

**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**

**Diamond State Health Plan Plus 1115 Demonstration Waiver**

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 Medicaid and Medical Assistance (DMMA) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) to renew Delaware's Section 1115 demonstration waiver, entitled "Diamond State Health Plan" for an additional three years.

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 June 12, 2013.

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 proposed provides notice to the public that the Division of Medicaid and Medical Assistance (DMMA) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) to renew Delaware's Section 1115 demonstration waiver, entitled "Diamond State Health Plan" for an additional three years.

**Statutory Authority**

- 42 U.S.C. §1315, *Demonstration projects*
- Social Security Act §1115, *Demonstration projects*
- 42 CFR 431 Subpart G, *Section 1115 Demonstrations*

**Background**

Under a waiver of Section 1115(a) of the Social Security Act, the Diamond State Health Plan (DSHP) implemented a mandatory Medicaid managed care demonstration program statewide on January 1, 1996. Using savings achieved under managed care, Delaware expanded Medicaid health coverage to additional low-income adults in the State with incomes less than 100% of the Federal Poverty Level (FPL).

Goals of the DSHP are to improve and expand access to healthcare to more adults and children throughout the State, create and maintain a managed care delivery system emphasizing primary care, and to strive to control the growth of healthcare expenditures for the Medicaid population.

In order for the Diamond State Health Plan 1115 Demonstration Waiver to continue past the expiration date, the State must request an extension no later than June 30, 2013.

**Summary of Proposal**

Pursuant to the notice requirements of 42 CFR §431.408(a)(2)(ii), Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA), hereby notifies the public that it intends to seek a three-year renewal of its Diamond State Health Plan (DSHP) 1115 Demonstration Waiver from the Centers for Medicare and Medicaid Services (CMS). The duration of the extension being requested is January 1, 2014 through December 31, 2016. Delaware seeks to build on the successes of its existing demonstration and deliver better health outcomes more efficiently.

Delaware supports the goals of the Affordable Care Act (ACA) to enhance access to affordable coverage, improve service delivery and control program cost growth. Delaware Medicaid is committed to collaborating with CMS to ensure that state and federal health reform activities are complimentary and coordinated. To this end, the renewal request will update obsolete sections of the waiver and align the waiver with the new requirements of the ACA.

Delaware plans on the following specific proposed waiver renewal initiatives:

- To expand Medicaid eligibility to individuals with income at or below 133% of the Federal Poverty Level (FPL) beginning January 1, 2014;

- To incorporate the new simplified Medicaid eligibility methodology called “modified adjusted gross income” (MAGI) to the extent required by the ACA;
- To follow MAGI eligibility groups once federal regulations are finalized; and,
- To ensure enrollment without interruption in coverage to the maximum extent possible for individuals who are not categorically eligible for Medicaid, the State also plans to implement a transition plan consistent with the provisions of the ACA.

#### *Draft of Proposed Waiver Renewal Application*

A draft of Delaware’s waiver renewal application is currently available for review on the Division of Medicaid and Medical Assistance (DMMA) website at <http://dhss.delaware.gov/dhss/dmma/>.

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

#### **Fiscal Impact Statement**

This waiver renewal maintains cost neutrality for each year in the three-year renewal period covering January 1, 2014 through December 31, 2016. A function of this waiver is to assure that coverage of the expanded population will be budget neutral. In other words, the cost of covering this population, as well as the Medicaid eligible population, will be no more than if the DHSS/DMMA had continued covering only its Medicaid population under the traditional fee-for-service program.

### **NOTICE OF PUBLIC HEARINGS**

In accordance with the public notice requirements of 42 U.S.C. §1315(d) and 42 CFR Part 431, Subpart G, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice of its intent to file an application with the Centers for Medicare and Medicaid Services (CMS) to request a three-year extension of the Diamond State Health Plan 1115 Demonstration Waiver, which is scheduled to expire on December 31, 2013.

Under a waiver of Section 1115(a) of the Social Security Act, the Diamond State Health Plan (DSHP) implemented a mandatory Medicaid managed care demonstration program statewide on January 1, 1996. Using savings achieved under managed care, Delaware expanded Medicaid health coverage to additional low-income adults in the State with incomes less than 100% of the Federal Poverty Level (FPL).

Goals of the DSHP are to improve and expand access to healthcare to more adults and children throughout the State, create and maintain a managed care delivery system emphasizing primary care, and to strive to control the growth of healthcare expenditures for the Medicaid population.

In order for the Diamond State Health Plan 1115 Demonstration Waiver to continue past the expiration date, the State must request an extension no later than June 30, 2013. The duration of the extension being requested is January 1, 2014 through December 31, 2016.

Under the Diamond State Health Plan (DSHP) renewal, Delaware seeks to build on the successes of the existing waiver while integrating the waiver’s programs and benefits to deliver better health outcomes more efficiently and to align the waiver with the Affordable Care Act’s new requirements. Delaware plans on the following specific proposed waiver renewal initiatives:

- To expand Medicaid eligibility to individuals with income at or below 133% of the Federal Poverty Level (FPL) beginning January 1, 2014;
- To incorporate the new simplified Medicaid eligibility methodology called “modified adjusted gross income” (MAGI) to the extent required by the ACA;
- To follow MAGI eligibility groups once federal regulations are finalized; and,
- To ensure enrollment without interruption in coverage to the maximum extent possible for individuals who are not categorically eligible for Medicaid, the State also plans to implement a transition plan consistent with the provisions of the ACA.

#### **Draft of Proposed Waiver Renewal Application**

A draft of Delaware’s waiver renewal application is currently available on the Division of Medicaid and Medical Assistance (DMMA) website at: <http://dhss.delaware.gov/dhss/dmma/>.

Hard copies are available for review at the Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, Holloway Campus, Lewis Building, Conference Room 198, New Castle, Delaware 19720 from 8:00 a.m. – 4:30 p.m.

#### **Public Comments**

The public is invited to review and comment on the State’s proposed waiver renewal request. Written comments may be sent 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 via fax to 302-255-4425. For consideration, written comments must be received by 4:30 p.m. on June 12, 2013. Please identify in the subject line: Proposed Diamond State Health Plan 1115 Waiver Renewal.

## **Public Hearings**

As required by 42 CFR Part 431, Subpart G, the State agency is providing the following opportunities to the public to comment on the proposed waiver renewal application in person. Two (2) public hearings are scheduled. The detailed information for each public hearing is shown below.

1. NEW CASTLE COUNTY  
Wednesday, May 22, 2013  
1:00-3:00 pm  
Delaware State Police  
Troop 2  
Robert Paris Community Room  
100 Lagrange Avenue  
Newark, DE 19702  
(Visitor parking is designated by signs and is close to the entrance of the building)
  
2. KENT COUNTY  
Thursday, May 23, 2013  
1:00-3:00 pm  
Department of Natural Resources and Environmental Control (DNREC)  
Richardson and Robbins Building  
DNREC Auditorium  
89 Kings Highway  
Dover, DE 19901  
(Visitor parking is designated by signs and is close to the entrance of the building)

The State will take verbal and written comments at the public hearings. The outcome of this process and the input provided will be summarized for CMS upon submission of the final application for a waiver renewal extension.

If you are unable to attend the public hearing in person, you may participate by teleconference. To participate via teleconference, on the date and time of the public hearing, call 1-877-366-0711 and enter passcode 95099070#.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least five (5) days prior to the hearing for arrangements:

Latoya Wright at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

## **Fiscal Impact Statement**

This waiver renewal maintains cost neutrality for each year in the three-year renewal period covering January 1, 2014 through December 31, 2016. A function of this waiver is to assure that coverage of the expanded population will be budget neutral. In other words, the cost of covering this population, as well as the Medicaid eligible population, will be no more than if the DHSS/DMMA had continued covering only its Medicaid population under the traditional fee-for-service program.

## **Delaware Waivers Page on CMS Website**

As the federal agency with oversight authority over all Medicaid programs, CMS offers its own online resources regarding the Diamond State Health Plan 1115 Demonstration Waiver. Interested parties may view these materials at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/de/de-dshp-fs.pdf>.

## **Submission of Waiver Application to CMS**

Delaware intends to submit the 1115 waiver renewal application to CMS no later than June 30, 2013. Pursuant to 42 CFR §431.416, CMS has 15 (fifteen) days from the date of receipt to determine whether the application is complete. CMS will post the application on the 1115 website and allow a 30-day public comment period on the application. Information related to the waiver will be available on the CMS website: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/public-comments.html>.

Stephen M. Groff  
Director, Division of Medicaid and Medical Assistance

April 3, 2013

**16 DE Reg. 1140 (05/01/13) (Prop.)**