

# **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

## **DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### **FINAL**

### **ORDER**

#### **Title XIX Medicaid State Plan - Medicaid Integrity Program**

##### **Nature of the Proceedings:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Title XIX Medicaid State Plan to comply with the Medicaid Program Integrity provision mandated by Section 6034 of the Deficit Reduction Act (DRA) of 2005 (Public Law 109-171). The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the June 2008 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by June 30, 2008 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

##### **Summary of Proposed Amendment**

The proposed amends the Title XIX Medicaid State Plan to document compliance with Section 6034 of the Deficit Reduction Act of 2005 (DRA). Section 6034 requires States to comply with all of the provisions of section 1902(a)(69) of the Social Security Act (the Act) entitled, "State Requirement to Cooperate with Integrity Program Efforts."

##### **Statutory Authority**

Deficit Reduction Act of 2005 (Public Law 109-171), enacted on February 8, 2006, Section 6034

##### **Background**

Section 6034 of the DRA established the Medicaid Integrity Program in section 1936 of the Act and identified certain of the Centers for Medicare and Medicaid Services' (CMS) responsibilities for carrying out the activities of the program, including contracting with entities that will audit provider claims and identify overpayments, and providing effective support and assistance to the States to combat provider fraud and abuse. This provision also established section 1902(a)(69) of the Act entitled, "State Requirement to Cooperate with Integrity Program Efforts." Section 1902(a)(69) of the Act requires that the Medicaid State plan "provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936." The provisions of section 1902(a)(69) of the Act must be implemented immediately.

The provisions of this amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

##### **Summary of Proposed Amendment**

The proposed rule would amend the Medicaid state plan to assure programmatic compliance with such requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936 of the Social Security Act.

## SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following endorsement.

The GACEC and the reviewed the Centers for Medicare and Medicaid Services (CMS) proposed regulation whereby CMS requires all States to include assurances in their Medicaid plans that they are compliant with CMS "integrity program" standards. The "integrity program" standards cover audits, fraud, abuse, etc. We **endorse** the proposed regulation.

**Agency Response:** We appreciate your participation. Thank you for the endorsement.

### Findings of Fact:

The Department finds that the proposed changes as set forth in the June 2008 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Title XIX Medicaid State Plan to comply with the Medicaid integrity program efforts provision mandated by Section 6034 of the Deficit Reduction Act (DRA) of 2005 is adopted and shall be final effective August 10, 2008.

Vincent P. Meconi, Secretary, DHSS, July 15, 2008

### DMMA PROPOSED REGULATION #08-32

#### NEW:

79y

State/Territory: DELAWARE

#### Citation

1902(a)(69) of  
the Act,  
P.L. 109-171  
(Section 6034)

4.43     Cooperation with Medicaid Integrity Program Efforts.  
The Medicaid agency assures it complies with such  
requirements determined by the Secretary to be  
necessary for carrying out the Medicaid Integrity  
Program established under section 1936 of the Act.

**12 DE Reg. 226 (08/01/08)**