

## DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), 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 (2012 Repl. & 2013 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the repeal of Section 935, entitled “Occupational Therapy Services”, and adoption of a new Section 1926, entitled “Occupational Therapy Services”, of Chapter 19 (Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR.

These final rules establish standards governing reimbursement for occupational therapy services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five-year period beginning November 20, 2012. Occupational therapy services are designed to maximize independence, assist in gaining skills, prevent further disability, and maintain health. These rules amend the previously published final rules by: (1) deleting Section 935 and codifying the rules in Section 1926; (2) specifying the service authorization requirement for occupational therapy services; (3) specifying the documents to be maintained for audits and monitoring reviews; and (4) establishing administrative procedures to request additional hours for occupational therapy services.

A Notice of Emergency and Proposed rulemaking was published in the *D.C. Register* on December 27, 2013 at 60 DCR 17235. No comments were received and no changes have been made. The Director adopted these rules on February 4, 2014 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

**Section 935 (Occupational Therapy Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is repealed.**

**A new Section 1926 (Occupational Therapy Services) is added to Chapter 19 (Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR to read as follows:**

**1926 OCCUPATIONAL THERAPY SERVICES**

1926.1 This section shall establish conditions of participation for Medicaid providers enumerated in § 1926.9 (“Medicaid Providers”) and occupational therapy

professionals enumerated in § 1926.8 (“professionals”) to provide occupational therapy services to persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

- 1926.2 Occupational therapy services are services that are designed to maximize independence, prevent further disability, and maintain health.
- 1926.3 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the Department on Disability Services (DDS) prior to providing, or allowing any professional to provide, occupational therapy services. In its request for prior authorization, the Medicaid provider shall document the following:
- (a) The person’s need for occupational therapy services as demonstrated by a physician’s order; and
  - (b) The name of the professional who will provide the occupational therapy services.
- 1926.4 In order to be eligible for Medicaid reimbursement, each occupational therapy professional shall conduct an assessment of occupational therapy needs within the first four (4) hours of service delivery, and develop a therapy plan to provide services.
- 1926.5 In order to be eligible for Medicaid reimbursement, the therapy plan shall include therapeutic techniques, training goals for the person’s caregiver, and a schedule for ongoing services. The therapy plan shall include measureable outcomes and a schedule of approved occupational therapy services to be provided, and shall be submitted by the Medicaid provider to DDS before services are delivered.
- 1926.6 In order to be eligible for Medicaid reimbursement, each Medicaid provider shall document the following in the person’s Individual Support Plan (ISP) and Plan of Care:
- (a) The date, amount, and duration of occupational therapy services provided;
  - (b) The scope of the occupational therapy services provided; and
  - (c) The name of the professional who provided the occupational therapy services.
- 1926.7 Medicaid reimbursable occupational therapy services shall consist of the following activities:

- (a) Consulting with the person, their family, caregivers and support team to develop the therapy plan;
  - (b) Implementing therapies described under the therapy plan;
  - (c) Recording progress notes and quarterly reports during each visit;
  - (d) Assessing the need for the use of adaptive equipment and verifying the equipment's quality and functioning;
  - (e) Completing documentation required to obtain or repair adaptive equipment in accordance with insurance guidelines; and
  - (f) Conducting periodic examinations and modified treatments for the person, as needed.
- 1926.8 Medicaid reimbursable occupational therapy services shall be provided by a licensed occupational therapist.
- 1926.9 In order to be eligible for Medicaid reimbursement, an occupational therapist shall be employed by the following providers:
- (a) An ID/DD Waiver provider enrolled by DDS; and
  - (a) A Home Health Agency as defined in Section 1999 of Title 29 of the DCMR.
- 1926.10 Each Medicaid provider shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.
- 1926.11 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:
- (a) The physician's order;
  - (b) A copy of the occupational therapy assessment and therapy plan in accordance with the requirements of Sections 1926.4 and 1926.5; and
  - (c) Any documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1926.12 Each provider shall comply with the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

- 1926.13 If the person enrolled in the ID/DD Waiver is between the ages of eighteen (18) and twenty-one (21), the DDS Service Coordinator shall ensure that Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefits under the Medicaid State Plan are fully utilized and the ID/DD Waiver service is neither replacing nor duplicating EPSDT services.
- 1926.14 Medicaid reimbursable occupational therapy services shall be limited to four (4) hours per day and one-hundred (100) hours per year. Requests for additional hours may be approved when accompanied by a physician's order documenting the need for additional occupational therapy services and approved by a DDS staff member designated to provide clinical oversight.
- 1926.15 The Medicaid reimbursement rate for occupational therapy services shall be sixty-five dollars (\$65.00) per hour. The billable unit of service shall be fifteen (15) minutes.