

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

Patient Pay Calculation for Division of Developmental Disabilities Services (DDDS) Waiver Recipients

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 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, to revise and update, specifically, *to the Delaware Social Services Manual (DSSM)*.

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, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Kimberly.xavier@state.de.us, or by fax to 302-255-4425 by December 1, 2016. Please identify in the subject line: DDDS Waiver - Patient Pay.

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 purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Delaware Social Services Manual (DSSM) regarding Patient Pay Calculations, specifically, *to change the entity responsible for the collection of the patient pay amount for Division of Developmental Disabilities Services (DDDS) waiver recipients.*

Statutory Authority

- Social Security Act §1915(c), *Home and community-based services*
- 42 CFR §435.217, *Individuals receiving home and community-based services*
- 42 CFR §435.726(a) and (b), *Post-eligibility treatment of income of individuals receiving home and community-based services furnished under a waiver: Application of patient income to the cost of care.*

Background

The Medicaid Home and Community-Based Services (HCBS) waiver program is authorized in 1915(c) of the Social Security Act. The program permits a State to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The State has broad discretion to design its waiver program to address the needs of the waiver's target population. Waiver services complement and/or supplement the services that are available to participants through the Medicaid State plan and other federal, state and local public programs as well as the supports that families and communities provide.

The Centers for Medicare & Medicaid Services (CMS) recognizes that the design and operational features of a waiver program will vary depending on the specific needs of the target population, the resources available to the State, service delivery system structure, State goals and objectives, and other factors. A State has the latitude to design a waiver program that is cost-effective and employs a variety of service delivery approaches, including participant direction of services.

The Delaware Division of Medicaid and Medical Assistance (DMMA), in partnership with the Division of Developmental Disabilities Services (DDDS) has operated the DDDS waiver since 1987. This waiver is targeted to individuals with intellectual disabilities (including brain injury) and autism spectrum disorder who can no longer live independently or with their family. The waiver includes an array of services and supports designed to enable the individual to live safely in the community and to respect and support their desire to work or engage in other productive activities.

Summary of Proposal

Purpose

The purpose of this policy amendment is to change the entity responsible for the collection of the patient pay amount for Division of Developmental Disabilities Services (DDDS) waiver recipients so as to be compliant with federal regulation.

Summary of Proposed Changes

If implemented as proposed, this regulation will accomplish the following, effective January 11, 2017:

Change Delaware Social Services Manual, 20720, to list the entity responsible for the collection of the patient pay amount for Division of Developmental Disabilities Services (DDDS) waiver recipients from DDS to the provider of Residential Habilitation.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the Patient Pay Calculation proposed regulation. Comments must be received by 4:30 p.m. on December 1, 2016.

Provider Manuals Update

Applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates. DMAP provider manuals and official notices are available on the DMAP website: <http://www.dmap.state.de.us/home/index.html>

Fiscal Impact Statement

The proposed regulation is clarifying rules of practice and procedure by the agency and has no fiscal impact.

DMMA PROPOSED REGULATION APA 16-024

REVISION:

20720 Patient Pay Calculation

This policy applies to all individuals receiving Medicaid through the Division of Developmental Disabilities Services (DDDS) Waiver and the Long Term Care Community Services Program.

1. The Medicaid recipient's total income will be used in the post eligibility treatment of income. This includes income that is counted for eligibility and income that is excluded for eligibility.
2. Allowable deductions are given based on an individual's circumstances. Not all deductions will apply to all individuals.
3. Any amount of income remaining after allowable deductions is the patient pay amount. This amount must be paid on a monthly basis as indicated below:
 - ~~For DDDS Waiver recipients, the patient pay amount is paid to the Division of Developmental Disabilities.~~ Individuals receiving Residential Habilitation funded by the DDDS waiver will submit their patient pay amount directly to the provider of Residential Habilitation.
 - "Individuals residing in an Assisted Living Facility will submit their patient pay amount directly to the Assisted Living Facility.

The following deductions from the Medicaid recipient's total gross income should be taken in the following order:

15 DE Reg. 1718 (06/01/12)

20 DE Reg. 340 (11/01/16) (Prop.)