

**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**

**Durable Medical Equipment (DME) Provider Specific Policy Manual**

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 (DSSM) regarding *Durable Medical Equipment*.

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 October 31, 2010.

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 proposal is to amend the Delaware Medical Assistance Provider (DMAP) Manuals regarding the ownership of certain *Durable Medical Equipment (DME)*.

**Statutory Authority**

- 42 CFR §414.202, *Definitions (DME)*
- 42 CFR §440.70(b)(3), *Home Health services*
- 42 CFR §440.230, *Sufficiency of amount, duration, and scope*

**Background**

The Delaware Medical Assistance Program (DMAP) covers medically necessary durable medical supplies and equipment, under the Durable Medical Equipment (DME) program, which meet program guidelines when prescribed by a physician.

The Division of Medicaid and Medical Assistance (DMMA), in collaboration with the University of Delaware, Center for Disabilities Studies (CDS), is interested in developing a durable medical equipment retrieval program. Such a program would enable high-quality products such as wheelchairs, scooters, and communication devices to be refurbished and made available to a new customer when no longer needed by the original beneficiary. Similar programs have been implemented in other states, demonstrating both fiscal and environmental advantages.

Current DMMA policy assigns ownership of equipment purchased by DMMA to the client. The proposed revision would assign ownership of certain specified DME to DMMA. When the equipment is no longer needed, it will be recovered by CDS. CDS will assess and refurbish, if appropriate. A new customer service component will also be established to periodically evaluate the effectiveness of equipment in meeting the needs of the beneficiary. DMMA customers will also have the option of accepting refurbished equipment, when available, at a reduced cost to the state.

**Summary of Proposal**

The DME provider manual is revised to establish a policy of ownership for certain purchased durable medical equipment. This rule revision will allow certain durable medical equipment purchased by DMMA to remain the property of the DMMA to be used by for the benefit of the Medicaid recipient until it is no longer medically necessary. At such time as the item is no longer medically necessary, DMMA may retrieve the durable medical

equipment product if it is determined to be administratively and fiscally prudent.

This rule will allow DMMA to establish a durable medical equipment retrieval program and meet the needs of Delawareans who do not have access to durable medical equipment and ultimately reducing the amount of uncompensated care provided by DMAP healthcare providers. This rule promulgation is the first step in establishing procedures necessary to implement a durable medical equipment retrieval program.

### **Fiscal Impact Statement**

This revision imposes no increase in cost on the General Fund.

## **DMMA PROPOSED REGULATION #10-41**

### **REVISION:**

## **DELAWARE MEDICAL ASSISTANCE PROGRAM**

### **Durable Medical Equipment (DME) Provider Specific Policy Manual**

#### **3.5 Purchase Versus Rental**

3.5.4 ~~If purchase is the only option (such as for a custom-made wheelchair), or is determined to be the most cost effective method of providing the equipment, the equipment will become the property of the client after the DMAP reimbursement is made.~~ Items specified below, purchased by DMMA shall be the property of DMMA. Other equipment purchased by DMMA will become the property of the client after the DMAP reimbursement is made.

- Augmentative Communication Devices
- Bath Benches
- Bi-Paps
- C-Paps
- Car Seats
- Commodes
- Feeder Seats
- Feeding Pumps
- Gait Trainers
- Hospital Beds and Hospital Bed Accessories
- Nebulizers
- Oxygen Concentrators
- Patient Lifts
- Quad Canes
- Scooters
- Shower Chairs
- Stenders
- Strollers
- Walkers
- Wheelchairs and Wheelchair Accessories

**14 DE Reg. 244 (10/01/10) (Prop.)**