

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

DSSM: 14370 Coverage of Emergency Services and Labor and Delivery

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) is proposing to amend the Division of Social Services Manual regarding *Coverage of Emergency Services and Labor and Delivery*.

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 November 30, 2011.

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 amends the Division of Social Services Manual regarding *Coverage of Emergency Services and Labor and Delivery Only*.

Statutory Authority

42 CFR §440.255, *Limited services available to certain aliens*

Background

Aliens who are not otherwise eligible for full Medicaid because of immigration status may be eligible for emergency services and labor and delivery only.

For the purposes of emergency services and labor and delivery only, federal Medicaid regulations define emergency services (including labor and delivery) as a sudden onset of a physical or mental condition which causes acute symptoms, including severe pain, where the absence of immediate medical attention could reasonably be expected to:

- Place the person's health in serious jeopardy, or
- Cause serious impairment to bodily function, or
- Cause serious dysfunction of any bodily organ or part.

Summary of Proposal

DSSM 14370, *Coverage of Emergency Services and Labor and Delivery Only*: The Division of Medicaid and Medical Assistance (DMMA) is proposing a change to the Medicaid emergency services for undocumented aliens' benefit. The primary change is to include birthing centers as a place of service for emergency labor and delivery services, effective November 1, 2011.

Fiscal Impact Statement

The proposed revision imposes no increase in cost on the General Fund.

DMMA PROPOSED REGULATION #11-47

REVISION:

14370 Coverage of Emergency Services and Labor and Delivery Only

These Emergency services must be rendered in an acute care hospital emergency room or in an acute care inpatient hospital. Labor and delivery only services must be rendered in an acute care hospital emergency room, an acute care inpatient hospital, or a birthing center. The DMAP defines an emergency as:

- a sudden serious medical situation that is life threatening; or
- a severe acute illness or accidental injury that demands immediate medical attention or surgical attention; and
- without the treatment a person's life could be threatened or he or she could suffer serious long lasting disability.

Medically necessary physician (surgeon, pathologist, anesthesiologist, emergency room physician, internist, etc.) or midwife services rendered during an emergency service that meets the above criteria are covered. Ancillary services (lab, x-ray, pharmacy, etc.) rendered during an emergency service that meets the above criteria are also covered. Emergency ambulance services to transport these individuals to and from the services defined above are also covered.

Services not covered for aliens who are determined to be eligible for emergency services and labor and delivery only include but are not limited to:

- any service delivered in a setting other than an acute care hospital emergency room or an acute care inpatient hospital. Exception: labor and delivery services may be rendered in a birthing center.
- any service (such as pharmacy, transportation, office visit, lab or x-ray, home health) that precedes or is subsequent to a covered emergency service. Exception: ambulance transportation that is directly related to the emergency is covered.
- organ transplants
- long term care or rehabilitation care
- routine prenatal and post partum care

13 DE Reg. 1540 (06/01/10)

15 DE Reg. 620 (11/01/11) (Proposed)