

**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**

**Title XIX Medicaid State Plan Attachment 4.19-D Pediatric Nursing Facility Care Reimbursement**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**), and with 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 Title XIX Medicaid State Plan regarding pediatric nursing facility care reimbursement.

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, Policy and Program 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 (new fax number) by June 30, 2007.

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**

**Statutory Authority**

- 42 CFR Part 447, Subpart C – *Payment for Inpatient Hospital and Long-Term Care Facility Services*;
- 42 CFR §440.170(d), *Skilled Nursing Facility Services for Individuals Under Age 21*; and,
- 42 CFR §447.205, *Public Notice of Changes in Statewide Methods and Standards for Setting Payment Rates*.

**Summary of Proposal**

The reason for this amendment is to establish a class of pediatric nursing care facility that offers specialized nursing care for a defined group of children under the age of 21 years. These children are not able to be served in the Prescribed Pediatric Extended Care (PPEC) Program because of their increased service requirements.

The amendment defines the requirements of a certain group of children under the age of 21 years that are eligible to be served in a pediatric nursing facility. These children must be determined to require this level of care by the DMMA Medical Evaluation Team.

The provisions of this amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

**DMMA PROPOSED REGULATION #07-26**

**REVISION:**

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**IX. Reimbursement for Pediatric Nursing Facility Care**

Certain Medicaid-eligible children under the age of 21 years require facility-based nursing care and would be best served in a specialized pediatric nursing facility (that is, other than a traditional nursing facility). In order to qualify for this care, clients must be determined to require this level of care by the DMMA Medical Evaluation Team.

The level of reimbursement for each client will be based on the level of care determined by the DMMA Medical Evaluation Team. A per diem rate shall be established for each level of care based on reasonable costs for comparable DMMA services that have a demonstrated cost history and that serve a similar population, adjusted as necessary to reflect substantive differences in program operation. Rates for each level of care shall be computed for a base year and may be inflated each year thereafter using a nationally recognized inflation index. In addition to all nursing and operational costs, per diem rates are inclusive of all services, including but not limited to all therapies, supplies, non-custom durable medical equipment and over-the-counter (OTC) drugs required to treat the child's medical condition but do not include custom durable medical equipment for the individual use of a client or prescription ("legend product") drugs, which will be billed directly to Medicaid by the appropriate medical care provider in accordance with Medicaid policy.

Eligible recipients meeting the eligibility criteria for pediatric nursing facility care but who are being cared for in a facility other than a Pediatric Nursing Care Facility shall be reimbursed at the lowest appropriate Pediatric Nursing Facility rate after an assessment by the DMMA Medical Evaluation Team.

Eligible children in Pediatric Nursing Facilities located outside of Delaware are reimbursed at the lowest Delaware Pediatric Nursing Facility rate for each client category level to which they are assigned after being assessed by the DMMA Medical Evaluation Team.

In special cases, the State has the option to provide additional reimbursement if circumstances warrant, where such additional reimbursement is necessary to ensure that the appropriate level of care is given to assure that the child's health status is not jeopardized.

**10 DE Reg. 1780 (06/01/07) (Prop.)**