

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. 774; 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 1913 of Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "One-Time Transitional Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for one-time transitional services provided by qualified providers to participants with dual diagnosis of mental retardation and mental illness 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 OTT services for persons participating in the Waiver. OTT service is a new one-time service designed to facilitate the transition of a person from an institutional setting to a more integrated and less restrictive community setting. The service is limited to one use and will provide a maximum of \$5000.00 to purchase furniture, cooking utensils, and other items essential to living in the community, and to cover moving expenses.

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 corresponding Waiver with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published in the *DC Register* on December 21, 2007 (54 DCR 012366). 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*.

A new section 1913 (One-Time Transitional Services) of Chapter 19 of Title 29 DCMR is added to reads as follows:

1913 ONE-TIME TRANSITIONAL SERVICES

1913.1 One-time transitional (OTT) services shall be reimbursed by the District of Columbia Medicaid Program for each person with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

- 1913.2 OTT services are non-recurring set-up expenses for persons in the Waiver who are transitioning from an institutional or another provider-operated living arrangement to a living arrangement in a private residence where the participant is directly responsible for their own living expenses.
- 1913.3 Reimbursement for OTT services may include:
- (a) Security deposits that are required to obtain a lease for an apartment or home;
 - (b) Essential household furnishings and moving expenses required to occupy and use an apartment or home, including furniture, window coverings, food preparation items, and bed/bath linens;
 - (c) Set-up fees or deposits for utility or service access, including telephone, electricity, heating and water;
 - (d) Services necessary for the person's health and safety such as pest eradication and one-time cleaning prior to occupancy;
 - (e) Moving expenses; and
 - (f) Activities to procure needed resources.
- 1913.4 To be reimbursable, OTT service shall:
- (a) Be reasonable and necessary as determined by the person's Individual Habilitation Plan (IHP) or Individual Support Plan (ISP) and Plan of Care;
 - (b) Be clearly identified in the IHP or ISP and Plan of Care;
 - (c) Be unable to be purchased by the person due to the expense;
 - (d) Be necessary to enable the person to function with greater independence; and
 - (e) Not be obtainable from other sources.
- 1913.5 OTT services shall not include:
- (a) Monthly rental or mortgage expense;
 - (b) Food;
 - (c) Regular utility charges;
 - (d) Household appliances or items that are intended for purely diversional or

recreational purposes (*e.g.* television, cable or satellite installation for television programming, stereo or other audio equipment, or computerized gaming equipment); or

- (e) Specialized electric and plumbing systems that are necessary to accommodate medical equipment and supplies.

1913.6 To be approved as an OTT service, the services shall be:

- (a) Prior authorized by the Department on Disability Services; and
- (b) Installed in one of the following:
 - (1) The person's own home; or
 - (2) An apartment or other rental property in which the person resides where the owner or service provider does not provide and is not compensated for furnishings, utensils and other items necessary to operate a household.

1913.7 Each provider of OTT service shall:

- (a) Be a non-profit organization, home health agency, social service agency, or other business entity and shall meet the requirements set forth in Chapter 19 of Title 29 DCMR;
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for OTT services under the Waiver; and
- (c) Comply with all applicable business licensing requirements in the District of Columbia or in the jurisdiction where OTT services are provided.

1913.8 Reimbursement for OTT service shall be limited to a maximum of five thousand dollars (\$5,000) per person as a one-time non-recurring expense. Reimbursement for OTT service shall require written documentation of the specific expenditure or purchase for which reimbursement is claimed.

1913.99 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 – The Home and Community-based 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.