

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 503(c) (31 **Del.C.** §503(c))
16 **DE Admin. Code** 20320

PROPOSED

PUBLIC NOTICE

Medicaid Long-Term Care Services - Home Equity

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 eligibility for payment of Medicaid Long-Term Care Services, specifically, Home Equity Cap.

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, 2012.

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 Division of Medicaid and Medical Assistance proposes to amend the Division of Social Services Manual (DSSM) regarding eligibility for payment of Medicaid Long-Term Care (LTC) services, specifically, Home Equity Cap.

Statutory Authority

Deficit Reduction Act of 2005 (Public Law 109-171), enacted on February 8, 2006

Background

The Deficit Reduction Act (DRA) of 2005 was signed into law on February 8, 2006. The DRA made changes to certain Medicaid eligibility provisions in Section 1917(c)(1)(B)(i) of Social Security Act affecting Long Term Care services and supports.

Section 6014 of the DRA amends section 1917 of the Social Security Act (the Act) to provide that in determining the eligibility of an individual to receive medical assistance payment for nursing facility services or other long-term care services, States must deny payment if the individual's equity interest in his or her home exceeds \$500,000. States have the option to substitute an amount exceeding \$500,000, but not in excess of \$750,000.

Included in section 6014(f) of the DRA was the provision that the dollar amount of value of the home equity is to be increased beginning in 2011. The amount is to be increased from year to year based on the percentage increase in the Consumer Price Index (CPI), rounded to the nearest \$1,000.

Summary of Proposal

Under section 6014 of the Deficit Reduction Act of 2005 (DRA), Medicaid will not pay for long-term care services for individuals whose equity interested in their home exceeds a federally issued mandated home equity cap. As a State option, a higher limit may be set that does not exceed a maximum home equity cap. Delaware has elected to use the minimum cap.

Therefore, the corresponding sections of the Division of Social Services Manual, 20320.7.B and 20320.7.E, have been revised to reflect this provision and the Federal standard change of the excess home equity provisions based on the Consumer Price Index effective January 1, 2011 and effective January 1, 2012.

This statement of policy is retroactive to January 1, 2011.

Fiscal Impact Statement

These revisions impose no increase in cost on the General Fund.

DMMA PROPOSED REGULATION #12-46

REVISIONS:

20320.7.B Receiving LTC On/After 01-01-2006

If a Medicaid recipient started receiving LTC Medicaid on or after January 1, 2006, evaluate home equity at the next redetermination.

Verification of the equity value of the home is required. Equity value is determined by using the current market value of the home minus any mortgages or loans on the home.

Individuals with equity value in home property that exceeds ~~\$500,000~~ the home equity cap as set by federal regulations are NOT eligible for Medicaid payment of long-term care services unless the home is lawfully occupied by:

- a spouse,
- a dependent child under age 21 years, or
- a blind or disabled child of any age.

*Note: this This is not a change in the general rule that excludes a home of any value for purposes of determining eligibility for Medicaid. It applies only to medical assistance payment for nursing facility services, or other long-term care services referred to in 1917(c)(i)(C)(i).

Individuals with substantial home equity may be eligible for Medicaid payment of other covered services if they meet all the other Medicaid eligibility requirements.

See DSSM 20320.7.E for current home equity cap.

20320.7.E Substantial Home Equity Cap

Beginning in the year 2011, the limit on the substantial home equity will be increased yearly based on the Consumer Price Index (CPI).

<u>Effective Date</u>	<u>Home Equity Cap</u>
<u>January 1, 2006</u>	<u>\$ 500,000</u>
<u>January 1, 2011</u>	<u>\$ 506,000</u>
<u>January 1, 2012</u>	<u>\$ 525,000</u>

16 DE Reg. 377 (10/01/12) (Prop.)