

Via email: DHCFPublicComments@dc.gov

August 5, 2016

Claudia Schlosberg, J.D.
Medicaid Director
Department of Health Care Finance
441 4th Street, NW, Suite 900
Washington, DC 20001

Re: Comments on Emergency and Proposed Rulemaking on Medicaid-Reimbursable
Telehealth Services published on July 8, 2016

Dear Ms. Schlosberg:

Thank you for the opportunity to comment on the emergency and proposed rulemaking published in the District of Columbia (DC) Register on July 8, 2016 regarding Medicaid-Reimbursable Telemedicine Services. I am submitting these comments on behalf of Children's Law Center (CLC),ⁱ which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Our comments are based on our years of experience advocating for Medicaid services for many of our clients.

In general, we believe these regulations are appropriate and provide useful guidance for providers who deliver telemedicine services as part of the DC's Medicaid program; however, we believe the recommendations below should be considered to ensure the children of DC are provided with the medical care to which they are entitled.

910.6

Subsection (d) requires a telemedicine provider to “[c]omply with any consent requirements pursuant to Section 3026 of Title 5-E of the District of Columbia Municipal Regulations...” It is unclear if this section is intended to cover all “consent requirements” for the District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS). Section 3026, entitled “Procedural Safeguards – Consent,” is located within Chapter 30 (Special Education) of Title 5-E; therefore, it only covers consent regarding the evaluation or reevaluation of children with disabilities.

Additionally, there are other provisions of law that cover health care consent for youth. For example, with regard to the “behavioral healthcare services” in Section 910.11(c) of the proposed regulations, Section 7-1231.14 of the DC Code covers the consent of youth receiving mental health services or mental health supports.ⁱⁱ This, and any other provision of law that legally allows youth to consent to their own healthcare services, should be reflected in the regulations.

910.17 and 910.18

The regulations should better define what is meant by the word “accompany” used in 910.17. It is unclear if this means a “primary support professional” is merely escorting the patient to the encounter and/or if the term means the “primary support professional” will be in the room during the patient’s telemedicine services. The term “supervisory services” used in 910.18 is similarly unclear in its meaning and should be better defined.

As “primary support professional” is defined in 910.18, we have concerns regarding the privacy and the confidentiality of the patient while having such a person in the room with the patient, especially with regard to children receiving telehealth behavioral/mental health services. The American Academy of Child & Adolescent Psychiatry recommends that providers should spend some time interviewing the youth alone.ⁱⁱⁱ

Thank you for again for the opportunity to comment on these proposed regulations. If you have any questions or we can provide any other information, please do not hesitate to contact me at (202) 750-7521 or at mvillafranca@childrenslawcenter.org.

Respectfully,



Michael Villafranca
Policy Analyst

ⁱ Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren’t learning in schools, or who have health problems that can’t be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

ⁱⁱ See D.C. Code § 7-1231.14

ⁱⁱⁱ Myers, K., & Cain, S. (2008). Practice parameter for telepsychiatry with children and adolescents. *Journal of the American Academy of Child & Adolescent Psychiatry*, 47(12), 1468-1483.