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State/Territory Name: DC

State Plan Amendment (SPA) #: 21-0002

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Financial Management Group

May 7, 2021

Melisa Byrd
Medicaid Director
Department of Health Care Finance
441 4th Street, N.W., 9th Floor, South
Washington, D.C. 20001

RE: DC 21-0002

Dear Ms. Byrd:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan. This amendment refocuses the objectives of the Stevie Sellows assessment and supplemental payments.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. We have found that the proposed reimbursement methodology complies with applicable requirements and therefore have approved them with an effective date of April 1, 2021. We are enclosing the CMS-179 and a copy of the approved plan pages.

If you have any additional questions or need further assistance, please contact Division of Reimbursement Review (DRR) analyst Gary Knight at (304) 347-5723 or Gary.Knight@cms.hhs.gov.

Sincerely,

[redacted]

For
Rory Howe
Acting Director

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: **21-002**

2. STATE: **District of Columbia**

3. PROGRAM IDENTIFICATION: **Title XIX of the Social Security Act**

TO: Regional Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services

4. PROPOSED EFFECTIVE DATE: **April 1, 2021**

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR § 447.250 *et seq.* and Title XIX of the Social Security Act

7. FEDERAL BUDGET IMPACT:

FFY21: $1,271,940.00
FFY22: $1,820,000.00

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19-D Part II: pages 13A, 14-18

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

Attachment 4.19-D Part II: pages 13A, 14-18

10. SUBJECT OF AMENDMENT:

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Direct Support Professional (DSP) Supplemental Payment

11. GOVERNOR'S REVIEW *(Check One)*

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED:
D.C. Act: 22-434

12. SIGNATURE OF STATE AGENCY OFFICIAL

[redacted]

13. TYPED NAME
Melisa Byrd

14. TITLE
Senior Deputy Director/Medicaid Director

15. DATE SUBMITTED
March 4, 2021

16. RETURN TO

Melisa Byrd
Senior Deputy Director/Medicaid Director
Department of Health Care Finance
441 4th Street, NW, 9th Floor, South
Washington, DC 20001

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED
March 4, 2021

18. DATE APPROVED
5/7/21

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
April 1, 2021

[redacted]CIAL
For

21. TYPED NAME
Rory Howe

22. TITLE
Acting Director, Financial Management Group

23. REMARKS

Page 13A added to Blocks 8 and 9 with agreement from the District.

P. The Stevie Sellows Quality Improvement Fund is a broad based assessment on all ICF/IID providers in the District of Columbia at a uniform rate of six percent (6%) of gross revenue. The allowable cost of the assessment is calculated consistent with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70, and 433.72.

IV. ACTIVE TREATMENT SERVICES

A. A beneficiary residing in an ICF/IID shall receive continuous active treatment services, consistent with the requirements set forth in 42 CFR § 483.440. Active treatment services shall vary depending on the needs of the beneficiary, as determined by the interdisciplinary team.

B. An ICF/IID shall ensure that a beneficiary receives active treatment services on a daily basis. The ICF/IID may affiliate with outside resources to assist with program planning and service delivery or the facility may provide active treatment services directly.

C. A program of active treatment services shall include aggressive, consistent implementation of a program of specialized training, treatment, health services and other related services that is directed towards:

1. The acquisition of the behaviors necessary for the beneficiary to function with as much self-determination and independence as possible; and

2. The prevention or deceleration of regression or loss of current optimal functional status.

D. In accordance with 42 C.F.R. §§ 483.440(c) - (d), an interdisciplinary team shall determine the type of active treatment services that a beneficiary needs based on preliminary evaluations, assessments, and re-assessments. Each beneficiary's active treatment requirements shall be described in his Individual Program Plan (IPP), pursuant to 42 C.F.R. § 483.440(c). The ICF/IID shall ensure that each beneficiary receives all of the services described in the IPP.

E. In addition to the residential component of the rate, derived from the seven (7) cost centers detailed in Section III, the rate shall include a per diem for active treatment. For dates of service on or after January 1, 2014, the per diem for active treatment shall equal the average of FY13 active treatment rates multiplied by two hundred and sixty (260) days of service, to account for the maximum days of service provided, and divided by three hundred sixty-five (365).

V. STEVIE SELLOWS QUALITY IMPROVEMENT FUND – DIRECT SUPPORT PROFESSIONAL SUPPLEMENTAL PAYMENT

A. The purpose of the Direct Support Professional supplemental payment, made from the Stevie Sellows Quality Improvement Fund, is to provide supplemental payments to qualified District of Columbia, Medicaid-certified, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) to reduce turnover by ensuring a competitive wage and increase the competency of direct support professionals (DSPs), thereby ensuring the provision of quality care to individuals in ICFs/IID.

B. Assessments from the Stevie Sellows Quality Improvement Fund shall be used to:

1. Fund quality of care improvements for those facilities that meet the requirements of the District's State Plan for Medical Assistance and the accompanying rules governing the reimbursement of ICF/IID.

2. Cover administrative costs of the DHCF in administering the ICF/IID reimbursement program and the Stevie Sellows quality improvement funding support, which costs shall not be more than 10% of the Fund's total revenues; and

3. Cover administrative costs of DHCF in auditing the ICF/IID in a rebasing year or as necessary to ensure the integrity of the ICF/IID reimbursement methodology, which costs shall not be more than 15% of the Fund's total revenues.

C. Eligible ICF/IID providers may receive supplemental payments to pay direct support professional employees of ICFs/IID if the providers meet the following criteria:

1. Certified to participate in the Medicaid program as described in section I.A. above;

2. Uses the supplemental payments to reimburse for salary, wages, and fringe benefit expenses for DSP employees. A DSP employee is defined as follows:

   a. Direct support professional must be an employee of an ICF/IID provider who provides direct services to individuals with developmental disabilities for at least 50% of the employee's work hours;

   b. Direct services for which the individual is eligible to be paid must include working with an individual providing support with self-care activities, behavior management, and community integration pursuant to an Individual Service Plan (ISP); and

   c. An employee as used in this section excludes managers, administrators, and contract employees.

3. Ensures compliance with any annual training requirements established by DHCF in collaboration with DDS to ensure DSP workers have sufficient knowledge and training to provide ICF/IID beneficiaries with quality care. DHCF shall provide notice of any annual training requirements at least 60 days in advance of the due date of the requirements;

4. Not closed for business;

5. Complies with DHCF reporting requirements described in section V.D. of this subsection;

6. Complies with the Clean Hands certificate requirements of the District of Columbia Office of Tax and Revenue and is otherwise in good standing with DHCF; and

7. Submits proof of a legally binding written commitment to use supplemental payments to fund DSP salaries, wages and fringe benefits, proof of an enforcement mechanism of the written commitment, and proof of written notice to DSP employees on the funding and availability of enforcement to the DHCF by June 30 of each year. The commitment and proof of enforcement and notice shall meet the requirements of D.C. Official Code § 47-1272(a).

D. ICF/IID providers that receive DSP supplemental payments shall comply with the following reporting requirements:

1. ICF/IID providers shall submit to DHCF a separate report on the distribution of the DSP supplemental payments on an annual basis. The report shall include the following:

   a. Total wage and benefits paid to employees;

   b. The marginal increases in wages and benefits that are covered by the supplemental payment;

   c. Documentation of compliance with training requirements, including records of training for DSPs and the tests used to determine competency, as applicable; and

   d. Any unused supplemental payment funds not distributed to DSPs during the course of the year.

2. Separate supplemental payment reports and any unused funds shall be submitted to DHCF no later than sixty (60) days following the end of the District's fiscal year (FY) (e.g., November 29). An ICF/IID provider's failure to submit the supplemental payment report and unused funds by the deadline shall result in exclusion from participation in the DSP supplemental payment program in the following FY.

3. ICF/IID providers shall include all expenses related to the DSP supplemental payment in the annual cost report submitted to DHCF. All supplemental payment funds received from and returned to DHCF shall be reported as adjustments in the annual cost report.

E. The supplemental payment shall conform to the Medicaid Upper Payment Limits (UPL)which ensures that rates do not exceed usual and customary charges billed to the general public in 42 C.F.R. § 447.271.

F. The DSP supplemental payment distribution to eligible ICF/IID providers shall be calculated based on the following parameters:

1. The total aggregate ICF/IID DSP supplemental payment amount for ICF/IID providers shall be based on ICF/IID assessments in the current FY and federal matching funds. The amount of ICF/IID assessments available for DHCF to distribute shall be a percentage of the total assessments collected under the Stevie Sellows Quality Improvement Fund during the FY, and DHCF shall provide notice of the amount of funds available for distribution at least sixty (60) days ahead of the FY.

2. To compute the quarterly payment:

   a. The total aggregate ICF/IID DSP supplemental payment amount shall be divided by total annual DSP hours required to provide services to all District Medicaid beneficiaries residing in an ICF/IID during the prior FY to calculate a DSP supplemental payment per hour.

   b. The total annual DSP hours (e.g., the total aggregate DSP hours for all ICF/IID providers) and the total individual ICF/IID annual DSP hours (e.g., the total DSP hours associated with a specific ICF/IID) will be calculated based on each beneficiary's acuity level and the staffing ratios, as prescribed in the ICF/IID rate methodology in section III.G. above and the following criteria:

      i. The Medicaid beneficiary utilization and acuity levels in the above calculation will be based on the most recent complete claims data available from the prior fiscal year. No adjustments will be made due to utilization or acuity changes that may occur during the disbursement year.

      ii. DSP hours from ineligible ICF/IID providers shall be excluded from the calculations in this subsection.

   c. An eligible ICF/IID provider shall receive a DSP supplemental payment equal to the DSP supplemental payment per hour times the ICF/IID's total annual DSP hours and as a lump-sum disbursement each quarter of the fiscal year.

3. DHCF reserves the right to recalculate the quarterly ICF/IID DSP supplemental payment amounts described in this section if revenues are insufficient to support the payment amounts calculated at the start of a FY. If DHCF recalculates the quarterly ICF/IID DSP supplemental payment amounts, then DHCF shall issue notice at least 30 days in advance of the recalculation to all eligible ICF/IID providers.

G. Payments made in accordance with this section are not subject to assessment under the Stevie Sellows Quality Improvement Fund.

IV. REBASING

Effective October 1, 2018, and every three (3) years thereafter, DHCF will utilize the most recently audited cost reports to review the reimbursement rates through the rebasing process and revise, if necessary. Any adjusted rates will become effective in the following fiscal year.

V. COST REPORTING AND RECORD MAINTENANCE

A. Each ICF/IID shall report costs annually to DHCF no later than ninety (90) days after the end of the provider's cost reporting period, which shall correspond to the fiscal year used by the provider for all other financial reporting purposes, unless DHCF has approved an exception. All cost reports shall cover a twelve (12) month cost reporting period.

B. A cost report that is not completed in accordance with the requirements of this Section shall be considered an incomplete filing, and DHCF shall notify the ICF/IID within thirty (30) days of the date on which DHCF received the incomplete cost report.

C. DHCF shall issue a delinquency notice if the ICF/IID does not submit the cost report as specified in Section VII.A and has not previously received an extension of the deadline for good cause.