

**DEPARTMENT OF MENTAL HEALTH**

**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Mental Health (Department), pursuant to the authority set forth in Sections 104 and 105 of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04 and 7-1131.05 (2008 Repl.)), hereby gives notice of a new Chapter 54 (Private Hospital Probable Cause Hearing - Reimbursement) to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this new rule is to establish the rate to reimburse private hospitals in the District of Columbia which, pursuant to a contract with the Department, ensure involuntary patients are safely present in court for probable cause hearings pursuant to D.C. Official Code §21-525 (2008 Repl.), and that the patient’s hospital psychiatrist or qualified psychologist is also present and prepared to testify at such a hearing. The Department recognizes that transportation, security, the testimony of the attendant doctors, and their absence from the hospital wards during time at court for a probable cause hearing, mean costs incurred by the hospital, and yet are a legal requirement for individuals who are under an order of involuntary hospitalization. Because it is beneficial to these individuals and to the District as a whole to be able to have private community hospitals accept these individuals when authorized by the Department, the Department recognizes the necessity to reimburse the hospitals for these costs.

The proposed rulemaking was published on January 4, 2013, in the *D.C. Register* at 60 DCR 0054. No comments were received and no changes have been made to the proposed rule as published. The Department of Mental Health took final action on the rule on February 11, 2013. This rule will become effective on the date of publication of this notice in the *D.C. Register*.

**Subtitle A, Mental Health, of Title 22 of the District of Columbia Municipal Regulations is amended by adding a new Chapter 54 to read as follows:**

**CHAPTER 54 PRIVATE HOSPITAL PROBABLE CAUSE HEARING — REIMBURSEMENT**

**5400 PURPOSE**

5400.1 This chapter establishes the reimbursement rate for private hospitals in the District of Columbia which, pursuant to a contract with the Department of Mental Health (Department), accept patients who are involuntarily hospitalized pursuant to D.C. Official Code §21-524 and as a result may have a probable cause hearing at the D.C. Superior Court, which in turn will require the hospital to safely transport the patient from the hospital to the hearing and back, and also provide expert testimony for the hearing.

5400.2 Nothing in this chapter grants to a private hospital the right to reimbursement for costs of supporting a patient’s probable cause hearing. Eligibility for

reimbursement for a probable cause hearing is determined solely by the contract between the Department and the private hospital, and is subject to the availability of appropriated funds.

**5401 REIMBURSEMENT RATE**

5401.1 The Private Hospital Probable Cause Hearing Rate is as set forth below:

SERVICE	RATE	UNIT
Probable Cause Hearing	\$650.00	Per Event

5401.2 The Department shall not provide any other reimbursement for any cost incurred by a private hospital with a contract with the Department beyond the event rate cited in this rule.

**5402 ELIGIBILITY**

5402.1 Only a private hospital located in the District of Columbia who has entered into a contract with the Department to accept involuntary patients authorized by the Department for hospitalization may incur expenses eligible for reimbursement in accordance with its contract with the Department and may bill the Department under this chapter.

5402.2 A private hospital submitting a claim under this chapter may only submit claims for probable cause hearings that have actually occurred; that is, the hearing was called by a judge or magistrate judge of the D.C. Superior Court and the patient and expert witness from the hospital were present and prepared to proceed.

5402.3 The private hospital must comply with all contractual requirements in order to submit a claim for a probable cause hearing, including but not limited to the following:

- (a) Ensuring the safe and timely transport of the patient to the D.C. Superior Court or to whatever location the court has determined the hearing is to be held, and safe transport of the patient in returning to the hospital, unless there is a finding at the hearing of no probable cause and the patient elects not to return to the hospital;
- (b) Ensuring the patient’s attending psychiatrist, qualified psychologist, or other expert witness, as determined by the Office of the Attorney General (OAG), cooperates with the representative from the OAG who will be representing the Department for the probable cause hearing to prepare for the hearing. Such preparation may include reviewing and providing copies of records, answering questions, communicating with other individuals involved in the care and treatment of the patient while he or she was in the community, and discussing testimony; and

- (c) Ensuring the patient's attending psychiatrist, qualified psychologist, or other expert witness, as determined by the Office of the Attorney General (OAG), is present for the probable cause hearing at the time the hearing is called by the court; that the witness has the original treatment records present when giving testimony at the hearing; and that the witness remains for the hearing until released by the court or the representative from the Office of the Attorney General.

**5403 SUBMISSION OF CLAIM; PAYMENT OF VOUCHER**

- 5403.1 The private hospital shall submit all claims for probable cause hearings by invoice, pursuant to this chapter and the terms of the contract between the Department and the private hospital.
- 5403.2 The private hospital shall submit appropriate documentation to support all claims under its contract with the Department.
- 5403.3 The Department will reimburse a private hospital for a probable cause hearing claim that is determined by the Department to be eligible for reimbursement pursuant to the terms of the contract between the Department and the private hospital, and the rules of this chapter, subject to the availability of appropriated funds.

**5404 AUDITS**

- 5404.1 A private hospital shall, upon the request of the Department, cooperate in any audit or investigation concerning the claims for a probable cause hearing.

**5499 DEFINITIONS**

- 5499.1 When used in this chapter, the following terms shall have the meaning ascribed:

**Private hospital** – a nongovernmental hospital or institution, or part thereof, in the District of Columbia, equipped and qualified to provide inpatient care and treatment for a person with a physical or mental illness.

**Probable cause hearing** – a judicial proceeding in the D.C. Superior Court pursuant to D.C. Official Code §21-525 (2008 Repl.).