

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

FINAL

DSSM: 16500.1 Eligibility Requirements

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“Department”) / Division of Medicaid and Medical Assistance initiated proceedings to amend the existing rules in the Division of Social Services Manual (DSSM) regarding the eligibility requirements for Family Planning. The Department’s proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the February 2009 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 4, 2009 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 proposal is to amend the existing rules in the Division of Social Services Manual (DSSM) regarding the eligibility requirements for Family Planning.

Statutory Authority

Social Security Act §1115, *Demonstration Projects*

Background

Family Planning is a category of eligibility created under the Section 1115 Demonstration Waiver that was approved by CMS on May 17, 1995. Family Planning services are extended 24 months to women who lose Medicaid (categorical or expanded population) for non-fraudulent reasons.

The intention is to promote the reduction of unintended pregnancies, low birth weight infants, fetal death, and improve women's health and strengthen family functioning by spacing children and tracking related gynecological problems and sexually transmitted diseases. Coverage for this group of eligibles became effective January 1, 1996.

Summary of Proposal

In the latest renewal of the Demonstration Waiver under Section 1115 of the Social Security Act, CMS required a reduction of the income standard from 300% Federal Poverty Level (FPL) to 200% FPL and requires the woman to be uninsured. The waiver renewal was effective January 1, 2007.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The State Council for Persons with Disabilities (SCPD) offered the following observations summarized below. DMMA has considered the comment and responds as follows.

Council did not identify any concerns with the proposed regulation as published and has the following observations.

Consistent with the preface to the proposed regulations, DMMA received CMS approval of its 1115 Demonstration Waiver in 1995 resulting in the Diamond State Health Plan. As part of the initial waiver, CMS approved a "Family Planning" benefit which extends Medicaid coverage for 24 months to women of child-bearing age who have otherwise become ineligible for Medicaid for non-fraudulent reasons. The intent of the extension is to promote reduction of unintended pregnancies, low birth weight infants, etc. CMS has approved renewal of the waiver with two limitations. First, eligibility is limited to women without comprehensive health insurance. Second, for second year eligibility, the countable family income cap is reduced from 300% of the Federal Poverty level to 200% of the Federal Poverty level.

Agency Response: DMMA thanks the Council for their concurrence.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the February 2009 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual regarding the eligibility requirements for Family Planning is adopted and shall be final effective April 10, 2009.

Date of Signature

Rita M. Landgraf, Secretary, DHSS

DMMA FINAL ORDER REGULATION #09-13 REVISIONS:

16500 Family Planning

Family Planning is a category of eligibility created under the Section 1115 Demonstration Waiver that was approved by CMS on May 17, 1995. Family Planning services are extended 24 months to women who lose Medicaid (categorical or expanded population) for non-fraudulent reasons. The intention is to promote the reduction of unintended pregnancies, low birth weight infants, fetal death, and improve women's health and strengthen family functioning by spacing children and tracking related gynecological problems and sexually transmitted diseases. Coverage for this group of eligibles is effective January 1, 1996.

16500.1 Eligibility Requirements

Women may receive Family Planning services if they meet the following conditions:

1. age 16 through age 50
2. were receiving Medicaid but lost Medicaid eligibility on or after 12/31/95 for non fraudulent reasons. Females Women who lose eligibility as a QMB, SLMB, or QI or who were eligible for emergency services and labor and delivery only, are not eligible for the family planning extension. Fraud is defined by Section 1128B of the Social Security Act. The individual must be convicted of fraud by a court of competent jurisdiction.
3. continue to meet Delaware residency requirements
4. do not have comprehensive health insurance coverage. Comprehensive health insurance covers hospital, physician, laboratory, and radiology services.

45. are not inmates of a public institution such as a correctional facility or mental health institution

56. for the second year of the extension, have countable family income at or below ~~300%~~ 200% of the Federal Poverty Level.

Family income will be determined using the methodology of the Federal Poverty Level related programs. Resources are not counted.

12 DE Reg. 1322 (04/01/09) (Final)