

## 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 the adoption, on an emergency basis, of an amendment to Section 1914, entitled "Vehicle Modifications", of Chapter 19 (Home and Community-Based Waiver Services for Persons with Intellectual and Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement for vehicle modification services provided to participants in the Home and Community-Based Waiver Services 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. Vehicle modifications are designed to help the person function with greater independence. The adaptations or modifications to a vehicle may include the installation of a lift or other adaptations to make the vehicle accessible to the person, or to enable the person to drive the vehicle. These rules amend the previously published rules by: (1) establishing service authorization requirements for vehicle modification services; (2) specifying documents to maintain for monitoring and audit reviews); and (3) establishing requirements to request additional services beyond the limitations or caps on a service.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of vehicle modification services. The ID/DD Waivers serves some of the District's most vulnerable residents. Under current reporting and record maintenance requirements there are insufficient safeguards in place to ascertain that vehicle modification providers are taking the necessary steps to ensure that beneficiaries are receiving high quality and appropriate services from qualified providers. Therefore, in order to ensure that the Waiver participant's health, safety, and welfare are not threatened by the lapse in access to vehicle modification services, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on January 6, 2014, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until May 5, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director 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 1914 (Vehicle Modification Services) of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR is amended to read as follows:

**1914 VEHICLE MODIFICATION SERVICES**

- 1914.1 This section establishes the conditions for Medicaid providers of vehicle modification services enumerated in § 1914.7 (“Medicaid Providers”) to provide vehicle modification (VM) services to persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (ID/DD).
- 1914.2 VM services are physical adaptations or modifications to a vehicle, including the installation of a lift or other physical adaptations to make the vehicle accessible to the person, or to enable the person to drive the vehicle.
- 1914.3 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the Department on Disability Services (DDS) prior to providing VM services. The request for prior authorization shall include a written justification demonstrating how the services will aid the person in functioning with greater independence and that the vehicle being serviced shall be owned by the person or the person's family, guardian, or other primary caretaker who is not providing Residential Habilitation Services, Host Home, or Supported Living Services.
- 1914.4 Medicaid reimbursable VM services shall consist of one of the following modifications or adjustments:
- (a) Hydraulic lifts;
  - (b) Access ramps;
  - (c) Modified doors;
  - (d) Modified seating;
  - (e) Installation of equipment to secure a wheelchair or installing another assistive technology device; or
  - (f) Installation of equipment to make access, egress, or travel more comfortable, safe and secure.
- 1914.5 VM services shall include instruction in the use of the adapted vehicle.
- 1914.6 VM services shall be provided consistent with any stipulations or recommendations from the dealer of the vehicle's make and model.

- 1914.7 Each provider of Medicaid reimbursable VM services shall:
- (a) Be an approved home and community based waiver services provider;
  - (b) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR;
  - (c) Demonstrate knowledge in meeting applicable standards of installation, repair, and maintenance of vehicle adaptations and shall also be authorized by the manufacturer to install, repair, and maintain such systems where possible; and
  - (d) Have a current license, certification, or registration with the District of Columbia as appropriate for the services being purchased; and comply with all applicable business licensing requirements in the District of Columbia or in the jurisdiction where VM services are provided.
- 1914.8 Before receiving approval to deliver 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;
  - (c) Recommends the installation process for delivering VM services; and
  - (d) Identifies the need for training after installation of the modification or physical adaptation.
- 1914.9 Before pre-authorization of any VM services, the vehicle owner shall submit at least three (3) bids to the DDS service coordinator for comparison of the most cost efficient use of Medicaid waiver funding for the service.
- 1914.10 Services shall only be authorized for reimbursement in accordance with the following provider requirements:
- (a) The amount and cost of services to be received shall be documented in the ISP, Plan of Care and Summary of Supports and Services; and
  - (b) VM services shall not conflict with the service limitations described under Section 1914.17.
- 1914.11 Each provider of VM services shall maintain the following documents for monitoring and audit reviews:

- (a) A written evaluation in accordance with the service requirements described under Section 1914.8;
  - (b) An itemized list describing the specific expenditures or purchases related to the physical adaptation or modification to the vehicle for which reimbursement is claimed;
  - (c) Receipts or copies of receipts verifying the specific expenditures or purchases for which reimbursement is claimed; and
  - (d) Any stipulation or recommendations from the dealer pertaining to the vehicle's make and model related to the provision of VM services.
- 1914.12 Medicaid reimbursable VM services shall be available for modification of no more than two (2) vehicles for the duration of the waiver and shall not exceed a total of ten thousand dollars (\$10,000), unless the person receives service authorization from DDS through an exception.
- 1914.13 Exceptions to the ten thousand dollar (\$10,000) limit for the two (2) vehicles over the duration of the waiver may be approved by DDS on a case by case basis, with supporting documentation by the DDS Medicaid Waiver Supervisor or a designated Developmental Disabilities Administration (DDA) staff member demonstrating need.
- 1914.14 In order to be eligible for Medicaid reimbursement, vehicle modifications shall not include the cost of the vehicle to be modified or the rental costs of vehicles with modifications or adaptations for use by the person.
- 1914.15 The purchase or installation of car seats are not considered a vehicle modification and shall not be reimbursed by the Medicaid program.
- 1914.16 Medicaid reimbursable VM services shall exclude any maintenance or repairs to the vehicle.
- 1914.17 Medicaid reimbursable VM services shall not be provided to those persons residing in Residential Habilitation, Host Homes and Supported Living Facilities.

Comments on the proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4<sup>th</sup> Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-9075, via email at [Publiccomments@dc.gov](mailto:Publiccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov), within thirty (30) days after the date of publication of this notice in the D.C. Register. Copies of the proposed rule may be obtained from the above address.