

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31Del.C. §512)

### PROPOSED

### PUBLIC NOTICE

#### Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Dental Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512 and with 42 CFR §447.205, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan regarding Medicaid dental benefits for eligible recipients. Dental services are available only to clients under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program.

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 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 January 31, 2012.

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 proposed provides notice to the public that the Division of Medicaid and Medical Assistance (DMMA) intends to amend the Title XIX Medicaid State Plan regarding Medicaid dental benefits for eligible recipients. Dental services are available only to clients under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program.

#### Statutory Authority

- 42 CFR §447.205, *Public notice of changes in Statewide methods and standards for setting payment rates*;
- 42 CFR §441 Subpart B, *Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) of Individuals under Age 21*; and,
- 42 CFR §440.100, *Dental services*.

#### Background

The Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) service is Medicaid's comprehensive and preventive child health program for individuals under the age of 21. EPSDT was defined by law as part of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) legislation and includes periodic screening, vision, dental, and hearing services. In addition, Section 1905(r)(5) of the Social Security Act (the Act) requires that any medically necessary health care service listed at Section 1905(a) of the Act be provided to an EPSDT recipient even if the service is not available under the State's Medicaid plan to the rest of the Medicaid population.

#### Summary of Proposal

The Division of Medicaid and Medical Assistance (DMMA), pursuant to the requirement of 42 CFR §447.205, gives notice to the following action relating to Medicaid reimbursement for dental services for eligible recipients under age 21 years.

With approval of the Centers for Medicare and Medicaid Services (CMS) by a submitted state plan amendment, effective for services provided on or after April 1, 2012, DMMA modifies reimbursement for dental services provided under the EPSDT program.

The provisions of this state plan amendment are subject to approval by the CMS.

#### Fiscal Impact Statement

The proposed revision imposes no increase in cost on the General Fund.

#### DMMA PROPOSED REGULATION #11-61

#### REVISION:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE: DELAWARE  
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –  
OTHER TYPES OF CARE

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services are reimbursed as follows. Except as otherwise noted in the plan, State developed fee schedule rates are the same for both government and private providers.

1. ~~Screening services – fee for service.~~
2. ~~Treatment services – fee for service.~~
3. ~~Dental Treatment – reimburse 85% of billed charges for routine dental services.~~
4. ~~Specialized Dental Services – reimburse (a) a percentage of charges for non-orthodontic related services and (b) a flat fee for service for orthodontic related services.~~

~~a. Percentage of Charges for non-orthodontic services – The State pays 85% of billed charges for medically necessary non-orthodontic dental care, determined by: 1) the consideration that 65-70% of the usual & customary rate is nationally known to account for the dental provider's actual costs; and, 2) an allowance of an additional mark-up to permit a reasonable and fair profit and as incentive for providers to participate in the Medicaid Program in order to create adequate access to dental care.~~

~~b. Flat Fee for Service for orthodontic services – The State identifies three primary orthodontic related services that encompass orthodontic reimbursement: 1) Pre-orthodontic treatment visit; 2) Comprehensive orthodontic treatment of the adolescent dentition; and, 3) Periodic orthodontic treatment visit. Rates for each orthodontic service are determined by adopting the 75<sup>th</sup> percentile of orthodontic rates paid by the Division of Public Health Special Dental Program, which, compare favorably to commercial coverage and encourage provider participation and adequate access to orthodontic care. Care provided outside of these three services will be reimbursed at a percentage of charges. Medicaid reimbursement for these three orthodontic services will be the lower of the submitted charges or the established Medicaid rate.~~

Dental Services – Effective for dates of service on or after April 1, 2012, Delaware pays for dental services at the lower of:

- : the provider's billed amount that represents their usual and customary charge; or
- : the Delaware Medicaid maximum allowed amount per unit per covered dental procedure code according to a published fee schedule.

The Delaware Medicaid dental fee schedule will be developed based on the National Dental Advisory Service (NDAS) annual Comprehensive Fee Report. For each covered dental procedure code, Delaware's maximum allowable amount will be computed as a percentage of the NDAS published national fee. Delaware will rebase its dental fee schedule rates each time the NDAS publishes a new survey.

General Dental Services shall be paid at 84% of the NDAS 70th percentile amounts Specialty Dental Services shall be paid at 80% of the NDAS 80th percentile amounts.

The Delaware Medicaid Dental Fee Schedule is effective April 1 through March 31 of each year.

The State reserves the right to adjust the fee schedule in order to:

1. Comply with changes in state or federal requirements;
2. Comply with changes in nationally-recognized coding systems such as HCPCS and CPT and CDT;
3. Establish an initial maximum allowable amount for a new procedure code based on information that was not available when the fee schedule was established for the current year;
4. Adjust the maximum allowable amount when the State determines that the current amount is:
  - a. Not appropriate for the service provided; or
  - b. Based on errors in data or calculation.

The dental fee schedule is available on the Delaware Medicaid Assistance Program (DMAP) website at: <http://www.dmap.state.de.us/downloads.html>

**15 DE Reg. 968 (01/01/12) (Prop.)**