

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

1915(i) Home and Community-Based Services State Plan Option Amendment

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) provides notice to the public that it intends to submit a 1915(i) Home and Community-Based Services (HCBS) State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to offer HCBS as an optional state plan benefit.

The public is invited to review and comment on the State's proposed 1915(i) State Plan concept paper and amendment request. Written comments may be sent 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 via fax to 302-255-4425. For consideration, written comments must be received by 4:30 p.m. on January 31, 2014. Please identify in the subject line: Proposed 1915(i) Home and Community-Based Services State Plan Amendment.

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 submit a 1915(i) Home and Community-Based Services (HCBS) State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to offer HCBS as an optional state plan benefit.

Statutory Authority

42 U.S.C. §1396a (a)(13) and 42 CFR §447.205

Background

Section 6086 of the Deficit Reduction Act of 2007 (DRA) and the Affordable Care Act (ACA) of 2010 established and amended section 1915(i) of the Social Security Act to add an optional State Plan service that has many of the features of a Home and Community Based (HCBS) Waiver. Like an HCBS waiver, states can target services to persons based on age, diagnosis and condition, and also apply functional criteria such as limitations caused by disability. States can also provide community based services that would not otherwise be able to be covered under the Medicaid State Plan to allow persons to live independently in the community. Two notable differences from HCBS waivers are that a 1915(i) State Plan Amendment does not require individuals to meet an institutional level of care in order to qualify for HCBS and states are not permitted to limit participation in the program once an individual meets established eligibility criteria.

Purpose and Rationale

The Department proposes to provide a set of services and supports to enable individuals with physical disabilities, intellectual disabilities, autism spectrum disorder, Aspergers Syndrome and visual impairment to seek and maintain competitive employment. The program is called Pathways to Employment (Pathways). The benefit is targeted to transition-age individuals, ages fourteen (14) to twenty-five (25), across the spectrum of disabilities to put into practice the State's Employment First Act. The Pathways program will expand choices and opportunities in Delaware for individuals seeking to enter the job market while ensuring investments made by the public education system are not lost. Using the 1915(i) HCBS SPA presents a unique opportunity in Medicaid to serve individuals in identified target groups and to structure a cross-disability, employment-focused benefit based on work-related, needs-based criteria.

The Pathways to Employment program will be jointly administered by the Division of Developmental Disabilities Services (DDDS), Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) and Division for the Visually Impaired (DVI). The Division of Medicaid and Medical Assistance (DMMA) will provide oversight. While the goal of competitive employment crosses all of the partnering Divisions, the supports needed to effectively meet the needs of the target groups require disability-specific expertise and knowledge. Pathways is designed to establish common goals, expectations, and opportunities for individuals with disabilities, while providing individually tailored supports, reflective of

population-specific considerations, to meet the specific needs of the persons served.

Goals and Objectives of Pathways to Employment

Pathways will expand the choices available within Delaware for individuals ages fourteen (14) to twenty-five (25) who seek employment opportunities for individualized, competitive jobs. Ensuring seamless transitions from school (high school and post-secondary) to work, and across the array of employment options and supports, Pathways will enable individuals to gain skills needed to obtain and maintain employment, and continue to build their careers.

The Pathways program:

- Serves low income individuals, across disabilities, who have a desire to work in a competitive work environment;
- Provides individually tailored services for individuals with visual impairments, physical disabilities, intellectual disabilities, autism spectrum disorder and Aspergers to help them obtain or sustain competitive employment;
- Offers an array of services that will support individuals to explore and plan career paths and build career readiness. Pathways will include important services such as on-the-job supports, transportation, personal care, orientation and mobility training, assistive technology and employment navigation to help individuals maintain employment based on their specific needs;
- Stretches limited state dollars by partnering with the Federal government in the provision of these services - thereby, increasing individual independence and strengthening the State's workforce; and
- Provides a strong foundation for Delaware's ongoing efforts to ensure that individuals with disabilities have a clear path to employment now and into the future.

Proposed 1915(i) HCBS State Plan Amendment

Pathways will increase the options available to support Medicaid individuals aged fourteen (14) to twenty-five (25) with disabilities who wish to work. Income eligibility will generally be the same for most individuals, however individuals participating through certain income groups that allow for higher income levels will be able to have incomes at or below 150% of the Federal Poverty Level (FPL). The 1915(i) HCBS SPA will provide an unprecedented opportunity within Medicaid to serve individuals based on need rather than on diagnosis alone.

Pathways will target the following groups:

- Individuals with visual impairments
- Individuals with physical disabilities, which may include individuals with brain injury
- Individuals with intellectual disabilities, individuals with autism spectrum disorder and individuals with Aspergers

Using needs based criteria that must be less stringent than institutional level of care criteria, per the 1915(i) requirements, Delaware will make the benefit available to anyone in the target groups who has a desire to work in a competitive work environment and for whom the services provided through the benefit are not otherwise available to the individual under either special education and related services as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16) and (17)) or vocational rehabilitation services available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730). This is a federal requirement.

Pathways will offer a rich continuum of services to assist individuals to build skills needed and to obtain and maintain individualized, competitive employment. The service array provided through Pathways recognizes that each individual may need specific and individualized supports to better position them for ongoing employment. Delaware has specially designed service packages for the target groups to ensure that the right services are available based on population needs.

The following array of services will be offered to prepare individuals for competitive work environments as well as providing the employment supports for individuals to be successful:

- Career exploration and assessment
- Supported employment (small group)
- Supported employment (individual)
- Employment Navigators
- Benefits Counseling
- Financial Coaching
- Non-Medical Transportation
- Personal Care (including a self-directed care option)
- Orientation, mobility, assistive technology

Pathways will be operated as a fee-for-service program administered by the DHSS, the Single State Medicaid Agency. The Divisions noted above will jointly administer the program. Using a standard evaluation, enrollment and assessment process, with tailoring for each of the target groups, to determine eligibility and to inform a person-centered care planning

approach, DHSS will ensure consistency in operations for each of the target groups, while still maintaining the key expertise needed to effectively meet their needs. The Divisions will ensure standards and quality for the administration of the Pathways to Employment program through the newly-established cross-division workgroup, which will provide ongoing oversight for the benefit. These entities will also ensure ongoing quality improvement, measuring the efficacy of the overall systems and the effectiveness of individually tailored service strategies.

Pursuant to the notice requirements of 42 CFR §447.205, Delaware Health and Social Services/Division of Medicaid and Medical Assistance hereby affords the public notice of the intent to solicit public comment on the Department's proposal to request a 1915(i) Home and Community-Based Services (HCBS) State Plan amendment to offer HCBS as an optional state plan benefit to support Medicaid-covered individuals aged fourteen (14) to twenty-five (25) with disabilities who wish to seek competitive employment. The effective date for statewide implementation of the 1915(i) HCBS State Plan Amendment is July 1, 2014, subject to approval by the Centers for Medicare and Medicaid Services.

Draft of Proposed 1915(i) HCBS State Plan Amendment and Concept Paper

A copy of Delaware's proposed 1915(i) HCBS Concept Paper and a copy of the proposed 1915(i) HCBS State Plan Amendment is accessible on the Division of Medicaid & Medical Assistance website at: <http://www.dhss.delaware.gov/dhss/dmma/>

Fiscal Impact Statement

With the availability of these services through 1915(i), Delaware expects that there will be a reduction in federal claims for services currently provided under the State Plan Rehabilitation benefit.

Through the identification of existing resources, the expectation is that there will be no net new General Fund cost to the State of Delaware in State Fiscal Year 2014 and the net new funds needed in State Fiscal Year 2015 will be approximately \$380,000.00.

17 DE Reg. 688 (01/01/14) (Prop.)