

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

School-Based Wellness Center Clinic Services

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Title XIX Medicaid State Plan. The Department's proceedings to amend the Title XIX Medicaid State Plan to update the reimbursement methodology language for *School-Based Wellness Center Clinic Services* 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 September 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by September 30, 2010 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 Title XIX Medicaid State Plan to update the reimbursement methodology for *School-Based Wellness Center Clinic Services*.

Statutory Authority

- 42 CFR 440.205, *Public Notice of Changes in Statewide Methods and Standards for Setting Payment Rates*;
- 42 CFR §440.90, *Clinic Services*; and,
- State Medicaid Manual, Section 4320, *Clinic Services*.

Summary of Proposed Amendment

School-Based Wellness Center Clinics (SBWCCs), operated by the Division of Public Health in Delaware schools, provide primary prevention and early intervention services, including physical examinations, treatment of acute medical problems, community referrals, counseling and other supportive services to children in school or educational settings.

The Title XIX Medicaid State Plan is being revised to update the reimbursement methodology for School-Based Wellness Center Clinic Services, as the current rate methodology expires on September 30, 2010.

Effective for dates of service on October 1, 2010 and after, claims for School Based Wellness Center Clinic Services will no longer be reimbursed at a single encounter rate per child per year but will be paid based on billed procedure codes for individual services delivered by the SBWCCs at the Delaware Medicaid Physician Fee Schedule rates.

No change will be made to the services provided under the school-based wellness center clinic services benefit.

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

Fiscal Impact Statement

The proposal imposes no increase in cost on the General Fund.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. The Division of Medicaid and Medical Assistance (DMMA) has considered each comment and responds as follows.

As background, the current system reimburses centers based on a single rate at each benefit year for any client served in a clinic. DMMA is proposing to abandon this simple reimbursement system in favor of centers billing for each discrete service based on "the DMAP physician fee schedule" which DMMA notes is published on its Website. Finally, DMMA recites that the proposal imposes no increase in cost on the General Fund. At 143. The GACEC and the SCPD have the following observations.

First, we were unable to locate a document titled "DMAP physician fee schedule" at the Web address provided in the regulation. Instead, the site publishes the attached "HCPCS" and "ASC" Schedules. Assuming DMMA intends to cross reference one of these schedules, it would be preferable to adopt consistent terminology.

Second, the regulation notes that the centers provide services which are not provided by physicians (e.g. "counseling and other supportive services"). At 142. It is unclear whether adopting a "physician fee schedule" would preclude billing by non-physicians (e.g. psychologist; social worker) and would include codes covering health care services typically provided by non-physicians. If not, centers will be prompted to abandon non-physician support services to the detriment of students.

Agency Response: DMMA apologizes for the confusion regarding the proposed fee schedule. The proposed fee schedule is published on the DMMA website as the "HCPCS Schedule". Even though this fee schedule is commonly referred to as the "physician" fee schedule, it does include payment for other practitioner types. Consequently, there would be no impact on the scope of services offered at the centers.

Recent discussions with CMS that occurred after the proposed regulation was published have led to consideration of an alternative payment methodology that achieves the Social Security Act requirement for efficiency and economy but is less administratively burdensome to administer. Under this methodology, a visit rate will be computed based on the state's costs for the SBWCs. This rate will be billed and paid for each day on which a client receives an SBWC service throughout the year. This differs from the old methodology where a visit rate was computed based on unduplicated clients and was billed only once in a calendar year. This final regulation reflects the new visit rate methodology indicated by **[bracketed bold type]** on Attachment 4.19-B, Page 2 and additionally, on Attachment 3.1-A, Page 4 Addendum.

FINDINGS OF FACT

The Department finds that the proposed changes as set forth in the September 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to update the reimbursement methodology for *School-Based Wellness Center Clinic Services* is adopted and shall be final effective December 10, 2010.

Rita M. Landgraf, Secretary, DHSS

DMMA FINAL ORDER REGULATION #10-49a

REVISION:

ATTACHMENT 3.1-A
Page 4 Addendum

State: DELAWARE

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

9. Clinic Services

Clinic services are provided consistent with the provisions of 42 CFR 440.90, including the requirement that they be operated under the direction of a physician as described in the State Medicaid Manual Section 4320, and

include the following:

- Medical or rehabilitation clinics (including Mental Health clinics which require certification by the Division of Substance Abuse and Mental Health (DSAMH) as part of the Single State Agency for Medicaid) and
- State Licensed Free Standing Surgical Centers (FSSCs) which equate to federally defined Ambulatory Surgical Centers (ASCs) using related policies for ASCs described in Sections 2265 and 2266 of the Medicare Carriers Manual.
- ~~[School-Based Wellness Center Clinic Services that are provided consistent with the provisions of 42 CFR 440.90 and are operated under the direction of a physician to provide primary prevention and early intervention services, including physical examinations, treatment of acute medical problems, community referrals, counseling and other supportive services to children in school and educational settings.~~
- School-Based Wellness Center Clinics provide primary prevention, early intervention and treatment services, including physical examinations, treatment of acute medical conditions, community referrals, counseling and other supportive services to children in school settings. Medicaid services provided by the School-Based Wellness Centers include but are not limited to:
 - other laboratory and X-ray services (1905(a)(3), 42 CFR 440.30)
 - physicians' services (1905(a)(5), 42 CFR 440.50)
 - medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners with the scope of their practice as defined by State law (1905(a)(6), 42 CFR 440.170)
 - other diagnostic screening, preventive and rehabilitative services (1905(a)(13), 42 CFR 440.130)
 - primary care case management services (1905(a)(19), 42 CFR 440.168).

Health care professionals that provide the above services at the SBWCs include: physicians, nurse practitioners, licensed clinical social workers, certified and licensed drug and alcohol counselors, certified sexual assault counselors and registered dietitians. Licensure requirements for each practitioner type are specified in the Title 24 of the Delaware Code, Professions and Occupations and in the Delaware Administrative Code.

Payments to School-Based Wellness Centers shall be considered "preventive pediatric services" as per 42 CFR 433.139(b)(3)(i) for the purpose of applying third party billing requirements.]

DMMA FINAL ORDER REGULATION #10-49b
REVISION:

ATTACHMENT 4.19-B
Page 2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: DELAWARE

~~[School-Based Wellness Center Clinic Services, operated by the Division of Public Health in Delaware schools, are reimbursed a single rate once each benefit year for any client served in one of the school-based clinics. This rate methodology will sunset on September 30, 2010 using the DMAP physician fee schedule effective for dates of service on or after October 1, 2010. Except as otherwise noted in the plan, State developed fee schedule rates are the same for both governmental and private providers of this service and the DMAP physician fee schedule is available on the DMAP website. (<http://www.dmap.state.de.us/downloads/hcpcs.html>)~~

~~Payments for clinic services will not exceed the upper payment limits set forth in 42 CFR 447.321; (1) For services covered by Medicare, payments are not to exceed the Medicare rates or the Medicare aggregate payment amount for those services; and (2) For services not covered by Medicare, aggregate payments are not to exceed an amount that could reasonably be estimated would have been paid under Medicare~~

~~payment principles. Since the School-Based Wellness Centers will be paid at the DMAP physician fee schedule rates, which is paid as a percentage of the Medicare physician fee schedule, not to exceed 100%, the payments will not exceed what Medicare would have paid.~~

~~Payments to School-Based Wellness Centers shall be considered "preventive podiatric services" as per 42 CFR 433.139(b)(3)(i) for the purpose of applying third party billing requirements.]~~

[School-Based Wellness Center (SBWC) Clinic Services:

1. Payment Methodology: SBWC Clinic Services are reimbursed based on a prospective single visit per day for each day on which a medical service is provided effective for dates of service on or after October 1, 2010. The visit rate shall be calculated by dividing provider costs for the prior year by actual visits for the prior year submitted in a format specified by the Medicaid agency. The State-developed prospective visit rates for this service are the same for both governmental and private providers of this service.

2. UPL Calculation: Payments for clinic services will not exceed the upper payment limits set forth in 42 CFR 447.321. Providers will complete the Delaware Medicaid SBWC Cost Report annually within four months after the close of each fiscal year. The Medicaid SBWC Cost Report is based on the Medicare FQHC Cost Report (CMS 222) adjusted to account for the difference in the operating period for the SBWCs from a full year clinic. The actual annual visits as reported on the Cost Report shall be used as the denominator to calculate a visit rate that approximates a Medicare rate. The Medicare rate will be multiplied by the annual aggregate Medicaid visits for dates of service in the applicable state fiscal year to approximate the Medicare payment which will be compared to the actual payments for the fiscal year to determine whether the upper payment limit test is met.]

14 DE Reg. 563 (12/01/10) (Final)