

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED 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. 744; D.C. Official Code §1-307.02 (2012 Repl. & 2014 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 intent to adopt an amendment to Section 964 (Dental Services) of Chapter 9 (Medicaid Program) of Title 29 of the District of Columbia Municipal Regulations (DCMR).

These rules update the Medicaid dental program by aligning coverage with best practices and improving the regulatory framework for adults and children. Services are predicated upon being medically necessary; thus, affording the agency the opportunity to maintain a dental program that adequately meets the needs of all qualified Medicaid beneficiaries. Lastly, these rules stipulate that, at a minimum, preventive services be delivered to all eligible children.

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

Section 964 (DENTAL SERVICES) of Chapter 9 (MEDICAID PROGRAM) of Title 29 (PUBLIC WELFARE) DCMR is deleted in its entirety and amended to read as follows:

964 DENTAL SERVICES

964.1 Subject to requirements established in this section, the Department of Health Care Finance (DHCF) shall reimburse dental services, as further described in these rules, to the following eligible populations:

- (a) Medicaid beneficiaries under the age of twenty-one (21);
- (b) Medicaid beneficiaries residing in intermediate care facilities for persons with intellectual and developmental disabilities (ICF/IDD) or enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities, as described in Chapter 19 of Title 29 DCMR; or
- (c) Medicaid beneficiaries twenty-one (21) years of age and over who do not live in an institution.

964.2 Dental services for Medicaid beneficiaries shall be furnished in a public or private dental facility, under the direction of a dentist.

- 964.3 Medicaid beneficiaries under the age of twenty-one (21) shall be eligible to receive medically necessary dental services as a required component of the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit.
- 964.4 Dental services for Medicaid beneficiaries under age twenty-one (21) shall be provided at intervals that meet reasonable standards of dental practice as determined by DHCF after consultation with recognized dental organizations involved in child health.
- 964.5 Dental services for Medicaid beneficiaries under the age of twenty-one (21) shall include, at a minimum, preventive services; relief of pain and infections; restoration of teeth; and maintenance of dental health.
- 964.6 Dental services for Medicaid beneficiaries under the age of twenty-one (21) shall not be limited to emergency services.
- 964.7 Medicaid beneficiaries under the age of twenty-one (21) shall be eligible to receive medically necessary orthodontic services subject to the requirements set forth in § 964.8.
- 964.8 Before delivering an orthodontic service to a Medicaid beneficiary under the age of twenty-one (21), each provider shall obtain prior authorization from DHCF or its agent. To be eligible for orthodontia services, the beneficiary's dental or orthodontia provider shall demonstrate that the beneficiary meets at least one (1) of the following criteria:
- (a) Has an adjusted score greater than or equal to fifteen (15) on the Handicapping Labio-Lingual Deviation (HLD) Index;
 - (b) Exhibits one (1) or more of the following Automatic Qualifying Condition(s) that cause dysfunction due to a handicapping malocclusion and is supported by evidence in the beneficiary's treatment records:
 - (1) Cleft palate deformity;
 - (2) Cranio-facial anomaly;
 - (3) Deep impinging overbite;
 - (4) Crossbite of individual anterior teeth;
 - (5) Severe traumatic deviation; or
 - (6) Overjet greater than nine millimeters (9 mm.) or mandibular protrusion greater than three and half millimeters (3.5 mm.); or

- (c) Has otherwise established a medical need for orthodontic treatment that is supported by comprehensive dental records including, but not limited to:
 - (1) Upper and lower study models;
 - (2) Cephalometric head film with analysis;
 - (3) Panoramic or full series periapical radiographs;
 - (4) Extra oral and intra oral photographs;
 - (5) Clinical summary with diagnosis; and
 - (6) Treatment plan.

964.9 Providers of dental services, with the exception of children's fluoride varnish treatments, shall be dentists or dental hygienists working under the supervision of a dentist, who meet the following requirements:

- (a) Provide services consistent with the scope of practice authorized pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201, *et seq.* (2012 Repl. & 2013 Supp.)), or consistent with the applicable professional practices act within the jurisdiction where services are provided; and
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for dental services for the covered populations.

964.10 A dental provider, primary care physician, or pediatrician may administer preventive fluoride varnish treatment to children, unless expressly prohibited by the scope of practice in the state where the physician is licensed.

964.11 Medicaid beneficiaries residing in an ICF/IDD shall be eligible to receive medically necessary dental services.

964.12 Reimbursement for dental services provided to an ICF/IDD beneficiary shall be consistent with the District of Columbia Medicaid fee schedule for beneficiaries receiving dental services under Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities, as described in Title 29 DCMR, Chapter 19, and available online at <http://www.dc-medicaid.com> and as described in 29 DCMR § 1921.

- 964.13 Any dental service for a Medicaid beneficiary twenty-one (21) years of age or older that does not live in an institution and requires inpatient hospitalization or general anesthesia shall be prior authorized by DHCF or its agent.
- 964.14 Medicaid beneficiaries twenty-one (21) years of age and over who do not live in an institution shall be eligible to receive the following medically necessary dental services:
- (a) General dental examinations consisting of preventive services, which include semi-annual routine cleaning and oral hygiene instruction;
 - (b) Emergency, surgical and restorative services including root canal treatment; the previous rule limited to two molars per year.
 - (c) Denture reline and rebase, limited to one (1) over a five (5) year period unless additional services are prior authorized;
 - (d) Complete radiographic survey, including full, panoramic and bitewing x-rays, limited to one every three (3) years unless additional services are prior authorized;
 - (e) Periodontal scaling and root planning;
 - (f) Initial placement or replacement of a removal prosthesis, once every five (5) years per beneficiary;
 - (g) Removable partial prosthesis, subject to a beneficiary meeting conditions specified in the billing manual.
- 964.15 Medicaid beneficiaries twenty-one (21) years of age and over shall not be eligible to receive the following services:
- (a) Local anesthesia used in conjunction with surgical procedures that are billed separately;
 - (b) Hygiene aids, including toothbrushes and dental floss;
 - (c) Cosmetic or aesthetic procedures;
 - (d) Medication dispensed by a dentist that a beneficiary could obtain over-the-counter from a pharmacy;
 - (e) Acid etch for a restoration that is billed separately;

- (f) Fixed prosthodontics (such as a bridge), unless prior authorized because a beneficiary cannot use a removable prosthesis or other procedures that are less cost effective;
- (g) Gold restoration, inlay, or onlay, including cast non-precious and semiprecious metals;
- (h) Duplicative x-rays;
- (i) Space maintainers;
- (j) Denture replacement when reline or rebase would correct the problem;
- (k) Prosthesis cleaning; and
- (l) Removable unilateral partial dentures that are one-piece cast metal including clasps and teeth.

964.16 Reimbursement for dental procedure codes for non-institutionalized Medicaid-enrolled adults shall be made according to the District of Columbia Medicaid fee schedule available online at <http://www.dc-medicaid.com> and shall cover all services related to the procedure.

964.99 DEFINITIONS

For purposes of this section, the following terms shall have the meanings ascribed:

Dental Hygienist – A person who is licensed as a dental hygienist pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201, *et seq.* (2012 Repl. & 2013 Supp.)) or licensed as a dental hygienist in the jurisdiction where the services are provided.

Dentist – A person who is licensed as a dentist pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201, *et seq.* (2012 Repl. & 2013 Supp.)) or licensed as a dentist in the jurisdiction where the services are provided.

Facility – A dental facility that is enrolled as a District Medicaid provider.

Treatment Plan – A written plan that includes diagnostic findings and treatment recommendations resulting from a comprehensive evaluation of the dental health needs of a beneficiary.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Acting Senior Deputy Director/Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, DC 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomment@dc.gov, or on-line at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.