

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2012 Repl. & 2015 Supp.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 36 (Child Choice Providers – Flexible Spending Local Funds Program) of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these proposed and emergency rules is to set forth the services and reimbursement rates for services provided by Child Choice Providers to children and youth who are in the legal care and custody of the Child and Family Services Agency (CFSA). Child Choice Providers are providers certified pursuant to Chapters 34 and 35 of Title 22-A DCMR, which have demonstrated key core competencies with respect to delivering high-quality, culturally-competent, evidence-based mental health services for children and youth. Children and youth with mental health issues who are in the legal care and custody of CFSA because they have been removed from their parents’ or guardian’s care may need additional services not provided through regular Mental Health Rehabilitation Services (MHRS). This rule defines the locally-funded services and supports that will augment the clinical services and increase the therapeutic benefit to the child and youth consumers in the legal care and custody of CFSA and that will be reimbursed pursuant to a Human Care Agreement (HCA) with the Department.

Issuance of these rules on an emergency basis is necessary to ensure the continued provision of these services to very vulnerable children and youth. Delay in promulgating the published reimbursement rates would result in an interruption of these supportive services. Therefore, emergency action is necessary for the immediate preservation of services to ensure the health, welfare, and safety of children and youth with mental health issues who are in the legal care and custody of CFSA.

The emergency rulemaking was adopted on and became effective for services rendered on or after May 2, 2016, by a provider certified pursuant to Chapters 34 and 35 of this title with a HCA with the Department. The emergency rules will remain in effect for one hundred twenty (120) days or until August 30, 2016, unless superseded by publication of another rulemaking notice in the *D.C. Register*.

The Director also gives notice of intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 36, CHILD CHOICE PROVIDERS – FLEXIBLE SPENDING LOCAL FUNDS PROGRAM, of Title 22-A DCMR, MENTAL HEALTH, is amended by deleting it in its entirety and replacing it with the following:

**CHAPTER 36 CHILD CHOICE PROVIDERS – SPECIALIZED SERVICES AND
REIMBURSEMENT RATES**

3600 PURPOSE

- 3600.1 This chapter establishes the specialized services and reimbursement rates for services provided by Child Choice Providers (CCPs) to children and youth in the legal care and custody of the Child and Family Services Agency (CFSA).
- 3600.2 Nothing in this chapter grants a Child Choice Provider agency the right to reimbursement for costs of providing these services. Eligibility for reimbursement for these services is determined solely by the Human Care Agreement (HCA) between the Department and the Child Choice Provider and is subject to the availability of appropriated funds.
- 3600.3 No reimbursement under this rule shall be made for services that qualify for and can be claimed as a Medicaid-reimbursable service pursuant to the HCA.

3601 ELIGIBILITY FOR SERVICES

- 3601.1 Children and youth in the legal care and custody of Child and Family Services Agency (CFSA) are eligible for these services if they:
- (a) Are identified by a Mental Health Rehabilitation Services (MHRS) provider as needing mental health services;
 - (b) Are eligible to receive services pursuant to Section 3403 of Chapter 34 of this title; and
 - (c) Have been referred to a Child Choice Provider for receipt of mental health services.
- 3601.2 These services may be provided to a child or youth, and his or her family, for a maximum of thirty (30) days prior to the child's or youth's enrollment for services, and after enrollment as needed.
- 3601.3 All specialized services offered by a Child Choice must receive prior approval internally from the designated qualified practitioner within the Child Choice Provider agency before services are rendered, purchased, or provided.
- 3601.4 Specialized services offered by a Child Choice Provider include Choice Care Coordination, Flexible Spending Child Choice Services and Travel/Transportation.
- 3601.5 Child Choice Providers are providers certified pursuant to Chapters 34 and 35 of Title 22-A DCMR, which have demonstrated key core competencies with respect to delivering high-quality, culturally-competent, evidence-based mental health services for children and youth.

3602 CHOICE CARE COORDINATION

3602.1 Choice Care Coordination is care coordination provided by a Child Choice Provider to a child or youth in the legal care and custody of CFSA.

3602.2 Choice Care Coordination is the implementation of the comprehensive care plan through appropriate linkages, referrals, coordination, consultation and follow-up to needed services and support. Care Coordination consists of the following services:

- (a) Attending interdisciplinary team meetings for ongoing assessment and diagnostic services;
- (b) Providing telephonic consults and outreach;
- (c) Following up on service delivery by providers, both internal and external to the treatment program, and ensuring communication and coordination of services;
- (d) Contacting consumers who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;
- (e) Making appointments and providing telephonic reminders of appointments;
- (f) Assisting with arrangements such as transportation;
- (g) Providing individual and family training to consumers to develop necessary coping skills to achieve and maintain recovery and support stability in placements within the community; and
- (h) Engaging in measures that ensure that services are delivered in a manner that is culturally and linguistically competent.

3602.3 Choice Care Coordination may be provided by credentialed staff supervised by a qualified practitioner in accordance with the Department of Behavioral Health policy on supervision, or by a qualified practitioner.

3603 FLEXIBLE SPENDING CHILD CHOICE SERVICES

3603.1 Flexible Spending Child Choice Services (FLEXN Services) are non-Medicaid services and supports that are provided by a Child Choice Provider intended to augment, and thereby increase the therapeutic benefit of, clinical services provided to the consumers. These services and supports are resources and tools identified during therapeutic sessions to promote positive outcomes for the child or youth. These services may also be used with the child or youth and his or her family to support engagement and enhance coping skills. These resources may include but are not limited to:

- (a) Incentives and rewards to reinforce positive clinical outcomes achieved by children and youth in treatment;
- (b) Engagement efforts for encouraging children, youth, and their families to participate in treatment;
- (c) Social network supports such as a non-treatment parent/child activity that is deemed therapeutically appropriate and should lead to a positive outcome; and
- (d) Mental health modeling and training including purchasing items or services used to enhance self-esteem or to improve child safety.

3603.2 FLEXN services provided directly by the Child Choice Provider may be provided by a credentialed staff person under the supervision of a qualified practitioner in accordance with the Department's policy on supervision. Should the Child Choice Provider utilize a vendor to purchase FLEXN services in the best interest and therapeutic need of the youth, the vendor must be provided by a business licensed to do business in the District of Columbia or neighboring jurisdiction.

3604 TRAVEL/TRANSPORTATION

3604.1 Child Choice Providers utilize travel/transportation service as mileage reimbursement for travel services used for engagement activities to prevent placement disruption and promote positive outcomes with children or youth and their families placed in the care and custody of CFSA.

3604.2 Travel/transportation reimbursement is available to support services provided pursuant to this Chapter and MHRS provided in accordance with Chapter 34 of Title 22-A DCMR.

3604.3 Actual transportation shall be provided by an authorized staff according to the policies and procedures of the Child Choice Provider.

3605 SERVICE CODES AND RATES

3605.1 Service codes and rates for the Choice Care Coordination, FLEXN Services, and Travel/Transportation are set forth below:

SERVICE	CODE	RATE
Choice Care Coordination	H0006HU	\$21.97
FLEXN Services	FLEXN	\$0.01
Travel/Transportation	DBH-MILN	GSA Per Diem Schedule

3606 RECORDS AND DOCUMENTATION REQUIREMENTS

- 3606.1 Each Child Choice Provider shall utilize the Department's data management system for documenting and billing all services provided pursuant to this chapter.
- 3606.2 Each Child Choice Provider shall maintain all documentation and records in accordance with the Department standards in Chapter 34 of this title, federal and District privacy laws, and the Department's Privacy Manual.
- 3606.3 Child Choice Providers shall document each service and activity provided pursuant to this Chapter in the consumer's record in the Department's data management system. Any claim for services shall be supported by written documentation which clearly identifies the following:
- (a) The specific service type rendered;
 - (b) The date, duration, and actual time, a.m. or p.m. (beginning and ending), during which the services were rendered;
 - (c) Name, title, and credentials of the person who provided the services;
 - (d) The setting in which the services were rendered;
 - (e) Identification of any further actions required for the consumer's well-being raised as a result of the service provided;
 - (f) A description of each encounter or service by the Child Choice Provider which clearly documents how the service was provided in accordance with this chapter; and
 - (g) Dated and authenticated entries, with their authors identified, which are legible and concise, including the printed name and the signature of the person rendering the service, diagnosis, and clinical impression recorded in the terminology of the International Statistical Classification of Diseases and Related Health Problems-10 (ICD-10 CM) or subsequent revisions, and the service provided.
- 3606.4 No Child Choice Provider shall be reimbursed for a claim for services that does not meet the requirements of this section or is not documented in accordance with this section.
- 3606.5 Only a Child Choice Provider that has incurred expenses eligible for reimbursement in accordance with its contract with the Department may bill the Department under this regulation.
- 3607 SUBMISSION OF CLAIM; PAYMENT OF VOUCHER**
- 3607.1 The Child Choice Provider shall submit all claims for services rendered pursuant to this chapter through the Department's data management system.

3607.2 The Child Choice Provider shall submit appropriate documentation to support all claims under the HCA and upon request of the Department shall cooperate in any audit or investigation concerning this program.

3607.3 The Department will reimburse a Child Choice Provider for a claim that is determined by the Department to be eligible for reimbursement pursuant to the terms of the HCA between the Department and the Child Choice Provider, subject to the availability of appropriated funds.

3699 DEFINITIONS

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

Child Choice Provider - a Mental Health Rehabilitation Service (MHRS) Core Services Agency (CSA) certified as a Child Choice Provider pursuant to Chapter 35 of this title with demonstrated ability to provide quality, evidence-based, innovative services and interventions to meet the most complex and changing needs of children, youth, and their families in the District, particularly those who have histories of abuse or neglect.

Core Services Agency or “CSA” - a Department-certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide specified MHRS. A CSA shall provide at least one core service directly and may provide up to three core services via contract with a sub-provider or subcontractor.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Suzanne Fenzel, Deputy Director, Office of Strategic Planning, Policy and Evaluation, Department of Behavioral Health, at 64 New York Ave., N.E., 3rd Floor, Washington, D.C. 20002, or e-mailed to SuzanneM.Fenzel@dc.gov. Copies of the proposed rules may be obtained from dbh.dc.gov or from the Department of Behavioral Health at the address above.