

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

FINAL

ORDER

Draft 1115 Waiver Medicaid Managed Care Comprehensive Quality Strategy Plan

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) / Division of Substance Abuse and Mental Health (DSAMH) initiated proceedings to make available for public review and comment Delaware Medicaid's *Proposed Draft Comprehensive Quality Strategy Plan*. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the April 1, 2015 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2015 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

This regulatory posting is to provide public notice and to receive public comments for consideration regarding the Delaware Medicaid Managed Care *Quality Strategy Plan*. Delaware Health and Social Services/Division of Medicaid and Medical Assistance is modifying and updating the current Diamond State Health Plan Medicaid managed care strategy as required by 42 CFR Part 438, Subparts D and E (relating to quality assessment and performance improvement; and external quality review) to incorporate the PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment) Section 1115 demonstration waiver.

Statutory Authority

- 42 U.S.C. §1315, *Demonstration projects*
- Social Security Act §1115, *Demonstration projects*
- 42 CFR 431 Subpart G, *Section 1115 Demonstrations*
- Section 1932(c)(1) of the Social Security Act, *Quality Assurance Standards, Quality Assessment and Improvement Strategy*
- 42 CFR 438, Subpart D, *Quality Assessment and Performance Improvement*
- 42 CFR 438, Subpart E, *External Quality Review*

Background

Federal regulations at 42 CFR §438.200 et seq. require all States contracting with a managed care organization (MCO) to have a written strategy for assessing and improving the quality of managed care services offered within the State. This is what the Centers for Medicare and Medicaid Services (CMS) refers to as the "State Quality Strategy".

State Responsibilities

Each State must obtain the input of beneficiaries and other stakeholders in the development of the State Quality Strategy, and make the State Quality Strategy available for public comment before adopting it final.

Currently, States are required to submit to CMS a copy of the initial quality strategy and a copy of the revised strategy whenever significant changes are made. Additionally, per 42 CFR §438.202(e), States are required to submit regular reports on the implementation and effectiveness of the quality strategy. This requirement may be satisfied one of two ways:

1. By means of the State's annual External Quality Review (EQR) technical report. If a State chooses to use this method, the State must ensure that its EQR technical report includes a section that addresses the effectiveness of the State's quality strategy and determine whether any updates to the quality strategy are necessary based on the EQR assessment.
2. By means of a separate report on the implementation and effectiveness of the quality strategy. This State must submit this separate report to CMS on at least an annual basis.

Elements of State Quality Strategies

In accordance with 42 CFR §438.204, at a minimum, State Quality Strategies must include:

- The MCO contract provisions that incorporate the standards of Part 438, subpart D;
- Procedures that assess the quality and appropriateness of care and services furnished to all Medicaid enrollees under the MCO contracts, and to individuals with special health care needs;
- Procedures that identify the race, ethnicity, and primary language spoken of each Medicaid enrollee;
- Procedures that regularly monitor and evaluate the MCO compliance with the standards of Part 438, Subpart D;
- Arrangements for annual, external independent reviews of the quality outcomes and timeliness of, and access to, the services covered under each MCO contract;
- For MCOs, appropriate use of intermediate sanctions that, at a minimum, meet the requirements of Subpart I of this Part 438;
- An information system that supports initial and ongoing operation and review of the State's quality strategy; and,
- Standards, at least as stringent as those in Part 438, Subpart D, for access to care, structure and operations, and quality measurement and improvement.

Summary of Proposal

Purpose

Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) made available for public review and comment a draft proposed Quality Strategy for the State's section 1115 Medicaid demonstration waivers, Diamond State Health Plan and Diamond State Health Plan Plus. This process has been undertaken to fulfill the requirements of the Code of Federal Regulations, specifically 42 CFR §438.202(b) which requires states to obtain the input of recipients and other stakeholders in the development of the strategy and the Waiver's associated Special Terms and Conditions, specifically STC 47, to make the strategy available for public comment. The purpose of this notice is to fulfill that requirement. Comments on public notices and comments received at public hearings will be used to formulate Delaware's Final Quality Strategy that will be submitted to CMS by May 1, 2015.

Draft 2015 Managed Care Quality Strategy Summary

This public input process has been undertaken to fulfill the requirements of the Code of Federal Regulations, specifically 42 CFR §438.202(b) which requires states to obtain the input of recipients and other stakeholders in the development of the strategy and the Waiver's associated Special Terms and Conditions (STC), specifically STC 47, to make the strategy available for public comment. The purpose of this notice is to fulfill that requirement. Comments on public notices and comments received at public hearings will be used to formulate Delaware's Final Quality Strategy that will be submitted to CMS by May 1, 2015.

The Quality Management Strategy (QMS) is a comprehensive plan which incorporates quality assurance monitoring and ongoing quality improving processes to coordinate, assess and continually improve the delivery of quality care to the Medicaid beneficiaries. The proposed draft Comprehensive Quality Strategy addresses and incorporates the development of and integration of the Promoting Optimal Mental Health for Individuals through Supports and Employment (PROMISE) Program. The PROMISE program is an effort to improve clinical and recovery outcomes for beneficiaries with behavioral health needs.

Public Comment Submission Process

Under the provisions of 42 CFR §441.301(c)(6)(iii), DHSS/DMMA gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input to the Proposed Draft 1115 Waiver Medicaid Managed Care Comprehensive Quality Strategy Plan. Comments were to be received by 4:30 p.m. on March 31, 2015.

Delaware also utilized two (2) prior public input procedures by 1) publishing the Comprehensive Quality Strategy Plan in two (2) major Delaware newspapers for a thirty-day public comment period on March 1, 2015: *The News Journal* and the *Delaware State News*; and, 2) holding two public hearings on Monday, March 23, 2015 in Kent County and on Friday, March 27, 2015 in New Castle County.

Draft of Proposed Medicaid Managed Care Comprehensive Quality Strategy Plan

The Comprehensive Quality Strategy Plan is accessible on both the Division of Medicaid and Medical Assistance (DMMA) website: <http://dhss.delaware.gov/dmma/> and the Division of Substance Abuse and Mental Health (DSAMH) website:

<http://www.dhss.delaware.gov/dhss/dsamh/>.

Fiscal Impact Statement

There is no increase in cost on the General Fund. Section 1115 demonstration waivers must be "budget neutral" over the life of the project, meaning that they cannot be expected to cost the Federal government more than it would cost without the waiver.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

No public comments were received.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the April 2015 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to make available for public review and comment Delaware Medicaid's *Proposed Draft Comprehensive Quality Strategy Plan*, is adopted and shall be final effective June 10, 2015.

Rita M. Landgraf, Secretary, DHSS

18 DE Reg. 963 (06/01/15) (Final)