

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

Nursing Facility Rates

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 4.19-D page 19, specifically, to modify the rates for nursing facilities.

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, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2024. Please identify in the subject line: Nursing Facility Rates

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 (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Nursing Facility Rates.

Statutory Authority

- 42 CFR § 447

Background

Per the Delaware Medicaid State Plan, the reimbursement methodology for pediatric nursing facility care presently applies only for members up to age 21; the proposed revisions allow for the continuation of the existing reimbursement methodology for a limited number of individuals who were admitted to the pediatric nursing facility as children but have "aged in place" into young adulthood.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to expand the current Medicaid pediatric nursing facility reimbursement structure for pediatric members who have reached young adulthood, and with medical needs best served by them remaining in the pediatric nursing facility.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to modify the rates for nursing facilities.

Public Notice

In accordance with the *federal* public notice requirements established in 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 gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 31, 2024.

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 provide 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

	Federal Fiscal Year 2025	Federal Fiscal Year 2026
General (State) funds	\$1,404,713	\$1,907,730
Federal funds	\$2,120,288	\$2,792,270

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IX. Reimbursement for Pediatric Nursing Facility Care

A Pediatric Nursing Facility is a facility that maintains an average daily census of 80 percent or more serving children under 21 years of age. Such a facility may also serve a limited number of individuals who were admitted to the facility as children but have "aged in place" into young adulthood. The number of such individuals is limited to the remaining 20 percent of the average daily census of the facility.

The level of reimbursement of client for clients under 21 years of age in pediatric nursing facilities specialized nursing facilities that serve pediatric clients will be based on one of three levels of care as determined by the DMMA Medical Evaluation Team. A per diem rate shall be established for the three levels as follows:

1. Pediatric Skilled Care - the base level
2. Advanced Pediatric Skilled Care - an enhanced level that includes increased services and costs above the base level that are necessary to meet the medical needs of children at this level
3. Advanced Pediatric Skilled Care Plus - a higher level of reimbursement than the previous level that includes increased cost of care for clients who are ventilator dependent.

A Pediatric Nursing Facility's reimbursement shall be ~~Until such time as a methodology based on reported facility cost can be developed, Pediatric Nursing Facility reimbursement shall be based on reasonable and allowable cost for comparable DMMA services that have a demonstrated cost history and that serve a similar population, adjusted as necessary to reflect the operation of a specialized inpatient facility. Rates for each level of care shall be computed annually based on prior year actual reasonable allowable costs as reported by the facility and may be inflated as described in Section II.1.3. Such rates shall be prospective and final and not subject to cost settlement. In addition to all nursing and operational costs, per diem rates are inclusive of all services, including but not limited to all therapies, supplies, non-custom durable medical equipment and over-the-counter (OTC) drugs required to treat the child's medical condition but to not include custom durable medical equipment for the individual use of a client or prescription ("legend product") drugs, which may be billed directly to Medicaid by the appropriate medical care provider in accordance with Medicaid policy.~~

Eligible children in Pediatric Nursing Facilities located outside of Delaware are reimbursed at the rate for the Delaware Pediatric Nursing facility level of care to which they are assigned after being assessed by the DMMA Medical Evaluation Team.

TN No. SPA # 07-004 <u>24-0018</u>	Approval Date December 19, 2008
Supersedes	
TN No. # 443 <u>07-004</u>	Effective Date October 1, 2007 <u>January 1, 2025</u>