

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED 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 repeal of Section 934, entitled “Physical Therapy Services” and adoption, on an emergency basis, of a new Section 1928, entitled “Physical 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 District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement for physical 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. Physical therapy services treat physical dysfunctions or reduce the degree of pain associated with movement to prevent disability, promote mobility, maintain health and maximize independence. These rules amend the previously published rules by: (1) deleting Section 934 and codifying the rules in Section 1928; (2) specifying the service authorization requirement for physical therapy services; (3) specifying the documents to be maintained for audits and monitoring reviews; and (4) establishing administrative procedures to request additional hours for physical therapy services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of physical therapy services. The new service authorization requirements for providers of physical therapy services will promote more efficient service delivery management practices and enhance the quality of services. Therefore, in order to ensure that the residents’ health, safety, and welfare are not threatened by the lapse in access to physical therapy services provided pursuant to the updated service authorization and delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 5, 2013, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 3, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 934 (Physical Therapy Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is repealed.

A new Section 1928 (Physical 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:

1928 PHYSICAL THERAPY SERVICES

- 1928.1 This section establishes the conditions for Medicaid providers enumerated in § 1928.9 (“Medicaid Providers”) and physical therapy services professionals enumerated in § 1928.8 (“professionals”) to provide physical therapy services to persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (ID/DD Waiver).
- 1928.2 Physical therapy services are services that are designed to treat physical dysfunctions or reduce the degree of pain associated with movement, prevent disability, promote mobility, maintain health and maximize independence.
- 1928.3 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 physical therapy services. In its request for prior authorization, the Medicaid provider shall document the following:
- (a) The ID/DD Waiver participant’s need for physical therapy services as demonstrated by a physician’s order; and
 - (b) The name of the professional who will provide the physical therapy services.
- 1928.4 In order to be eligible for Medicaid reimbursement, each physical therapy professional shall conduct an assessment of physical therapy needs within the first four (4) hours of service delivery, and develop a therapy plan to provide services.
- 1928.5 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 physical therapy services to be provided, and shall be submitted by the Medicaid provider to DDS before services are delivered.
- 1928.6 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 physical therapy services provided;

- (b) The scope of the physical therapy services provided; and
 - (c) The name of the professional who provided the physical therapy services.
- 1928.7 Medicaid reimbursable physical 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.
- 1928.8 Medicaid reimbursable physical therapy services shall be provided by a licensed physical therapist.
- 1928.9 In order to be eligible for Medicaid reimbursement, a physical therapist shall be employed by the following providers:
- (a) An ID/DD Waiver Provider enrolled by DDS; and
 - (b) A Home Health Agency as defined in Section 1999 of Title 29 of the DCMR.
- 1928.10 Each Medicaid provider shall comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.
- 1928.11 Each Medicaid provider shall maintain the following documents for monitoring and audit reviews:
- (a) The physician's order;
 - (b) A copy of the physical therapy assessment and therapy plan in accordance with the requirements of Sections 1928.4 and 1928.5; 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.
- 1928.12 Each Medicaid provider shall comply with the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 of DCMR.
- 1928.13 If the person enrolled in the 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 Waiver service is neither replacing nor duplicating EPSDT services.
- 1928.14 Medicaid reimbursable physical 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 physical therapy services and approved by a DDS staff member designated to provide clinical oversight.
- 1928.15 The Medicaid reimbursement rate for physical therapy services shall be sixty-five dollars (\$65.00) per hour. The billable unit of service shall be fifteen (15) minutes.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-9115, via email at DHCF_Publiccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.