

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

Diamond State Health Plan 1115 Demonstration Waiver Amendment – Promoting Optimal Mental Health for Individuals through Supports and Empowerment

In compliance with 42 U.S.C. §1315(d), 42 CFR Part 431, Subpart G, 42 CFR 447.205 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) notifies the public that it intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) to amend the Diamond State Health Plan (DSHP) Section 1115 Demonstration Waiver to coordinate coverage of the new Home and Community-Based Services (HCBS) behavioral health program, identified as *PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment)*.

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, 2014.

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 proposed provides notice to the public that the Division of Medicaid and Medical Assistance (DMMA) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) to amend the Diamond State Health Plan (DSHP) Section 1115 Demonstration Waiver to coordinate coverage of the new Home and Community-Based Services (HCBS) behavioral health program, identified as *PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment)*.

Statutory Authority

- 42 U.S.C. §1315, *Demonstration projects*
- Social Security Act §1115, *Demonstration projects*
- 42 CFR 431 Subpart G, *Section 1115 Demonstrations*

Background

Under a waiver of Section 1115(a) of the Social Security Act, the Diamond State Health Plan (DSHP) implemented a mandatory Medicaid managed care demonstration program statewide on January 1, 1996. Goals of the DSHP are to improve and expand access to healthcare to more adults and children throughout the State, create and maintain a managed care delivery system emphasizing primary care, and to strive to control the growth of healthcare expenditures for the Medicaid population.

Specifically, the proposed waiver amendment provides home- and community-based services (HCBS) for individuals in a target population with behavioral health needs in order to support those individuals in the community and prevent institutionalization.

The Department proposes to comprehensively meet the needs of individuals with behavioral health (BH) needs, including individuals identified under the State's Olmstead settlement with the United States Department of Justice.

Summary of Proposal

In accordance with the public notice requirements of 42 U.S.C. §1315(d), 42 CFR Part 431, Subpart G, 42 CFR 447.205 and Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA), Division of Substance Abuse and Mental Health (DSAMH) gives notice of their intent to file an application with the Centers for Medicare and Medicaid Services (CMS) to amend the Diamond State Health Plan (DSHP) Section 1115 Demonstration Waiver.

If implemented as proposed, the proposed 1115 demonstration amendment will have the following effect on January 1, 2015:

- For adult Medicaid populations meeting the Olmstead settlement behavioral health (BH) target population as well as Medicaid-eligible adults requiring HCBS to live and work in the most integrated setting and meeting targeting and functional limitations statewide, the State will offer an enhanced benefit package of HCBS using the 1915(i)-like authority in the 1115 demonstration in addition to the State Plan services to help maintain individuals in home- and community based settings. The enhanced Medicaid benefit package will be coordinated by DSAMH through the fee-for-service program in compliance with home- and community-based standards and assurances and the signed Olmstead agreement. This population will continue to receive non-BH and most non-enhanced BH Medicaid State Plan services through the managed care organization (MCO) benefit. See the benefit sections below for a description of the covered services. The State is also considering including non-medical transportation services in the State's existing transportation broker contract and the amendment would provide the freedom of choice authority necessary for that contract amendment.
- For adults served in MCOs throughout the State who are not in the PROMISE target populations, the MCOs will integrate all covered services for mental illness, SUDs, and physical health conditions under this demonstration.

Draft of Proposed 1115 Waiver Amendment

A draft of Delaware's waiver amendment is currently available for review on the Division of Medicaid and Medical Assistance (DMMA) website at <http://dhss.delaware.gov/dhss/dmma/> and the Division of Substance Abuse and Mental Health website at <http://www.dhss.delaware.gov/dhss/dsamh/>.

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

Fiscal Impact Statement

There is no increase in cost on the General Fund. Demonstrations must be "budget neutral" over the life of the project, meaning that they cannot be expected to cost the Federal government more than it would cost without the waiver.

DMMA PUBLIC NOTICE AND NOTICE OF PUBLIC HEARINGS #14-38 PUBLIC NOTICE AND NOTICE OF PUBLIC HEARINGS

DELAWARE HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

DELAWARE DIAMOND STATE HEALTH PLAN 1115 DEMONSTRATION WAIVER AMENDMENT

In accordance with the public notice requirements of 42 U.S.C. §1315(d), 42 CFR Part 431, Subpart G, 42 CFR 447.205 and Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA), Division of Substance Abuse and Mental Health (DSAMH) gives notice of their intent to file an application with the Centers for Medicare and Medicaid Services (CMS) to amend the Diamond State Health Plan (DSHP) Section 1115 Demonstration Waiver.

Background

Specifically, this waiver amendment provides home- and community-based services (HCBS) for individuals in a target population with behavioral health needs in order to support those individuals in the community and prevent institutionalization.

While this HCBS service package includes many similarities to options and services available through the State's Diamond State Health Plan PLUS (DSHP PLUS) program, a significant difference is that this waiver amendment does not require individuals to meet an institutional level of care in order to qualify for HCBS. The State will be using the 1115 demonstration to target HCBS to individuals with behavioral health, to make HCBS accessible to more individuals, and to ensure the quality of the HCBS. The demonstration will also authorize Delaware to waive Section 1902(a)(10)(B) of the Act pertaining to comparability of Medicaid services and 1902(a)(23)(A) pertaining to Freedom of Choice of Medicaid providers.

Current Program

Delaware Medicaid currently provides medical model mental health services to adults with psychiatric disabilities through contracts with private agencies. These services include Assertive Community Treatment Teams, Intensive Case Management Teams, group homes, and clinic-based services. All additional support services, to maintain adults with psychiatric disabilities in the community, must be accessed through DSAMH and are subject to limited state funds under the Olmstead settlement.

Purpose and Rationale

The Department proposes to comprehensively meet the needs of individuals with behavioral health (BH) needs,

including individuals identified under the State's Olmstead settlement with the United States Department of Justice.

Goals and Objectives

The goals of the delivery system models are to improve clinical and recovery outcomes for individuals with behavioral health (BH) needs and reduce the growth in costs through a reduction in unnecessary institutional care through care coordination, including initiatives to increase network capacity to deliver community based recovery-oriented services and supports. The demonstration amendment will seek to address the issues arising from special needs populations with seriously and persistently mentally ill and/or substance use disorder (SUD) through a comprehensive, interconnected approach to providing services to all individuals with BH needs in Delaware, ensuring that the individuals served are receiving the most appropriate services to meet their needs in the most integrated settings possible.

This amendment also seeks limited freedom of choice authority for the Pathways program to ensure that sufficient authority exists to administer that innovative authority. The Pathways program is an employment supports program to serve transition age individuals with disabilities, using a Medicaid 1915(i) HCBS State Plan Amendment (SPA). Delaware will implement the Pathways to Employment program to expand choices and opportunities in Delaware for individuals seeking to enter the job market.

Proposed 1115 Demonstration Waiver Amendment

The 1115 amendment will be sought to ensure coordination with the Diamond State Health Plan PLUS (DSHP PLUS) long term care program, to allow the State to include State Plan behavioral health (BH) services in the managed care organization (MCO) benefit package, and to allow the State to competitively procure vendors under its new HCBS behavioral health program, identified as PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment). The amendment will ensure that the freedom of choice waiver required for the procurement under this new HCBS program, a 1915(i) like authority granted under the State's current 1115 demonstration waiver, is in place. In particular, because of the small size of the State and low volume of services needed, the State will be competitively procuring contractors under the demonstration to meet the high quality and fidelity standards required under the Olmstead settlement.

If implemented as proposed, the proposed 1115 demonstration amendment will have the following effect on January 1, 2015:

- For adult Medicaid populations meeting the Olmstead settlement BH target population as well as Medicaid-eligible adults requiring HCBS to live and work in the most integrated setting and meeting targeting and functional limitations statewide, the State will offer an enhanced benefit package of HCBS using the 1915(i)-like authority in the 1115 demonstration in addition to the State Plan services to help maintain individuals in home- and community based settings. The enhanced Medicaid benefit package will be coordinated by DSAMH through the fee-for-service program in compliance with home- and community-based standards and assurances and the signed Olmstead agreement. This population will continue to receive non-BH and most non-enhanced BH Medicaid State Plan services through the MCO benefit. See the benefit sections below for a description of the covered services. The State is also considering including non-medical transportation services in the State's existing transportation broker contract and the amendment would provide the freedom of choice authority necessary for that contract amendment.
- For adults served in MCOs throughout the State who are not in the PROMISE target populations, the MCOs will integrate all covered services for mental illness, SUDs, and physical health conditions under this demonstration.

The demonstration services are available statewide. The provisions of this demonstration amendment are subject to approval by CMS.

Draft of Proposed 1115 Demonstration Waiver Amendment

A draft of Delaware's waiver amendment is accessible on both the Division of Medicaid and Medical Assistance (DMMA) website at: <http://dhss.delaware.gov/dmma/> and the Division of Substance Abuse and Mental Health (DSAMH) website at: <http://www.dhss.delaware.gov/dhss/dsamh/>.

Hard copies are available by contacting Kathlene Brittingham at Kathlene.Brittingham@state.de.us.

Hard copies are available for review at the Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, Holloway Campus, Lewis Building, Conference Room 198, New Castle, Delaware 19720 from 8:00 a.m. – 4:30 p.m.

Public Comments

The public is invited to review and comment on the State's proposed waiver amendment. Written comments may be sent 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 via fax to 302-255-4425. For consideration, written comments must be received by 4:30 p.m. on September 30, 2014. Please identify in the subject line: Proposed Diamond State Health Plan 1115 Waiver Amendment Covering PROMISE.

Public Hearings

As required by 42 CFR Part 431, Subpart G, the State agency is providing the following opportunities to the public to comment on the proposed waiver amendment in person. Three (3) public hearings are scheduled. The detailed information for each public hearing is shown below.

1. **NEW CASTLE COUNTY**

Tuesday, September 23, 2014

5:00 pm – 7:00 pm

Delaware State Police

Troop 2

Robert Paris Community Room

100 Lagrange Avenue

Newark, Delaware 19702

Phone: 302-834-2620 - main line

(Visitor parking is in the front of the building)

2. **SUSSEX COUNTY**

Wednesday, September 24, 2014

1:00 pm – 3:00 pm

Thurman Adams State Service Center

(Formerly, Georgetown State Service Center)

546 South Bedford Street

Georgetown, Delaware 19947

Phone: 302-856-5211 or 302-856-5574

(Visitor parking is designated by signs and is close to the entrance of the building)

3. **KENT COUNTY**

Thursday, September 25, 2014

10:00 am - 12 noon

Delaware Department of Transportation

Administration Center

800 Bay Road

Dover, Delaware 19901

Phone: 302-760-2000

(Visitor parking is in the front of the building)

The State will take verbal and written comments at the public hearings. The outcome of this process and the input provided will be summarized for CMS upon submission of the final application for a waiver amendment.

If you are unable to attend the public hearing in person, you may participate by teleconference. To participate via teleconference, on the date and time of the public hearing, call 1-877-366-0711 and enter passcode 95099070#.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least five (5) days prior to the hearing for arrangements:

Arlene Baal at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

Fiscal Impact Statement

There is no increase in cost on the General Fund. Demonstrations must be “budget neutral” over the life of the project, meaning that they cannot be expected to cost the Federal government more than it would cost without the waiver.

Delaware Waivers Page on CMS Website

As the federal agency with oversight authority over all Medicaid programs, CMS offers its own online resources regarding the Diamond State Health Plan 1115 Demonstration Waiver. Interested parties may view these materials at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/de/de-dshp-fs.pdf>.

Submission of Waiver Application to CMS

Delaware intends to submit the 1115 waiver amendment application to CMS in accordance with 42 CFR §431.412. Pursuant to 42 CFR §431.416, CMS has 15 (fifteen) days from the date of receipt to determine whether the application is complete. CMS will post the application on the 1115 website and allow a thirty (30)-day public comment period on the application. Information related to the waiver amendment will be available on the CMS website: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/public-comments.html>.

Stephen M. Groff, Director
Division of Medicaid and Medical Assistance
August 12, 2014

18 DE Reg. 186 (09/01/14) (Prop.)