

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

Children's Health Insurance Program (CHIP) - Early, Periodic, Screening, Diagnosis, & Treatment (EPSDT) Coverage

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XXI Children's Health Insurance Program (CHIP) State Plan regarding Early, Periodic, Screening, Diagnosis, & Treatment (EPSDT) coverage in the Delaware Healthy Children's Program.

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, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2022. Please identify in the subject line: CHIP - EPSDT

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 purpose of this proposed regulation is to align services provided to children under the Title XXI CHIP State Plan with services provided to children under the Title XIX Medicaid State Plan.

Statutory Authority

42 CFR 457.65

42 CFR 457.450

Section 2103(a) of the Social Security Act

Background

The Children's Health Insurance Program (CHIP) is an optional program established and administered by a State, jointly funded with the Federal government, to provide child health assistance to uninsured, low-income children through a separate child health program, a Medicaid expansion program, or a combination program. Coverage provided under a CHIP State Plan must consist of any of the four types of coverage outlined in Section 2103(a) of the Social Security Act, specifically, benchmark coverage; benchmark-equivalent coverage; existing comprehensive state-based coverage; and/or Secretary-approved coverage. Within each of these types of coverages, there are additional options.

Delaware's CHIP Program, the Delaware Healthy Children's Program (DHCP), provides Secretary-approved coverage; specifically, it provides coverage that includes benchmark coverage plus additional coverage. This coverage includes all services that are provided to children under the Medicaid State Plan, except Non-Emergency Transportation (NEMT) and Prescribed Pediatric Extended Care (PPEC).

NEMT is an important benefit provided through Medicaid and is associated with a significant reduction in missed appointments. Transportation barriers can prevent individuals from accessing vital medical care. Extension of the NEMT benefit to children enrolled in CHIP will increase access to care for these targeted low-income children. PPEC facilities are provided as an alternative to more expensive institutionalization or as an alternative to community/home care for children who are determined to be in medical need of the service. These services include nursing services, speech therapy, physical therapy, and occupational therapy provided in an outpatient setting, up to twelve hours per day, five days a week. Typically, children that are eligible for PPEC services are enrolled with Medicaid under the Children's Community Alternative Disability Program (CCADP). If a child in CHIP were to be medically complex enough to receive PPEC services, they would be referred to the CCADP to be reviewed for coverage under that benefit. However, revising the coverage provided under the CHIP State Plan, to Secretary-approved coverage, coverage the same as Medicaid State plan, including Early Periodic Screening Diagnosis and Treatment (EPSDT) will ensure that no child enrolled in the CHIP program will go without access to transportation, or in the rare instance, PPEC services until the child was able to be reviewed for the CCADP.

Additionally, this State Plan Amendment will allow for easier administration of the CHIP program by aligning services

and reducing CMS administrative requirements on states that do not align services between the Medicaid and CHIP State Plans.

Summary of Proposal

Effective for services provided on and after July 1, 2023, DHSS/DMMA proposes to amend the Title XXI Children's Health Insurance Program (CHIP) State Plan regarding Early, Periodic, Screening, Diagnosis, & Treatment (EPSDT) coverage in the Delaware Healthy Children's Program.

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 gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 31, 2022.

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

	Federal Fiscal Year 2023	Federal Fiscal Year 2024
Federal funds	\$125,816	\$679,212
General (State) funds	\$51,539	\$266,765

***Please Note: Due to the formatting requirements of the regulation, it is being attached here as a PDF document:**
<http://regulations.delaware.gov/register/december2022/proposed/Proposed APA 22-33 CHIP EPSDT Coverage Sec. 1 and Sec. 6 AMENDED.pdf>

26 DE Reg. 467 (12/01/22) (Prop.)