

**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**

**Increased Medicaid Payment for Primary Care Services – Section 1202 of the Affordable Care Act**

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 *additional codes eligible for enhanced primary care payments*.

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 July 31, 2014.

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 Increased Medicaid Payment for Primary Care, specifically, *Additional Codes Eligible for Enhanced Primary Care Payments*.

**Statutory Authority**

- Patient Protection and Affordable Care Act (Pub. L. No. 111-148 as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152)), together known as the *Affordable Care Act*
- 42 CFR 447.405, *Amount of required minimum payments*
- 42 CFR 447.410, *State plan requirements*
- 42 CFR 447.415, *Availability of Federal financial participation (FFP)*

**Background**

In compliance with Section 1202 of the Patient Protection and Affordable Care Act, Delaware Health and Social Services/Division of Medicaid and Medical Assistance increased certain Medicaid primary care and vaccine administration payments made to designated providers to 100% of the Medicare physician fee schedule in effect as of January 1, 2013 through December 31, 2014. To implement this increase, the Centers for Medicare and Medicaid Services approved Delaware's state plan amendment on June 24, 2013 with an effective date of the increase retroactive to January 1, 2013. The services eligible for the rate increase are billed under the Healthcare Common Procedures Coding System (HCPCS) Evaluation and Management (E & M) codes and also apply to the administration of vaccines under the Vaccines for Children Program.

**Summary of Proposal**

Recent guidance from the Centers for Medicaid and Medicaid Services (CMS), dated April 14, 2014, advises that if a state uses vaccine product codes to pay for vaccine administration that it must submit a new section 1202 of the Affordable Care Act (ACA) state plan amendment (SPA) when those product codes change. Also, a state must submit a revised SPA page updating that list of codes eligible for higher payment if it chooses to provide coverage for a new Current Procedural Terminology (CPT) billing code that is within the range of Evaluation and Management (E & M) codes specified in the law and regulation.

Therefore, pursuant to public notice requirements of 42 CFR §447.205, Delaware Health and Social Services (DHSS)/ Division of Medicaid and Medical Assistance (DMMA) gives notice of a significant proposed change in its method and standards for setting payment rate for services.

DHSS/DMMA intends to submit a SPA to CMS to comply with certain provisions in the Affordable Care Act. With an effective date of the increase retroactive to January 1, 2014, this SPA includes the following additional Evaluation and Management (E & M) and vaccine product codes to the list of eligible codes for enhanced primary care payments:

*Evaluation and Management Codes*

99481  
99482  
Vaccine Code  
90673

The provisions of this state plan amendment relating to methodology and payment of the enhanced Medicaid rates are subject to approval by CMS.

#### **Fiscal Impact Statement**

Due to the availability of 100% FMAP for these primary care services, the DMMA projects no fiscal impact on the General Fund in Calendar Year 2014.

#### **DMMA PROPOSED REGULATION #14-24 REVISION:**

ATTACHMENT 4.19-B  
Introduction - Page 4  
OMB No. 0938-1148

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

#### METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

Physician Services  
Increased Primary Care Service Payment 42 CFR 447.405, 447.410, 447.415

Attachment 4.19-B: Physician Services 42 CFR 447.405 Amount of Minimum Payment Continued  
(Primary Care Services Affected by this Payment Methodology – continued)

- The state will make payment under this SPA for the following codes which have been added to the fee schedule since July 1, 2009 (specify code and date added).

99408 - Added October 10, 2010  
99409 - Added October 10, 2010  
99224 - Added January 1, 2011  
99225 - Added January 1, 2011  
99226 - Added January 1, 2011

90673 - Added January 1, 2014  
99481 - Added January 1, 2014  
99482 - Added January 1, 2014

#### Physician Services – Vaccine Administration

For calendar years (CYs) 2013 and 2014, the state reimburses vaccine administration services furnished by physicians meeting the requirements of 42 CFR 447.400(a) at the lesser of the state regional maximum administration fee set by the Vaccines for Children (VFC) program or the Medicare rate as implemented by the state in CYs 2013 and 2014.

- Medicare Physician Fee Schedule rate as implemented by the state and using the 2009 conversion factor.  
 State regional maximum administration fee set by the Vaccines for Children program.

**18 DE Reg. 11 (07/01/14) (Prop.)**