

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

### PROPOSED

#### Medicaid for Workers with Disabilities

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) related to the implementation of the Medicaid Buy-In program for the working disabled.

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 September 30, 2009.

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 PROPOSED AMENDMENT

The proposed amends the Division of Social Services Manual (DSSM) to update the rules that describe the eligibility criteria for participation in the Medicaid for Workers with Disabilities (MWD) Program. Final Rules were published in the October 2008 Register. However, budget constraints prevented implementation of the program. These amendments will establish a new implementation date of October 1, 2009 and revise the unearned income exclusion to reflect an inflationary adjustment.

#### Statutory Authority

- 1902(a)(10)(A)(ii)(XV) of the Social Security Act, Working disabled individuals who buy into Medicaid under TWWIIA (Ticket to Work and Work Incentives Improvement Act of 1999) Basic Coverage Group;
- 1916(g) of the Social Security Act, Premiums - Working Disabled Individuals.

#### Summary of Proposed Amendment

- DSSM 17900, Medicaid for Workers with Disabilities provides a general description of the Medicaid for Workers with Disabilities (MWD) program. This revision changes the eligibility effective date from October 1, 2008 to October 1, 2009.
- DSSM 17908, Unearned Income Exclusion updates what income is considered as well as what is excluded. Unearned income is excluded up to \$956.00 per month for the individual.
- DSSM 17911, Financial Eligibility Determination updates the description of the income tests used to determine financial eligibility.

#### Fiscal Impact Statement

The projected estimate for Fiscal Year (FY) 2010 cost is \$1.4 million total funds.

#### DMMA PROPOSED REGULATION #09-32

#### REVISIONS:

#### 17900 Medicaid for Workers with Disabilities

The Ticket to Work and Work Incentives Improvement Act of 1999 established an optional categorically needy

eligibility group under Section 1902(a)(10)(A)(ii)(XV) of the Social Security Act. This eligibility group provides Medicaid coverage to certain employed individuals with disabilities. The rules in this section set forth the eligibility requirements under this group entitled Medicaid for Workers with Disabilities (MWD). The effective date for MWD is October 1, ~~2008~~ 2009.

**12 DE Reg. 446 (10/01/08)**

***(Break in Continuity of Sections)***

#### **17908 Unearned Income Exclusion**

Unearned income is excluded up to ~~\$904.00~~ 956.00 per month for the individual. There is no ~~\$904.00~~ 956.00 per month unearned income exclusion for a spouse who is not applying for MWD. This unearned income exclusion will be increased annually by the Cost of Living Adjustment (COLA) announced by the SSA in the Federal Register.

***(Break in Continuity of Sections)***

#### **17911 Financial Eligibility Determination**

There are two income tests used to determine financial eligibility:

1. If the monthly unearned income of the individual exceeds ~~\$904.00~~ 956.00, the individual is ineligible. This unearned income limit will be increased annually by the Cost of Living Adjustment (COLA) announced by the SSA in the Federal Register.
2. Countable income must be at or below 275% of the Federal Poverty Level for the appropriate family size (individual or couple).

#### **17912 Retroactive Eligibility**

The individual may be found eligible for up to three months prior to the month of application as described at DSSM 14920-14920.6 provided the premium requirements under MWD are met. Eligibility cannot be retroactive prior to October 1, ~~2008~~ 2009.

**13 DE Reg. 371 (09/01/09) (Prop.)**