

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, 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) and 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)), hereby gives notice of the adoption of amendments to section 948 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Standards for Participation of Residential Treatment Centers for Children and Youth" and section 949 of Chapter 9 of Title 29 DCMR, entitled "Reimbursement Principles and Limitations".

This rulemaking changes the name of residential treatment facilities for children under the age of twenty-two (22) to psychiatric residential treatment facilities (PRTFs) to conform to guidance provided by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid (CMS). Changing the name ensures that the District will obtain the federal reimbursement for inpatient psychiatric services provided to adolescents in PRTF. These rules also modifies the PRTF payment system to ensure that reimbursements for these services keep pace with the increased cost of services provided to District of Columbia Medicaid beneficiaries.

A notice of proposed rulemaking was published in the *D.C. Register* on November 21, 2008. (55 DCR 012048). These rules amend the November 21 rulemaking consistent with the attendant State Plan for Medicaid Assistance (State Plan) governing PRTF. The State Plan amendment has been approved by the Council of the District of Columbia and CMS.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on October 23, 2009 (56 DCR 008455). No comments were received and no substantive changes have been made.

A notice of final rulemaking was published in the *DC Register* on February 26, 2010 (57 DCR 001709). This final rulemaking corrects typographical and clerical errors contained in the February 26th rulemaking. The effective date of these rules will be February 26, 2010.

Sections 948 (Standards for Participation of Residential Treatment Centers for Children and Youth) and 949 (Reimbursement Principles and Limitations) are amended to read as follows:

948 INPATIENT PSYCHIATRIC SERVICES FOR INDIVIDUALS UNDER 22 YEARS OF AGE

948.1 Inpatient psychiatric services for individuals under the age of twenty-two (22) may be provided by:

- (a) A psychiatric hospital or an inpatient psychiatric program in a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or
 - (b) A psychiatric residential treatment facility (PRTF).
- 948.2 Inpatient psychiatric services for individuals under the age of twenty-two (22) shall be:
- (a) Provided under the direction of a physician;
 - (b) Provided in a facility or program described in §948.1;
 - (c) Provided before the individual reaches the age of twenty-two (22), or, if the individual was receiving the services immediately before reaching the age of twenty-two (22), before the earlier of the following:
 - (i) The date the individual no longer requires the services; or
 - (ii) The date the individual reaches the age of twenty-two (22).
 - (d) Certified in writing to be necessary in the setting in which the services shall be provided or are being provided in emergency circumstances in accordance with 42 CFR 441.152; and
 - (e) Meet the conditions of participation governing the use of restraint or seclusion set forth in 42 CFR 483.350 *et seq.*, if services are provided by a PRTF.
- 948.3 For each Medicaid beneficiary or applicant who is admitted to a facility or program, the certification required pursuant to §948.2(d) shall be made by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness and has knowledge of the beneficiary's health status. For an individual who applies for Medicaid while in the facility or program, the certification shall be made by the team responsible for the plan of care as described in §948.6 and shall cover any period before application for which claims are made. For emergency admissions, the certification shall be made by the team responsible for the plan of care within fourteen (14) days after admission.
- 948.4 A PRTF shall:
- (a) Be licensed in the state where the facility is located, if required by the state;
 - (b) Have a current written provider agreement with the District of Columbia Medicaid Program;

- (c) Have a written individual plan of care for each patient as described in §948.5, developed by an interdisciplinary team of physicians and other professionals as described in §948.6 in consultation with the patient and his or her parents, legal guardians, or others in whose care the patient will be released after discharge; and
 - (d) Maintain appropriate administrative and medical records for a minimum of six (6) years beyond the age of twenty-two (22) years and make such records available to officials of the Department of Health Care Finance, the Department of Mental Health, Department of Health, or other governmental officials of District, state, or federal agencies, or their designees.
- 948.5 Each facility or program shall have a written plan of care for each beneficiary that complies with the requirements set forth in 42 CFR 441.155 and include the following:
- (a) A certification of need for services that meets the requirements of 42 CFR 441.152;
 - (b) An assessment of the beneficiary's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities;
 - (c) An assessment of the resources of the beneficiary's family, including parents, legal guardians, or others into whose care the beneficiary will be released after the discharge;
 - (d) The establishment of treatment objectives; and
 - (e) The prescribing of therapeutic modalities to achieve the plan's objectives.
- 948.6 The interdisciplinary team consisting of physicians and other personnel that develops an individual plan of care shall:
- (a) Be employed by the facility directly or under contract;
 - (b) Have demonstrated competency in child psychiatry (for example, residency in child and adolescent psychiatry and experience in inpatient child and adolescent inpatient/residential treatment settings);
 - (c) Include at a minimum:
 - (1) A board-certified or board-eligible psychiatrist;
 - (2) A clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or
 - (3) A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment

of mental diseases and a psychologist who has a master's degree in clinical psychology or who has been certified by the state or by the state psychological association; and

(d) Include one (1) of the following:

- (1) A psychiatric social worker;
- (2) A registered nurse who has specialized training or one (1) year of experience in treating mentally ill individuals;
- (3) An occupational therapist who is licensed, if required by the state, and has specialized training or one (1) year of experience in treating mentally ill individuals; or
- (4) A psychologist who has a master's degree in clinical psychology or who has been certified by the state or by the state psychological association.

948.7 Each facility or program shall not admit a District Medicaid beneficiary or applicant unless the admission has been certified as medically necessary by the District of Columbia Department of Mental Health (DMH).

948.8 Each facility or program shall provide active treatment consistent with the requirements set forth in 42 CFR 441.155.

948.9 The written plan of care shall be developed within fourteen (14) days of admission and reviewed at least every thirty (30) days thereafter.

948.10 Each PRTF shall provide to the requesting District child-serving agency the initial plan of care and any subsequent treatment plan adjustments, including all thirty (30) day reviews of the plan of care.

949 REIMBURSEMENT PRINCIPLES AND LIMITATIONS GOVERNING PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES

949.1 Each PRTF shall be reimbursed on a prospective basis at a facility-specific per diem rate.

949.2 Each PRTF located in the District of Columbia shall be reimbursed at a rate equal to the average rate paid by the State of Maryland Medicaid Program as of July 1 each year for comparable services and provider type. The reimbursement rate calculated pursuant to this section shall become effective October 1 of each year in which the average rate was determined and shall remain in effect for a full year.

949.3 Each PRTF located outside of the District of Columbia may be reimbursed for services provided to District Medicaid beneficiaries who are residents of the District of Columbia. The reimbursement rates shall be determined as set forth in §§ 949.4 through 949.6.

- 949.4 If the PRTF located outside of the District of Columbia is enrolled in the Medicaid Program in the state in which the facility is located, the reimbursement rate shall be the same rate paid by the state in which the facility is located as of July 1 of each year, for comparable services rendered by a comparable provider type. The reimbursement rate shall be effective October 1 of each year and shall remain in effect for a full year. Each PRTF shall enroll in the District's Medicaid Program and provide documentation of its enrollment in the Medicaid Program in the state in which the facility is located.
- 949.5 If the PRTF located outside of the District of Columbia is not enrolled in the Medicaid Program in the state in which the facility is located, the reimbursement rate shall be the established payment rate for services charged to other third party payers. Each PRTF shall enroll in the District's Medicaid Program and be certified by the Department of Mental Health before accepting District Medicaid beneficiaries for services.
- 949.6 If the PRTF located outside of the District of Columbia is not enrolled in the Medicaid Program in the state in which the facility is located does not charge other third party payers, the reimbursement rate shall be the lowest rate charged to a self-paying recipient of services. Each PRTF shall enroll in the District's Medicaid Program and be certified by the Department of Mental Health before accepting District Medicaid beneficiaries for services.
- 949.7 All provider appeals shall be governed in accordance with the requirements set forth in Chapter 13 of Title 29 of the District of Columbia Municipal Regulations.

949.99 DEFINITIONS

For the purposes of sections 948 and 949, the following terms shall have the meanings ascribed:

Psychiatric residential treatment facility- a psychiatric facility that is not a hospital and is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other accrediting organization with comparable standards that is recognized by the state in which it is located and provides inpatient psychiatric services for individuals under the age of twenty-two (22) and meets the requirements set forth in §§ 441.151 through 441.182 of Title 42 of the Code of Federal Regulations.

Psychiatrist -a person who is licensed to practice psychiatry pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 26, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 *et seq.*) and implementing regulations or licensed as a psychiatrist in the jurisdiction where the services are being provided.

Psychologist - a person who is licensed to practice psychology pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C.

Law 6-99; D.C. Official Code § 3-1202 *et seq.*) and implementing regulations or licensed as a psychologist in the jurisdiction where the services are being provided.

Registered nurse - a person who is licensed as a registered nurse pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 *et seq.*) and implementing regulations or licensed as a registered nurse in the jurisdiction where the services are being provided.

Occupational therapist - a person who is licensed or authorized to practice occupational therapy pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201 *et seq.*) and implementing regulations or licensed as an occupational therapist in the jurisdiction where the services are provided.