contract Provider located out-of-state shall be licensed and/or certified in accordance with the host state's laws and regulations and/or consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state. Each out-of-state Host Home and Contract provider shall comply with the following additional requirements:
- (a) Remain in good standing in the jurisdiction where the program is located;
  - (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action to DDS;
  - (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews; and
  - (d) Successfully meet certification review requirements of DDS.
- 1915.4 Host Home services shall only be available to a person with a demonstrated need for training, assistance, and supervision, and shall be authorized and provided in accordance with the person's current Individual Habilitation Plan (IHP) or Individual Support Plan (ISP) and Plan of Care.
- 1915.5 Host Home services refer to a residential arrangement in which a homeowner provides room, board, personal supports and assistance to a person in a Host Home. The services provided by a Host Home shall include, but are not limited to:
- (a) Room and board (not included in the Waiver reimbursement rate);
  - (b) Light homemaker tasks, such as assistance with meal preparation;
  - (c) Light chore tasks, such as assistance with laundry, shopping, and general housekeeping;
  - (d) General supervision of the person as described in the IHP or ISP and Plan of Care;
  - (e) Maintenance of medical records;
  - (f) Maintenance of financial records;
  - (g) Maintenance of the IHP or ISP and Plan of Care;
  - (h) Assistance with attending health care appointments, including coordinating, but not providing, transportation to and from the appointments;
  - (i) Assistance with planning and attending community events; and

- (j) Providing habilitative support in activities of daily living and/or therapeutic goals and objectives as described in the IHP or ISP and Plan of Care.

1915.6 Host Homes services shall be administered by Supported Living Service or Residential Habilitation Service providers, which in this section shall be referred to as the Contract Provider. Each Contract Provider of Host Home services shall be a social services agency as described in Chapter 19 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), Section 1903.1. In addition, the Contract Provider agrees to:

- (a) Be a member of the person's interdisciplinary team;
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for Residential Habilitation Services or Supported Living Services under the Waiver;
- (c) Maintain a copy of the most recent IHP or ISP and Plan of Care that has been approved by DDS for each person;
- (d) Ensure that all persons associated with Host Home services are qualified and properly supervised to include having a plan to provide staff interpreters for non-English speaking individuals;
- (e) Ensure that the service provided is consistent with the person's IHP or ISP and Plan of Care;
- (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules;
- (g) Provide staff training in infection control procedures consistent with the standards established by the Federal Centers for Disease Control and Prevention;
- (h) Ensure compliance with DDS policies governing reporting of unusual incidents, human rights, behavior management, and protection of person's funds; and
- (i) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238), as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code § 44-551 *et seq.*).

1915.7 Each person providing Host Home services shall meet all of the requirements in Chapter 19 to Title 29 of the District of Columbia Municipal Regulations (DCMR), section 1911, "Requirements for employees providing direct services."

1915.8 Each person providing Host Home services agrees to cooperate and attend mandatory trainings sessions provided by DDS and the Contract Provider and to allow DDS case managers and other DDS employees free and unfettered access to the Host Home.

- 1915.9 The role of the Contract Provider in Host Home placement shall be to:
- (a) Receive and review packets submitted by the DDS requesting development of a Host Home for a particular applicant;
  - (b) Respond to inquiries for Host Home development in a timely manner;
  - (c) Recruit appropriate Host Home settings for persons;
  - (d) Identify and develop on-going working relationships with needed local professional resources (*e.g.*, dentist, physician, psychiatrist, psychologist, occupational therapist, physical therapist, etc.);
  - (e) Provide for a minimum of one (1) visit by the participant to the prospective home, one of which may be an overnight stay if more visits are possible;
  - (f) Coordinate transportation in cooperation with the DDS case manager for visits to the prospective Host Home;
  - (g) Participate in a person centered planning process to develop the participant's IHP or ISP and Plan of Care;
  - (h) Arrange for essential supports to be in place prior to a participant's move into a Host Home setting, including provision of training to support persons and provision of necessary supplies and equipment;
  - (i) Arrange for non-essential but recommended and necessary supports to be put into place subsequent to a participant's move into a Host Home setting; and
  - (j) Provide information as needed to the participant and responsible party, DDS and the Host Home.
- 1915.10 The Contract Provider shall be responsible for coordinating compliance with DDS policies and procedures governing reporting of unusual incidents, human rights, behavior management, and protection of person's funds using, but not limited to, by the following means:
- (a) Contract Providers shall provide Host Homes with appropriate training on DDS policies;
  - (b) Contract Providers shall provide Host Homes with appropriate training on incident reporting procedures; and
  - (c) Contract Providers shall coordinate each incident investigation at Host Homes.
- 1915.11 The Contract Provider shall coordinate the delivery of professional services to persons in Host Homes that may include, but are not limited to, the following disciplines or services:
- (a) Health Care;
  - (b) Dentistry;
  - (c) Education;
  - (d) Nutrition;

- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Behavioral Support;
- (i) Community Supports;
- (j) Social work;
- (k) Speech, hearing and language therapy; and
- (l) Recreation.

1915.12 The Contract Provider shall coordinate the use of transportation for persons in Host Homes to day programs, places of employment, and/or community outings as needed.

1915.13 The Contract Provider shall coordinate general support monitoring at least twice per month to update activity schedules, reviewing medical and other appointments, making progress notes, and reviewing conditions in the Host Home and the status of the person.

1915.14 The Contract Provider shall coordinate health care monitoring for persons in Host Homes including, at a minimum, monitoring by a registered nurse at least every sixty (60) days for persons with no medications, and monthly for charting, progress notes, and a general review of persons receiving medications.

1915.15 The Contract Provider shall provide respite to the caregiver and emergency support up to a total of fourteen (14) days per year. If respite and emergency support services are provided in the Host Home, then host home services payments shall continue. If respite and emergency support services are provided in another location, then the host home services percentage of the reimbursement rate shall be paid to the Contract Provider.

1915.16 Each Host Home and Contract Provider shall assist residents in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social adaptive skills necessary to enable the person to reside in the community. To accomplish these goals, the Host Home and Contract Provider shall:

- (a) Within the first month of residence, use observation, conversation, and other interactions as necessary to develop a functional analysis of the person's capabilities;
- (b) Develop a plan with measurable outcomes using the functional analysis, the IHP or ISP and Plan of Care, and other information available to identify to the extent possible the skills necessary to enable the person to reside in the community while maintaining the person's health and safety; and

- (c) On a quarterly basis, report to the person, family, guardian, DDS Case Manager on the programming and support provided to help the person to achieve the identified outcomes.
- 1915.17 Each Contract Provider of Host Home services shall ensure the coordination of transportation services to enable the person to gain access to Waiver and other community services and activities.
- 1915.18 Each Contract Provider of Host Home services shall maintain all records and reports for at least six (6) years after the person's date of discharge.
- 1915.19 The following individuals shall not be permitted to provide host home services:
- (a) Legal guardian;
- (b) Parent of a minor child; or
- (c) Spouse.
- 1915.20 The reimbursement rate for Host Home services is a daily inclusive rate based on acuity of the participant. The acuity level will be determined by DDS based on the results of the Support Intensity Scale or as documented in the person's ISP or IHP. The basic support rate shall be one hundred thirty-six dollars (\$136.00) per day; the moderate support rate shall be one hundred fifty-three dollars (\$153.00) per day; and the intensive support rate shall be one hundred ninety-six dollars (\$196.00) per day. A specialized rate also shall be available by negotiation for individuals with extraordinary medical support needs as set by DDS with Department of Health, Medical Assistance Administration approval. The host home services reimbursement rate shall include:
- (a) All training for Host Home workers;
- (b) Programmatic supplies;
- (c) Oral/topical medication management;
- (d) General and administrative fees for waiver services;
- (e) Relief of the caregiver and emergency support;
- (f) All direct support costs based on the needs of the individual; and
- (g) Additional in-home supports from five (5) to twenty (20) hours per week.
- 1915.21 Forty (40) percent to fifty (50) percent of the daily reimbursement rate shall be paid to the Host Home by the Contract Provider for support services. The remaining fifty (50) percent to sixty (60) percent of the daily reimbursement rate shall be retained by the Contract Provider for training, additional in-home support services based on the needs of the individual, medication management, general and administrative fees for waiver services, general supervision, and relief and emergency coverage. The actual percentage of the daily reimbursement rate allocated between the Host Home and Contract

Provider shall be negotiated between the parties based on the specific support needs of the person.

1915.22 Host Home services shall not be payable or be billed for the same day that the following other Waiver services are provided to the person:

- (a) Supported Living;
- (b) Residential Habilitation;
- (c) Personal Care;
- (d) Live-In Caregiver;
- (e) Respite; or
- (f) In-Home Supports.

1915.23 Host Home services shall not be payable or be billed when the person is hospitalized, on vacation, or for any other period in which the person is not residing at the Host Home.

#### 1915.99 DEFINITIONS

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

**Contract Provider** – A Supported Living Service provider or Residential Habilitation Service provider which, in accordance with this section, is administering Host Home Services at a Host Home on behalf of a Homeowner.

**Direct Care Staff** – Individuals employed to work in the Host Home who render the day-to-day personal assistance that person's require in order to meet the goals of their IHP or ISP and Plan of Care.

**Individual Habilitation Plan (IHP)** – That plan 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 2-137; D.C. Official Code § 7-1304.03).

**Individual Support Plan (ISP)** – The successor to the individual habilitation plan (IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

**Interdisciplinary Team** – A group of persons with special training and experience in the diagnosis and habilitation of mentally retarded persons who have the responsibility of performing a comprehensive person evaluation while participating in the development, implementation, and monitoring of the person's IHP or ISP and Plan of Care.

**Homeowner** – A person(s) who is(are) the primary owner or leasor of a residential property. Evidence satisfactory to the Department on Disability Services of a title or a lease must be provided annually or any time a move is proposed.

**Host Home** – The residence owned or leased by the Home Owner where the person will reside for purposes of host home services under the Waiver.

**Licensed Practical Nurse** – A person who is licensed to practice practical nursing pursuant to the District of Columbia Health Occupations Revisions 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.

**Person** – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

**Plan of Care** – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

**Registered Nurse** – A person who is licensed to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions 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.

**Waiver** – Shall mean the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities as approved by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as may be further amended and approved by the Council and CMS.

Comments on the proposed rules shall be submitted in writing to Robert T. Maruca, Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th Floor, Washington, DC 20002, within thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the same address.