

**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**

**Doula Services**

**NATURE OF THE PROCEEDINGS:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Doula Services, specifically, to provide Doula services as separately reimbursed pregnancy-related services. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the October 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2023, 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 purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Doula Services.

**Background**

Effective January 1, 2024, Delaware proposes to provide doula services for pregnant individuals during pregnancy, childbirth, and the postpartum period. Community based doulas are non-medical professionals who provide emotional, physical, and informational support and guidance in different aspects of reproductive health. Doulas do not provide medical care and do not replace medical providers. Rather, doulas provide additional non-medical support in places and at times where medical providers cannot or do not. Doulas typically come from the same community as the pregnant and postpartum individuals they serve. Service components include Perinatal support services, Labor support, Postpartum support services, and coordination with community-based services, to improve beneficiary outcomes.

**Statutory Authority**

- 42 CFR §440.130 (c), Diagnostic, screening, preventive, and rehabilitative services
- 42 CFR §440.170, Any other medical care or remedial care recognized under State law and specified by the Secretary
- 42 CFR §447, Payments for services

**Purpose**

The purpose of this proposed regulation is to provide Doula services as separately reimbursed pregnancy-related services.

*Summary of Proposed Changes*

Effective January 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to enroll doulas as non-medical providers in Diamond State Health Plan (DSHP) and reimburse for doula services.

*Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on October 31, 2023.

*Centers for Medicare and Medicaid Services Review and Approval*

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

*Provider Manuals and Communications Update*

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable

Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal 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. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

### **Fiscal Impact Statement**

Actuarially confirmed no anticipated fiscal impact on the rates because of the small program. Therefore, the State will not spend any additional funds.

### **Summary of Comments Received with Agency Response and Explanation of Changes**

**Comment:** First, the proposed language can be interpreted to only require 90-minute sessions for postpartum visits, and not prenatal ones, while the statute very clearly indicates that both can be up to 90 minutes.

**DMMA's Response:** The amendment has been updated to ensure the benefit includes three visits of up to 90 minutes for both prenatal and postpartum visits.

Delaware Medicaid doula benefit is coverage for doula support in the perinatal period, including prenatal support, labor and delivery support, and postpartum support. The scope of the Medicaid doula benefit is to provide doula support to Medicaid members that include:

- Maximum of three (3) prenatal visits, 90 minutes per visit
- Maximum of three (3) postpartum visits, 90 minutes per visit
- Labor/birth attendance

**Comment:** Second, the reimbursement mechanism described is not clear. The language indicates that services are to be billed in 15-minute increments, and then imposes a billing limit of "four units" per visit.

**DMMA's Response:** The amendment has been updated to ensure sessions are billed in 15-minute increments up to the 90-minute limit.

The Doula reimbursement timeframe can run from the date of confirmed conception through 180 days (six months) after delivery, contingent on the member maintaining Medicaid eligibility. Delaware Medicaid will reimburse members for up to three (3) prenatal service visits, up to three (3) postpartum service visits, and attendance at the birth event.

Each perinatal service visit may be billed for and reimbursed separately. All visits are reimbursed in fifteen (15) minute increments. Each visit has a maximum unit capacity of six (6) units. Reimbursement for attendance during delivery is set at a flat rate determined by the State.

**Comment:** We would like additional information on the next steps in planning and implementation of the doula program in Delaware. It is critical that this important service gets the attention, expertise and funding it deserves in order to be successful.

**DMMA's Response:** November 2021: DMMA began regular meetings with Doula Stakeholders to develop the new benefit.

- Representatives from the Department of Health also participated in the meetings.
- When the doula benefit was determined, the Delaware Certificate Board met with the doula stakeholder group to develop the certification requirements.
- In October 2023, DMMA met with Delaware MCOs serving Medicaid members to discuss implementation. MCOs will educate members and the community on the benefit of doula services and how to engage a doula.

The Doula Ad Hoc Committee, a subgroup of the Delaware Healthy Mother and Infant Consortium (DHMIC), meets monthly. One aim of the committee is to assist the doulas in the development of a doula support entity.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Governor's Advisory Council for Exceptional Citizens (GACEC)
- State Council for Persons with Disabilities (SCPD)

### **FINDINGS OF FACT:**

The Department finds that the proposed changes as set forth in the October 2023 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Doula Services specifically, to provide Doula services as separately reimbursed pregnancy-related services and shall be final

effective December 11, 2023.

11/14/2023 | 7:51 PM EST

Date of Signature

Josette D. Manning Esq., Secretary, DHSS

**Doula Services**

**\*Please Note: Due to the formatting requirements of the regulation, it is being attached here as PDF documents:**

**[http://regulations.delaware.gov/register/december2023/final/3.1-A page 3 Amended.pdf](http://regulations.delaware.gov/register/december2023/final/3.1-A%20page%203%20Amended.pdf)**

**[http://regulations.delaware.gov/register/december2023/final/4.19-B page 8 Amended.pdf](http://regulations.delaware.gov/register/december2023/final/4.19-B%20page%208%20Amended.pdf)**

**27 DE Reg. 428 (12/01/23) (Final)**