

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 17000

PROPOSED

PUBLIC NOTICE

Eligibility Determination

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 Social Services Manual (DSSM) regarding Eligibility Determination, specifically, *to align state and federal policy*.

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 January 31, 2019. Please identify in the subject line: Eligibility Determination.

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 the Delaware Social Services Manual (DSSM) regarding Eligibility Determination, specifically, *to align state and federal policy*.

Statutory Authority

- Section 1634(c) of the Social Security Act

Background

A review of DMMA policy identified the need for provisions of 16 Del. Admin. C. §17160.1 to more closely track the federal language which is set forth more fully in the section directly preceding it in 16 Del. Admin. C. 17160. More specifically, the second eligibility criterion "have been receiving SSI prior to age 22 because of disability or blindness" sets forth a different parameter than what the federal statute contemplates. It is the disability or blindness itself which must have begun prior to reaching 22 years of age, rather than the receipt of SSI benefits prior to 22 years of age.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to align state and federal policy.

Summary of Proposed Changes

Effective for services provided on and after March 11, 2019 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend section 17160.1 of Delaware Social Services Manual (DSSM) regarding Eligibility Determination, specifically, *to align state and federal policy*.

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 January 31, 2019.

Provider Manuals and Communications Update

A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates. Updates are available on the Delaware Medical Assistance Portal website: <https://>

Fiscal Impact

No fiscal impact is projected as a result of this policy update.

17160.1 Eligibility Determination

To be eligible the individual must meet all the following criteria:

- be age 18 or older,
- have been receiving SSI ~~prior to age 22~~ because of disability or ~~blindness~~, blindness which began before he or she attained the age of 22.
- lost their SSI benefit because they started to receive Child's Insurance Benefits after 7/1/87 or
- received an increase in Child's Insurance Benefit after 7/1/87.

Child's Insurance Benefit is a type of Title II Social Security benefit as defined below:

A child is entitled to Child's Insurance Benefits on the Social Security record of a parent if:

1. an application for Child's Insurance Benefit is filed, and
2. the child is (or was) dependent upon the parent, and
3. the child is unmarried, and
4. the child is:
 - under age 18, or
 - under age 19 and a full-time elementary or secondary school student, or
 - age 18 or over and under a disability (which must have begun before age 22) and
5. the parent:
 - is entitled to disability insurance benefits, or
 - is entitled to retirement insurance benefits, or
 - died and was either fully or currently insured at the time of death.

Determine eligibility using SSI income and resource standards and methodologies. The Child's Insurance Benefit is excluded from income. Complete redeterminations annually.

22 DE Reg. 570 (01/01/19) (Prop.)