

**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**

**Delaware Medicaid Modified Adjusted Gross Income (MAGI) Eligibility and Benefits State Plan Amendments  
MAGI-Based Eligibility Groups**

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 and with 42 CFR §447.205, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan to modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with *Modified Adjusted Gross Income (MAGI) Based Eligibility Groups*.

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, 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 Division of Medicaid and Medical Assistance (DMMA) hereby affords the public notice of the filing of federally required state plan amendments (SPA) to modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with *Modified Adjusted Gross Income (MAGI) Based Eligibility Groups*.

**Statutory Authority**

Patient Protection and Affordable Care Act (Pub. L. No. 111-148 as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152)), together known as the *Affordable Care Act*

**Background**

The Affordable Care Act (ACA) was signed into law on March 23, 2010. Under the ACA, health reform will make health care more affordable, guarantee choices when purchasing health insurance, expands Medicaid coverage to millions of low-income Americans and makes numerous improvements to both Medicaid and the Children's Health Insurance Program (CHIP).

The Affordable Care Act (ACA) includes many provisions designed to expand and streamline Medicaid eligibility. The ACA offers the option to extend coverage to non-disabled, non-elderly citizens with income under 133 percent of the Federal Poverty Level (FPL); adopts new methodologies for determining and renewing eligibility; and requires establishment of a streamlined process to allow state Medicaid programs to coordinate seamlessly with other insurance affordability programs and affordable health insurance exchanges. These provisions are intended to change the Medicaid eligibility determination and renewal processes for most Medicaid applicants and beneficiaries from one based on a welfare model to one that utilizes information technology to provide the insurance coverage option that fits each individual's current circumstances and needs.

**State Plan Amendments**

In preparation for implementation of the Medicaid and CHIP changes related to the Affordable Care Act, states will be submitting a number of State Plan Amendments (SPAs). In particular, SPAs are needed to implement the MAGI-based eligibility levels and income counting methodologies for Medicaid and CHIP, to elect a state's single streamlined application format, and to indicate the design of their Medicaid alternative benefit plans (ABPs) for the new adult group in 2014. The vehicle for submitting these 2014-related SPAs are a set of "fillable" preprint documents. The Centers for Medicare and Medicaid Services (CMS) has asked states to submit these plan amendments together in order to provide a more comprehensive picture of the state's proposed eligibility framework.

Please note that provisions and conditions that are required of all states are pre-checked and do not require any entry by the state. Also, by agreeing to any assurance the state is agreeing to comply with these requirements and conditions. The state provides this affirmative assurance by checking the box where indicated.

#### *Description of State Plan Amendments and Effective Date*

The MAGI and CHIP Eligibility and Benefit SPAs identify the groups that Delaware will cover in the Delaware Medicaid program. There are mandatory and optional coverage groups. These SPAs also identify the income limits for each group, if any, and criteria that the state has the option of selecting. The effective date of the following SPAs is October 1, 2013.

Delaware Medicaid MAGI SPAs include:

1. MAGI-Based Eligibility Group  
This SPA identifies the mandatory and optional coverage groups that Delaware will cover.
2. Eligibility Process  
This SPA identifies the use of Delaware's single, streamlined application and the methods by which an application is accepted. It also includes renewal processing.
3. MAGI Income Methodology  
This SPA identifies certain MAGI options Delaware has chosen.
4. Single State Agency  
This SPA identifies Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) as the Medicaid agency.
5. Residency  
This SPA identifies the state's residency requirements.
6. Citizenship and Immigration Status  
This SPA identifies the immigrant statuses eligible for Medicaid services. It also provides for a 90 day reasonable opportunity period for individuals who declare they are citizens or qualified immigrants to provide documentation. During this reasonable opportunity period, Delaware Medicaid must approve benefits if otherwise eligible.

CHIP MAGI Eligibility SPAs include:

1. MAGI Eligibility & Methods  
These SPAs identify the groups covered under Delaware's Title XXI CHIP program (Delaware Healthy Children Program).
2. Title XXI Medicaid Expansion  
This SPA identifies ACA expansion coverage for children age 6-18 years with income between 100% FPL up to 133% FPL.
3. Eligibility Process  
This SPA identifies the use of Delaware's single, streamlined application and the methods by which Delaware Medicaid can accept an application. It also includes renewal processing.
4. Non-Financial Eligibility  
These SPAs identify the CHIP programs non-financial eligibility criteria such as state residency, citizenship and lawful presence, and verification/use of applicant social security number.

**REMINDER:** In 2014, the following groups will not have any changes in eligibility for Medicaid and will remain eligible for Medicaid and will qualify based on current income and resource standards used today:

- Aged, Blind or Disabled individuals;
- Foster Care children; and,
- SSI cash recipients.

#### **Summary of Proposal**

*Note: The statute and regulation cited are the Social Security Act and the Code of Federal Regulations.*

##### MAGI-based Eligibility Groups

MAGI-based Eligibility Groups is the first of seven (7) SPA actions. State plan pages S25, S28, S30, S32, S33, S50, S51, S52 and S53 describe the mandatory and optional Medicaid eligibility group that Delaware will cover. State plan page S14 describes the income eligibility standards for certain eligibility groups. The plan pages provide the criteria for coverage under this group, the MAGI-based income standard to be used, and the choice related to presumptive eligibility. Effective October 1, 2013, DMMA will use modified adjusted gross income (MAGI) standards to determine income eligibility for some eligibility groups. Some of these groups must be covered and others are provided Medicaid coverage at the State's option.

The groups for which the State will be providing coverage are identified below:

State Plan Page Number	Eligibility Group and Citations	Description
<b>Mandatory Groups:</b>		
S25	Parents and Other Caretakers 1902(a)(10)(A)(i)(I) and 1931(b)(d) 42 CFR 435.110	Parents and other caretaker relatives of dependent children with household income at or below a standard established by the state.
S28	Pregnant Women 1902(a)(10)(A)(i)(III) and (IV), 1902(a)(10)(A)(ii)(I), (IV) and (IX), 1931(b) and (d), 1920 42 CFR 435.116	Women who are pregnant or post-partum, with household income at or below a standard established by the state.
S30	Infants and Children Under Age 19 1902(a)(10)(A)(i)(III), (IV), (VI) and (VII); 1902(a)(10)(A)(ii)(IV) and (IX); 1931(b) and (d) 42 CFR 435.118	Infants and children under age 19 with household income at or below standards established by the state based on age group.
S32	Individuals Below 133% of the Federal Poverty Level (FPL) 1902(a)(10)(A)(i)(VIII) 42 CFR 435.119	Non-pregnant individuals aged 19 through 64, not otherwise mandatorily eligible, with income at or below 133% FPL.
S33	Former Foster Children up to age 26 1902(a)(10)(A)(i)(IX) 42 CFR 435.150	Individuals under the age of 26, not otherwise mandatorily eligible, who were on Medicaid when they turned age 18 or aged out of foster care.
<b>Optional Groups:</b>		
S50	Individuals Above 133% of the FPL 1902(a)(10)(A)(ii)(XX), 1902 (hh) 42 CFR 435.218	Individuals under 65, not otherwise mandatorily or optionally eligible, with income above 133% FPL and at or below a standard established by the state.
S51	Optional Parents and Caretakers 1902(a)(10)(A)(ii)(I) 42 CFR 435.220	Individuals qualifying as parents or caretaker relatives who are not mandatorily eligible and who have income at or below a standard established by the State.
S52	Reasonable Classifications of Individuals 1902(a)(10)(A)(ii)(I) 1902(a)(10)(A)(ii)(IV) 42 CFR 435.222	One or more reasonable classifications of individuals under age 21 who are not mandatorily eligible and who have income at or below a standard established by the state.
S53	Non IV-E Adoption Assistance 1902(a)(10)(A)(ii)(VIII) 42 CFR 435.227	Children with special needs for whom there is a non IV-E adoption assistance agreement in effect with a state, who were eligible for Medicaid, or who had income at or below a standard established by the state.

State Plan Page Number	Citation	Description
S14	AFDC Income Eligibility Standards 42 CFR Part 435	S14 is provided for states to enter various income standards from their AFDC or TANF programs.

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

## Fiscal Impact Statement

<b>Change to Federal Expenditures</b>	<b>State Fiscal Year 2014</b>	<b>State Fiscal Year 2015</b>
Former CHIP Kids	\$ 124,986	\$ 254,855
ACA Expansion	\$ 11,924,412	\$ 26,689,670
Transitional	\$ 187,657	\$ 566,356
Former Foster Children	\$ -	\$ -
Total	\$ 12,237,055	\$ 27,510,882

**A file containing all the aforementioned PDFs for MAGI-Based Eligibility Groups is available here:**

<http://regulations.delaware.gov/register/october2013/proposed/Benefits.pdf>

**17 DE Reg. 374 (10/01/13)(Prop.)**