

# **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

## **DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### **EMERGENCY**

### **PUBLIC NOTICE**

#### **Medical Assistance During Transition to Medicare Program Attachment 2.2-A, Page 18 and Supplement 6 to Attachment 2.6-A DSSM 17800**

#### **Nature of the Proceedings:**

This emergency regulation is being promulgated to amend the Title XIX Medicaid State Plan and the Division of Social Services Manual to expand the population of individuals eligible to receive the optional state supplementary payment. Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) must take this action on an emergency basis to ensure access to quality healthcare. The Department has determined that a threat to the public welfare exists if it is not implemented without prior notice or hearing.

#### **Nature of Proposed Amendment:**

The SSI Medical Assistance Transition (MAT) Program was implemented on March 1, 2001. This program was specifically designed to provide Medicaid coverage to SSI beneficiaries who lost SSI benefits (and consequently Medicaid eligibility) due to the receipt of Social Security Disability Income (SSDI) benefits. This extension of Medicaid coverage was made possible by establishing an Optional State Supplement program which satisfies federal requirements for Medicaid Federal Financial Participation (FFP). The Title XIX Medicaid State Plan defines this group as "Individuals who lose SSI due to receipt of Social Security Disability Income and are not yet eligible for Medicare."

#### **Summary of the Proposed Amendment:**

The Medicaid State Plan and the Division of Social Services Manual (DSSM) will be amended to provide coverage to those individuals, not previously receiving SSI, who may be eligible for Medicaid based solely on income and who lose eligibility due to the receipt of Social Security Disability Income (SSDI), which exceed Medicaid eligibility guidelines. Effective September 1, 2008, eligibility would be for any individual who lost eligibility for Medicaid on or after January 1, 2008 due to the receipt of SSDI and does not have Medicare coverage.

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

This emergency regulation is also published concurrently herein under "Proposed Regulations" to allow for public comment.

#### **Findings of Fact:**

The Department finds that a compelling public interest exists which necessitates promulgation of an emergency regulation and requests emergency approval of this proposed amendment to add coverage for this new optional categorically needy Medicaid population group. The Department will receive, consider, and respond to petitions by any interested person for the reconsideration or revision thereof.

**THEREFORE, IT IS ORDERED**, to assure compliance with relevant Federal Medicaid rules, that the proposed revisions to the Title XIX Medicaid State Plan and the Division of Social Services Manual regarding the Medical Assistance during Transition (MAT) to Medicare Program be adopted on an emergency basis without prior notice or hearing.

Vincent P. Meconi, Secretary, DHSS, August 14, 2008

**DMMA EMERGENCY REGULATION #08-39a**  
**REVISIONS:**

Revision: HCFA-PM-91-4 (BPD) ATTACHMENT 2.2-A  
Page 18  
OMB NO.: 0938

State: DELAWARE

Agency*	Citation(s)	Groups Covered
	C.	Optional Groups Other Than the Medically Needy (Continued)
	_____ (4)	Aged individuals in domiciliary facilities or other group living arrangements as defined under SSI.
	_____ (5)	Blind individuals in domiciliary facilities or other group living arrangements as defined under SSI.
	_____ (6)	Disabled individuals in domiciliary facilities or other group living arrangements as defined under SSI.
	_____ (7)	Individuals receiving federally administered optional State supplement that meets the conditions specified in 42 CFR 435.230.
	_____ (8)	Individuals receiving a State administered optional State supplement that meets the conditions specified in 42 CFR 435.230.
	___X___ (9)	Individuals in additional classifications approved by the Secretary as follows: <del>Individual who lose SSI due to receipt</del>

~~of Social Security Disability and are not yet eligible for Medicare.~~  
Individuals who lose eligibility for Medicaid due to the receipt of Social Security Disability Insurance and are not yet eligible for Medical

**(Break In Continuity of Sections)**

Revision: HCFA-AT-85-3  
 FEBRUARY 1985

SUPPLEMENT 6 TO  
 ATTACHMENT 2.6-A

State: DELAWARE

Standards for Optional State Supplementary Payments

			INCOME			LEVELS	
PAYMENT CATEGORY			GROSS		NET		INCOME DISREGARDS EMPLOYED
(REASONABLE CLASSIFICATION)	FEDERAL	STATE	1 Person	Couple	1 Person	Couple	
(1)	(2)	(3)			(4)		(5)
Individuals Residing in Adult Foster Care Homes	X	SSI + \$140 + \$20			SSI + \$140		Disregards According to the SSI Program
Individuals Who Lose <del>SSI Eligibility</del> for Medicaid Due to Receipt of Social Security Disability Insurance and Are Not Yet Eligible for Medicare		X	\$5.00		\$5.00		All Income is Excluded

**DMMA EMERGENCY REGULATION #08-39b**  
**REVISIONS:**

## **17800 Medical Assistance during Transition to Medicare**

Under 42 CFR 435.232 Medicaid may be provided to individuals who receive only an optional State supplement and who would be eligible for SSI except for the level of their income.

The rules in this section set forth the eligibility requirements for coverage under this state-administered Optional State Supplementation group - Medical Assistance during Transition to Medicare (MAT). The MAT group is implemented ~~with the earliest effective date of February 1, 2004~~ March 1, 2001. Eligibility under this group is not retroactive.

### **17801 Status Eligibility**

In addition to the general Medicaid eligibility requirements listed in DSSM 14000 - ~~44950.7~~ 14960, the individual ~~meets all the conditions listed below~~ must meet the following conditions:

- a) received SSI, and
- b) ~~lost eligibility for SSI because of Social Security Disability~~ lost eligibility for SSI due to the receipt of Social Security Disability Insurance, and
- c) does not have Medicare coverage, ~~and,~~
- d) ~~is not an inmate in a public institution. An individual is an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jail, detention facilities, or other penal facilities. An individual awaiting trial in a detention center is considered an inmate of a public institution~~
- e) ~~an annual redetermination is completed. A redetermination is a re-evaluation of a recipient's continued eligibility for medical assistance. In a redetermination, all eligibility factors are re-examined to ensure that the recipient continues to meet categorical eligibility requirements. When a redetermination is due, the recipient is required to complete and return a new DSS application form. A redetermination is complete when all eligibility factors are examined and a decision regarding continued eligibility is reached.~~

Effective September 1, 2008, coverage under the MAT group is extended to an individual who:

- a) lost eligibility for Medicaid on or after January 1, 2008, due to the receipt of Social Security Disability Insurance, and
- b) does not have Medicare coverage.

### **17802 Financial Eligibility**

All income and resources are excluded.

### **17803 Eligibility Determination**

~~DSS will receive the names of individuals who lose SSI via the monthly State Data Exchange (SDX). When an individual loses Medicaid eligibility because of the loss of SSI, Federal regulations require a redetermination of Medicaid eligibility based upon information obtained through the SDX file. A new application is not required. The SSI Unit will use the information obtained from the SDX to redetermine Medicaid eligibility.~~

When an individual loses Medicaid eligibility, a redetermination will be completed to the extent possible based on information contained in the individual's file. An application form may be required if additional or updated information is needed for the redetermination.

### **17804 Income Standard**

The income standard is \$5.00.

**17805 Payment Level**

Countable income is deducted from the income standard.

**12 DE Reg. 270 (09-01-08) Emerg.**