

DEPARTMENT OF HEALTH

NOTICE OF FINAL 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 of a new section 1914 of Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Vehicle Modification Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid program for vehicle modification services provided by qualified professionals to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

These rules establish standards governing the provision of VM services for persons participating in the Waiver. VM services is a new service designed to help the participant living in a natural home or with a primary caregiver to function with greater independence by adapting the vehicle to make it accessible to the participant (such as by installation of a wheelchair lift) or for the participant to drive. The service is limited to two (2) vehicles in a five (5) year period and a maximum of \$10,000 for this service per participant in a five (5) year period.

The District of Columbia Medicaid Program is also modifying the Waiver to reflect these changes. The Council of the District of Columbia has approved the corresponding Waiver. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services have also approved the Waiver with an effective date of November 20, 2007.

A notice of emergency and proposed rules was published in the *DC Register* on December 7, 2007 (54 DCR 011765). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *DC Register*.

New section 1914 (Vehicle Modification Services) of Chapter 19 of Title 29 DCMR is added to reads as follows:

1914 VEHICLE MODIFICATION SERVICES

1914.1 Vehicle modification (VM) services shall be reimbursed for each participant with mental retardation and developmental disabilities 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.

- 1914.2 VM services are physical adaptations to a vehicle, required by a person's individual habilitation plan (IHP) or individual service plan (ISP) and Plan of Care that are necessary to ensure the health, welfare, and safety of a person, or that enable a person to live with greater independence in the community, and without which the person would be more likely to require institutionalization.
- 1914.3 VM services eligible for reimbursement shall be as follows:
- (a) Hydraulic lifts;
 - (b) Access ramps;
 - (c) Modified doors;
 - (d) Modified seating;
 - (e) Installing equipment to secure a wheelchair or other assistive technology device; and
 - (f) Installing equipment to make access, egress, or travel more comfortably, safe and secure.
- 1914.4 VM services shall be necessary to ensure the health, welfare, or safety of the person and enable the person to function with greater independence.
- 1914.5 To be approved as VM services, the services shall be:
- (a) Pre-authorized by the Department on Disability Services (DDS);
 - (b) Installed in one of the following:
 - (1) The person's vehicle; or
 - (2) The vehicle of the person's family, guardian, or other primary caretaker who is not providing Residential Habilitation Services or Supported Living Services.
- 1914.6 VM services shall not include the purchase or installation of child car seats; or the purchase of a vehicle or modification, adaptations or improvements to the vehicle that are of general utility or aesthetics and make no direct medical or remedial benefit to the person.
- 1914.7 VM services shall be authorized by the interdisciplinary team and provided in accordance with the person's IHP or ISP and Plan of Care.
- 1914.8 Each provider of VM services shall:

- (a) Be a non-profit organization or other business entity;
 - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for VM services under the Waiver; and
 - (c) Comply with all applicable business licensing requirements in the District of Columbia or in the jurisdiction where VM services are provided.
- 1914.9 Before approving VM services, the provider of VM services shall perform an evaluation which:
- (a) Confirms that the vehicle is structurally sound;
 - (b) Confirms that the vehicle can accommodate the proposed VM services; and
 - (c) Recommends how the VM services should be installed.
- 1914.10 VM services shall be provided consistent with any stipulations or recommendations from the dealer of the vehicle's make and model.
- 1914.11 VM services shall be provided in accordance with the applicable federal, District, state, or local vehicle codes.
- 1914.12 Reimbursement for VM services shall be limited to ten thousand dollars (\$10,000) per participant over a five (5) year period and shall be limited to modifications to no more than two (2) vehicles in a five (5) year period. Exceptions to the five (5) year limitations in this paragraph on VM services may be approved by DDS on a case by case basis, with adequate supporting documentation.
- 1914.13 Reimbursement for VM services shall require written documentation of the specific expenditure or purchase for which reimbursement is claimed.

1914.99 DEFINITIONS

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

Individual Habilitation Plan (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 (ISP) – The successor to the individual habilitation plan

(IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

Person – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

Plan of Care – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

Waiver – Shall mean the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities as approved by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as may be further amended and approved by the Council and CMS.