

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PROPOSED

PUBLIC NOTICE

Title XIX Medicaid State Plan, State Plan Rehabilitative Services - Coverage and Reimbursement for Community Support Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Delaware Title XIX Medicaid State Plan regarding State Plan Rehabilitative Services specifically, *Coverage and Reimbursement for Community Support Services*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Planning, Policy Development and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to 302-255-4425 by December 31, 2014.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Medicaid and Medical Assistance is proposing to amend the Title XIX Medicaid State Plan regarding State Plan Rehabilitative Services specifically, *Coverage and Reimbursement for Community Support Services*.

Statutory Authority

- §1905 of the Social Security Act (a)(13), *Other diagnostic, screening, preventive, and rehabilitative services*
- 42 CFR §440.130(d), *Diagnostic, screening, preventive, and rehabilitative services*
- 42 CFR §440.60, *Medical or other remedial care provided by licensed practitioners*
- 42 CFR §440.225, *Optional services*
- 42 CFR §440.20, *Outpatient hospital services and rural health clinic services*
- 42 CFR §447.205, *Public notice of changes in statewide methods and standards for setting payment rates*

Background

Section 1905(a)(13) of the Social Security Act (the Act) includes rehabilitative services as an optional Medicaid State plan benefit. Current Medicaid regulations at 42 CFR §440.130(d) provides a definition of rehabilitative services. Rehabilitative services are defined as "any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level." The broad general language in this regulatory definition has afforded States considerable flexibility under their State plans to meet the needs of their State's Medicaid population. Rehabilitative services are specialized services of a medical or remedial nature delivered by uniquely qualified practitioners designed to treat or rehabilitate persons with mental illness or substance use disorder diagnoses. These services will be provided to recipients on the basis of medical necessity.

Community Support Services

Community support services are medically related treatment, rehabilitative and support service provided through self-contained programs by teams of clinicians, associate clinicians and assistant clinicians under the supervision of a physician. Currently, the Delaware Medical Assistance Program (DMAP) covers behavioral health rehabilitative services for persons with disabilities caused by mental illness and substance use disorder. The three (3) categories of community support programs are:

1. Community Continuum of Care (CCC) program: CCC provides a comprehensive array of non-residential support services in community-based settings to improve the capacity for self-care and productive daily living of persons whose disabilities markedly impair their ability to live independently without support.

2. Psychosocial Rehabilitation Center (PRC) program: PRC provides non-residential facility-based group therapies to improve the capacity for self-care and productive daily living of persons whose disabilities markedly impair their ability to live independently without support.
3. Residential Rehabilitation Facility (RRF) program: RRF provides residential facility-based group and individual therapies to improve the capacity for self-care and productive daily living of persons whose disabilities preclude their ability to live independently.

Summary of Proposal

Overview

On September 18, 2014, the Centers for Medicare and Medicaid Services (CMS) approved Delaware Medicaid State Plan Amendment (SPA) #13-0018. This SPA targets service delivery, specifically, substance use disorder treatment services, crisis intervention services, and other licensed behavioral health practitioners. SPA #13-0018 makes the changes and clarifications necessary for Delaware to be responsive to the United States Department of Justice (DOJ) Settlement through the addition of new services and modifications to existing services.

Effective July 1, 2014, the coverage and reimbursement methodology plan amendments of #DE SPA #13-0018 accomplish the following:

1. Removes mental health clinics from the Medicaid Clinic Option and cover the services provided by those facilities in the Other Licensed Practitioner Section of the State Plan. This allows Medicaid to reimburse Psychologists, Licensed Clinical Social Workers, Licensed Professional Counselors of Mental Health, and Licensed Marriage and Family Therapists (LMFTs) services when provided in a clinic or community setting when permitted under State practice laws.
2. Includes Crisis Intervention and Outpatient and Residential Substance Use Disorder Treatment in the Rehabilitation State Plan. This allows the State to provide Medicaid eligible individuals with mobile and site-based crisis intervention for individuals experiencing a behavioral health crisis. In addition, the State will be able to provide recovery-oriented treatment for individuals with substance use disorders.
3. Removes the Community Support Service Program from the State Plan effective January 1, 2015. On that date, a new 1915(j)-like service under the 1115 demonstration waiver begins operating for individuals under the DOJ settlement agreement to ensure that individuals with serious mental illness (SMI) receive the supports necessary to remain in the community.

Proposal

As referenced in item #3 above, reimbursement and coverage of Community Support Service Program shall cease in the Medicaid State Plan on January 1, 2015. As long as the State is continuing to provide this service, the reimbursement language remains in the reimbursement section of state plan.

With the approval of SPA #13-0018 and anticipated approval of Diamond State Health Plan 1115 Waiver Amendment Covering PROMISE, current community support services coverage and reimbursement language becomes obsolete. Delaware Medicaid is processing a technical amendment to the Medicaid State Plan as directed by the Centers for Medicare and Medicaid Services (CMS) to submit a new SPA prior to January 1, 2015 with an effective date of January 1, 2015, removing all State Plan coverage and reimbursement provisions related to community support services at Attachment 4.19-B Page 4. The proposed rule is necessary for the department to administer and maintain compliance with federal funding requirements.

In accordance with public notice requirements established at 42 CFR 447.205, Section 1902(a)(13)(A) of the Social Security Act, and Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is seeking public comment on the draft Community Support Service State Plan Amendment.

The provisions of this state plan amendment relating to methodology and payment rates of Community Support Services are subject to approval by CMS. The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

Also, upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates.

Fiscal Impact Statement

There will be no fiscal impact as a result of this amendment because it is a technical amendment, and it does not represent a significant change in the payment methods or standards. The fiscal impact for this regulatory action was captured in Delaware Medicaid State Plan Amendment (SPA) #13-0018.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

1) *Community Support Service Programs*

Reimbursement Methodology for Community Support Services

~~Rates for Community Support Services as defined in Attachment 3.1-A will be established by a rate setting committee composed of representatives of various Divisions of Delaware Health and Social Services, including the Division of Social Services (DSS), the Division of Management Services (DMS), and the Division of Substance Abuse and Mental Health (DSAMH).~~

~~A universal per diem rate for all services with the exception of Psychosocial Rehabilitation Center Services and Residential Rehabilitation Services is to be set initially and for three subsequent fiscal years based upon a trend analysis of Medicaid expenditures for individualized home and community based Community Support Services during the base period of SFY 2000 through SFY 2002 and adjusted thereafter by the rate setting committee.~~

~~Rates for Psychosocial Rehabilitation Center Services and Residential Rehabilitation Services are provider specific and are calculated by determining the total costs for each provider of the respective services, including cost of services to all clients regardless of Medicaid eligibility. The rates will be per diem for Residential Rehabilitation Services and per half day unit for Psychosocial Rehabilitation Center Services.~~

(RESERVED FOR FUTURE USE)

18 DE Reg. 429 (12/01/14) (Prop.)