

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

CHIP Vaccines

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XXI CHIP State Plan Sections 1, 6 and 9, specifically, to provide an attestation to Centers for Medicare & Medicaid Services (CMS) assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP. 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 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2024, 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 notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XXI CHIP State Plan regarding CHIP Vaccines.

Background

Section 11405(b)(1) of the IRA requires states with separate CHIPs that include coverage for children to provide coverage and payment for approved children vaccines recommended by the Advisory Committee on Immunization Practices (ACIP), and their administration, without cost sharing. Current regulations at 42 CFR § 457.410(b)(2) and 457.520(b)(4) require states to cover age-appropriate vaccines and their administration in accordance with the recommendations of the ACIP without cost sharing. The state provided the necessary assurances to demonstrate compliance with both requirements.

Statutory Authority

- 42 CFR § 457.410(b)(2)
- 42 CFR § 457.520(b)(4)
- Inflation Reduction Act (IRA) Section 11405(b)(1)

Purpose

The purpose of this regulation is to provide an attestation to the CMS assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP.

Summary of Proposed Changes

Effective October 1, 2023, the DHSS/DMMA proposes to amend Title XXI CHIP State Plan regarding CHIP Vaccines, specifically, to provide an attestation assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP.

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 1, 2024.

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

There were no public comments received.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DMMA Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2024 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XXI CHIP State Plan regarding CHIP Vaccines, specifically, to provide an attestation to CMS assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP and shall be final effective August 11, 2024.

7/30/2024 | 1:10 PM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

***Please Note: Due to formatting of certain amendments to the regulation, they are not being published here. A copy of the document is available at:**

**[https://regulations.delaware.gov/register/august2024/final/Amended CHIP State Plan Premium Pages.pdf](https://regulations.delaware.gov/register/august2024/final/Amended%20CHIP%20State%20Plan%20Premium%20Pages.pdf)
28 DE Reg. 139 (08/01/24) (Final)**