

THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EXTENSION OF COMMENT PERIOD

The Department of Consumer and Regulatory Affairs (DCRA) published proposed regulations to implement the Condominium Act of 1999 on May 30, 2003 at 50 DCR 4264. The regulations would amend Title 14 of the District of Columbia Municipal Regulations (DCMR) by adding new chapter 70 to provide for condominium declarant's warranty against structural defects. The comment period for those proposed regulations was scheduled to close on June 30, 2003. However, due to the high level of public interest in these regulations, DCRA hereby extends the comment period until 4:45 PM on July 30, 2003 to ensure that all interested parties have the opportunity to comment. Comments should be addressed to the Department of Consumer and Regulatory Affairs, Office of the General Counsel, 941 North Capitol Street, NE, Suite 9400, Washington, DC 20002.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia hereby gives notice of its intent to adopt Chapter 9 of the University Rules as follows. The Board of Trustees will take final action to adopt this Chapter of Title 8, DCMR, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

CHAPTER 9 ALUMNI AFFAIRS

900 Standards for Recognition of a Petitioning Alumni Organization

- 900.1 No organization of alumni of the University of the District of Columbia (or its predecessor institutions) and/or other persons may use the name of the University of the District of Columbia in its name or in connection with its activities without first obtaining formal recognition of the Board of Trustees of the University and its express approval of such use of the name and logos or other insignia of the University.
- 900.2 Any organization of alumni of the University of the District of Columbia applying for such recognition and authorization shall incorporate itself pursuant to applicable District of Columbia laws for not for profit corporations, exclusively for charitable and educational purposes, and qualify for, attain and maintain 501(c)(3) status with the United States Internal Revenue Service.
- 900.3 Subject to the limitations of subsection 901.2, one express and explicit purpose of the organization shall be to undertake, promote, develop and conduct an educational program, including historical research exclusively of an educational character, about the University of the District of Columbia and its predecessor institutions.
- 900.4 It shall be an express purpose of the organization to perpetuate the history and memories of the University of the District of Columbia and its predecessor institutions, to encourage and assist the growth and development of the University.
- 900.5 It shall be an express and primary purpose of the organization to conduct fund-raising activities which shall inure to the benefit of the University of the District of Columbia, including developing a budget and funding its operations conducted in the University's Office of Alumni Affairs, other than the salary of the director of alumni affairs and the utilities. The University shall bear the expense of the salary of the Director of Alumni Affairs, standard office equipment, and utilities for the operations of the recognized organization from the UDC campus.

- 900.6 As provided by D.C. Code § 29-301.05 (2001 ed.), the organization may empower itself to accept by gift, devise, bequest or otherwise real and personal property of every kind and description; to purchase, hold, invest, sell, lease or otherwise dispose of the principal and income of the funds and property of the organization; and to enter into, make, perform and fulfill contracts of every kind or nature for any of the purposes of the organization; and to have an office at the University of the District of Columbia afforded by the University and directed by the University's director of alumni affairs and to have such other offices outside the District of Columbia as it becomes feasible to organize under its control and at its sole expense, but which shall coordinate with the University's director of alumni affairs; and to exercise all or any of the powers and operations of a corporation. Unless it is an University-established and owned organization, the organization shall hold the University Board of Trustees harmless for any of its acts or activities and those of its chapters or other affiliates.
- 900.7 The organization may affiliate chapters of qualifying members throughout the United States and the world, provided those entities are educational and charitable organizations which have qualified for exemption under Section 501(c)(3) of the Internal Revenue Code and of corresponding provisions of other revenue acts as may from time to time be enacted or amended in conducting the operations of the organization and provided further that the organization and operation of such chapters are consistent with the requirements for organization and operation of the recognized organization.
- 900.8 The organization shall not engage in any activity that is not educational or charitable within the intention of Section 501(c)(3) of the Internal Revenue Code of 1954.
- 900.9 The records of the finances and activities of the organization, and any affiliate shall always be open to the University and its auditors.
- 900.10 The organization initially shall be governed by a Board of Directors of not less than eleven persons and shall include four Trustees of the University specified herein and the University's director of alumni affairs, all of whom shall join the organization. Alumni Trustees and the fourth Trustee of the University appointed by the Chairman of the Board of Trustees shall be voting members of the Board of Directors. The University's director of alumni affairs shall be an *ex officio* voting member of the Board of Directors.
- 900.11 The organization shall maintain adequate Directors and Officers' Liability Insurance for its Board members and officers. The treasurer shall be bonded in an amount adequate to protect the assets of the organization.
- 900.12 The principal office of the organization shall be at the University of the District of Columbia and its mailing address shall be c/o The University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, DC 20008. The office will be provided by and maintained by the University and shall be staffed by the University's director of alumni affairs.
- 900.13 Consistent with applicable D.C. not-for-profit corporation law, the organization shall be authorized to make, alter or repeal its By-Laws, but only by two-thirds of the votes cast by the membership at any regular or special meeting of the membership

and only so long as the By-Laws are made and continued to be consistent with the requirements of this chapter. Bylaw changes must be submitted to the UDC Board of Trustees within thirty days of their adoption by the membership.

- 900.14 In the event of dissolution or termination of the organization, or withdrawal from it of the recognition conferred by the Board of Trustees of the University of the District of Columbia, which may be done at anytime but shall not be done without just cause, title to and possession of all property of the organization shall, after paying or making provisions for the payment of all liabilities and obligations of the organization and for the necessary expenses thereof, pass forthwith to the Board of Trustees of the University of the District of Columbia.
- 900.15 The organization shall adhere in all its operations and activities, wherever occurring, to the District of Columbia Human Rights Act in spirit and reality.

901 Recognition

- 901.1 Upon final adoption of these rules and the determination by the Committee on Development and Alumni Affairs that the Articles of Incorporation and Bylaws of the University of the District of Columbia National Alumni Society, Inc. ("UDCNAS") conform to applicable D.C. law and these rules, the Board of Trustees of the University shall officially recognize the UDCNAS exclusively as the official organ of the University's relationship with its alumni.
- 901.2 Should such official recognition ever be withdrawn from the UDCNAS, or should it for any reason cease to exist, the Board will publish a notice describing how persons interested in founding a successor organization can obtain copies of these rules and specifying an address and deadline for the receipt of such applications.
- 901.3 All applications received by the deadline shall be presented to the Board of Trustees' Committee on Development and Alumni Affairs.
- 901.4 The Committee shall review the submitted materials and rank the candidates for the strength of the indicators for matching the articulated criteria. The Committee shall submit its recommendations to the Board of Trustees at a regular meeting.
- 901.5 The Committee's recommendation may be:
- a. to select one organization,
 - b. to select one organization provided it makes certain adjustments to comply with the Board's requirements,
 - c. to recommend the joining of two or more applicant organizations or other pooling of their skills and resources to create a combined or new organization that would meet the Board's requirements,
 - d. to deny all the applicants and announce the reopening of the search, or
 - e. to deny all the applicants and move instead to establish a University-owned and operated alumni association.
- 901.6 The Board of Trustees vote must be sustained by two-thirds of those Trustees present and voting.

901.7 A vote for options a, d, or e shall be final. A vote for options b or c shall result in return of the recommendation to the Committee on Development and Alumni Affairs for negotiation with the concerned candidate organization(s) for modification of their Articles of Incorporation or By-Laws. The application(s) of such organization may be reconsidered when the Committee on Development and Alumni Affairs determines that such further conditions as were imposed either have been met or will not be met.

902 Procedure for Withdrawal of Recognition

902.1 Should the President of the University or any other member of the Board of Trustees of the University believe that just cause exists to withdraw recognition from the organization, such concerns shall be presented in executive session to the Board of Trustees.

902.2 Upon the consensus of the Board of Trustees in executive session, that the concerns appear to be warranted, the Chairman of the Board of Trustees and the President of the University shall appoint a Special Committee to investigate the charges. The Chairman of the Board shall appoint to the Committee three Trustees who are not serving on the Board of the alumni organization. The President of the University shall appoint two additional persons to the Special Committee.

902.3 The Special Committee shall review the evidence submitted and discovered in its investigation and determine whether such evidence indicates just cause by the organization, its officers, or its Board of Directors. If so, it will develop specific charges of misconduct and notify the Board of Directors of the organization of the charges.

902.4 If the Special Committee has credible evidence that the assets of the organization are in jeopardy, it shall cause counsel to seek whatever legal remedies may maintain the status quo during the Board's investigation and determination process.

902.5 The Special Committee shall afford the Board of Directors an opportunity to address the Special Committee concerning the charges and any evidence relevant to either support or refute the charges.

902.6 Proceedings before the Special Committee shall not be adversarial, but shall be investigative.

902.7 If the Special Committee concludes, by a simple majority, that recognition should be withdrawn from the organization, it shall propose a resolution to that effect to the Board of Trustees, with its reasons and evidence.

902.8 Consideration by the Board of Trustees of a recommendation from the Special Committee shall be conducted in public at a regular or special meeting of the Board.

902.9 A spokesperson for the Board of Directors of the organization shall be allowed to address the Board of Trustees on the charges.

- 902.10 A vote to withdraw recognition must carry by two-thirds of the Trustees present and voting.
- 902.11 If the Board of Trustees votes to withdraw recognition, it shall promptly move to enjoin the organization from any further use of the name and logos of the University, from any further activities on behalf of the University, and for an accounting of all its funds and assets.

903 Office of Alumni Affairs

- 903.1 The President shall appoint a Director of Alumni Affairs whose primary purpose will be to establish an office of alumni affairs to effectively conduct the University's continuing relationship with its alumni, including maintaining the books and records of any recognized alumni organization and coordinating its activities.

999 Definitions

- 999.1 Alumnus(includes "alum(s)," "alumnae," and "alumni")... one who holds an academic degree, diploma, or certificate heretofore and hereafter awarded by the University of the District of Columbia or its predecessors (including the David A. Clarke School of Law and its predecessors) and all persons who were enrolled in classes [for credit] and attended the University or its predecessors for at least one semester, including summer sessions, and left in good standing.
- 999.2 Association...for the purpose of this chapter, an organization of alumni sharing a common interest in supporting and improving the welfare of the University of the District of Columbia.
- 999.3 Recognition... the formal acknowledgment and approval of the corporate existence of an organization of alumni for the purpose of supporting and improving the welfare of the University of the District of Columbia. Without such recognition by the Board of Trustees, no organization of persons, alumni or not, is authorized by the Board of Trustees to use the name of the University of the District of Columbia or any of its predecessor institutions either in its name or in connection with its activities.
- 999.4 Director of Alumni Affairs...an employee of the University of the District of Columbia, by whatever title, as may be officially assigned by the President of the University, whose responsibilities include serving as an *ex officio* member of the Board of Directors of any formally recognized alumni organization and using the University's office to facilitate the activities of that organization for the benefit of the University.
- 999.5 Member...an individual qualifying for any class of membership in a recognized alumni organization.
- 999.6 Just Cause...includes, but is not necessarily limited to, failure to maintain the standards of organization and operation required in these rules, failure to maintain corporate status as a 501(c)(3) nonprofit corporation, if incorporated, violation of any

law, exclusion of any alumni for any unlawful reason, failure to provide for active participation by any interested and capable alumni, or financial insolvency.

- 999.7 Trustee Director...an Alumni Trustee of the University of the District of Columbia or other Trustee appointed by the Board of Trustees to serve on the Board of Directors of any formally recognized alumni organization.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the University General Counsel, Building 39 – Room 301Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, DC 20008. Comments of no more than fifteen pages may be submitted by telecopier (FAX) to (202) 274-5320. Copies of the proposed rules may be obtained from the Office of the University General Counsel at the address set forth 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 926 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Environmental Accessibility Adaptation (EAA) Services". These rules establish standards governing reimbursement by the District of Columbia Medicaid program for EAA 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 authorize Medicaid reimbursement rates for EAA services for persons with mental retardation and developmental disabilities. The emergency rules were previously published, in a slightly different form, on February 21, 2003, at 50 DCR 1776. These rules differ from the previous rulemaking by: limiting the expenditure for environmental accessibility adaptation services to a lifetime expenditure rather than an annual one; eliminating a requirement for the Mental Retardation and Developmental Disability Administration to procure those services; and by limiting these services to participant's own homes, a foster home, or a rental property, provided that the landlord grants permission.

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

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

The emergency rulemaking was adopted on May 29, 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 September 26, 2003, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first.

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

Title 29 (Public Welfare) (May 1987) of the District of Columbia Municipal Regulations is amended by adding a new section 926 to read as follows:

926 ENVIRONMENTAL ACCESSIBILITY ADAPTATION (EAA) SERVICES

926.1 The Medicaid Program shall reimburse for EAA services 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 for persons with mental retardation and developmental disabilities.

926.2 EAA services are physical adaptations to a home, required by a client's plan of care that are necessary to ensure the health, welfare, and safety of a client, or that enable a client to function with greater independence in the home, and without which the client would require institutionalization.

926.3 EAA services may include:

- (a) Installing ramps and grab-bars;
- (b) Widening doorways;
- (c) Modifying bathroom facilities; and
- (d) Installing specialized electric and plumbing systems that are necessary to accommodate medical equipment and supplies.

926.4 EAA services shall:

- (a) Be necessary to ensure the health, welfare, or safety of the client and enable the client to function with greater independence;
- (b) Be limited to a life-time expenditure of ten thousand dollars (\$10,000) per client;
- (c) Not be provided or reimbursed for clients eligible for the Department of Housing and Community Development, Handicap Accessibility Improvement Program (HAIP);
- (d) Be preauthorized;
- (e) Be installed in one of the following:
 - (1) The client's own home;
 - (2) A foster home in which the client resides; or

- (3) An apartment or other rental property in which the client resides, provided that the participant obtains the property owner's written consent to make environmental accessibility adaptations.
 - (f) Not include carpeting, roof repair, central air conditioning, or those adaptations or improvements to the home that are of general utility and have no direct medical or remedial benefit to the client; and
 - (g) Not include adaptations that increase the total square footage of the home or facility.
- 925.6 A case manager shall assist all eligible clients to gain access to the HAIP program.
- 926.7 EAA services shall be authorized by the interdisciplinary team and provided in accordance with the client's individual habilitation plan (IHP) or individual support plan (ISP).
- 926.8 Each provider of EAA 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 EAA services under the Waiver; and
 - (c) Comply with applicable contractor licensing requirements in the District of Columbia or in the jurisdiction where services are provided.
- 926.9 Before approving EAA services, an evaluation is required from a licensed construction analyst or housing inspector that:
- (a) Substantiates that the home is structurally sound;
 - (b) States whether the home can accommodate the EAA and whether there are any construction stipulations; and
 - (c) Recommends how the EAA should be constructed.
- 926.10 EAA services shall be provided consistent with any stipulations or recommendations from the construction analyst or housing inspector, if an evaluation is obtained.

926.11 EAA services shall be provided in accordance with the applicable District, State or local building codes.

926.12 The reimbursement rates for EAA services shall be as follows:

UNIT (S) OF SERVICE	MAXIMUM UNIT RATE (INCLUDING INSTALLATION)
Specialized electric and plumbing systems	\$2,000
Doorway modifications	\$90 per linear foot
Bathroom Modifications	\$2,000
Ramp	\$90 per linear foot

926.99 **DEFINITIONS**

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

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

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.

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., 5th Floor, Washington, D.C. 20002, within 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, excepting holidays, from 8:15 A.M. to 4:45 P.M. 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 (the District) 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 946 to Chapter 9 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Residential Habilitation Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid program for residential habilitation 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 authorize Medicaid reimbursement for residential habilitation services for person with mental retardation.

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

The emergency rulemaking was adopted on June 6, 2003 and became effective on that date. The emergency rules will remain in effect for 120 days or until October 4, 2003, unless earlier superceded by another emergency rulemaking or 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*.

Title 29 (Public Welfare)(May 1987) of the District of Columbia Municipal Regulations is amended by adding a new section 946 to read as follows:

SECTION 946 RESIDENTIAL HABILITATION SERVICES

946.1 Residential habilitation services shall be reimbursed by the Medicaid Program for each participant with mental retardation 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.
- 946.2 In order to qualify for reimbursement under this section, residential habilitation services shall be provided in a group home for mentally retarded persons (GHMRP), that has at least four (4) but no more than six (6) clients.
- 946.3 Each GHMRP shall be licensed pursuant to 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 comply with the requirements set forth in Chapter 35 of Title 22 of the District of Columbia Municipal Regulations, except as set forth in these rules.
- 946.4 Residential habilitation services shall only be available to clients with a demonstrated need for continuous training, assistance and supervision, and shall be authorized and provided in accordance with the client's individual habilitation plan (IHP) or individual support plan (ISP).
- 946.5 Each provider of residential habilitation services shall assist with the acquisition, retention and improvement in 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 client to reside in the community.
- 946.6 Consistent with the requirements set forth in section 3521 of Chapter 35, Title 22 DCMR, each provider of residential habilitation services shall ensure that each client of the GHMRP receive training and habilitation, when appropriate, which shall include but not be limited to the following areas:
- (a) Eating and drinking;
 - (b) Toileting;
 - (c) Personal hygiene;
 - (d) Dressing;
 - (e) Grooming;
 - (f) Health care;
 - (g) Communication;
 - (h) Interpersonal and social skills;
 - (i) Home management;
 - (j) Employment and work adjustment;
 - (k) Mobility;
 - (l) Time management;
 - (m) Financial management;
 - (n) Academic and pre-academic skills;

- (o) Motor and perceptual skills;
- (p) Problem-solving and decision-making;
- (q) Human sexuality;
- (r) Aesthetic appreciation; and
- (s) Opportunity for social, recreational and religious activities utilizing community resources.

946.7 Consistent with the requirements set forth in section 3520 of Chapter 35, Title 22 DCMR, each provider of residential habilitation services shall ensure that each client receives the professional services required to meet his or her goals as identified in the client's IHP or ISP. Professional services may include, but are not limited to the following disciplines or services:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational Therapy;
- (g) Physical Therapy;
- (h) Psychology;
- (i) Social Work;
- (j) Speech and language therapy; and
- (k) Recreation.

946.8 Each provider of residential habilitation services shall ensure the provision of transportation services to enable the clients to gain access to Waiver and other community services and activities. Each provider of transportation services shall have a current District of Columbia Medicaid Provider Agreement that authorizes the provision of transportation services under the Waiver.

946.9 The minimum daily ratio of on-duty, direct care staff to clients in each GHMRP that serves severely physically handicapped clients, clients who are aggressive, assaultive or security risks, clients who manifest severely hyperactive or psychotic-like behavior, and other clients who require considerable adult guidance and supervision shall be not less than the following:

- (a) 1:4 during the waking hours of the day, approximately 6:00 a.m. to 10:00 p.m., when clients remain in the GHMRP during the day; and
- (b) 1:6 during sleeping, approximately 10:00 p.m. to 6:00 a.m.

- 946.10 The minimum daily ratio of on-duty, direct care staff to clients present in each GHMRP that serves clients who require training in basic independent-living skills shall be not less than the following:
- (a) 1:6 during the waking hours, approximately 6:00 a.m. to 2:00 p.m., when clients remain in the GHMRP during the day;
 - (b) 1:4 during the period of approximately 2:00 p.m. to 10:00 p.m., and
 - (c) 1:6 during sleeping hours, approximately 10:00 p.m. to 6:00 a.m.
- 946.11 The minimum daily ratio of on-duty direct care staff to clients in each GHMRP that serves clients who are in day programs such as sheltered workshops, vocational training, supported or competitive employment programs, and who have acquired basic independent-living and survival skills shall not be less than 1:6 at all times that clients are in the GHMRP.
- 946.12 The minimum daily staffing levels set forth in sections 946.9 through 946.11 in each GHMRP shall be increased if required by the client, as indicated in the client's IHP or ISP.
- 946.13 Each provider of residential habilitation services shall:
- (a) Be a non-profit or other business entity;
 - (b) Be a member of the interdisciplinary team;
 - (c) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for residential habilitation services under the Waiver;
 - (d) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) for each client;
 - (e) Ensure that all residential habilitation services staff are qualified and properly supervised;
 - (f) Ensure that the services provided are consistent with the client's IHP or ISP;
 - (g) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules;
 - (h) Provide staff training in infection control procedures consistent with the standards established by the federal Centers for Disease Control and Prevention (CDC);
 - (i) Ensure that each staff member or employee has been screened for communicable disease six months prior to providing services to any client, in accordance with the guidelines issued by the CDC, and that each employee or staff member is certified to be free of communicable disease; and

- (j) Ensure compliance with all of MRDDA's policies governing reporting of unusual incidents, human rights, behavior management and protection of clients' funds.
- 946.14 Each person providing residential habilitation services for a provider under section 946.13 shall meet all of the following requirements:
- (a) Be at least eighteen (18) years of age;
 - (b) Be screened annually for communicable disease, according to the guidelines issued by the CDC and demonstrate that he or she is free of communicable disease;
 - (c) Be able to read and write the English language;
 - (d) Agree to carry out the responsibilities to provide residential habilitation services consistent with the client's IHP or ISP;
 - (e) Have a high school diploma or general educational development (GED) certificate; and
 - (f) 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.*).
- 946.15 Each client's case manager shall monitor the delivery of services by conducting visits at least eight (8) times per calendar year to ensure that services are delivered in accordance with the IHP and ISP.
- 946.16 Each provider of residential habilitation services shall maintain progress notes monthly or more frequently if indicated, conduct periodic reviews of progress and maintain financial records of expenditures of public funds for each client.
- 946.17 Each provider of residential habilitation services shall maintain all records and reports for at least six (6) years after the client's date of discharge.
- 946.18 Residential habilitation services shall not be reimbursed when provided by a member of the client's family.
- 946.19 Reimbursement for residential habilitation services shall not include:
- (a) The cost of room and board;
 - (b) The cost of facility maintenance, upkeep and improvement;
 - (c) Routine care and supervision that would be expected to be provided by a family or group home provider; or

- (d) Activities or supervision for which a payment is made by a source other than Medicaid.
- 946.20 The reimbursement rate for residential habilitation services shall be as follows:
- (a) \$103.00 per diem, without an acuity adjustment; or
 - (b) \$135.00 per diem, including an acuity adjustment.
- 946.21 Each client shall be screened by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) using the Health Risk Screening Tool (HRST). If the client's health care level is 3 or above as determined by the HRST, the rate shall include an acuity adjustment and reimbursement shall be made in accordance with section 946.20(b) of these rules.
- 946.22 If the reimbursement rate includes an acuity adjustment as set forth in section 946.20(b) of these rules, skilled nursing services and preventative, consultative and crisis support services shall be subject to the following limitations:
- (a) Skilled nursing services shall not be billed in excess of the initial assessment and one (1) visit per quarter; and
 - (b) Preventative, consultative and crisis support services shall not be billed in excess of the initial assessment and one (1) visit per quarter.
- 946.23 Residential habilitation services shall not be billed concurrently with the following Waiver services:
- (a) Environmental Accessibility Adaptation;
 - (b) Homemaker;
 - (c) Attendant care;
 - (d) Family Training;
 - (e) Independent Habilitation;
 - (f) Personal Care Services;
 - (g) Respite;
 - (h) Chore;
 - (i) Adult Companion; or
 - (j) Personal Emergency Response System (PERS).
- 946.24 Residential habilitation services shall not be billed when the client is hospitalized, on vacation or for any other period in which the client is not residing at the GHMRP.

946.25 MRDDA shall be responsible for payment of nursing services for the administration of medication to clients when the client is unable to self-administer or take medication independently. Nursing services attributable to the administration of medication shall not be billed as Waiver services.

946.99 DEFINITIONS

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

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

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

Direct Care Staff- individuals employed to work in the GHMRP who render the day-to-day personal assistance clients require in order to meet the goals of their IHP or ISP.

Group Home for Mentally Retarded Persons or GHMRP- a community residence facility, other than an intermediate care facility for persons with mental retardation, that provides a home-like environment for at least four (4) but no more than six (6) related or unrelated mentally retarded individuals who require specialized living arrangements and maintains necessary staff, programs, support services and equipment for their care and habilitation.

Health Risk Screening Tool- a mechanism for evaluating and identifying the diagnostic and training needs required by the client to ensure the client's health and safety in the least restrictive environment.

Individual Habilitation Plan or IHP-that term 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 § 7-1304.3).

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

Interdisciplinary team- a group of persons with special training and experience in the diagnosis and habilitation of mentally retarded persons which has the responsibility of performing a comprehensive evaluation of each client and participating in the development, implementation, and monitoring of the client's IHP or ISP.

Comments of the proposed rules should be sent in writing to Wanda Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th 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.