

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

PUBLIC NOTICE

Attendant Services Waiver Program (ASWP)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services / is proposing to amend the Division of Social Services Manual (DSSM) regarding the Attendant Services Waiver Program (ASWP).

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 & Program Development Unit, Division of Social Services, and P.O. Box 906, New Castle, Delaware 19720-0906 by March 31, 2005.

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 Proposed Change

The Attendant Services Waiver Program (ASWP) is a community-based services program funded by the Division of Social Services (DSS), Delaware Medical Assistance Program (DMAP) and operated by the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD).

The proposal sets forth the rules and regulations governing the administration of the ASWP, and describes the types of services available under the program. The regulations being proposed would also define the eligibility criteria that must be met by applicants for the services and the scope of services available to eligible applicants.

The earliest effective date for the ASWP is October 1, 2004.

DSS PROPOSED REGULATION #05-08

NEW:

20700.6 Attendant Services Waiver

The Attendant Services Waiver (ASW) is a home and community based services program that will be managed by the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD). The purpose of the Wavier is to minimize the likelihood of institutionalization and maximize the potential for independent living for adults with physical disabilities. This program is a consumer directed support program. Participants will have the opportunity to hire and train their own attendants and serve as the employer of record for these attendants. DSAAPD staff will provide initial intake, assessment, service authorization, and wavier service plan. The Division of Social Services (DSS) will be responsible for determining financial eligibility for the Waiver. The effective date is October 1, 2004.

20700.6.1 Eligibility Criteria

To be eligible for this program, individuals must:

- Be a resident of the state of Delaware
- Be 18 years of age or older
- Meet the financial and medical criteria for DSS Long Term Care Medicaid Program
- Medical criteria must meet nursing facility admission standards
- Meet the ASW criteria as determined by DSAAPD
 - Financial eligibility is determined by DSS
 - Medical eligibility is determined by the Pre-Admission Screening Unit of DSAAPD
 - Program eligibility is determined by DSAAPD.

An individual must meet ALL of the following criteria:

- have an anatomical/physical deficit anticipated to last 12 months or more

- be medically stable
- have ability to self-direct or have a surrogate who can support the client in making decisions

Priority will be applicants who are:

- persons who, with an attendant, can complete an education, or can attain or retain gainful employment;
- persons with greater environmental, social supportive and financial capacity constraints, especially those with constraints in all three areas;
- persons living in costly, congregate living facilities who could live independently and more cost effectively if they had attendants.

20700.6.2 Number Of Recipients

There are a maximum number of recipients who may be served under the ASW each fiscal year. The total unduplicated number of recipients served under the program cannot exceed the maximum number approved by the Centers for Medicare and Medicaid Services (CMS). DSAAPD will monitor the number of individuals receiving ASW so the maximum number will not be exceeded.

20700.6.3 Cost Effective Requirement

In order for an applicant to be eligible for the ASW, the applicant's cost of care cannot exceed the cost if the same applicant were institutionalized. This determination is made on an aggregate basis which considers all ASW recipients. A DSAAPD worker determines cost effectiveness.

20700.6.4 Approval

Upon approval, DSS will send a notice of approval to the applicant or his representative. The notice will include the effective date of coverage and the patient pay amount if any. The client's start date is determined by DSAAPD staff.

20700.6.5 Post Eligibility Budgeting

For recipients in the ASW the personal needs allowance is equal to 250% of the Federal SSI Benefit Rate. Collection of the patient pay amount from the recipient or the recipient's representative is the responsibility of the provider who is administering the most costly service.

20700.6.6 Hospitalization Or Illness

Waiver services will terminate upon the 31st consecutive day of hospitalization. There are no Medicaid bed hold days for hospitalization. DSS will redetermine eligibility for continued Medicaid coverage. Waiver services may restart after hospital discharge as determined by DSAAPD staff.

20700.6.7 ASW Services

The Attendant Services Waiver will include the following:

- Attendant Services
- Adult Day Health
- Respite
- Equipment/Supplies
- Emergency Response Systems
- Supports Brokerage

8 DE Reg. 1263 (3/1/05)