

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

Target Case Management Services for Individuals with Intellectual and Developmental Disabilities

IN THE MATTER OF:

REVISION OF THE REGULATION
OF DELAWARE'S
TITLE XIX MEDICAID STATE PLAN
SUPPLEMENT 3 TO ATTACHMENT 3.1-A,
PAGES 1 - 8;
SUPPLEMENT 4 TO ATTACHMENT 3.1-A,
PAGES 1 - 8;
ATTACHMENT 4.19-B PAGE 27
ATTACHMENT 4.19-B PAGE 28

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Delaware's Title XIX Medicaid State Plan regarding Targeted Case Management, specifically, *to establish coverage and reimbursement methodologies for targeted case management services for individuals with intellectual disabilities*. 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 October 2016 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2016 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Delaware's Title XIX Medicaid State Plan regarding Targeted Case Management, specifically, *to establish coverage and reimbursement methodologies for targeted case management services for individuals with intellectual disabilities*.

Statutory Authority

- 42 CFR §440.169, *Case management services, general provisions*
- 42 CFR §441.18, *Case management services, specific requirements*
- 42 CFR §441.301(c)(1)(2)(3), *Contents of a waiver request, Person-Centered Services*
- 42 CFR §441.301(c)(4), *Contents of a waiver request, Home and Community-Based Settings*
- 42 CFR §447.205, *Public notice of changes in statewide methods and standards for setting payment rates*
- §1902(a)(23) of the Social Security Act, *Freedom of choice of qualified providers*
- §1902(a)(25) of the Social Security Act, *Third party liability*
- §1903(c) of the Social Security Act, *FFP for case management included in an individualized education program or individualized family service plan*
- §1915(c) of the Social Security Act, *Home and community-based services*
- §1915(g)(1) of the Social Security Act, *location and comparability of case management services*
- 16 DE Admin. Code 2100 Division of Developmental Disabilities Services (DDDS) *Eligibility Criteria*

Background

On July 25, 2000, the Center for Medicare and Medicaid Services (CMS) issued a State Medicaid Director Letter (SMDL) providing policy changes and clarification giving states more flexibility to serve people with disabilities in different settings. This SMDL provided clarification regarding the use of Case Management to assist states to overcome barriers to community transition. Case management services are defined under section 1915(g)(2) of the Social Security Act (the Act) as "services which will assist individuals, eligible under the plan, in gaining access to needed medical, social, educational, and other services." Case management services are often used to foster the transitioning of a person from institutional care

to a more integrated setting or to help maintain a person in the community. There are several ways that case management services may be furnished under the Medicaid program. Home and Community-Based Services (HCBS) Case Management may be furnished as a service under the authority of section 1915(c) when this service is included in an approved HCBS waiver. Persons served under the waiver may receive case management services while they are still institutionalized, for up to 180 consecutive days prior to discharge. This case management service may be provided under the optional Targeted Case Management (TCM) authority of section 1915(g)(2) of the Social Security Act. TCM, defined in section 1915(g) of the Act, may be furnished as a service to institutionalized persons who are about to leave the institution, to facilitate the process of transition to community services and to enable the person to gain access to needed medical, social, educational and other services in the community. TCM may be furnished during the last 180 consecutive days of a Medicaid eligible person's institutional stay if provided for the purpose of community transition. States may specify a shorter time period or other conditions under which TCM may be provided.

In the Epilogue of Delaware's FY17 Budget Act, the Division of Developmental Disability Services (DDDS) was directed to add Medicaid (HCBS) for individuals with intellectual developmental disabilities living with their family. DDDS intends to fulfill this requirement by amending the current DDDS HCBS 1915(c) waiver by adding additional waiver capacity and additional services targeted to meet the needs of families. Individuals receiving a DDDS day service will be targeted for new enrollment in the amended waiver which will be called the Lifespan Waiver. There will be no interruption in service to these individuals. DDDS intends to meet the CMS requirement for the delivery of case management and person-centered planning to waiver recipients by using the optional Targeted Case Management (TCM) authority of Section 1915(g)(2) of the Social Security Act. The proposed State Plan Amendments establish two TCM target groups: one for individuals with Intellectual Developmental Disabilities (IDD) who are receiving residential habilitation under the 1915(c) HCBS waiver and the other for individuals with IDD who are eligible for DDDS services and living at home.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to add Targeted Case Management (TCM) to the Delaware Medicaid State Plan under the authority of 1915(g)(2) of the Social Security Act. Delaware does not currently offer Targeted Case Management under the State Plan.

Summary of Proposed Changes

If implemented as proposed, this state plan amendment will accomplish the following, effective January 1, 2017:

The SPAs will establish two TCM target groups: one for individuals with Intellectual Developmental Disabilities (IDD) receiving residential habilitation under the Division of Developmental Disability Services (DDDS) 1915(c) HCBS waiver and the other for individuals with IDD who are eligible for DDDS services and living at home. Individuals living at home are not currently covered under the DDDS HCBS Waiver. It is DDDS's intention, however, to submit an amendment to the DDDS waiver to CMS in FY17. This amendment will add certain individuals living at home to the DDDS waiver which will be called the Lifespan Waiver. Adding TCM to the State Plan will enable DDDS to meet the CMS requirement for the provision of case management and person-centered planning to the new waiver recipients living in their family home. Case management for individuals currently enrolled in the DDDS waiver is provided by DDDS employees as a Medicaid administrative activity, for which the state is reimbursed 50% of the cost of Medicaid allowable activities. If this SPA is approved, DDDS will convert administrative case management to TCM for individuals currently enrolled in the DDDS waiver.

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 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input. Comments must be received by 4:30 p.m. on October 31, 2016.

Centers for Medicare and Medicaid Services Review and Approval

The provisions of this state plan amendment (SPA) relating to coverage and payment methodology for services 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 Update

Also, upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals 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 manual updates. DMAP provider manuals and official notices are available on the DMAP website: <http://www.dmap.state.de.us/home/index.html>

Fiscal Impact

No fiscal impact is projected. The Division of Developmental Disability Services (DDDS) has been contracting with individuals it calls "Family Support Specialists (FSS)" to help connect persons with intellectual and developmental disabilities and their families to community resources. This will be discontinued and replaced by Targeted Case Management, at which time the funds that were in use to contract with the FSS will be redirected to TCM.

Summary of Comments Received with Agency Response and Explanation of Changes

The Governor's Advisory Council for Exceptional Citizens (GACEC), the Delaware Developmental Disabilities Council (DDDC), and the State Council for Persons with Disabilities (SCPD) offered the following summarized observations:

First, the minimum credentials of both the "Community Navigators" (serving non-residential clients) and Qualified Support Coordinators" (serving residential clients) are weak. It is patent that more robust credentials will be necessary to perform the above functions in a meaningful way.

Agency Response: The set of minimum credentials of both the Community Navigators and the Support Coordinators is the same as the current State of Delaware Merit System requirements for the classification of Senior Social Worker/Case Manager which is also the classification of the current Division of Developmental Disability Services (DDDS) case managers. State agencies do not have the authority to change the minimum qualifications for state Merit classifications. Because this is the standard currently used to establish the minimum credentials for individuals performing the work that is contemplated under the TCM State Plan Amendment (SPA), DDDS believes it appropriate to use this standard for both types of case managers. Nothing in the SPA or the RFP for the TCM service for individuals living in the family home will prohibit the provider from establishing higher standards. DDDS will closely monitor the performance of the TCM provider(s) against established quality metrics. The minimum required credentials for the contracted TCM will be reevaluated in the future after the state has the ability to assess the provider's performance. There was no change as a result of this comment.

Second and third, the level of involvement with the DDDS clients is minimal. Also, there is no "caseload" benchmark in the Medicaid State Plan Amendment (SPA). It would be preferable to include a benchmark such as an upper cap on case manager caseload.

Agency Response: This response will address both the second and third comments together. The expected level of involvement of the Community Navigators is based on a required caseload ratio of 1:60 staff to consumer. The caseload ratio of 1:60 will be specified in the RFP for the TCM provider. This ratio is roughly double the current desired caseload ratio of 1:35 for individuals living in a waiver residential setting but is less than the current caseload ratio of approximately 1:100 for individuals supported in the family home by the Family Support Specialists. In establishing a caseload ratio and minimum contact schedule, DDDS was mindful of the need to maintain costs within existing budget allocations. The TCM provider will be responsible for supervising and monitoring the performance of individual Community Navigators and assuring that they provide high quality case management. DDDS has designated two positions within the Division to be the liaison between the TCM provider and the state. These positions will also have responsibility for monitoring the performance of the TCM provider and reporting back to the contract manager. There was no change as a result of these comments.

Fourth, it would be preferable to have case management provided by State employees rather contracting with private firms with a profit incentive.

Agency Response: The current Administration has enforced a policy of not expanding the state workforce. Therefore, using state employees to provide TCM for individuals living at home was not an option. To maintain a caseload ratio of 1:60, given current DDDS caseloads, we anticipate that the vendor will need to hire 54 Community Navigators and 5 supervisors. The budget proposals included as part of the vendor bids will be carefully scrutinized as part of the evaluation process to assure that proposed costs are reasonable. There was no change as a result of this comment.

Fifth, DMMA should consider amending the following reference: "(i)nforms and assists an individual or his or her family to obtain guardianship or other surrogate decision making capability" to promote alternatives to guardianship such as supported decision-making. Consider the following substitute for the above reference: "(i)nforms and assists an individual or his or her family with surrogate decision making and assistance options, including supported decision-making agreements, powers of attorney, and guardianship."

Agency Response: DDDS acknowledges this comment and has adopted the alternative language as follows:
"Informs and assists an individual or his or her family with surrogate decision making and assistance options, including supported decision-making agreements, powers of attorney, and guardianship."

Sixth, DMMA should reconsider the following reference: "(f)acilitates referral to a nursing facility when appropriate" as

placement of DDDS clients in nursing homes is highly disfavored.

Agency Response: DDDS acknowledges this comment. However, as long as the nursing facility benefit is available under the State Plan, the state must allow Medicaid eligible individuals who meet the nursing facility criteria to receive this benefit. As council points out, individuals must go through the Preadmission Screening and Resident Review (PASRR) process, prior to actual admission to a nursing facility. This process is designed to ensure that alternatives are considered before nursing facility admission is approved. DDDS has revised the language to indicate that alternatives to nursing facility placement must be considered and exhausted prior to consideration of a nursing facility. The revised language is as follows:

“Facilitates referral to a nursing facility when appropriate and when other available options have been fully considered and exhausted.”

Additionally, some clarification was provided in a few sections of the SPA to make the intention more clear and definitions complete.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2016 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Delaware’s Title XIX Medicaid State Plan regarding Targeted Case Management, specifically, *to establish coverage and reimbursement methodologies for targeted case management services for individuals with intellectual disabilities*, is adopted and shall be final effective December 11, 2016.

Rita M. Landgraf, Secretary, DHSS
11/15/2016

DMMA FINAL ORDER REGULATION #16-29a

NEW:

Supplement 3 to Attachment 3.1 - A

Page 1

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

- A. Target Group - Services shall be provided to participants [~~regardless of age,~~] who (42 CFR §441.18(a)(8)(i) and §441.18(a)(9)):
 - 1. Meet the eligibility requirements set forth in 16 DE Admin. Code 2100 Division of Developmental Disabilities Services (DDDS) Eligibility Criteria [which requires a diagnosis of an intellectual developmental disability (including brain injury), autism spectrum disorder or Prader Willi Syndrome with functional limitations]; and,
 - 2. Reside in their own home or their family home and do not receive residential habilitation services.
X Target group includes individuals transitioning to a community setting. Case management services will be made available for up to 180 consecutive days of a covered stay in a medical institution. The target group does not include individuals between the ages of [22 21] and 64 who are served in Institutions for Mental Disease (IMD) or individuals who are inmates of public institutions (State Medicaid Directors Letter 072500b, July 25, 2000).

- B. Areas of State in which services will be provided (§1915(g)(1)):
 - X Entire State
 - _ Only in the following geographic areas: [Specify areas]

- C. Comparability of Services (§1902(a)(10)(B) and §1915(g)(1))
 - _ Services are provided in accordance with §1902(a)(10)(B) of the Act

X Services are not comparable in amount, duration, and scope (§1915(g)(1))

D. Definition of Services (42 CFR §440.169)

Targeted case management services are defined as services furnished to assist individuals, eligible under the State Plan, in gaining access to needed medical, social, educational, and other services, regardless of the funding source for the services to which access is gained. Targeted Case Management will be performed by individuals called Community Navigators hereafter and includes the following assistance:

1. Comprehensive assessment and periodic reassessment of individual needs, to assist the individual and family to plot a trajectory toward an inclusive, quality, community life. This may include the determination of need for any medical, educational, social or other services. These assessment activities include functions necessary to inform the development of the person-centered plan:
 - i) **Collecting Obtaining client histories and other** information necessary for evaluating and/or reevaluating and recommending community based supports and services that may address individual or family needs;

Supplement 3 to Attachment 3.1 - A

Page 2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

1. Comprehensive and Periodic Assessments Continued
 - i) Identifying the individual's and/or family's support needs and providing assistance and reminders related to completing needed documentation for clinical and financial eligibility for assistance programs;
 - ii) Gathering information from sources such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the eligible individual; and
 - iii) Providing necessary education and information to the individual and his/her family to provide necessary support to assist them in developing a vision for their life, and to gain understanding of transitions that occur through the life course.

The Community Navigator collects information to inform the planning process and/or directly conducts an assessment of an individual's needs, both as targeted case management services begin, and at least annually thereafter or more frequently at the request of the individual.

2. Development (and periodic revision) of a person-centered plan in accordance with 42 CFR §441.301(c)(1) through 42 CFR §441.301(c)(4). This activity may be conducted through direct and collateral contacts. The plan must reflect what is important to the individual to lead the life they want to lead. The plan must also identify and reflect the services and supports that are important for and to the individual to **reach specified goals, to** achieve desired outcomes and to meet needs identified through an assessment of functional need. The plan must also reflect the individual's preferences for the delivery of such services and supports. Individuals and families may focus on their current situation and stage of life but may also find it helpful to look ahead to start thinking about what they can do or learn now that will help build an inclusive productive life in the future.

The Community Navigator:

- i) Uses a person-centered planning approach and a team process to discover what it takes to live the life the individual wants to live;
- ii) Uses a person-centered planning approach and a team process to develop the individual's person-centered plan to meet the individual's needs **and achieve the individual's goals** in the most integrated manner possible;
- iii) Provides support to the individual to ensure that the process is driven by the individual to the maximum extent possible and includes people chosen by the individual, with the individual at the center of the process;

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

2. Person Centered Plan, Community Navigator Continued

iv) Develops and updates the person-centered plan of care based upon the individual's needs and person-centered planning process annually, or more frequently, as needed;

v) Assists the person to select qualified providers who can best meet their needs;

vi) Ensures that the plan identifies risk factors and includes plans to mitigate them;

vii) Facilitates transition for new waiver enrollees moving from their family home to a waiver residence;

viii) Facilitates seamless transitions between providers, services or settings for the maximum benefit of the individual;

ix) Updates the person-centered plan of care annually or more frequently, if needed, as the individual's needs change; and

x) Obtains necessary consents.

3. Information, referral, facilitating access and related activities (such as assisting individuals in scheduling appointments) to help the eligible individual obtain needed services including activities that help link the individual with medical, social, educational providers, or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

The Community Navigator:

i) Assists individuals and families in gaining information and establishing linkages with peers and/or professionals who can be key informants in supporting individuals with disabilities throughout the life course;

ii) Assists the individual and the individual's person-centered planning team in identifying and choosing resources and strategies that aim to promote the development, education, interests, and personal well-being of a person and that enhances individual and family functioning;

iii) Explores coverage of services, as appropriate, to address individuals' needs through a full array of sources, including services provided under the State Plan, Medicare, and/or private insurance or other community resources;

iv) Collaborates and coordinates with other individuals and/or entities essential in supporting the individual, such as MCO representatives, vocational rehabilitation and education coordinators to ensure seamless coordination among needed support services and to ensure that the individual is receiving services as appropriate from other sources.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

3. Information, referral, facilitating access and related activities, Community Navigator Continued

v) Coordinates with providers and potential providers to ensure seamless service access and delivery.

vi) Facilitates access to financial assistance, e.g. Social Security benefits, SNAP, subsidized housing, etc.

- vii) Facilitates continued enrollment in the DDDS HCBS Waiver by gathering or completing necessary documentation
 - viii) Assists individuals in transitioning to and from the Diamond State Health Plan Plus Medicaid LTSS benefit
 - ix) Assists an individual to access legal services
 - x) May assist an individual to obtain transportation to appointments and other activities.
 - xi) Informs and assists an individual or his or her family ~~[to obtain guardianship or other surrogate decision-making capability]~~ with surrogate decision making and assistance options, including supported decision-making agreements, powers of attorney, and guardianship.]
 - xii) Facilitates referral to a nursing facility when appropriate [and when other available options have been fully considered and exhausted]
 - xiii) Participates in transition planning for an individual's discharge from a nursing facility or hospital within six months of the planned discharge date.
 - xiv) Provides advocacy on behalf of individuals to ensure receipt of services as indicated in their person-centered plan.
 - xv) Empowers individuals and families to be their own advocates
 - xvi) Provides individuals with information regarding their rights, including related to due process and fair hearings, and providing support to individuals as they exercise those rights.
4. Monitoring and follow-up activities and contacts are provided as necessary to ensure the person-centered plan is implemented and addresses the eligible individual's needs and the individual and individual's family's vision for the future. Monitoring ensures that:
- i) Supports and linkages are provided as indicated in the individual's person-centered plan;
 - ii) Supports and services in the person-centered plan are adequate; and
 - iii) Changes in the needs or status of the individual are reflected in the person-centered plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

4. Monitoring and follow-up activities Continued

Monitoring and follow up activities include making necessary adjustments in the person-centered plan and service arrangements with providers as follows:

- i) Monitoring through regular contacts as required by the Department;
 - ii) Monitoring of the health and welfare of the individual and incorporating the results into revisions to individual service plans as necessary to ensure that the individual can meet his or her goals;
 - iii) Activities and contacts necessary to ensure that the individual service plan is effectively implemented and adequately addresses the needs of the eligible individual;
 - iv) Responding to and assessing emergency situations and incidents and ensuring that appropriate actions are taken to protect the health, welfare and safety of the individual;
 - v) Reviewing provider documentation of service provision, as appropriate, and monitoring individual progress on goals identified in the person-centered plan, and initiating contact when services are not achieving desired outcomes;
 - vi) Participation in investigations of reportable incidents, as appropriate and integrating prevention strategies into revisions to individual service plans as necessary to remediate individual and systemic issues;
 - vii) Ensuring that linkages are made and services are provided in accordance with the individual service plan;
 - viii) Activities and contacts that are necessary to ensure that individuals and their families (as appropriate) receive appropriate notification and communication related to unusual incidents and major unusual incidents;
- and

ix) Soliciting input from the individual and/or family related to information and supports that would be or have been most helpful.

X Case management includes contacts with non-eligible individuals that are directly related to identifying the eligible individual's needs and care, for the purposes of helping the eligible individual access services; identifying needs and supports to assist the eligible individual in obtaining services; providing case managers with useful feedback, and alerting case manager to changes in the eligible individual's needs. 42 CFR §440.169(e).

Supplement 3 to Attachment 3.1 - A

Page 6

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

Provider Qualifications (42 CFR §441.18(a)(8)(v) and 42 CFR §441.18(b))

Qualified providers are entities under contract with the State of Delaware with requisite expertise in supporting individuals with intellectual and developmental disabilities and their families.

Specifically, the providers will comply with Department standards, including regulations, contract requirements, policies, and procedures relating to provider qualifications. Individuals providing this service must:

1. Have an associate's degree or higher in behavioral, social sciences, or a related field OR experience in health or human services support, which includes interviewing individuals and assessing personal, health, employment, social, or financial needs in accordance with program requirements;
2. Have demonstrated experience and competency in supporting families;
3. Complete Department-required training, including training on the participant's service plan and the participant's unique and/or disability-specific needs, which may include but is not limited to: communication, mobility and behavioral support needs; and
4. Comport with other requirements as required by the Department.

Freedom of Choice (42 CFR §441.18(a)(1))

The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of §1902(a)(23) of the Act.

1. Eligible individuals will have free choice of any qualified Medicaid provider within the specified geographic area identified in the plan; and
2. Eligible individuals will have free choice of any qualified Medicaid providers of other medical care under the plan.

Freedom of Choice Exception (§1915(g)(1) and 42 CFR §441.18(b))

X Target group consists of eligible individuals with developmental disabilities or with chronic mental illness. Providers are limited to qualified Medicaid providers of case management services capable of ensuring that individuals with developmental disabilities or with chronic mental illness receive needed services. Providers must be selected through a competitive procurement process by the Delaware Division of Developmental Disabilities Services (DDDS), in accordance with the 1915(b)(4) waiver. This process will ensure that every jurisdiction in the State will be able to receive high-quality, comprehensive case management services to eligible individuals.

The providers of services under this authority are limited to designated contracted entities and individuals with necessary knowledge, skills and abilities to effectively provide Targeted Case Management Services to individuals within the target group. The state ensures that all individuals within the target group will receive unfettered access to these services.

Supplement 3 to Attachment 3.1 - A

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE
TARGET CASE MANAGEMENT SERVICES FOR
Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In
their Own Home or their Family's Home

Access to Services (42 CFR §441.18(a)(2), 42 CFR §441.18(a)(3), 42 CFR §441.18(a)(6):

The state assures the following:

1. Case management (including targeted case management) services will not be used to restrict an individual's access to other services under the plan;
2. Individuals will not be compelled to receive case management services, condition receipt of services, or condition receipt of other Medicaid services on receipt of case management (or targeted case management) services; and
3. Providers of case management services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.

Payment (42 CFR §441.18(a)(4):

Payment for case management or targeted case management services under the plan does not duplicate payments made to public agencies or private entities under other programs authorities for the same purpose.

Case Records (42 CFR §441.18(a)(7))

Providers maintain case records that document for all individuals receiving case management as follows:

- (i) The name of the individual;
- (ii) The dates of the case management services;
- (iii) The name of the provider agency (if relevant) and the person providing the case management service;
- (iv) The nature, content, units of case management services received and whether goals specified in the care plan have been achieved;
- (v) Whether the individual has declined services in the care plan;
- (vi) The need for, and occurrences of, coordination with other case managers;
- (vii) A timeline for obtaining needed services;
- (viii) A timeline for reevaluation of the plan.

Supplement 3 to Attachment 3.1 - A

Page [78]

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE
TARGET CASE MANAGEMENT SERVICES FOR
Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In
their Own Home or their Family's Home

Limitations

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for services defined in §440.169 when the case management activities are an integral and inseparable component of another covered Medicaid services (State Medicaid Manual (SMM) 4302.F).

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for services defined in §440.169 when the case management activities constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible individual has been referred, including for foster care programs, services such as, but not limited to, the following: research gathering and completion of documentation required by the foster care program; assessing adoption placements; recruiting or interviewing potential foster care

parents; serving legal papers; home investigations; providing transportation; administering foster care subsidies; making placements arrangements (42 CFR §441.18(c)).

FFP is only available for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational or other program except for case management that is included in an individualized education program or individualized family service plan consistent with §1903(c) of the Act. (§1902(a)(25) and §1905(c)).

Coverage Exclusions: None

DMMA FINAL ORDER REGULATION #16-029b

NEW:

Attachment 4.19 - B
Page 27

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
For Targeted Case Management services for Individuals Meeting Delaware DDS Eligibility Criteria
Living In their Own Home or their Family's Home

Monthly Rate:

Targeted case management for Individuals Meeting Delaware DDS Eligibility Criteria Living In their Own Home or their Family's Home will be reimbursed at a ~~[prospective monthly unit cost]~~ rate. The initial rate ~~[was will be]~~ established using reasonable estimates for the following ~~[projected]~~ costs based on OMB Uniform Guidance on Cost Principals:

- Practitioner salary, consistent with the minimum state case manager qualifications for this service
- Employment Related Expenses including ~~[such elements as]~~ fringe benefits and taxes, paid time off and training
- Program Indirect Expenses ~~[necessary for the provision of TCM services]~~ including ~~[such elements as]~~ supervision, technology, quality assurance and allowance for non-productive time
- Practitioner Transportation costs ~~[(not to include transportation of consumers)]~~
- General and Administrative Cost ~~[necessary for the provision of TCM services]~~ limited to 12%

Statistically valid time study data is used to determine the proportion of total cost that represents a Medicaid allowable activity.

Total allowable cost is divided by the units of service to compute a unit cost rate.

After the initial rate is established ~~[using a negotiated TCM budget]~~, an annual cost report will be completed by the provider each year and will be used by the state to compute each subsequent annual rate.

Each year a carry forward adjustment will be made to the next year's ~~[prospective provisional]~~ rate to account for differences between projected and actual cost for the rate period. ~~[The carry forward adjustment computation will be performed within three months of the close of the cost reporting period.]~~

A unit of service shall:

(a) Be one (1) month; and

(b) Consist of a minimum of one (1) service contact that can include face-to-face or telephone contacts with the recipient or on behalf of the recipient.

Claim edits will be created to ensure that only one TCM claim is paid per month for a Medicaid recipient in one of the target groups A or B as identified in the SPA.

Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private providers. The fee schedule and any annual/periodic adjustments to the fee schedule are available on the DMAP website at: <http://www.dmap.state.de.us/downloads>.

DMMA FINAL ORDER REGULATION #16-029c

NEW:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Approved for Funding through the Delaware DDDS HCBS Waiver Program DE 0009 Who Are Authorized to Receive Residential Habilitation

A. Target Group - Services shall be provided to participants [~~regardless of age,~~] who (42 CFR §441.18(a)(8)(i) and §441.18(a)(9)):

1. Meet the eligibility requirements set forth in 16 DE Admin. Code 2100 Division of Developmental Disabilities Services (DDDS) Eligibility Criteria [which requires a diagnosis of an intellectual developmental disability (including brain injury), autism spectrum disorder or Prader Willi Syndrome with functional limitations]; and,
2. Have been approved to receive residential habilitation under [an the Delaware] HCBS waiver [program DE 0009] administered by the Delaware Division of Developmental Disabilities Services (DDDS) authorized under Section §1915(c) of the Social Security Act

X Target group includes individuals transitioning to a community licensed and/or certified setting. Case management services will be made available for up to 180 consecutive days of a covered stay in a medical institution. The target group does not include individuals between the ages of [22 21] and 64 who are served in Institutions for Mental Disease or individuals who are inmates of public institutions (State Medicaid Directors Letter 072500b, July 25, 2000) or individuals receiving services and supports while living in their own or family home.

B. Areas of State in which services will be provided (§1915(g)(1)):

- X Entire State
- Only in the following geographic areas: [Specify areas]

C. Comparability of Services (§1902(a)(10)(B) and § 1915(g)(1))

- Services are provided in accordance with §1902(a)(10)(B) of the Act
X Services are not comparable in amount, duration, and scope (§1915(g)(1))

D. Definition of Services (42 CFR §440.169)

Targeted case management services are defined as services furnished to assist individuals, eligible under the State Plan, in gaining access to needed medical, social, educational, and other services, regardless of the funding source for the services to which access is gained. Targeted Case Management will be performed by individuals called Support Coordinators hereafter and includes the following assistance:

1. Comprehensive assessment and periodic reassessment of individual needs, to determine the need for any medical, educational, social or other services. These assessment activities include functions necessary to inform the development of the person-centered plan:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

1. Comprehensive and Periodic Assessments Continued

- i) [Collecting Obtaining client histories and other] information necessary for evaluating and/or reevaluating and recommending determination of the individual's level of care;
- ii) Identifying the individual's support needs and providing assistance and reminders related to completing needed documentation for clinical and financial eligibility;
- iii) Gathering information from sources such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the eligible individual;
- iv) Providing necessary education and information to the individual and the individual's family to provide

necessary familiarity with the program, requirements, rights and responsibilities.

The Support Coordinator collects information to inform the plan and/or directly conducts an assessment of an individual's needs for services prior to waiver enrollment and at least annually thereafter or more frequently at the request of the individual or as changes in the circumstances of the person warrant. This is the frequency of review that is specified in the approved DDDS HCBS waiver.

2. Development (and periodic revision) of a specific person-centered plan in accordance with 42 CFR §441.301(c)(1) through 42 CFR §441.301(c)(4). This activity may be conducted through direct and collateral contacts. The plan must reflect what is important to the individual to lead the life they want to lead. The plan must also reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

The Support Coordinator:

- i) Uses a person-centered planning approach and a team process to develop the individual's person-centered plan to meet the individual's needs **[and achieve the individual's goals]** in the most integrated setting and manner possible;
- ii) Provides support to the individual to ensure that the process is driven by the individual to the maximum extent possible and includes people chosen by the individual, with the individual at the center of the process;
- iii) Assists the person to select qualified providers who can best meet their needs;
- iv) Ensures that the plan identifies risk factors and includes plans to mitigate them;
- v) Facilitates transition for new waiver enrollees moving from their family home to a waiver residence;

Supplement 4 to Attachment 3.1 - A
Page 3

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

2. Person Centered Plan, Support Coordinator Continued

- vi) Facilitates seamless transitions between providers, services or settings for the maximum benefit of the individual;
- vii) Updates the person-centered plan annually or more frequently, if needed, as the individual's needs change;
- viii) Provides individuals with information regarding their rights, including related to due process and fair hearings, and providing support to individuals as they exercise those rights; and
- ix) Obtains necessary consents.

3. Information, referral, facilitating access and related activities to help the eligible individual obtain needed services including activities that help link the individual with medical, social, educational providers, or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

The Support Coordinator:

- i) Assists individuals and families in gaining information and establishing linkages with peers, professionals or organizations who can be key informants in supporting individuals with disabilities throughout the life course;
- ii) Explores coverage of services to address individuals' needs through a full array of sources, including services provided under the State Plan, Medicare, and/or private insurance or other community resources;
- iii) Collaborates and coordinates with other individuals and/or entities essential in the delivery of services for the individual, such as MCO representatives, vocational rehabilitation and education coordinators to ensure seamless coordination among needed support services and to ensure that the individual is receiving services as appropriate from other sources;
- iv) Coordinates with providers and potential providers to ensure seamless service access and delivery;
- v) Facilitates access to financial assistance, e.g. Social Security benefits, SNAP, subsidized housing, etc.;
- vi) Facilitates continued enrollment in the DDDS HCBS Waiver by gathering or completing necessary documentation;
- vii) Assists individuals in transitioning to and from the Diamond State Health Plan Plus Medicaid LTSS benefit;
- viii) Assists an individual to access legal services;

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

3. Information, referral, facilitating access and related activities, Support Coordinator Continued

- i) May assist an individual to obtain transportation to appointments and other activities.
- ii) Informs and assists an individual or his or her family ~~[to obtain guardianship or other surrogate decision making capability]~~ **with surrogate decision making and assistance options, including supported decision-making agreements, powers of attorney, and guardianship.**
- iii) Facilitates referral to a nursing facility when appropriate **[and when other available options have been fully considered and exhausted]**
- iv) Participates in transition planning for an individual's discharge from a nursing facility or hospital within six months of the planned discharge date.

4. Monitoring and follow-up activities and contacts are provided as necessary to ensure the person-centered plan is implemented and addresses the eligible individual's needs and the individual and individual's family's vision for the future. Monitoring ensures that: Monitoring and follow-up activities that include activities and contacts that are necessary to ensure the person-centered plan is implemented and adequately addresses the eligible individual's needs, and which may be with the individual, family members, service providers, or other entities or individuals. The contacts are conducted as frequently as necessary, in accordance with a minimum frequency as specified in the approved HCBS waiver application, to determine whether the following conditions are met:

- i) Services are being furnished in accordance with the individual's person-centered plan;
- ii) Services in the person-centered plan are adequate; and
- iii) Changes in the needs or status of the individual are reflected in the person-centered plan.

Monitoring and follow up activities include making necessary adjustments in the person-centered plan and service arrangements with providers, including:

- i) Monitoring of the health and welfare of the individual through regular contacts, on a frequency specified in the approved DDDS HCBS waiver, and incorporating the results into revisions to individual service plans as necessary to ensure that the individual can meet his or her goals;
- ii) Activities and contacts necessary to ensure that the individual service plan is effectively implemented and adequately addresses the needs of the eligible individual;
- iii) Ensuring that services are provided in accordance with 42 CFR §441.301(c)(4);
- iv) Providing advocacy on behalf of individuals to ensure receipt of services as indicated in their person-centered plan;
- v) Responding to and assessing emergency situations and incidents and ensuring that appropriate actions are taken to protect the health, welfare and safety of the individual;
- vi) Participating in planning meetings to address individual crisis needs, discuss options and ensure that an action plan is developed and executed;

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

D. Definition of Services (42 CFR §440.169) Continued

4. Monitoring and Follow-up Continued

- vii) Assessing whether the individual's crisis is being mitigated, and following up when appropriate through contact with the individual and any service providers;
- viii) Reviewing provider documentation of service provision and monitoring individual progress on goals identified

- in the person-centered plan, and initiating contact when services are not achieving desired outcomes;
- ix) Participation in investigations of reportable incidents and integrating prevention strategies into revisions to individual service plans as necessary to remediate individual and systemic issues;
- x) Ensuring that services are provided in accordance with the individual service plan and individual service plan services are effectively coordinated through communication with service providers;
- xi) Activities and contacts that are necessary to ensure those individuals and their families (as appropriate) receive appropriate notification and communication related to unusual incidents and major unusual incidents;
- xii) Soliciting input from the individual and/or family, as appropriate, related to their satisfaction with the services;

X Case management includes contacts with non-eligible individuals that are directly related to identifying the eligible individual's needs and care, for the purposes of helping the eligible individual access services; identifying needs and supports to assist the eligible individual in obtaining services; providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's needs. 42 CFR §440.169(e).

Provider Qualifications (42 CFR §441.18(a)(8)(v) and 42 CFR §441.18(b))

The State of Delaware, Division of Developmental Disabilities Services (DDDS) in the Department of Health and Social Services (DHSS) shall be the entity enrolled to provide Targeted Case Management to this target group.

Qualified Support Coordinators shall include state employees determined by DDDS to have the requisite expertise to be able to support individuals with intellectual and developmental disabilities. The Support Coordinator must have knowledge about services to persons with intellectual and developmental disabilities; knowledge of the interdisciplinary approach to person centered planning, skill in facilitating positive group processes, the ability to translate clinical and other assessments and recommendations into program activities and the ability to develop realistic objectives for each service.

Supplement 4 to Attachment 3.1 - A
Page 6

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

Provider Qualifications (42 CFR §441.18(a)(8)(v) and 42 CFR §441.18(b) Continued

Specifically, the Support Coordinators will comply with Department standards, including regulations, contract requirements, policies, and procedures relating to provider qualifications. Individuals providing this service must:

1. Have an associate's degree or higher in behavioral, social sciences or a related field OR experience in health or human services support, which includes interviewing individuals and assessing personal, health, employment, social, or financial needs in accordance with program requirements.
2. Complete DDDS-required training, including training on the participant's service plan and the participant's unique and/or disability-specific needs, which may include but is not limited to: communication, mobility and behavioral support needs.
3. Comport with other requirements as specified by DDDS and DHSS.

Freedom of Choice (42 CFR §441.18(a)(1))

The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of §1902(a)(23) of the Act.

1. Eligible individuals will have free choice of any qualified Medicaid provider within the specified geographic area identified in the plan.
2. Eligible individuals will have free choice of any qualified Medicaid providers of other medical care under the plan.

Freedom of Choice Exception (§1915(g)(1) and 42 CFR §441.18(b))

X Target group consists of eligible individuals with developmental disabilities or with chronic mental illness. Providers are limited to qualified Medicaid providers of case management services capable of ensuring that individuals with

developmental disabilities or with chronic mental illness receive needed services.

The providers of services under this authority are limited to designated state staff with necessary knowledge, skills and abilities to effectively provide TCM to individuals within the target group. The state ensures that all individuals within the target group will receive unfettered access to these services.

Supplement 4 to Attachment 3.1 - A
Page 7

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

Access to Services (42 CFR §441.18(a)(2), 42 CFR §441.18(a)(3), 42 CFR §441.18(a)(6):

The state assures the following:

1. Case management (including targeted case management) services will not be used to restrict an individual's access to other services under the plan.
2. Individuals will not be compelled to receive case management services, condition receipt of services, or condition receipt of other Medicaid services on receipt of case management (or targeted case management) services; and
3. Providers of case management services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.

Payment (42 CFR §441.18(a)(4):

Payment for case management or targeted case management services under the plan does not duplicate payments made to public agencies or private entities under other programs authorities for the same purpose.

Case Records (42 CFR §441.18(a)(7))

Providers maintain case records that document for all individuals receiving case management as follows:

1. The name of the individual;
2. The dates of the case management services;
3. The name of the provider agency (if relevant) and the person providing the case management service;
4. The nature, content, units of case management services received and whether goals specified in the care plan have been achieved;
5. Whether the individual has declined services in the care plan;
6. The need for, and occurrences of, coordination with other Support Coordinators;
7. A timeline for obtaining needed services; and
8. A timeline for reevaluation of the plan.

Limitations

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for services defined in §440.169 when the case management activities are an integral and inseparable component of another covered Medicaid services (State Medicaid Manual (SMM) 4302.F).

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for services defined in §440.169 when the case management activities constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible individual has been referred, including for foster care programs, services such as, but not limited to, the following: research gathering and completion of documentation required by the foster care program; assessing adoption placements; recruiting or interviewing

Supplement 4 to Attachment 3.1 - A
Page 8

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

TARGET CASE MANAGEMENT SERVICES FOR

Individuals with Intellectual and Developmental Disabilities Meeting Delaware DDDS Eligibility Criteria Living In their Own Home or their Family's Home

Limitations Continued

potential foster care parents; serving legal papers; home investigations; providing transportation; administering foster care subsidies; making placements arrangements (42 CFR §441.18(c)).

FFP is only available for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational or other program except for case management that is included in an individualized education program or individualized family service plan consistent with §1903(c) of the Act. (§1902(a)(25) and §1905(c)).

Coverage Exclusions: None

DMMA FINAL ORDER REGULATION #16-029d

NEW:

Attachment 4.19 - B
Page 28

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

For Targeted Case Management services for Individuals with Intellectual and Developmental Disabilities Approved for Funding through the Delaware DDDS HCBS Waiver Program DE 0009 Who Are Authorized to Receive Residential Habilitation

Monthly Rate:

Targeted case management for Individuals Approved for Funding through the Delaware DDDS HCBS Waiver Program DE 0009 Who Are Receiving Residential Habilitation will be reimbursed at a **[prospective monthly unit cost]** rate. This rate **[was will be]** established using an annual cost report that uses OMB Uniform Guidance on Cost Principals and that captures costs for the following cost categories:

- : Practitioner salary meeting the qualifications specified in Attachment 3.1-A
- : Employment Related Expenses including **[such elements as]** fringe benefits and taxes, paid time off and training
- : Program Indirect Expenses **[necessary for the provision of TCM services]** including **[such elements as]** supervision, technology, quality assurance and allowance for non-productive time
- : Practitioner Transportation costs **[(not to include transportation of consumers)]**
- : General and Administrative Cost **[necessary for the provision of TCM services]** limited to 12%

Statistically valid time study data is used to determine the proportion of total cost that represents a Medicaid allowable activity.

Total allowable cost is divided by the units of service to compute a unit cost rate.

The initial rate will be established using projected data for cost, percentage of reimbursable activity and billable units. Each year thereafter, a carry forward adjustment will be made to the next year's **[prospective provisional]** rate to account for differences between projected and actual cost for the rate period. **[The carry forward adjustment computation will be performed within three months of the close of the cost reporting period.]**

A unit of service shall:

(a) Be one (1) month; and

(b) Consist of a minimum of one (1) service contact that can include face-to-face or telephone contacts with the recipient or on behalf of the recipient.

Claims will be processed in the MMIS. Pre-payment edits will be created to ensure that only one claim will be paid for each month.

Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private providers. The fee schedule and any annual/periodic adjustments to the fee schedule are available on the DMAP website at: <http://www.dmap.state.de.us/downloads>.

20 DE Reg. 452 (12/01/16) (Final)

