

**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**

**Delaware Medicaid Modified Adjusted Gross Income (MAGI) Eligibility and Benefits State Plan Amendments  
Single State Agency**

**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 modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with *Single State Agency*. 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 October 2013 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2013 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

**SUMMARY OF PROPOSAL**

The Division of Medicaid and Medical Assistance (DMMA) hereby affords the public notice of the filing of federally required state plan amendments (SPA) to modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with the *Single State Agency*.

**Statutory Authority**

Patient Protection and Affordable Care Act (Pub. L. No. 111-148 as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152)), together known as the *Affordable Care Act*

**Background**

The Affordable Care Act (ACA) was signed into law on March 23, 2010. Under the ACA, health reform will make health care more affordable, guarantee choices when purchasing health insurance, expands Medicaid coverage to millions of low-income Americans and makes numerous improvements to both Medicaid and the Children’s Health Insurance Program (CHIP).

The Affordable Care Act (ACA) includes many provisions designed to expand and streamline Medicaid eligibility. The ACA offers the option to extend coverage to non-disabled, non-elderly citizens with income under 133 percent of the Federal Poverty Level (FPL); adopts new methodologies for determining and renewing eligibility; and requires establishment of a streamlined process to allow state Medicaid programs to coordinate seamlessly with other insurance affordability programs and affordable health insurance exchanges. These provisions are intended to change the Medicaid eligibility determination and renewal processes for most Medicaid applicants and beneficiaries from one based on a welfare model to one that utilizes information technology to provide the insurance coverage option that fits each individual’s current circumstances and needs.

**State Plan Amendments**

In preparation for implementation of the Medicaid and CHIP changes related to the Affordable Care Act, states will be submitting a number of State Plan Amendments (SPAs). In particular, SPAs are needed to implement the MAGI-based eligibility levels and income counting methodologies for Medicaid and CHIP, to elect a state’s single streamlined application format, and to indicate the design of their Medicaid alternative benefit plans (ABPs) for the new adult group in 2014. The vehicle for submitting these 2014-related SPAs are a set of “fillable” preprint documents. The Centers for Medicare and Medicaid Services (CMS) has asked states to submit these plan amendments together in order to provide a more comprehensive picture of the state’s proposed eligibility framework.

Please note that provisions and conditions that are required of all states are pre-checked and do not require any entry by the state. Also, by agreeing to any assurance the state is agreeing to comply with these requirements and conditions. The state provides this affirmative assurance by checking the box where indicated.

### *Description of State Plan Amendments and Effective Date*

The MAGI and CHIP Eligibility and Benefit SPAs identify the groups that Delaware will cover in the Delaware Medicaid program. There are mandatory and optional coverage groups. These SPAs also identify the income limits for each group, if any, and criteria that the state has the option of selecting. The effective date of the following SPAs is [~~October 1, 2013~~ **January 1, 2014**].

#### Delaware Medicaid MAGI SPAs include:

1. MAGI-Based Eligibility Group  
This SPA identifies the mandatory and optional coverage groups that Delaware will cover.
2. Eligibility Process  
This SPA identifies the use of Delaware's single, streamlined application and the methods by which an application is accepted. It also includes renewal processing.
3. MAGI Income Methodology  
This SPA identifies certain MAGI options Delaware has chosen.
4. Single State Agency  
This SPA identifies Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) as the Medicaid agency.
5. Residency  
This SPA identifies the state's residency requirements.
6. Citizenship and Immigration Status  
This SPA identifies the immigrant statuses eligible for Medicaid services. It also provides for a 90 day reasonable opportunity period for individuals who declare they are citizens or qualified immigrants to provide documentation. During this reasonable opportunity period, Delaware Medicaid must approve benefits if otherwise eligible.

#### CHIP MAGI Eligibility SPAs include:

1. MAGI Eligibility & Methods  
These SPAs identify the groups covered under Delaware's Title XXI CHIP program (Delaware Healthy Children Program).
2. Title XXI Medicaid Expansion  
This SPA identifies ACA expansion coverage for children age 6-18 years with income between 100% FPL up to 133% FPL.
3. Eligibility Process  
This SPA identifies the use of Delaware's single, streamlined application and the methods by which Delaware Medicaid can accept an application. It also includes renewal processing.
4. Non-Financial Eligibility  
These SPAs identify the CHIP programs non-financial eligibility criteria such as state residency, citizenship and lawful presence, and verification/use of applicant social security number.

**REMINDER:** In 2014, the following groups will not have any changes in eligibility for Medicaid and will remain eligible for Medicaid and will qualify based on current income and resource standards used today:

- Aged, Blind or Disabled individuals;
- Foster Care children; and,
- SSI cash recipients.

### **Summary of Proposal**

*Note: The statute and regulation cited are the Social Security Act and the Code of Federal Regulations.*

#### *Single State Agency*

1902(a)(5)  
42 CFR 431.10

*Single State Agency* is the fourth of seven (7) SPA actions. State plan pages A1-Designation and Authority; A2-Organization and Administration; and, A3-Assurances are about the basic administration of the Medicaid program and the legal authority of the state to submit and administer the state plan: the name of the single state agency, appropriate state statutory authorities, any other agencies or organizations involved in the administration of the plan, and entities that have

authority and responsibility to determine eligibility and to conduct fair hearings.

States must designate a single state agency to administer or supervise the administration of the state's Medicaid plan. They must also provide certification by the state Attorney General, citing the legal authority for the single state agency to administer or supervise the administration of the Medicaid plan and to make rules and regulations that it follows in administering the plan or that are binding upon local agencies that administer the plan, as appropriate.

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

#### **Fiscal Impact Statement**

<b>Change to Federal Expenditures</b>	<b>State Fiscal Year 2014</b>	<b>State Fiscal Year 2015</b>
Former CHIP Kids	\$ 124,986	\$ 254,855
ACA Expansion	\$ 11,924,412	\$ 26,689,670
Transitional	\$ 187,657	\$ 566,356
Former Foster Children	\$ -	\$ -
Total	\$ 12,237,055	\$ 27,510,882

#### **SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE**

DMMA received no public comments regarding this state plan amendment.

#### **FINDINGS OF FACT:**

The Department finds that the proposed changes as set forth in the October 2013 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Delaware Title XIX Medicaid State Plan regarding *Single State Agency: A1-Designation and Authority; A2-Organization and Administration; and, A3-Assurances* is adopted and shall be final effective December 10, 2013.

Rita M. Landgraf, Secretary, DHSS



# Medicaid Administration

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

<b>State Plan Administration Designation and Authority</b>	<b>A1</b>
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42 CFR 431.10

### Designation and Authority

State Name:

As a condition for receipt of Federal funds under title XIX of the Social Security Act, the single state agency named below submits the following state plan for the medical assistance program, and hereby agrees to administer the program in accordance with the provisions of this state plan, the requirements of titles XI and XIX of the Act, and all applicable Federal regulations and other official issuances of the Department.

Name of single state agency:

Type of Agency:

- Title IV-A Agency
- Health
- Human Resources
- Other

Type of Agency

The above named agency is the single state agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named as the single state agency.)

The state statutory citation for the legal authority under which the single state agency administers the state plan is:

The single state agency supervises the administration of the state plan by local political subdivisions.

Yes  No

The certification signed by the state Attorney General identifying the single state agency and citing the legal authority under which it administers or supervises administration of the program has been provided.

**An attachment is submitted.**

The state plan may be administered solely by the single state agency, or some portions may be administered by other agencies.

The single state agency administers the entire state plan under title XIX (i.e., no other agency or organization administers any portion of it).

Yes  No



# Medicaid Administration

The entity or entities that have responsibility for determinations of eligibility for families, adults, and for individuals under 21 are:

- The Medicaid agency
- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act

The entity that has responsibility for determinations of eligibility for the aged, blind, and disabled are:

- The Medicaid agency
- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- The Federal agency administering the SSI program

The entity or entities that have responsibility for conducting fair hearings with respect to denials of eligibility based on the applicable modified adjusted gross income standard are:

- Medicaid agency
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act

The agency has established a review process whereby the agency reviews appeals decisions made by the Exchange or Exchange appeals entity or other state agency, but only with respect to conclusions of law, including interpretations of state or federal policies.

Yes     No

## State Plan Administration Organization and Administration

A2

42 CFR 431.10  
42 CFR 431.11

### Organization and Administration

Provide a description of the organization and functions of the Medicaid agency.

The Division of Medicaid & Medical Assistance (DMMA) is a separate Division under the Secretary of Delaware Health and Social Services.

DMMA consists of management, professional, technical, clerical and medical personnel, and includes a Medicaid Director, program administrators, and support personnel. DMMA has responsibility for all Medicaid services in the State.

Medicaid claims processing is contracted out to a Fiscal Agent. There are Medicaid Eligibility Determination Units in each of the counties of the State, which carry out functions related to long-term care and non-grant medical assistance.

The Division of Medicaid & Medical Assistance has consulting physicians and consultants in other medical specialties such as laboratory and optometry.

Psychiatric consultation is provided by the Division of Substance Abuse and Mental Health.



# Medicaid Administration

Other professional consultation is obtained through the Medical Care Advisory Committee, the Medical Society of Delaware, the Division of Public Health and other specialty groups.

Upload an organizational chart of the Medicaid agency.

**An attachment is submitted.**

Provide a description of the structure of the state's executive branch which includes how the Medicaid agency fits in with other health, human service and public assistance agencies.

Delaware Health and Social Services (DHSS) is the single State agency for the administration of Medicaid. The Division of Medicaid & Medical Assistance (DMMA) within DHSS has direct responsibility for administering the Medicaid program. The Director of DMMA reports to the Secretary of DHSS.

DHSS is the largest state agency, employing almost 4,300 individuals in a wide range of public service jobs. Our department includes 12 divisions which provide services in the areas of public health, social services, substance abuse and mental health, child support, developmental disabilities, long-term care, visual impairment, aging and adults with developmental disabilities, and Medicaid and medical assistance. The Department includes four long-term care facilities and the state's only psychiatric hospital, the Delaware Psychiatric Center.

## Entities that determine eligibility other than the Medicaid Agency (if entities are described under Designation and Authority)

Remove

Type of entity that determines eligibility:

- Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- The Federal agency administering the SSI program

Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.

Social Security Administration via 1634 of the Social Security Act Agreement

Add

## Entities that conduct fair hearings other than the Medicaid Agency (if are described under Designation and Authority)

Remove

Type of entity that conducts fair hearings:

- An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act

Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.

Not Applicable

Add

## Supervision of state plan administration by local political subdivisions (if described under Designation and Authority)



# Medicaid Administration

Is the supervision of the administration done through a state-wide agency which uses local political subdivisions?

Yes  No

The types of the local subdivisions that administer the state plan under the supervision of the Medicaid agency are:

Counties

Parishes

Other

Are all of the local subdivisions indicated above used to administer the state plan?

Yes  No

## State Plan Administration Assurances

A3

42 CFR 431.10  
42 CFR 431.12  
42 CFR 431.50

### Assurances

- The state plan is in operation on a statewide basis, in accordance with all the requirements of 42 CFR 431.50.
- All requirements of 42 CFR 431.10 are met.
- There is a Medical Care Advisory Committee to the agency director on health and medical services established in accordance with meeting all the requirements of 42 CFR 431.12.
- The Medicaid agency does not delegate, to other than its own officials, the authority to supervise the plan or to develop or issue policies, rules, and regulations on program matters.

Assurance for states that have delegated authority to determine eligibility:

- There is a written agreement between the Medicaid agency and the Exchange or any other state or local agency that has been delegated authority to determine eligibility for Medicaid eligibility in compliance with 42 CFR 431.10(d).

Assurances for states that have delegated authority to conduct fair hearings:

- There is a written agreement between the Medicaid agency and the Exchange or Exchange appeals entity that has been delegated authority to conduct Medicaid fair hearings in compliance with 42 CFR 431.10(d).
- When authority is delegated to the Exchange or an Exchange appeals entity, individuals who have requested a fair hearing are given the option to have their fair hearing conducted instead by the Medicaid agency.

Assurance for states that have delegated authority to determine eligibility and/or to conduct fair hearings:

- The Medicaid agency does not delegate authority to make eligibility determinations or to conduct fair hearings to entities other than government agencies which maintain personnel standards on a merit basis.

### PRA Disclosure Statement



## Medicaid Administration

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.