

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

FINAL

ORDER

2023 Quality Strategy

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding 2023 Quality Strategy, specifically, to serve as a roadmap for Delaware on our contracted health plans and assessing the quality of care that beneficiaries receive while setting forth measurable goals and targets for improvement. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 3, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The purpose of this proposed regulation is to amend the Diamond State Health Plan Medicaid Managed Care Strategy regarding 2023 Quality Strategy, specifically, to serve as a roadmap for Delaware on our contracted health plans and assessing the quality of care that beneficiaries receive while setting forth measurable goals and targets for improvement.

Background

Federal regulations at 42 CFR 438.340(b) lay the groundwork for the development and maintenance of a quality strategy to assess and improve the quality of managed care services offered within a state. This quality strategy is intended to serve as a blueprint or road map for states and their contracted health plans in assessing the quality of care that beneficiaries receive, as well as for setting forth measurable goals and targets for improvement.

Each state contracting with a managed care organization (MCO) and/or prepaid inpatient health plan (PIHP) must obtain input from beneficiaries and other key stakeholders in the development of the quality strategy and make the quality strategy available for public comment before adopting it as final.

In accordance with 42 CFR 438.340, at a minimum, all quality strategies must include:

- The MCO and PIHP contract provisions that incorporate the standards of Part 438, subpart E;
- Procedures that assess the quality and appropriateness of care and services furnished to all Medicaid enrollees under the MCO and PIHP contracts, and to individuals with special health care needs;
- Procedures that identify the race, ethnicity, and primary language spoken of each Medicaid enrollee;
- Procedures that regularly monitor and evaluate the MCO and PIHP compliance with the standards of Part 438, subpart D
- Arrangements for annual, external independent reviews of the quality outcomes and timeliness of, and access to, the services covered under each MCO and PIHP contract;
- For MCOs, appropriate use of intermediate sanctions that, at a minimum, meet the requirements of subpart I of this Part 438;
- An information system that supports initial and ongoing operation and review of the State's quality strategy; and
- Standards, at least as stringent as those in Part 438, subpart D, for access to care, structure and operations, and quality measurement and improvement.

Based on our recent priorities and the healthcare environment after the COVID-19 pandemic, DMMA has modified its quality goals;

- Improve Maternal and Infant Health,
- Improve Chronic Condition Management,
- Reduce Communicable Diseases,
- Improve Behavioral Health Condition Identification and Management, and
- Improve Member Experience of Care.

Statutory Authority

42 CFR 438.340(b)

Purpose

The purpose of this proposed regulation is to serve as a roadmap for Delaware on our contracted health plans and assessing the quality of care that beneficiaries receive while setting forth measurable goals and targets for improvement.

Summary of Proposed Changes

Effective for services provided on and after August 1, 2023, Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend the Diamond State Health Plan Medicaid Managed Care Strategy to serve as a roadmap for Delaware on our contracted health plans and assessing the quality of care that beneficiaries receive while setting forth measurable goals and targets for improvement, regarding 2023 Quality Strategy.

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 440.386 and the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 3, 2023.

Centers for Medicare and Medicaid Services Review and Approval

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

Provider Manuals and Communications Update

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal 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 DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

Fiscal Impact Statement

There is no anticipated fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

The following comments were received:

Comment: DMMA should more aggressively address areas with an insufficient provider network and require the managed care organizations (MCOs) to provide the required services.

Agency Response: Per page 15 of the Quality Strategy document, DMMA requires that each MCO develop a Provider Network Development and Management Plan that outlines the MCO's process to develop, maintain, and monitor an adequate provider network that is supported by written agreements and is sufficient to provide access to all services under its contract. As displayed on page 27 of the document, DMMA has adopted an Early Alert System that includes review of monthly and quarterly Quality Care Management and Monitoring Report data and geo-spatial analysis. DMMA also reviews Consumer Assessment of Healthcare Providers and Systems (CAHPS®) and National Core Indicators Aging and Disabilities (NCI-AD) surveys to assess the member experience of care which includes provider access and availability to required services. DMMA is also preparing for compliance with CMS proposed rules for increased access in Medicaid managed care programs.

Comment: DMMA should use both prongs of the Balanced Quality Model and require any MCO that is not in compliance to submit a Corrective Action Plan (CAP) to address the deficiencies.

Agency response: We appreciate the support for our commitment in the Quality Strategy to use both prongs of the Balanced Quality Model. Any MCO that is not in compliance with federal regulation, contractual requirements, or the Quality Strategy expectations will be subject to the need for corrective actions and may be required to submit a CAP.

Comment: Individualized plans should be promoted for all consumer groups.

Agency response: DMMA agrees that the MCOs should develop individualized care plans as needed for all consumer groups. As noted in the tables of Goals and Performance Measures (pages 33-41) of the Quality Strategy document, the MCOs are required to develop an individualized plan of care for waiver populations. Compliance with this expectation is assessed by external quality review as well as ongoing monitoring and oversight by DMMA.

Comment: To ensure that individuals with disabilities are receiving the services they should, it is recommended that DMMA require the MCOs to provide claims denial data to DMMA, and that they track the claims denials to determine whether the MCOs are providing the required services.

Agency response: Per page 8 of the Quality Strategy document, the External Quality Review Organization (EQRO) assesses compliance with federal regulation, contractual requirements, and the Quality Strategy expectations for appropriate application of clinical practice guidelines, management of prior authorization requests, denials and appeals to ensure members receive medically necessary services and appropriate supports. Additionally, claims management (including claim denials) is assessed during an Information Systems Capabilities Assessment.

Comment: DMMA should formulate a questionnaire that the MCO's should be required to use to gauge satisfaction with the services and quality of care.

Agency response: Per page 31 of the Quality Strategy document, DMMA requires the MCOs to annually conduct the CAHPS survey to assess member experience of care. The CAHPS survey asks members (or in some cases their families) about their experiences with, and ratings of, their health care providers and plans, including hospitals, home health care agencies, doctors, and health and drug plans, among others. The CAHPS survey focuses on matters that members themselves say are important to them and for which members are the best and/or only source of information. Additionally, DMMA conducts the NCI-AD survey which utilizes core indicators that are standard measures used across states to assess the outcomes of services provided to members and families. These core indicators address key areas of concern including service planning, rights, community inclusion, choice, health and care coordination, safety, and relationships. DMMA is also preparing for compliance with the proposed CMS rules for access in Medicaid managed care. CMS proposed additional survey requirements, including state-administered surveys and "secret shopper" surveys.

Comment: To improve transparency, it is recommended that DMMA should, at the very least, put on its website the results of the EQRO's assessments and findings for each MCO, as well as post any CAPs on its website for each MCO.

Agency response: The External Quality Review Technical report is posted annually to the following website: https://www.dhss.delaware.gov/dhss/dmma/info_stats.html. This report includes items evaluated, findings from the review, and recommendations for improvement. As a part of ongoing oversight and monitoring for improvement, each MCO is required to submit a CAP to DMMA for each EQR finding and recommendation. At this time, DMMA does not intend to post CAPs on DMMA's website.

Comment: There was a comment asking if there's anything they should be aware of in relation to this proposed change in strategy or that they can help with.

Agency response: Thank you for reviewing the Diamond State Health Plan Draft Quality Strategy. DMMA appreciates your willingness to support DMMA's ongoing quality improvement initiatives and will request assistance as issues arise.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- State Council for Persons with Disabilities (SCPD)
- Delaware Association for Home & Community Care (DAHCC)

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Diamond State Health Plan Medicaid Managed Care Strategy regarding 2023 Quality Strategy, specifically, to serve as a roadmap for Delaware on our contracted health plans and assessing the quality of care that beneficiaries receive while setting forth measurable goals and targets for improvement and shall be final effective October 11, 2023.

9/15/2023 | 3:45 PM EDT

Date of Signature

Josette D. Manning Esq., Secretary, DHSS

***Please Note: Due to the formatting requirements of the regulation, it is being attached here as a PDF document:**
[https://regulations.delaware.gov/register/october2023/final/2023 Delaware Quality Strategy_2023.04.25.pdf](https://regulations.delaware.gov/register/october2023/final/2023%20Delaware%20Quality%20Strategy_2023.04.25.pdf)
27 DE Reg. 250 (10/01/23) (Final)