

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 XXI CHIP Compliance with MHPAEA

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 Title XXI CHIP Plan regarding MHPAEA specifically, *to align the Delaware CHIP Plan with new Federal Requirements*.

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, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@state.de.us, or by fax to 302-255-4413 by 4:30 p.m. on March 5, 2018. Please identify in the subject line: **Title XXI CHIP Compliance with MHPAEA**.

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 XXI CHIP Plan regarding Title XXI CHIP Compliance with MHPAEA, specifically, *to align the Delaware CHIP Plan with new Federal Requirements*.

Statutory Authority

- Mental Health Parity and Addiction Equity Act (MHPAEA)
- Patient Protection and Affordable Care Act

Background

The Centers for Medicare & Medicaid Services (CMS) issued a final rule that applies requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA) to Medicaid managed care organizations (MCOs), the Children's Health Insurance Program (CHIP), and Medicaid alternative benefit plans (ABPs). Delaware and its contracted Medicaid/CHIP MCOs were required to be in compliance with the final Medicaid/CHIP parity rule on or before October 2, 2017.

The State and its MCOs conducted a review of the State's Medicaid/CHIP delivery system to assess compliance with the final Medicaid/CHIP parity rule.

Additionally, CMS released a CHIP Plan template to document this compliance as it relates specifically to CHIP.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to ensure that coverage provided to CHIP beneficiaries for mental health and substance use disorders be no more restrictive than coverage for medical/surgical conditions.

Summary of Proposed Changes

Effective for services provided on and after October 2, 2017 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Title XXI CHIP Plan regarding MHPAEA specifically, *to align the Delaware CHIP Plan with new Federal Requirements*.

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 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (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 March 5, 2018.

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

There will be no or minimal fiscal impact.

Proposed Regulation Text

The text for the four proposed regulations may be viewed here:

DMMA CHIP Reg 6.2 <http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Reg 6.2.pdf>

Proposed text for the attachments may be viewed here:

<http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Attachment 1.pdf>

<http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Attachment 2.pdf>

<http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Attachment 3.pdf>

<http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Attachment 4.pdf>

DMMA CHIP Reg 8.2 <http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Reg 8.2.pdf>

DMMA CHIP Reg 8.4 <http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Reg 8.4.pdf>

DMMA CHIP Reg 8.5 <http://regulations.delaware.gov/register/february2018/proposed/DMMA CHIP Reg 8.5.pdf>

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