

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (DCRA) pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code, sec. 6-1409) (2001)), and Mayor's Order 87-259, dated November 13, 1987, hereby gives notice of the intent to adopt the District of Columbia Construction Codes of 2003, consisting of the 2000 edition of the International Code Council (ICC) International Building Code, the 2000 edition of the ICC International Residential Code, the 2000 edition of the ICC International Fuel Gas Code, the 2000 edition of the ICC International Mechanical Code, the 2000 edition of the ICC International Plumbing Code, the 2000 edition of the ICC International Property Maintenance Code, the 2000 edition of the ICC International Fire Code, the 2000 edition of the ICC International Energy Conservation Code, the D.C. Existing Buildings Code Supplement of 2002, the 1996 edition of the NFPA National Electrical Code, and a new Title 12 of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2003 including local variations to the adopted codes, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The proposed rules will repeal the District of Columbia Construction Codes adopted in 1999, including the 1996 editions of the BOCA National Building Code, International Mechanical Code, BOCA National Fire Prevention Code, BOCA National Property Maintenance Code, the NFPA National Electrical Code, and the 1995 editions of the International Plumbing Code and the CABO One- and Two-Family Dwelling Code and the 1999 edition of Title 12 DCMR, the District of Columbia Construction Codes Supplement.

Pursuant to Section 10 of the Act, the proposed rulemaking is being transmitted to the Council of the District of Columbia for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, within the 45-day review period, the proposed rules shall be deemed approved upon expiration of the 45-day period, except that the adoption of the International Existing Building Code shall not be deemed approved until expiration of the 90-day review period provided for in the Homestart Regulatory Improvement Amendment Act of 2002, D.C. Law 14-162, effective June 25, 2002. The proposed rules will not become effective until at least thirty (30) days from the date of publication of this notice in the D.C. Register, or until approved or deemed approved by the Council, whichever occurs later.

Due to the volume of the texts adopted as proposed rules, the Office of Documents and Administrative Issuances has authorized the incorporation by reference of the texts cited above with this notice, pursuant to section 4(d) of the District of Columbia Documents Act, effective March 6, 1979 (D.C. Law 2-153; D.C. Official Code, sec. 2-553(d)) (2001).

Comments on this proposed rulemaking must be submitted in writing (or postmarked) not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be addressed to Karen Edwards, General Counsel, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Room 9400, Washington, D.C. 20002. Copies of the proposed rules are available for public inspection at the Washingtonia Division of the Martin Luther King, Jr. Public Library, 901 G Street, N.W., Washington, D.C. and at the Office of the Administrator, Building and Land Regulation Administration, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Suite 2000, Washington, D.C.

## 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, 1997, hereby gives notice of the intent to adopt an amendment to Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR) governing reimbursement of nursing facilities. The proposed amendment would revise the rules governing provider appeals.

Each nursing facility is reimbursed on a prospective basis at a facility specific rate. The facility specific per diem rate is developed by establishing a base year per diem rate, subject to a ceiling and adjustments. The current rules governing the appeals process were developed based upon a cost-based reimbursement methodology. The proposed amendment would revise the appeals process consistent with a prospective payment system. The Medicaid Program is also amending the applicable provisions of the District of Columbia State Plan for Medical Assistance.

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

Amend section 960 (Appeals) of Chapter 9, Title 29 DCMR to read as follows:

- 960.1           The Medicaid Program shall issue each provider a Rate Letter which sets forth the per diem rate to be paid to each facility for the applicable fiscal year, the inflation adjustment applicable to each fiscal year as determined in accordance with section 952, and the amount of any interim payment, if applicable.
- 960.2           A provider who disagrees with the Rate Letter may request an administrative review by sending a written request for an administrative review within (45) days of the Rate Letter. The request for an administrative review should be sent to the Financial Manager, Audit and Finance, Medical Assistance Administration, Department of Health, 825 North Capitol Street, NE, 5<sup>th</sup> Floor, Washington, DC 20002.
- 960.3           The amounts subject to an administrative review are as follows:
- (a)     The amount of the inflation adjustment; and
  - (b)     The interim payment amount.

- 960.4 The written request for an administrative review shall include a specific description of the payment amount the provider believes to be in error, the reason for the review, the relief requested, and documentation in support of the relief requested.
- 960.5 The Medicaid Program shall mail a written determination relative to the administrative review to the provider no later than one hundred and twenty (120) days from the date of receipt of the provider's written request for an administrative review under section 960.2.
- 960.6 Decisions made by the Medicaid Program and communicated in the formal response described in section 960.5 may be appealed, within thirty (30) days of the date of the Department's letter notifying the provider of the decision, to the Board of Appeals and Review.
- 960.7 Filing an appeal with the Board of Appeals and Review shall not stay any action to recover any overpayment to the provider and the provider shall be immediately liable to the Medicaid Program for the overpayment set forth in the Medicaid Program's formal response.

Comments on the proposed rules should be sent in writing to Wanda R. Tucker, Interim Senior Deputy Director for Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, DC, not later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules and corresponding State Plan may be obtained from the same address.

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

---

**NOTICE OF PROPOSED RULEMAKING**

**GT02-1 IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS  
LIGHT COMPANY FOR AUTHORITY TO AMEND ITS GENERAL SERVICE  
PROVISIONS**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-205 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the application of Washington Gas Light Company, District of Columbia Division ("WGL" or the "Company") in the above-captioned matter within thirty (30) days from the publication of this Notice of Proposed Rulemaking in the *DC Register*.

2. On July 7, 2003, WGL re-filed a request to amend its Rate Schedule No. 5 "Firm Delivery Service Gas Supplier Agreement,"<sup>2</sup> to require that competitive service providers accept assignment of certain firm transportation resources when the suppliers sell natural gas supplies to the Company's customers through the Washington Gas Residential Firm Delivery program. WGL states that the mandatory capacity assignment is critical to maintaining continued reliability of gas supply to customers in the District of Columbia.<sup>3</sup>

3. The complete text of the WGL Application, including the proposed amendment is on file with the Commission. Copies of the proposed amendment may be reviewed at the Office of the Commission Secretary, 2<sup>nd</sup> Floor – West Tower, 1333 "H" Street, NW, Washington, DC 20005, between the hours of 9 a.m. and 5:30 p.m., Monday through Friday. Copies of the amendment are available, upon request, at a cost of 15 cents per page reproduction fee. Comments on the proposed amendment, setting forth the specific grounds for each representation, should be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above-mentioned address. Comments

---

<sup>1</sup> D.C. Code, 2001 Ed. § 2-205.

<sup>2</sup> See *GT02-1, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions*, Request for Authority to Amend Washington Gas Light Company's Rate Schedule ("WGL Application"), filed July 7, 2003. (The Commission, through Order No. 12702, previously rejected WGL's tariff amendment application filed April 26, 2002.) See *GT02-1, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions*, Order No. 12702, rel. April 16, 2003.

<sup>3</sup> *Id.* at 4.

must be received within thirty (30) days of publication of this Notice in the *DC Register*. Persons may file reply comments within forty-five (45) days of publication of the Notice, after which time the Commission will take final rulemaking action on the Company's request.

## STATE EDUCATION OFFICE OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED RULEMAKING

The State Education Office, pursuant to the authority set forth in the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 853, D.C. Official Code; § 38-301 *et seq.*), and the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), hereby gives notice of its intent to adopt the following amendment to Section 2008 of Title 5 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of these rules in the *D.C. Register*. The purpose of the proposed amendment is to establish new tuition rates for non-resident students attending public and public charter schools in the District of Columbia.

5 DCMR § 2008.13 is amended to read as follows:

2008.13 The following shall be the non-resident tuition rates currently in effect for public and charter schools in the District of Columbia:

## SCHEDULE OF 2003-04 NON-RESIDENT TUITION RATES

The rates displayed in the charts below are the same as the per-pupil allocations provided by the Uniform Per Student Funding Formula during the FY 2003 school year. Based on these rates, the tuition cost for each student who is not a resident of the District of Columbia and who is enrolled in the District of Columbia Public Schools or in a public charter school in the District of Columbia shall be calculated in the following manner:

(a) Using the Grade Level Table below, determine the rate for the grade level or span at which the student, based on grade assignment or age, will be enrolled.

## Rates by Grade Level or Applicable Grade Range

Grade Levels	Yearly Rate	Half-Yearly Rate	Daily Rate
Pre-School/Pre-Kindergarten	\$7,510	\$3,755	\$42
Grades K-3 (Includes students enrolled in Ungraded elementary school programs.)	\$6,611	\$3,306	\$37
Grades 4-5	\$6,419	\$3,209	\$36
Grades 6-8 (Includes students enrolled in Ungraded middle or junior high school programs.)	\$6,611	\$3,306	\$37
Grades 9-12 (Includes students enrolled in Ungraded senior high school programs.)	\$7,510	\$3,755	\$42
Alternative school, all grade levels	\$8,344	\$4,172	\$46
Special Education Schools	\$7,510	\$3,755	\$42
Adult	\$4,814	\$2,407	\$27

(b) If the student is enrolled in a daytime special education program, use the table below to determine the rates for services the student will receive. Add this amount to the grade level cost in paragraph (a) of this section.

**Rates for Special Needs Students Enrolled in a Daytime Special Education Program**

Level/Program	Yearly Rate	Half-Yearly Rate	Daily Rate
Level 1 Special Education	\$3,530	\$1,765	\$20
Level 2 Special Education	\$5,456	\$2,728	\$30
Level 3 Special Education	\$9,628	\$4,814	\$53
Level 4 Special Education	\$17,330	\$8,665	\$96
LEP/NEP Services to Limited- and Non-English Proficient Students	\$2,567	\$1,284	\$14

(c) If the student is enrolled in a residential school that serves special needs students, use the table below to determine the rates for any of the listed services that the student will receive. Add these amounts to the totals from paragraphs (a) and (b).

**Rates for Special Needs Students Enrolled in a Residential School**

Level/Program	Yearly Rate	Half-Yearly Rate	Daily Rate
Level 1 Special Education (Add-on rates for After hours Special Education Services)	\$2,401	\$1,200	\$13
Level 2 Special Education (Add-on rates for After hours Special Education Services)	\$8,729	\$4,365	\$48
Level 3 Special Education (Add-on rates for After hours Special Education Services)	\$18,877	\$9,438	\$105
Level 4 Special Education (Add-on rates for After hours Special Education Services)	\$18,768	\$9,384	\$104
Level 5 Special Education (Residential 24-hour Intensity special education school. Includes Both daytime and after hours services.)	\$60,334	\$30,167	\$335
LEP/NEP Services to Limited- and Non-English Proficient Students (Add-on rate for after hour services)	\$4,365	\$2,182	\$24

- (d) Any student enrolled in a residential school, whether or not the student has special needs, is entitled to the Residential Rate listed below, which covers the cost of room and board. Add this amount to the total of (a), (b), and (c) above. This amount is the student's total non-resident tuition rate for the regular school year program.

**Rates for Room and Board for students Enrolled in a Residential School**

Program	Yearly Rate	Half-Yearly Rate	Daily Rate
Residential (Room and Board)	\$10,911	\$5,456	\$61

- (e) A non-resident student who wishes to attend summer school in the District of Columbia must register for the summer program separately from the regular school year program. Students will be admitted on a space-available basis. The non-resident tuition rates for summer school are displayed below.

**Additional Rates for Non-Resident Students Enrolled in Summer School**

Program	Rate
Summer School	\$1,091

The rates in this schedule only apply to non-resident students enrolled in the regular school program of the District of Columbia Public Schools or a public charter school in the District of Columbia. Some schools may offer services that are not considered part of the regular school program, and participation in such programs may require payment of additional fees.

All persons who desire to comment on these proposed rules should submit their comments in writing to C. Vanessa Spinner, State Education Officer, 441 Fourth Street, NW, Washington, D.C. 20001. All comments must be received by the State Education Office not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of these proposed rules and related information may be obtained by writing to the above address, or by calling the State Education Office at (202) 727-6436.

## DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 03-57-TS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend the Vehicle and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not less than fifteen (15) days from the date of publication of this notice in the *D.C. Register*. Pursuant to D.C. Official Code § 2-505(a) (2001), a comment period of less than thirty days is being utilized. The redirection of traffic on this street is important to public safety. A shorter timeframe for comment is appropriate given the need to quickly accomplish the change and because the action does not involve major policy considerations.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4004, ONE-WAY STREETS, Subsection 4004.1, (a) Northwest Section, is amended by deleting the following from the list of locations where traffic is restricted to one direction of travel:

“26<sup>th</sup> Street, N.W., between M Street and Pennsylvania Avenue, for northbound traffic only”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than fifteen days (15) days after the publication of this notice in the *D.C. Register*, with the Department of Transportation, Traffic Services Administration, 2000 14<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor, Washington, D.C. 20009 (Attention: Docket No.03-57-TS). Copies of this proposal are available, at cost, by writing to the above address.

## DEPARTMENT OF HEALTH

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The District of Columbia Board of Nursing ("Board") pursuant to the authority set forth under § 601 (b) of the Use of Trained Employees to Administer Medication to Persons with Mental Retardation or Other Disabilities Act of 1995 effective September 22, 1995 (D.C. Law 11-52; D.C. Official Code § 21-1205), hereby gives notice of the adoption, on an emergency basis of an amendment to Chapter 61 of Title 17 DCMR, "Trained Medication Employees."

Emergency action is necessary to safeguard the health, safety, and welfare of individuals with mental retardation and other developmental disabilities in agencies licensed, certified, or approved by the District government as a child care facility, private school, day program, community based residence, or other agency providing residential services, education, habilitation, vocational, or employment training services. Because of the shortage of nurses available to provide medications to the residents of these facilities, it is necessary to provide training to individuals who will then provide medications in a timely manner.

A notice of Emergency and Proposed Rules was published on April 18, 2003, at 50 DCR 3071. One comment was received in connection with this notice recommending changes to sections 6106.4, 6110.5 and adding the term "medication" to the list of definitions. The Board voted to accept the recommendations; therefore the rules are being republished for additional comment. The emergency rulemaking was adopted on June 4, 2003. These Emergency and Proposed Rules supersede those published on April 18, 2003. The emergency rule will expire one hundred twenty (120) calendar days after adoption or upon publication of a Notice of Final Rulemaking the D.C. Register, whichever occurs first.

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

**Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:**

**Section 6100.1 (c) is amended to read as follows:**

6100.1 (c) The certification of medication administration trainers and master trainers; and

**Section 6101.1 is amended to read as follows:**

6101.1 The supervisory registered nurse for each program shall obtain and maintain on file, at program's facility, and at the facility where the

program participant most often receives medications, instructions written by the licensed practitioner responsible for prescribing medication for the program participant. A program shall ensure that a copy of a participant's medication instructions is provided to the participant's residential facility. The instructions shall state the following:

- (a) The name of the program participant who is to receive the medication;
- (b) The name and strength of the medication;
- (c) The name and telephone number of the licensed practitioner prescribing the medication;
- (d) The time of administration, dosage, method of administration, and duration of medication;
- (e) Compatibility with other prescribed and non-prescription medications;
- (f) Known program participant allergies;
- (g) Medication usage warnings;
- (h) Side effects; and
- (i) Other potential adverse reactions.

**Section 6101.3 is amended to read as follows:**

6101.3 The information contained in the written instructions shall at all times be the current instructions of the licensed practitioner.

**Section 6104.2 is amended to read as follows:**

6104.2 The medications shall be stored according to the package insert in either a cabinet or a medication refrigerator at a temperature between thirty-six (36) and forty-six (46) degrees Fahrenheit that offers sufficient storage space and lighting. The cabinet or refrigerator shall be locked when not in use.

**Section 6104.5 is amended to read as follows:**

6104.5 Non-oral medications such as lotions and ointments shall be stored separately from those medications taken orally.

**Section 6105.1 is amended to read as follows:**

6105.1 The licensed nurse or trained medication employee shall document in the Medication Administration Record ("MAR") medications that have been administered to the program participant and whether the medications ordered have been taken as ordered.

**Section 6105.4 is amended to read as follows:**

6105.4 The following information shall be recorded in the MAR for all medications ordered for the program participant:

- (a) The name, strength, and frequency of the medication;
- (b) The prescribed dosage of medication;
- (c) The route of medication administration;
- (d) The date the medication is prescribed by the licensed practitioner;
- (e) The date and time the medication is to begin;
- (f) The date the medication is to be continued if specified by the licensed practitioner;
- (g) Indications for the medication; and
- (h) Any known allergies.

**Section 6105.5 is amended to read as follows:**

6105.5 All information shall be recorded on the MAR in permanent blue or black ink. All errors shall be appropriately corrected and there shall be no erasures or whiteouts.

**Section 6105.8 is amended to read as follows:**

6105.8 All medication errors and omissions, and any related actions that have been taken, shall be recorded on the MAR by the trained medication employee and reported to the licensed nurse.

**Section 6105.10 is amended to read as follows:**

6105.10 The MAR shall be reviewed and signed by a registered nurse at least once each month.

**Section 6105.11 is amended to read as follows:**

6105.11 When a new medication is ordered for a program participant the licensed nurse shall be notified before the administration of the medication and a photocopy of the prescription shall be placed in the MAR.

**Section 6106.1 is amended to read as follows:**

- 6106.1 Upon successful completion of a Trained Medication Employee Course approved by the Board, a trained medication employee applicant shall submit:
- (a) Documentation signed by the Medication Administration Trainer verifying satisfactory completion of the Trained Medication Employee Course;
  - (b) Proof of least one (1) year of clinical experience in a program or a health care facility;
  - (c) Proof of satisfactory current completion of cardio-pulmonary (CPR) training and a First Aid program; and
  - (d) A completed application and required fee.

**Section 6106.2 is amended to read as follows:**

6106.2 An applicant may request a waiver from participation in the Medication Administration Course if the applicant has successfully completed a substantially equivalent course in another jurisdiction. Program employees that have successfully completed a Medication Administration Course approved by the State of Maryland or the Commonwealth of Virginia need not participate in the Medication Administration Course.

**Section 6106.3 is amended to read as follows:**

- 6106.3 An applicant requesting a waiver from participation in the Medication Administration Course shall submit to the Board:
- (a) Proof of current certification in the administration of medication in Maryland or Virginia or any other jurisdiction approved by the Board;
  - (b) Proof of at least one (1) year of clinical experience in a program or a health care facility;

- (c) Proof of satisfactory current completion of a cardio-pulmonary (CPR) training and First Aid program; and
- (d) A completed application and required fee.

**Section 6106.4 is amended to read as follows:**

6106.4 The Board shall issue to qualified applicants a certification as a trained medication employee authorized to administer medication to program participants in a program licensed, certified or approved by the District of Columbia government as defined in D.C. Official Code § 21-1201 (10).

**Section 6106.5 is amended to read as follows:**

6106.5 The Board shall maintain a registry of certified trained medication employees.

**Section 6106.6 is amended to read as follows:**

6106.6 If, after certification, the supervisory registered nurse or licensed practitioner observes serious or multiple deficiencies or errors, he or she shall report the deficiencies to the Board in writing.

**Section 6106.7 is amended to read as follows:**

6106.7 If a licensed nurse or licensed practitioner observes serious or multiple deficiencies or errors that have jeopardized the health or welfare of any program participant which include, but are not limited to, errors involving medication administration, dosage documentation and storage of medications, the licensed nurse or licensed practitioner shall report the deficiencies to the Board and the employing program shall prohibit the trained medication employee from administering medication until the Board has taken action on the notice of deficiency.

**Sections 6106.8, 6106.09, 6106.10, 6106.14, 6106.15, 6106.16, 6106.17, 6106.18 and 6106.19 are repealed.**

**Section 6107.1 is amended to read as follows:**

6107.1 Recertification of a trained medication employee shall be required every two (2) years, and shall include verification of a Board-approved twelve (12) hours of in-service training in pharmacology or medication administration and the supervisory registered nurse's verification of the trained medication employee's continued adequacy of performance.

**Section 6107.2 is amended to read as follows:**

- 6107.2 Recertification applications shall be submitted to the Board before the expiration of the current certification and shall:
- (a) Be signed by the trained medication employee;
  - (b) Include the supervisory registered nurse's written verification of the trained medication employee's continued adequacy of performance;
  - (c) Include documentation verifying successful completion of twelve (12) hours of board approved in-service training; and
  - (d) Be accompanied by the required registration fee.

**Section 6108.1 is amended to read as follows:**

- 6108.1 Before administering medication to a program participant, all trained medication employees shall:
- (a) Observe a supervisory registered nurse administering medication to a program participant on at least two (2) occasions;
  - (b) Be observed by a supervisory registered nurse on a least four (4) separate occasions while engaged in the process of administration, documentation, and monitoring side effects at one hundred percent (100%) proficiency;
  - (c) Demonstrate his or her proficiency and knowledge of all medication procedures for the storage of medications, and all program policies pertaining to the administration of medication; and
  - (d) Demonstrate knowledge of medications to be administered by reviewing the following with the supervisory nurse:
    - (1) Compatibility with other prescribed and non-prescribed medications;
    - (2) Known patient allergies;
    - (3) Usage warnings;

- (4) Side effects;
- (5) Indications for usage; and
- (6) Other potential adverse reactions.

**Section 6108.2 is amended to read as follows:**

6108.2 A registered nurse shall review the completed MAR monthly for proper and accurate documentation, including vital signs.

**Section 6108.3 is amended to read as follows:**

6108.3 A registered nurse shall observe, review and evaluate in writing the ability of the trained medication employee to properly administer, document and store medication for a program participant every three (3) months for the first year of certification and every six (6) months thereafter.

**Section 6108.4 is amended to read as follows:**

6108.4 The supervisory registered nurse shall be available to the trained medication employee for general or direct supervision.

**Section 6108.5 is repealed.**

**Section 6108.6 is amended to read as follows:**

6108.6 The supervisory registered nurse shall, on a monthly basis, review the licensed practitioner's orders, MAR, and medication intervals for all program participants.

**Section 6108.7 is amended to read as follows:**

6108.7 The supervisory registered nurse shall review with the trained medication employee any errors in documentation that are noted. Serious or multiple errors or omissions shall be reported to the Board of Nursing.

**Section 6108.8 is amended to read as follows:**

6108.8 Only a licensed nurse shall accept a telephone medication order from a licensed practitioner for a new prescription or change in dosage or frequency.

**Section 6108.9 is amended to read as follows:**

6108.9 The licensed nurse receiving the verbal order pursuant to § 6108.7 or receiving an order directly from a licensed practitioner, shall order medication from the pharmacy and enter that specific medication, as ordered, on the program participant's medication administration record.

**Section 6108.10 is amended to read as follows:**

6108.10 If the trained medication employee observes a change in the program participant's condition after administration of medication, the trained medication employee shall notify the registered nurse immediately.

**Sections 6108.11 and 6108.12 are repealed.**

**The section heading for 6109 is amended to read as follows:**

**6109 TRAINING PROGRAMS AND TRAINER**

**Section 6109.1 is amended to read as follows:**

6109.1 A Medication Administration Course to train program employees as trained medication employees shall consist of a program that is:

- (a) Approved by the Board for the instruction of applicants seeking certification as a trained medication employee; or
- (b) Taught by a Medication Administration Trainer approved by the Board.

**Section 6109.2 is amended to read as follows:**

6109.2 A Medication Administration Course for Medication Administration Trainers shall be:

- (a) Approved by the Board for the instruction of applicants seeking certification as Medication Administration Trainers; or
- (b) Taught by a Master Medication Administration Trainer approved by the Board.

**Section 6109.3 is amended to read as follows:**

6109.3 A person seeking approval from the Board of Nursing as a Medication Administration Trainer shall:

- (a) Be licensed in the District of Columbia as a registered nurse; and

- (b) Be certified as a Medication Administration Trainer in another jurisdiction approved by the Board; or
- (c) Have successfully completed a Medication Administration Trainer Program approved by the Board.

**Section 6109.4 is amended to read as follows:**

6109.4 A person seeking approval from the Board of Nursing as a Master Medication Administration Trainer shall:

- (a) Meet the criteria pursuant to § 6109.3; and
- (b) Have two (2) years experience teaching a Medication Administration Course for Trained Medication Employees or other Board-approved medication administration course.

**Section 6109.5 is amended to read as follows:**

6109.5 The Board shall maintain a list of approved Medication Administration Trainers and Master Medication Administration Trainers.

**Section 6109.6 is repealed.**

**The section heading for 6110 is amended to read as follows:**

**6110 PROGRAM RESPONSIBILITIES**

**Section 6110 is amended by adding a new subsection numbered 6110.4 to read as follows:**

6110.4 Every program shall, before hiring a person certified as a trained medication employee, verify with the Board of Nursing that the certification is current and the trained medication employee has not had disciplinary action taken against him or her.

**Section 6110.5 is stricken.**

**Section 6111.1 is amended to read as follows:**

6111.1 An anaphylaxis emergency treatment kit, epipen, AnaKit or equivalent injection system of epinephrine may be administered by a trained medication employee as prescribed by a licensed practitioner pursuant to the program's protocol or procedures.

**Section 6112.1 is amended to read as follows:**

- 6112.1 Each program shall develop guidelines to assess whether a program participant:
- (a) Has the ability to self-administer his or her medications;
  - (b) Requires the prescribed medication to be administered by a trained medication employee; or
  - (c) Requires the prescribed medication to be administered by a licensed practical or registered nurse.

**Subsection 6199.1 is amended as follows:****a) The following terms with the ascribed meanings are added as follows:**

**Direct supervision** – supervision in which the supervising nurse is available to the trained medication employee on the premises and within vocal communication either directly or by a communication device.

**General supervision** – supervision in which the supervising nurse is available to the trained medication employee for consultation either in person or by a communication device, but need not be physically present on the premises at the time the actions are performed.

**Medication** – a controlled (excluding Classes I and II) or non-controlled substance or treatment regarded as effective in bringing about recovery, restoration of health, alleviation of pain or symptoms of an illness, or the normal functioning of the body.

**b) The definition for trained medication employee is amended to read as follows:**

**Trained medication employee** – an individual employed to work in a program who has successfully completed a training program approved by the Board and is certified to administer medication to program participants.

All persons wishing to comment on the proposed rulemaking shall submit written comments no later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays, at the address listed above.

**DISTRICT OF COLUMBIA 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. 774; 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 936 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Dental Services". These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for dental services provided by a licensed dentist or dental hygienist to participants with mental retardation in the Home and Community Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish Medicaid reimbursement rates for dental services.

On November 22, 2002, a notice of emergency and proposed rulemaking was published in the *D.C. Register* (49 DCR 10630). These rules amend the previously published rules by adopting the dental services available to eligible Medicaid recipients residing in an intermediate care facility (ICF/MR) for persons with mental retardation. This change will ensure that persons residing in an ICF/MR and Waiver participants receive the same dental services. Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of dental services.

The emergency rulemaking was adopted on July 16, 2003 and will become effective one day after publication of this notice of emergency rulemaking in the *DC Register*. The emergency rules remain in effect for 120 days or until November 13, 2003 unless earlier superseded or 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 in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Amend Title 29 DCMR by adding the following new section 936 to read as follows:

**SECTION 936          DENTAL SERVICES**

- 936.1          Dental services shall be reimbursed by the 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.
- 936.2          Dental services shall be provided consistent with the standards established by the American Dental Association.

- 936.3 Dental services shall be authorized and provided in accordance with each client's individual habilitation plan (IHP) or individual support plan (ISP).
- 936.4 Each dental services provider shall develop a written treatment plan after completion of a comprehensive evaluation. The services provided shall be consistent with the treatment plan.
- 936.5 The treatment plan shall be updated annually and shall serve as a guide for treatment to be completed over the course of one year unless special circumstances require a longer treatment plan.
- 936.6 The treatment plan shall be submitted to the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) within thirty (30) days of completion of the comprehensive evaluation.
- 936.9 Each person providing dental services shall be a dentist or dental hygienist working under the supervision of a dentist who meets all of the following requirements:
- (a) Provide services consistent with the scope of practice authorized 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 consistent with the applicable professional practices act within the jurisdiction where services are provided; and
  - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for dental services under the Waiver or be employed by a provider that has a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for dental services under the Waiver.
- 936.10 The reimbursement rates for dental services shall be as follows:

DESCRIPTION OF SERVICE	RATE
Periodic Dental Screening	\$22.00
ER Treatment Control Blood	\$30.25
Periconitis Palliative Therapy	\$24.75
Limit Oral Eval Problm Focus	\$30.25
Comprehensive Oral Evaluation	\$85.25
Intraor Complete Film Series	\$74.25
Full Mouth X Rays	\$74.25
Periapical X Ray; First Film	\$13.75
One Periapical Film	\$13.75

DESCRIPTION OF SERVICE	RATE
Two Periapical X Rays	\$24.75
Three Periapical X Rays	\$27.50
Periapical X Ray-Each additional film	\$22.00
Occlusal X Ray	\$27.50
Dental Bitewings Two Films	\$44.00
P.A. Film	\$110.00
Panorex	\$74.25
Cephalometric Film	\$110.00
Pulp Test	\$16.50
Study Models	\$38.50
Prophylaxis, Mouth Exam	\$85.25
Preventive Prophylaxis (Adult)	\$35.75
Preventive Prophylaxis (Child)	\$24.75
Topical Fluor w/o Prophy Child	\$22.00
Sodium Floride Application	\$22.00
Dental Sealants	\$16.50
Fixed, Band Type	\$206.25
Lingual Arch Wire	\$247.50
Amalgam One Surface, Primary	\$27.50
Amalgam Two Surfaces, Primary	\$38.50
Amalgam, Three Surfaces, Primary	\$57.75
Amalgam Four Surfaces, Primary	\$74.25
Amalgam One Surface, Permanent	\$33.00
Amalgam Two Surfaces, Permanent	\$46.75
Amalgam Three Surfaces, Permanent	\$71.50
Amalgam Four Surfaces, Permanent	\$93.50
Acrylic or Plastic Restoration	\$55.00
Esthetic Restoration Including Angle	\$68.75
Acrylic or Plastic Restoration, III	\$33.00
Esthetic Restoration Class IV	\$68.75
Acrylic Jacket	\$247.50
Gold (Full Cast)	\$324.50
Dowel Crown	\$412.50
Pulp Cap Direct Excluding Final Rest	\$27.50
Pulpotomy	\$55.00
One Canal: Excludes Final Restoration	\$258.50
Three Canal; Excludes Final Restoration	\$398.75
Gingivectomy or Gingivioplasty, 5 Mor.t	\$275.00
Subgingival Curretage Root PLN Peri	\$137.50
Deep Scaling	\$137.50
Complete Lower Denture	\$481.25
Partial Upper Denture With Gold	\$687.50
Single Tooth Extraction	\$38.50
Multiple Extractions	\$38.50

DESCRIPTION OF SERVICE	RATE
Extraction of Tooth, Erupted	\$101.75
Extraction of Tooth, Soft Tiss Imp	\$154.00
Extraction of Tooth, Partial Bony Imp	\$203.50
Extraction of Tooth Complete Bony Impac	\$222.75
Root Tips	\$85.25
Replantation of Tooth with Splint	\$291.50
Surgical Exposure of Bony Impaction	\$154.00
Removal of Subcutaneous Tissue	\$308.00
Incision Drainage Abscess, Intracol	\$85.25
Bite Plane	\$154.00
Habit Breaker	\$258.50
Consultation	\$82.50
Office Visit	\$49.50

936.99

**DEFINITIONS**

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

Client- An individual with mental retardation who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Dental Hygienist- A person who is licensed as a dental hygienist 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 dental hygienist in the jurisdiction in the jurisdiction where the services are provided.

Dentist- A person who is licensed or authorized to practice dentistry 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 dentist in the jurisdiction in the jurisdiction where the services are provided.

Individual Habilitation Plan (IHP)- Shall have 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 2-137; D.C. Official Code, 7-1304.03).

Individual Support Plan (ISP)- Shall have the same meaning as the successor to the individual habilitation plan (IHP) as defined in the court-approved *Joy Evans* Exit Plan.

Treatment Plan- A written plan that includes diagnostic findings and treatment recommendations resulting from a comprehensive evaluation of the client's dental health needs.

Comments on the proposed rules should be sent in writing to Wanda R. Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, not later than 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.

## 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 944 to Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Adult Companion Services". These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for adult companion services provided by qualified professionals to participants with mental retardation in the Home and Community Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish Medicaid reimbursement rates for adult companion services.

The Centers for Medicare and Medicaid Services (CMS), formerly the federal Health Care Financing Administration has advised the District that the maintenance and expansion of adult companion services to persons with mental retardation and developmental disabilities is essential to the continuation of the Waiver. These rules establish standards governing the provision of adult companion services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of adult companion services.

The emergency rulemaking was adopted on July 10, 2003, and will become effective on the date of publication of this notice of emergency rulemaking in the *D.C. Register*. The emergency rules will expire on November 7, 2003, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first. A notice of emergency and proposed rulemaking was published on March 21, 2003, at 50 DCR 2370. The emergency rule expired on June 5, 2003. This proposed rulemaking supersedes the proposed rulemaking published on March 21, 2003. This emergency and proposed rule reflects changes prohibiting concurrent billing for personal care, respite, chore, homemaker, attendant care, residential habilitation, or independent habilitation services and clarifying that transportation services provided under section 944.3(g) can only be billed if the provider has a provider agreement to bill for transportation services under the waiver.

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

**Title 29 (Public Welfare) (May 1987) of the District of Columbia Municipal Regulations is amended by adding a new section 944, to read as follows:**

**944            ADULT COMPANION SERVICES**

- 944.1 The Medicaid Program shall reimburse for adult companion services for each participant with mental retardation 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.
- 944.2 Adult companion services include non-medical care, supervision, socialization, and assistance services that enable a client to perform household activities and access community resources and services.
- 944.3 Adult companion services eligible for reimbursement include the following services:
- (a) Assistance in locating and using natural and informal supports;
  - (b) Assistance accessing neighborhood and community resources;
  - (c) On-site companionship to ensure health and safety;
  - (d) Reinforcement and support for individual decision-making;
  - (e) Assisting or supervising a client with activities including the following:
    - (1) Meal preparation, laundry, and shopping, provided that these services are not provided as discrete services; and
    - (2) Light housekeeping tasks that are incidental to the care and supervision of a client;
  - (f) Assistance using public transportation, including accompanying the client to community activities; and
  - (g) Transportation to participate in community activities necessary to carry out this service, provided that the transportation provider has a provider agreement to bill for transportation services pursuant to 29 DCMR § 943.
- 944.4 Adult companion services shall not be available to clients being served by a provider already responsible for the general care and supervision of the client. Adult companion services shall not be billed concurrently with personal care services, respite care services, chore services, homemaker services, attendant care services, residential habilitation services, or independent habilitation services.
- 944.5 Adult companion services shall not exceed four hundred eighty (480) hours per year beginning on the date the service is authorized.

- 944.6 Adult companion services shall be authorized by the client's interdisciplinary team and provided in accordance with each client's individual habilitation plan (IHP) or individual support plan (ISP).
- 944.7 Each provider of adult companion services shall:
- (a) Be a non-profit organization, home health agency, social service agency, or other business entity;
  - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for adult companion services under the Waiver;
  - (c) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
  - (d) Ensure that all adult companion services staff are qualified and properly supervised;
  - (e) Ensure that the service provided is consistent with the client's IHP or ISP;
  - (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules; and
  - (g) Provide training in infection control procedures consistent with the requirements of the (Occupational Safety and Health Administration, U.S. Department of Labor) as set forth in 29 CFR 1910.1030.
- 944.8 Each person providing adult companion services shall meet all of the following requirements:
- (a) Be at least eighteen (18) years of age;
  - (b) Be acceptable to the client;
  - (c) Demonstrate annually that he or she is free of communicable diseases as confirmed by an annual PPD Skin Test or documentation from a physician stating that the person is free of communicable diseases;
  - (d) Be able to communicate with the client;
  - (e) Be able to read and write the English language;
  - (f) Complete required training;
  - (g) Have the ability to provide adult companion services consistent with the

client's IHP or ISP;

- (h) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check of 1998, effective April 20, 1999 (D.C. Law 12-238, D.C. Official Code § 44-551 *et seq.*); and
- (i) Have two (2) or more years of college education, or a high school diploma, or its equivalent, and five (5) years of experience working with persons with mental retardation and developmental disabilities.

944.9 The billable units of service shall be one (1) hour.

944.10 The reimbursement rate shall be twelve dollars (\$12.00) per hour.

944.99 **DEFINITIONS**

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

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

**Communicable disease**- that term as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

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

**Socialization**- interaction in the community with non-handicapped peers and access to neighborhood and community resources that strengthen the development of natural and informal supports.

Comments on the proposed rules shall be submitted in writing to Wanda Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 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 Monday through Friday between 8:15 A.M. and 4:45 P.M. at the same address.