

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
Children's Health Insurance Program (CHIP) MAGI Eligibility

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Title XXI 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 *CHIP Modified Adjusted Gross Income (MAGI) Eligibility*. 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 *Children's Health Insurance Program (CHIP) MAGI Eligibility*.

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.

Summary of Proposal

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

CHIP Modified Adjusted Gross Income (MAGI) Eligibility

2102(a)(2)

2102(b)(1)(B)(v)

2102(b)(3)(C)

2102(b)(3) and 2107(E)(1)(O)

42 CFR Part 457

To implement several provisions of the Affordable Care Act, Delaware intends to make changes to its Delaware Healthy Children Program State Plan concerning the methodology used to determine eligibility for Targeted Low Income Children. We have summarized the CHIP State plan amendments below.

It is important to note that many of the required pages simply replace pages in the current CHIP State Plan and do not include substantive change to present eligibility and enrollment policy or practice.

Proposed CHIP MAGI Eligibility State Plan Amendments (SPAs) include:

1. MAGI Eligibility & Methods

These SPA pages designate the eligibility and income methodology for Targeted Low-Income Children. The plan pages assure that Delaware will provide coverage not to exceed twelve (12) months for children ineligible for Medicaid as a result of the elimination of income disregards as required by the Affordable Care Act (ACA). The SPA page also assures that Delaware does not apply a spenddown process for households that have income that exceeds the CHIP limit.

State Plan Page Number: CS 7-Targeted Low-Income Children

State Plan Page Number: CS 15-MAGI-Based Income Methodology

State Plan Page Number: CS 16-Spenddowns

2. Title XXI Medicaid Expansion

This SPA sets MAGI-based income standards for CHIP Medicaid Expansions coverage for children age 6-18 year olds with incomes between 100% -133% of the Federal Poverty Level (FPL).

State Plan Page Number: CS3-MAGI Income Standards for CHIP Medicaid Expansion

3. Eligibility Process

These SPA pages detail Delaware's eligibility and enrollment process, including the single, streamline application, the methods by which Delaware Medicaid can accept an application, the renewal process, and assurance that the state will coordinate eligibility and enrollment with federally facilitated marketplaces.

State Plan Page Number: CS 24-General Eligibility

4. Non-Financial Eligibility

These SPAs identify the CHIP program's non-financial eligibility criteria such as state residency, citizenship and lawful presence, and verification/use of applicant social security number.

Residency

These SPA pages assure that Delaware provides medical assistance to eligible residents of the State of Delaware.

State Plan Page Number: CS 17-Residency

Citizenship

These SPA pages assure that Delaware provides medical assistance to eligible citizens of the United States and lawfully residing immigrants.

State Plan Page Number: CS 18-Citizenship/Lawfully Residing Immigrants

Social Security Number

These SPA pages assure that Delaware Medicaid requires individuals to furnish their Social Security number as a condition of eligibility unless they meet the requirements for an exception.

State Plan Page Number: CS 19-Social Security Number

The following SPA pages contain additional assurances relating to eligibility, including a mechanism to assure that CHIP is not used as a substitution of coverage, an assurance the state does not have a premium lock out period; an assurance the state does provide continuous coverage regardless of the

family's changing circumstances, and, clarifies that the state does not allow presumptive eligibility for children or pregnant women.

State Plan Page Number: CS 20-Substitution of Coverage

State Plan Page Number: CS 21-Premium Lock-Outs

State Plan Page Number: CS 27-Continuous Eligibility

State Plan Page Number: CS 28-Presumptive Eligibility – Children

State Plan Page Number: CS 29-Presumptive Eligibility – Pregnant Women

These SPAs will be effective [~~October 1, 2013~~ **January 1, 2014**] as required by federal law.

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

Fiscal Impact Statement

Change to Federal Expenditures	State Fiscal Year 2014	State Fiscal Year 2015
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 these state plan amendments.

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 XXI Medicaid State Plan regarding *CHIP Modified Adjusted Gross Income (MAGI) Eligibility* is adopted and shall be final effective December 10, 2013.

Rita M. Landgraf, Secretary, DHSS

A file containing all the aforementioned PDFs for CHIP Eligibility is available here:

<http://regulations.delaware.gov/register/december2013/final/Chip.pdf>

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