

**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**

**Inpatient Hospital Services**  
**Freestanding Inpatient Rehabilitation Hospital Services**

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 the Delaware Title XIX Medicaid State Plan regarding Inpatient Hospital Services, specifically, *Freestanding Inpatient Rehabilitation Hospital Services*.

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 and Quality 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, 2015.

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/Division of Medicaid and Medical Assistance is proposing to amend the Title XIX Medicaid State Plan regarding Inpatient Hospital Services, specifically, *Freestanding Inpatient Rehabilitation Hospital Services*.

**Statutory Authority**

- Section 1886(j) of the Social Security Act, *Prospective Payment for Inpatient Rehabilitation Services*
- 42 CFR §412.604, *Conditions for payment under the prospective payment system for inpatient rehabilitation facilities*
- 42 CFR §440.10, *Inpatient hospital services, other than services in an institution for mental diseases*
- 42 CFR §447, Subpart C - *Payment for Inpatient Hospital and Long-Term Care Facility Services*
- 42 CFR §447.205, *Public notice of changes in statewide methods and standards for setting payment rates*

**Background**

Delaware Medicaid reimburses enrolled providers for services provided to Medical Assistance recipients, including hospitals, under the authority of Title XIX of the Social Security Act. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services.

Inpatient hospital services means services that are ordinarily furnished in a hospital for the care and treatment of inpatients; are furnished under the direction of a physician or dentist; and, are furnished in an institution that (i) is maintained primarily for the care and treatment of patients with disorders other than mental diseases; (ii) is licensed or formally approved as a hospital by an officially designated authority for State standard-setting; (iii) meets the requirements for participation in Medicare as a hospital; and (iv) has in effect a utilization review plan, applicable to all Medicaid patients, that meets the requirements of 42 CFR §482.30, unless a waiver has been granted by the Secretary. Inpatient hospital services do not include skilled nursing facility (SNF) and intermediate care facility (ICF) services furnished by a hospital with a swing-bed approval.

Inpatient hospital services are paid for Medicaid recipients by means of rates determined in accordance with the following principles, methods and standards which comply with Federal regulations at 42 CFR §447.250 through 42 CFR §447.299 and 1902(a)(13)(A), 1902(a)(30), and 1923 of the Social Security Act.

*Inpatient Rehabilitation Hospital Services*

In accordance with 42 CFR §485.58, an inpatient rehabilitation hospital must provide a coordinated rehabilitation program that includes, at a minimum, physicians' services, physical therapy services, and social or psychological services. These services must be consistent with the plan of treatment and the results of comprehensive patient assessments.

## Summary of Proposal

### *Purpose*

To establish payment methodology for freestanding inpatient rehabilitation hospital services reimbursement in the Delaware Medicaid State Plan.

### *Payment Methodology for Freestanding Rehabilitation Hospital Services*

For claims with dates of discharge on or after December 1, 2014, the Delaware Medical Assistance Program (DMAP) shall reimburse freestanding inpatient rehabilitation hospital services using the Medicare Inpatient Rehabilitation Facility (IRF) Prospective Payment System (PPS).

The Medicare IRF PPS is based on a Patient Assessment Instrument (PAI). The PAI contains patient clinical and demographic information. The PAI classifies the patient into distinct groups based on their clinical characteristics and what the patient's expected resource needs will be. Separate payment rates are then calculated for each group.

Medicare rates are updated annually to reflect changes in local wages using the hospital wage index. Delaware Medicaid will follow Medicare policy on local wage rate increases.

### *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, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) published notice of proposed amendment to the methods and standards governing reimbursement methodology for freestanding inpatient rehabilitation hospitals participating in the Delaware Medical Assistance Program (DMAP) before the proposed effective date of December 1, 2014 on November 15, 2014 in *The News Journal* and on November 17, 2014 in the *Delaware State News*.

To satisfy *state* public notice requirements established at Title 29, Chapter 101 of the Delaware Code, this notice appears in the January 1, 2015 issue of the *Delaware Register of Regulations*.

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

Also, upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals 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. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates.

### **Fiscal Impact Statement**

The Title XIX Medicaid State Plan will be amended to add information about the payment methodology for freestanding inpatient rehabilitation hospital services to clarify that the Delaware Medical Assistance Program (DMAP) uses the Medicare Inpatient Rehabilitation Facility (IRF) Prospective Payment System (PPS) methodology.

DMAP's proposal involves no change in the definition of those eligible to receive the inpatient rehabilitation hospital services benefit under Medicaid, and the inpatient rehabilitation hospital services benefit to eligible recipients remains the same.

There is no estimated fiscal impact.

### **DMMA PROPOSED REGULATION #14-47**

REVISION:

ATTACHMENT 4.19-A.2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES FOR INPATIENT HOSPITAL SERVICES  
CONTINUED

### Freestanding Inpatient Rehabilitation Hospital Services

For claims with dates of discharge on or after December 1, 2014, the Delaware Medical Assistance Program (DMAP) shall reimburse freestanding inpatient rehabilitation hospital services using the Medicare Inpatient Rehabilitation Facility (IRF) Prospective Payment System (PPS).

The Medicare IRF PPS is based on a Patient Assessment Instrument (PAI). The PAI contains patient clinical and

demographic information. The PAI classifies the patient into distinct groups based on their clinical characteristics and what the patient's expected resource needs will be. Separate payment rates are then calculated for each group.

Medicare rates are updated annually to reflect changes in local wages using the hospital wage index. Delaware Medicaid will follow Medicare policy on local wage rate increases.

The fee schedule and any annual/periodic adjustments to the fee schedule and effective dates are available on the Delaware Medical Assistance Program (DMAP) website at: <http://www.dmap.state.de.us/downloads/feeschedules.html>

Except as otherwise noted in the plan, payment for these services is based on State-developed fee schedule rates, which are the same for both governmental and private providers of freestanding inpatient rehabilitation hospital services.

**18 DE Reg. 509 (01/01/15) (Prop.)**