CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: Executive Office of Health and Human Services (EOHHS)

DIVISION: Medicaid Policy Unit

RULE IDENTIFIER : 210-RICR-20-05-1

RULE TITLE: Chapter 20 – Medicaid Payments and Providers, Subchapter 05 – Requirements and Limits Applicable to Specific Providers, Part 1 Home Care and Home Health Providers

REASON FOR RULEMAKING:
The FY2022 budget directed EOHHS to establish an enhanced Medicaid rate or shift differential modifier to encourage the delivery of home care servcies outside of regular business hours (evenings, nights, weekends, and holidays). The FY2022 budget also directed EOHHS to establish an enhanced rate to providers who have at least 30% of their CNAs and Homemakers certified in behavioral healthcare training through an approved behavioral health training program.

EOHHS implemented these rate enhancements effective July 1, 2021 (shift differential) and January 1, 2022 (BH enhancement). Subsequently it was determined that the guidelines around these enhancements ought to be codified in regulation. Additionally, a need was identified to codify general requirements for home care and home health providers.

ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE: *N/A*

TESTIMONY AND COMMENTS: Comments were received and are summarized in the response to comments document.

CHANGE TO TEXT OF THE RULE: Changes are being proposed that differ from the original proposed language that was posted for public comment on 11/26/24:

- 1.1(A): Language added to clarify that the rule pertains to home care and home health provider agencies and that this rule does not apply to services delivered through the Personal Choice program pursuant.
- 1.2(A)(1): correction to citation of the Social Security Act
- 1.3: re-ordered the incorporated materials section so that the citations read in ascending numerical order
- 1.4(A)(4): added “nursing assistants” for clarification
- 1.4(A)(10): added language for clarification related to confusion that was expressed during the comment period

- 1.6(A): Added the word “Medicaid” for clarification to address confusion over differing definitions of “home care” used by other agencies
- 1.6(A)(1): Added reference to 216-RICR-40-10-17 and additional language to clarify the Medicaid requirements to bill for this service
- 1.6(A)(2): Added a reference to 216-RICR-40-10-17 and additional language to clarify the Medicaid requirements to bill for this service
- 1.6(A)(3): added language to clarify billing requirements
- 1.6(A)(4): Deleted as this service is not authorized to be delivered via telehealth
- 1.6(A)(5): Deleted to avoid confusion
- 1.6(A): Added the word “Medicaid” for clarification to address confusion differing definitions of “home care” used by other agencies
- 1.6(B): Added the word Medicaid for clarification to address confusion differing definitions of “home care” used by other agencies
- 1.6(B)(2)(a): “home care” was deleted as this is service does not fall under home care.
- 1.6(B)(2)(c)(3): “home care” was deleted as this is service does not fall under home care.
- 1.6(B)(2)(d): deleted for clarity as the language was duplicative
- 1.6(B)(4): Phrase “delivered by a home health provider” added for clarification
- 1.7(A): Deleted language as it was incorrect
- 1.8(A): Added the word “Medicaid” for clarification to address confusion differing definitions of “home care” used by other agencies
- 1.8(A)(1): deleted in accordance with concern flagged during comment period
- 1.9(A): Added the word “Medicaid” for clarification to address confusion differing definitions of “home care” used by other agencies and added additional language around Medicaid requirements for billing. Also clarified that a face-to-face encounter with the beneficiary is required (federal reg was previously incorporated).
- 1.9(B): Added the word “Medicaid” for clarification to address confusion differing definitions of “home care” used by other agencies as well as citation to 216-RICR-40-10-17 related to plans of care
- 1.9(C): Added the word “Medicaid” for clarification to address confusion differing definitions of “home care” used by other agencies as well as citation to 216-ROCR-40-10-17 related to plans of care
- 1.11(C): Phrase “to the Medicaid Program” added for clarification
- 1.11(C)(3): changed CNA to nursing assistant for clarification
- 1.12(A): revised for clarity
- 1.13: edited for clarity
- 1.15(A): Added the word “Medicaid” for clarification to address confusion of differing definitions of “home care” and “home health” used by other agencies
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REGULATORY ANALYSIS :

This Rule outlines the requirements and limitations pertaining to home care and home health provider participation in and payment by the Rhode Island Medicaid program to ensure all provider activities comply with Medicaid program requirements. This Rule also includes parameters and limitations for

incentive payments available to certified nursing assistants and homemakers providing services on behalf of home care and home health providers participating in the Rhode Island Medicaid program.

In the development of this proposed adoption, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.