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(b)), and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of his adoption, on an emergency basis, of an amendment to Chapter 15 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Childless Adults Aged 50-64 Demonstration". These rules amend program requirements for the 50-64 1115 Demonstration Project to expand coverage under Medicaid to 2,400 low-income, childless adults from ages 50 to 64 whose income is at or below 50% of the federal poverty limit (FPL) based on comments received on the emergency and proposed rules previously published in the *D.C. Register* on December 20, 2002 at 49 DCR 11457. These emergency rules make technical corrections and amend the previously published emergency and proposed rules to make operational changes that were not possible to implement. To maintain continuity and afford the public additional time to comment, the rules are being republished with the aforementioned corrections in their entirety. The emergency rules are necessary to implement the program by establishing the eligibility criteria for the target population, which typically is without health insurance and faces increasing but preventable health problems.

The emergency rulemaking was adopted on April 14, 2003, and shall become effective on that date. The emergency rules will on August 12, 2003, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Director also gives notice of his 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.

Title 29 of the District of Columbia Municipal Regulations is amended by adding a new Chapter 15 to read as follows:

CHAPTER 15 CHILDLESS ADULTS AGED 50-64 DEMONSTRATION

1500 GENERAL PROVISIONS

1500.1 This chapter shall apply to persons between fifty (50) and sixty-four (64) years of age whose gross annual income is less than or equal to fifty percent (50%) of the federal poverty line.

1500.2 This chapter implements a waiver of State plan requirements as a demonstration project pursuant to section 1115 of the Social Security Act (42 U.S.C. § 1315) (demonstration program) and is subject to certain special terms and conditions. The demonstration waiver has been approved for a five- (5) year period effective on the date of implementation.

1500.3 This demonstration program does not constitute an entitlement to coverage for all eligible persons or for the duration of eligibility for enrollees. These programs may be terminated at any time by the Centers for Medicaid and Medicare Services of the U.S. Department of Health and Human Services (CMS) or the District, however, both entities would assist in appropriate transition planning. Nothing in this chapter shall be interpreted to create or constitute an entitlement or right to medical assistance for any person.

1501 PROVIDER REQUIREMENTS

1501.1 Providers shall meet the following requirements:

(a) Be enrolled and certified with MAA;

(b) Meet standards established in the State Plan and the demonstration program; and

(c) Provide services to recipients in the same scope, quality, and manner as provided to the general public under the State Plan.

1501.2 All Medicaid regulations and terms of the provider agreements shall apply to providers billing for services rendered to demonstration program enrollees. Providers who furnish services to demonstration program enrollees shall comply with all specified Medicaid participation requirements under the State Plan and as defined in the Medicaid regulations.

1501.3 Providers shall begin to provide benefits to persons who qualify for coverage under the demonstration program on the date of their enrollment. Except as provided in section 1505.1, no provider may provide benefits retroactively to a person who qualifies for coverage under the demonstration program.

1502 ELIGIBLILITY

1502.1 Participation in the demonstration program shall be limited to District residents who meet the following qualifications:

(a) Are between the ages of fifty (50) and sixty-four (64);

(b) Have a gross annual income that is at or below the medically needy limit, or fifty percent (50%) of the poverty federal poverty limit, whichever is higher;

(c) Have resources below the categorically-needy limits as noted in the State Plan (two thousand six hundred dollars ($2,600) for individuals and three thousand dollars ($3,000) for couples);

(d) Are not eligible for benefits under Title XIX or Title XXI of the Social Security Act, including "spend-down" Medicaid; and

(e) Do not reside in long-term care, mental health, or penal institutions.

1502.2 The IMA shall make no posthumous eligibility determinations.

1502.3 Persons who wish to receive benefits pursuant to this chapter shall submit an application for Medical Assistance to the Income Maintenance Administration or its designee.

1502.4 The District shall enroll demonstration program clients to Title XIX or Title XXI-funded Medicaid programs as they become eligible. The District will change eligibility status as appropriate and inform the affected beneficiaries in a timely manner. During the process of changing eligibility status there shall be no disruption in a recipient's enrollment in Medicaid or in the continuity of care for the recipient.

1502.5 The MAA shall redetermine eligibility annually following an enrollee's initial date of enrollment. The MAA may submit notices of redetermination to demonstration program enrollees and the case manager, if appropriate. Demonstration program enrollees shall have ninety (90) days to respond to notices of redetermination. The District may vary these provisions in extraordinary circumstances.

1502.6 Satisfaction of the eligibility requirements of this section shall not constitute an entitlement to receive benefits. Eligibility shall be determined according to the requirements of section 1503 when there are more applicants than the demonstration program allows.

1503 ENROLLMENT CEILING

1503.1 The Administrator shall limit the number of persons eligible for enrollment according to demonstration program requirements for budget neutrality. To remain within the demonstration program's budget parameters, the Administrator shall set and modify the enrollment ceiling in consultation with the CMS.

1503.2 If the number of applicants for participation in the demonstration program exceeds the enrollment ceiling, IMA shall select enrollees and a waiting list as follows:

(a) During the initial enrollment period IMA shall select eligible individuals in the order the applications are received until the number of participants reaches the enrollment ceiling.

(b) During the initial enrollment period IMA shall select individuals not eligible for immediate enrollment for a waiting list in the order the applications are received.

(c) After the initial enrollment period and after all persons on the initial waiting list have been placed or deemed ineligible for placement, IMA shall enroll eligible persons in the order that their applications are received.

(d) After the initial enrollment period IMA shall place individuals not eligible for immediate enrollment on a waiting list, and persons on the waiting list shall become eligible for enrollment in the order that their applications were received.

1503.3 Space in the demonstration program may become available when initial demonstration program enrollees disenroll from the demonstration program. Disenrollment may occur for the following reasons:

(a) Death of an enrollee;

(b) Failure to continue to satisfy eligibility requirements; or

(c) Eligibility for Medicaid coverage without need of the demonstration program.

1503.4 The number of participants in the traditional Medicaid program shall not affect the enrollment ceiling.

1504 REIMBURSEMENT

1504.1 Consistent with the provider agreements for both the State Plan and demonstration program services, providers shall submit claims for reimbursement to the fiscal intermediary or other MAA designee.

1505 COVERED SERVICES

1505.1 The demonstration program shall cover the Medicaid benefits outlined in the State Plan. Coverage will begin on the first day of the month of application. The MAA shall not authorize retroactive coverage for hospital services, however, the Administrator may extend retroactive coverage to other services.

1506 QUALITY ASSURANCE

1506.1 To ensure that clients receive optimal care, MAA shall incorporate quality assurance activities into the health care delivery and administrative system. The quality assurance requirements under Titles XIX and XXI of the Social Security Act shall apply to providers that bill for services rendered to demonstration program enrollees.

1507 GRIEVANCE AND APPEALS

1507.1 Individuals may file grievances in writing with the Administrator. The Administrator shall respond to the grievance in writing within thirty (30) days after the grievance has been files. The Administrator's determination shall be final, and individuals shall have no further appeals within the Department of Health.

1599 DEFINITIONS

1599.1 When used in this chapter, the following terms shall have the meanings ascribed:

Administrator - the Senior Deputy Director of the Medical Assistance Administration within the District of Columbia Department of Health.

Centers for Medicaid and Medicare Services or CMS - the branch of the Social Security Administration responsible for overseeing the Medicaid and Medicare programs, which was formerly known as the Health Care Finance Administration or HCFA.

Demonstration program– a program authorized under § 1115 of the Social Security Act whereby state plan requirements are waived for one or more demonstration projects. For the purpose of this chapter this term means eligibility under Medicaid for childless adults aged fifty (50) to sixty-four (64) with annual gross income that is fifty percent (50%) or less of the federal poverty line.

Gross income – the total pre-tax income for a household; this amount includes all income that the Income Maintenance Administration and other agencies may disregard in their eligibility determinations for other programs including Medicaid.

Enrollment ceiling – the limit on the number of enrollees in the demonstration; the limits are based on the amount of funds available from the Disproportionate Share Hospital allocation.

Medical Assistance Administration or MAA- the administration within the Department of Health that administers Medicaid for the District.

Provider – the vendors of State Plan services, which are rendered to Medicaid and Demonstration program enrollees.

Resources – the countable assets as defined by the Income Maintenance Administration.

State Plan – the document specifying scope of Medicaid services, Medicaid eligibility, Medicaid reimbursement, etc. The state plan is available online at http://cms.hhs.gov /medicaid/stateplans/toc.asp?state=DC

All persons wishing to comment on the emergency and 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 Wanda Tucker, Interim Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5th Floor, Washington, DC 20002. Copies of these emergency and proposed rules may be obtained between the hours of 8:15 A.M. and 4:45 P.M., excluding weekends and holidays, at the same address.