

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

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services - Substance Use Disorder Services

NATURE OF THE PROCEEDINGS

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Delaware Title XIX Medicaid State Plan regarding Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services, specifically, *coverage and reimbursement methodologies for Medicaid rehabilitative substance use disorder services*. 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 November 2015 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 1, 2015 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/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend the Title XIX Medicaid State Plan regarding the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program, specifically, *coverage and reimbursement methodologies for Medicaid rehabilitative substance use disorder services*.

Statutory Authority

- Section 1905(r) of the Social Security Act, Early and Periodic Screening, Diagnostic, and Treatment Services
- 42 CFR §441 Subpart B, Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) of Individuals under Age 21
- 42 CFR §440.60, Medical or other remedial care provided by licensed practitioners
- 42 CFR §440.130, Diagnostic, screening, preventive, and rehabilitative services
- 42 CFR §447.205, Public notice of changes in statewide methods and standards for setting payment rates
- State Medicaid Manual, Section 5010, Early and Periodic Screening, Diagnostic, and Treatment Services

Background

Early and Periodic Screening, Diagnostic and Treatment Services

The Medicaid program's benefit for children and adolescents is known as Early and Periodic Screening, Diagnostic and Treatment services, or EPSDT. Under federal Medicaid law at 42 U.S.C. § 1396d(r) [1905(r) of the Social Security Act], EPSDT provides a comprehensive array of prevention, diagnostic, and treatment services for low-income infants, children and adolescents under age 21, as specified in Section 1905(r) of the Social Security Act (the Act). The EPSDT benefit is more robust than the Medicaid benefit for adults and is designed to assure that children receive early detection and care, so that health problems are averted or diagnosed and treated as early as possible. The goal of EPSDT is to assure that individual children get the health care they need when they need it - the right care to the right child at the right time in the right setting.

Within the scope of EPSDT benefits under the federal Medicaid law, states are required to cover any service that is medically necessary "to correct or ameliorate a defect, physical or mental illness, or a condition identified by screening," whether or not the service is covered under the Medicaid State Plan. The services covered under EPSDT are limited to those within the scope of the category of services listed in the federal law at 42 U.S.C. § 1396d (a) [1905(a) of the Social Security Act].

States have an affirmative obligation to make sure that Medicaid-eligible children and their families are aware of EPSDT and have access to required screenings and necessary treatment services. States also have broad flexibility to determine how to best ensure such services are provided. In general, they either administer the benefit outright (through fee-for-service arrangements) or provide oversight to private entities with whom they have contracted to administer the benefit (e.g., managed care entities). States must arrange (directly or through delegations or contracts) for children to receive the physical, mental, vision, hearing, and dental services they need to treat health problems and conditions.

Medicaid Rehabilitative Services

Treatment for mental health and substance use issues and conditions is available under a number of Medicaid service categories, including hospital and clinic services, physician services, and services provided by a licensed professional such as a psychologist. States also make use of rehabilitative services. While rehabilitative services can meet a range of children's treatment needs, they can be particularly critical for children with mental health and substance use issues. Rehabilitative services are defined to include:

any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level.

Like other services covered under EPSDT, rehabilitative services need not actually cure a disability or completely restore an individual to a previous functional level. Rather, such services are covered when they ameliorate a physical or mental disability, as discussed above. Moreover, determinations of whether a service is rehabilitative must take into consideration that a child may not have attained the ability to perform certain functions. That is, a child's rehabilitative services plan of care should reflect goals appropriate for the child's developmental stage.

Depending on the interventions that the individual child needs, services that can be covered as rehabilitative services include:

- Community-based crisis services, such as mobile crisis teams, and intensive outpatient services;
- Individualized mental health and substance use treatment services, including in non-traditional settings such as a school, a workplace or at home;
- Medication management;
- Counseling and therapy, including to eliminate psychological barriers that would impede development of community living skills; and
- Rehabilitative equipment, for instance daily living aids.

With respect to the provision of rehabilitative services, including those noted above, CMS requires more specificity of providers and services due to the wide spectrum of rehabilitative services coverable under the broad definition. CMS expects a state to include in their State Plan the services, and providers with their qualifications, as well as a reimbursement methodology for each service it provides.

Summary of Proposal

Note: This Substance Use Disorder Services (SUDs) state plan amendment (SPA) is first of three (3) proposed SPA actions related to Medicaid rehabilitative services for individuals under age 21 to clarify coverage and payment methodology under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

Purpose

The purpose of this notice is to clarify service descriptions, reimbursement methodologies, and provider qualifications for rehabilitative substance use disorder services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) State Plan and to request comments from the public.

On February 23, 2011, the Centers for Medicare and Medicaid Services (CMS) sent a companion letter to the Division of Medicaid and Medical Assistance (DMMA) concerning a previously approved State Plan Amendment #08-004, School-Based Health Services. CMS performed a program analysis of corresponding coverage sections not originally submitted with this SPA. This analysis revealed concerns regarding the monthly bundled rates for rehabilitative child mental health and substance use disorder services under the EPSDT program. CMS determined that the service descriptions and reimbursement language for rehabilitative child mental health and substance use disorder services fails to comply with 42 CFR 430.10 and 42 CFR 447.252 which implement in part Section 1902(a)(30)(A) of the Social Security Act, to require collectively that States comprehensively describe the methodologies that they use to reimburse service providers. The methodologies must be understandable, clear, unambiguous and auditable.

Proposal

In order to comport with 42 CFR 430.10 and 42 CFR 447.252, DMMA proposes to clarify existing rehabilitative substance use disorder services and reimbursement methodology language currently described at Attachment 3.1-A and Attachment 4.19-B in the Delaware Medicaid State Plan by:

- defining the reimbursable unit of service;
- describing payment limitations;
- providing a reference to the provider qualifications per the State Plan;
- publishing location to access State developed fee schedule rates.

The agency's proposal involves no change in the definition of those eligible to receive substance use disorder services benefit under the Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program, and the substance

use disorder services benefit available to eligible recipients remains the same.

Summary of Proposed Changes

The proposed Medicaid Rehabilitative Substance Use Disorder (SUD) Services SPA ensures that the already approved SUD state plan amendment for adults also provides coverage of SUD services for children under the Medicaid program. This SPA is a revised version of the Rehabilitative Services SPA recently approved for the State of Delaware for adults and authorizes SUD outpatient and residential services. If implemented as proposed, the coverage and reimbursement methodology plan amendments will accomplish the following, effective July 1, 2016: The new SPA will make small changes that allow the Department of Services to Children, Youth and Their Families (DSCYF) to set program requirements for children. The Division of Substance Abuse and Mental Health (DSAMH) will still license the programs. This SPA includes one change requested by the industry to correct the scope of practice for licensed chemical dependency professional (LCDP) and Certified Dependency and Addiction Counselors (CDACs). DSCYF will use the Delaware Medical Assistance Program (DMAP) Current Procedural Terminology/Healthcare Common Procedures Coding System (CPT/HCPCS) fee schedule for licensed practitioners and set modeled rates for unlicensed practitioners and programs (thus, no changes are needed to the SPA reimbursement pages for SUD). The EPSDT rates for unlicensed practitioners and programs will be the same or similar to the adult SUD rates depending upon the need for adaptations to the rates for accessibility of services by children.

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 to the coverage and payment methodology for rehabilitative substance use disorder services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. Comments must be received by 4:30 p.m. on December 1, 2015.

CMS Review and Approval

The provisions of this draft state plan amendment (SPA) are subject to the Centers for Medicare and Medicaid Services (CMS) review and approval. 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 Manual 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.

Fiscal Impact Statement

The purpose of this state plan amendment is to update and reorganize both the services (Attachment 3.1-A) and reimbursement (Attachment 4.19-B) sections of the Medicaid State Plan that primarily address rehabilitative services under the early and periodic screening, diagnostic, and treatment (EPSDT) program.

This amendment is not for the purpose of making program changes. Rather, this is part of DHSS/DMMA's continuing effort in working with CMS to assure the reimbursement pages clearly correspond to the service sections of the state plan and to implement the required wording regarding fee schedules and the dates for which reimbursement rates were set for these services.

There are no intended content changes other than improved descriptions. The proposed amendment imposes no increase in cost on the General Fund as the proposed services in this State plan amendment will be budget neutral. The federal fiscal impact associated with this amendment will be zero dollars.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

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 Division notes that Federal EPSDT standards require State Medicaid programs to offer a comprehensive array of services for individuals under age 21. On February 23, 2011, CMS sent DMMA a letter sharing concerns with the Division's monthly bundled rates for rehabilitative child mental health and substance abuse services under the EPSDT program. In response, DMMA proposes to add clarifying language to the Medicaid State Plan in through the following: 1) defining the reimbursable unit of service; 2) describing payment limitations; 3) providing a reference to the

provider qualifications; and 4) publishing the location if State fee scheduled rates.

The changes are highly prescriptive and detailed.

Agency Response: With respect to the provision of rehabilitative services, CMS requires more specificity of providers and services due to the wide spectrum of rehabilitative services coverable under the broad definition. CMS expects the State Plan to include a description of the services, and providers with their qualifications, as well as a reimbursement methodology for each service. No change was made to the regulation as a result of this comment.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the November 2015 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Delaware Title XIX Medicaid State Plan regarding Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services, specifically, *coverage and reimbursement methodologies for Medicaid rehabilitative substance use disorder services*, is adopted and shall be final effective February 11, 2016.

January 19, 2016

Rita M. Landgraf, Secretary, DHSS

DMMA FINAL ORDER REGULATION #16-002a

REVISION:

Attachment 3.1-A
Page 6q

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Delaware

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. *Substance Use Disorder (SUD) Treatment Services* ~~for Adults with Alcoholism or Drug Dependence~~

Addiction services include:

- 4A. Outpatient Addiction Services
- 4B. Residential Addiction Services

- 4A. Outpatient Addiction Services

Outpatient addiction services are community-based addiction services not provided in an outpatient hospital setting and include individual-centered activities consistent with the beneficiary's assessed treatment needs with a rehabilitation and recovery focus designed to promote skills for coping with and managing symptoms and behaviors associated with substance use disorders (SUD). These activities are designed to help beneficiaries achieve and maintain recovery from SUDs. Outpatient SUD services include medically necessary care according to assessed needs including the four (4) component activities: (1) Assessment and clinical treatment plan development – The purpose of the assessment is to provide sufficient information for problem identification, SUD treatment or referral for the beneficiary to gain access to other needed Medicaid SUD or mental health services. The treatment plan for Medicaid SUD or mental health services must be patient-centered and developed in collaboration with the patient; (2) Skill development for coping with and managing symptoms and behaviors associated with substance use disorders (SUD) such as the participant's perspective and lack of impulse control or signs and symptoms of withdrawal; (3) Counseling to address a beneficiary's major lifestyle, attitudinal, and behavioral problems. Counseling includes highly structured psychosocial therapy to address issues that have the potential to undermine the goals of treatment; (4) Medication Assisted Therapies (MAT) when medically necessary, including the direct administration of medication.

Attachment 3.1-A

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Delaware

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:**4. *Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~*****4A. Outpatient Addiction Services Continued**

Outpatient activities are delivered on an individual or group basis in a wide variety of settings including site-based facility, in the community or in the beneficiary's place of residence. These services may be provided on site or on a mobile basis as defined by ~~Delaware Division of Substance Abuse and Mental Health (DSAMH)~~ Delaware Health and Social Services (DHSS) or its designee. The setting will be determined by the goal which is identified to be achieved in the beneficiary's written treatment plan.

Outpatient services may be indicated as an initial modality of care for a beneficiary whose severity of illness warrants this level of treatment, or when a beneficiary's progress warrants a less intensive modality of service than they are currently receiving. The intensity of the services will be driven by medical necessity. Medication Assisted Therapies (MAT) should only be utilized when a beneficiary has an established SUD (e.g., opiate or alcohol dependence condition) that is clinically appropriate for MAT.

Provider qualifications: Outpatient addiction services are provided by licensed and unlicensed professional staff, who are at least eighteen (18) years of age with a high school or equivalent diploma, according to their areas of competence as determined by degree, required levels of experience as defined by state law and regulations and ~~departmentally~~ approved program guidelines and certifications approved by DHSS or its designee. All outpatient substance use disorder (SUD) programs are licensed under state law. Licensed practitioners under Delaware state regulation are licensed by Delaware and include Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs), nurse practitioners (NPs), advanced practice nurses (APNs), medical doctors (MD and DO), Licensed Chemical Dependency Professionals (LCDPs), and psychologists.

Attachment 3.1-A
Page 6s

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Delaware

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:**4. *Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~*****4A. Outpatient Addiction Services Continued**

Any staff who is unlicensed and providing addiction services must be credentialed by ~~Delaware Division of Substance Abuse and Mental Health (DSAMH)~~ DHSS or its designee and/or the credentialing board and, if a Certified Recovery Coach or Credentialed Behavioral Health Technician, be under the supervision of a qualified health professional (QHP) or Clinical Supervisor. Unlicensed Certified and Credentialed staff under Delaware state regulation for SUD outpatient services include certified recovery coaches, credentialed

behavioral health technicians, Registered Nurses and Licensed Practical Nurses, certified alcohol and drug counselor (CADC), internationally certified alcohol and drug counselor (ICADC), certified co-occurring disorders professional (CCDP), and internationally certified co-occurring disorders professional (ICCDP), and internationally certified co-occurring disorders professional diplomate (ICCDP-D)~~and licensed chemical dependency professional (LCDP).~~

State regulations require supervision of ~~non-credentialed practitioners~~ Certified Recovery Coaches and Credentialed Behavioral Health Technicians by QHP meeting the supervisory standards established by DSAMH DHSS or its designee. A QHP includes the following professionals who are currently registered with their respective Delaware board LCSWs, LPCMHs, and LMFTs, APNs, NPs, CADCS, LCDPs, medical doctors (MD and DO), and psychologists. Clinical Supervisors includes individuals who have a Bachelor's degree in chemical dependency, psychology, social work counseling, nursing or a related field and have either: 1) Five (5) years of related clinical experience or 2) full certification as a CADCs, ICADCs, CCDPs, ICCDPs, and ICCDP-Ds. All Clinical Supervisors must meet these requirements by January 1, 2018. The QHP or Clinical Supervisor provides clinical/administrative oversight and supervision of Certified Recovery Coaches and Credentialed Behavioral Health Technicians staff in a manner consistent with their scope of practice.

Attachment 3.1-A
Page 6t

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Delaware

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~

4A. Outpatient Addiction Services Continued

- Recovery coaches must be trained and certified in the State of Delaware to provide services. The certification includes criminal, abuse/neglect registry and professional background checks, and completion of a State-approved standardized basic training program. Recovery coaches must self-identify as a present or former primary beneficiary of SUD services. *Note:* Recovery coaches within a licensed residential program must provide counseling as a component of outpatient addiction services (see component activity 3 above) consistent with an approved treatment plan. Medicaid will not reimburse for 12-step programs run by recovery coaches.
- Credentialed behavioral health technicians are unlicensed professional staff who are at least 18 years of age with a high school or equivalent diploma and trained in ASAM ~~techniques~~ level of care criteria.
- ~~Licensed Chemical Dependency Professionals (LCDPs) are credentialed by the Delaware Department of State, Division of Professional Regulation.~~
 - * ~~If the LCDP holds a current Chemical Dependency Professional license in another jurisdiction, then the professional is granted reciprocity if the license has been held for a period of time or the license is found to be similar to the Delaware certification standards.~~
- If the professional is not licensed in another jurisdiction but is applying for certification in Delaware and is currently certified by the Delaware Certification Board, Inc. (DCB), or other national certification board such as the NAADAC as either a NCAC or MAC, then the applicant must also have a criminal history record check and verify any current or previous licensure and/or certification.

ATTACHMENT 3.1-A
Page 6u

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. ***Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~***

4A. Outpatient Addiction Services Continued

Professionals who are certified must have documentation of a Master's degree with graduate semester courses in counseling or related education and post-Master's experience including supervised counseling in substance abuse counseling.

- All other unlicensed practitioners who are certified by a national body must meet the requirements for credentialed behavioral health technicians in addition to any requirements for their national certification.

All providers listed may provide any component of the outpatient SUD services consistent with State law and practice act with two exceptions: recovery coaches cannot perform assessments and all programs with MAT interventions must comply with federal and state laws regarding controlled substance prescriber availability.

ATTACHMENT 3.1-A
Page 6v

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. ***Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~***

4B. Residential Addiction Services

Residential services include individual-centered residential services consistent with the beneficiary's assessed treatment needs, with a rehabilitation and recovery focus designed to promote skills for coping with and managing substance use disorder symptoms and behaviors. These services are designed to help beneficiaries achieve changes in their substance use disorder behaviors. Services should address the beneficiary's major lifestyle, attitudinal, and behavioral problems that have the potential to undermine the goals of treatment. Residential SUD services include medically necessary care according to assessed needs including the four (4) component activities: (1) Assessment and clinical treatment plan development – The purpose of the assessment is to provide sufficient information for problem identification, SUD treatment or referral for the beneficiary to gain access to other needed Medicaid SUD or mental health services. The treatment plan for Medicaid SUD or mental health services must be patient-centered and developed in collaboration with the patient; (2) Skill development for coping with and managing symptoms and behaviors associated with substance use disorders (SUD) such as the participant's perspective and lack of impulse control or signs and symptoms of withdrawal; (3) Counseling to address a beneficiary's major lifestyle, attitudinal, and behavioral problems. Counseling includes highly structured psychosocial therapy to address issues that have the potential to undermine the goals of treatment; (4) Medication Assisted Therapies (MAT) when medically necessary, including the direct administration of medication. Residential services are delivered on an individual or group basis in a wide variety of settings including treatment in residential settings of sixteen (16) beds or less designed to help beneficiaries achieve changes in their substance use disorder behaviors.

ATTACHMENT 3.1-A
Page 6w

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. *Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~*

4B. Residential Addiction Services Continued

Provider qualifications: Services are provided by licensed and unlicensed professional staff, who are at least eighteen (18) years of age with a high school or equivalent diploma, according to their areas of competence as determined by degree, required levels of experience as defined by state law and regulations and departmentally approved program guidelines and certifications. All residential programs are licensed under state law per Delaware Administrative Code Title 16.6001. The licensure applies to all programs providing services to beneficiaries in need of programs and services for diagnosed substance use and/or mental disorders. The licensure at a minimum requires: documentation of all insurance coverage required in regulation; the maximum client capacity requested; and a copy of the agency's Delaware business license and home state license, when applicable. The licensure also requires a description of the services to be provided by the program, including a statement of the program philosophy, goals and objectives, and a description of the methodology for each service element; and organization charts of showing incumbent names, positions, degrees and credentials (e.g., license, certification); all vacant positions; and illustrating direct and indirect reporting and supervisory relationships.

Licensed practitioners under Delaware State regulation are licensed by Delaware and include Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs), nurse practitioners (NPs); advanced practice nurses (APNs), medical doctors (MD and DO), Licensed Chemical Dependency Professionals (LCDPs), and psychologists. Any staff who is unlicensed and providing addiction services must be credentialed by ~~Delaware Division of Substance Abuse and Mental Health (DSAMH)~~ DHSS or its designee and/or the credentialing board and, if a Recovery Coach or Credentialed Behavioral Health Technician, be under the supervision of a qualified health professional (QHP) or Clinical Supervisor.

ATTACHMENT 3.1-A
Page 6x

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. *Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~*

4B. Residential Addiction Services Continued

State regulations require supervision of non-credentialed staff by the QHP or Clinical Supervisor meeting the supervisory standards established by ~~DSAMH~~ DHSS or its designee. A QHP includes the following professionals who are currently registered with their respective Delaware board LCSWs, LPCMH, and LMFTs, APNs, NPs, CADCS, LCDPs, medical doctors (MD and DO), and psychologists. Clinical Supervisors includes individuals who have a Bachelor's degree in chemical dependency, psychology, social work counseling, nursing or a related field and have either: 1) Five (5) years of related clinical experience or 2) full certification

as a CADCs, ICADCs, CCDPs, ICCDPs, and ICCDP-Ds. All Clinical Supervisors must meet these requirements by January 1, 2018. The QHP or Clinical Supervisor provides clinical/administrative oversight and supervision non-credentialed staff in a manner consistent with their scope of practice.

Unlicensed Certified and credentialed staff under Delaware State regulation or the regulation of the state in which the service is provided for SUD residential treatment include certified recovery coaches, credentialed behavioral health technicians, Registered Nurses and Licensed Practical Nurses, certified alcohol and drug counselor (CADC), internationally certified alcohol and drug counselor (ICADC), certified co-occurring disorders professional (CCDP), internationally certified co-occurring disorders professional (ICCDP), and Internationally certified co-occurring disorders professional diplomate (ICCDP-D) and licensed chemical dependency professional (LCDP). The QHP provides clinical/administrative oversight and supervision of Certified Recovery Coaches and Credentialed Behavioral Health Technicians staff in a manner consistent with their scope of practice.

ATTACHMENT 3.1-A
Page 6y

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. *Substance Use Disorder (SUD) Treatment Services for Adults with Alcoholism or Drug Dependence*

4B. Residential Addiction Services Continued

- Recovery coaches must be trained and certified in the State of Delaware or the state in which they provide services to provide services. Recovery coaches are at least eighteen (18) years old, and have a high school diploma or equivalent. The certification includes criminal, abuse/neglect registry and professional background checks, and completion of a State-approved standardized basic training program. Recovery coaches must self-identify as a present or former primary beneficiary of SUD services. *Note:* Recovery coaches within a licensed residential program must provide counseling as a component of outpatient addiction services (see component activity 3 above) consistent with an approved treatment plan. Medicaid will not reimburse for twelve-step programs run by recovery coaches.
- Credentialed behavioral health technicians are unlicensed professional staff who are at least eighteen (18) years of age with a high school or equivalent diploma and trained in American Society of Addiction Medicine (ASAM) techniques level of care criteria.
- ~~Licensed Chemical Dependency Professionals (LCDPs) are credentialed by the Delaware Department of State, Division of Professional Regulation.~~
 - ~~If the LCDP holds a current Chemical Dependency Professional license in another jurisdiction, then the professional is granted reciprocity if the license has been held for a period of time or the license is found to be similar to the Delaware certification standards.~~

ATTACHMENT 3.1-A
Page 6z

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. **Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~**

4B. Residential Addiction Services Continued

- If the professional is not licensed in another jurisdiction but is applying for certification in Delaware and is currently certified by the Delaware Certification Board, Inc (DCB), or other national certification board such as the NAADAC as either a NCAC or MAC, then the applicant must also have a criminal history record check and verify any current or previous licensure and/or certification.
- Professionals who are certified must have documentation of a Master's degree with graduate semester courses in counseling or related education and post-Master's experience including supervised counseling in substance abuse counseling.
- All other unlicensed practitioners who are certified by a national body must meet the requirements for credentialed behavioral health technicians in addition to any requirements for their national certification.

All providers listed may provide any component of the residential SUD services consistent with State law and practice act with two exceptions: recovery coaches cannot perform assessments and all programs with MAT interventions must comply with federal and state laws regarding controlled substance prescriber availability.

ATTACHMENT 3.1-A
Page 6aa

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. **Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~**

4B. Residential Addiction Services Continued

Addiction Services Limitations:

All addiction services are provided as part of a comprehensive specialized program available to all Medicaid beneficiaries with significant functional impairments resulting from an identified substance use disorder (SUD) diagnosis. Services are subject to prior approval, must be medically necessary and must be recommended by a licensed practitioner or physician, who is acting within the scope of his/her professional license and applicable state law, to promote the maximum reduction of symptoms and restoration of the beneficiary to his/her best age-appropriate functional level according to an individualized treatment plan.

The activities included in the service must be intended to achieve identified treatment plan goals or objectives. The treatment plan should be developed in a person-centered manner with the active participation of the beneficiary, family, and providers and be based on the beneficiary's condition and the standards of practice for the provision of rehabilitative services. The treatment plan should identify the medical or remedial services intended to reduce the identified condition as well as the anticipated outcomes of the individual.

ATTACHMENT 3.1-A
Page 6bb

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. ***Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~***

4B. Residential Addiction Services Continued

The treatment plan must specify the frequency, amount, and duration of services. The treatment plan must be signed by the licensed practitioner or physician responsible for developing the plan with the beneficiary (or authorized representative) also signing to note concurrence with the treatment plan.

The development of the treatment plan should address barriers and issues that have contributed to the need for substance use disorder (SUD) treatment. The plan will specify a timeline for reevaluation of the plan that is at least an annual redetermination. The reevaluation should involve the beneficiary, family, and providers and include a reevaluation of plan to determine whether services have contributed to meeting the stated goals. A new treatment plan should be developed if there is no measureable reduction of disability or restoration of functional level. The new plan should identify a different rehabilitation strategy with revised goals and services.

Providers must maintain medical records that include a copy of the treatment plan, the name of the beneficiary, dates of services provided, nature, content and units of rehabilitation services provided, and progress made toward functional improvement and goals in the treatment plan. Components that are not provided to, or directed exclusively toward the treatment of the Medicaid beneficiary are not eligible for Medicaid reimbursement.

ATTACHMENT 3.1-A
Page 6cc

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: DELAWARE

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

13.d Rehabilitative Services: 42 CFR 440.130(d) Continued:

4. ***Substance Use Disorder (SUD) Treatment Services ~~for Adults with Alcoholism or Drug Dependence~~***

4B. Residential Addiction Services Continued

Services provided at a work site must not be job task oriented and must be directly related to treatment of a beneficiary's behavioral health needs identified in the treatment plan. Any services or components of services, the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of a beneficiary receiving covered services (including housekeeping, shopping, child care, and laundry services), are non-covered. Services cannot be provided in an institution for mental disease (IMD) with more than sixteen (16) beds.

Room and board is excluded from addiction services rates. Delaware residential placement under the American Society of Addiction Medicine (ASAM) criteria requires prior approval and reviews on an ongoing basis as determined necessary by the State Medicaid Agency or its designee to document compliance with the placement standards.

A unit of service is defined according to the Healthcare Common Procedure Coding System (HCPCS) approved code set per the national correct coding initiative unless otherwise specified for licensed practitioners to utilize the Current Procedural Terminology (CPT) code set.

DMMA FINAL ORDER REGULATION #16-002b

REVISION:

Attachment 4.19-B
Page 19 Addendum

~~Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services~~

~~Bundled Rates for Child Mental Health and Substance Abuse Services~~

~~A bundled rate is paid once each month for each Medicaid eligible recipient whose behavioral health treatment is clinically managed by the Department of Services for Children, Youth and their Families' (DSCYF's) Division of Child Mental Health (CMH), and who has received at least one other qualifying mental health treatment service.~~

~~Inpatient behavioral health services for recipients under the age of 18 is managed by CMH. Outpatient services up to 30 units are covered in the managed care basic benefit package, and are the responsibility of the managed care organizations. The services included in the CMH bundled rate represent care which exceeds the initial 30 units per year, or is severe enough to require hospitalization or placement in a residential treatment center.~~

~~Mental health and substance abuse services provided by the Division of Youth Rehabilitative Services (YRS) or the Division of Family Services (DFS) are not clinically managed by CMH, and therefore currently are not included in the bundled rate reimbursement. Those services continue to be paid fee for service until DSCYF is able to bring them into the managed care network.~~

~~To develop the bundled rate, historic Medicaid billable costs are divided by Medicaid eligible member months. Billable costs include Administrative costs allocated to Medicaid at the State, department, and division levels, and Direct Service costs of Medicaid clients. Direct Service costs were calculated by multiplying the actual direct service portion of the fee for service Medicaid rates by the actual units of service provided to Medicaid eligible children in FY95. Medicaid eligible client months are determined by the assignment of the client to a CMH treatment team and the recording of a service paid by CMH. The cost and associated member months were removed from the data base for children who received 30 or fewer outpatient units or who would not meet the CMH criteria for clinical management. YRS and DFS clients receiving rehabilitative services which are not clinically managed by CMH are excluded from the bundled rate calculation.~~

~~DSCYF/Medicaid Services Included in the Bundled Rate~~

- ~~Psychiatric Hospital and JCAHO Accredited Residential Treatment~~
- ~~Non-accredited Residential Treatment~~
- ~~Treatment Family Homes~~
- ~~Mental Health Crisis Intervention~~
- ~~Mental Health Day Treatment~~
- ~~Mental Health Outpatient~~
- ~~Clinical Coordination~~
- ~~Assessment~~
- ~~Clinical Behavioral Guidance~~
- ~~Alcohol and Other Drug Accredited Residential Treatment~~
- ~~Alcohol and Other Drug Day Treatment~~
- ~~Alcohol and Other Drug Outpatient~~
- ~~Other behavioral health services as necessary to effectively treat the target population~~

~~STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT~~

~~STATE: DELAWARE~~

~~METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES~~

~~Early and Periodic Screening, Diagnosis and Treatment (EPSDT)~~
~~Rehabilitative Mental Health Services and Substance Use Disorder Services~~

~~Reimbursements for services are based upon a Medicaid fee schedule established by the Delaware Medical Assistance Program (DMAP).~~

The fee development methodology will build fees considering each component of provider costs as outlined below. These reimbursement methodologies will produce rates sufficient to enlist enough providers so that services under the State Plan are available to beneficiaries at least to the extent that these services are available to the general population, as required by 42 CFR 447.204. These rates comply with the requirements of Section 1902(a)(3) of the Social Security Act and 42 CFR 447.200, regarding payments and are consistent with economy, efficiency, and quality of care. Provider enrollment and retention will be reviewed periodically to ensure that access to care and adequacy of payments are maintained. The Medicaid fee schedule will be equal to or less than the maximum allowable under the same Medicare rate, where there is a comparable Medicare rate. Room and board costs are not included in the Medicaid fee schedule.

Except as otherwise noted in the State Plan, the State-developed fee schedule is the same for both governmental and private individual providers and the fee schedule and any annual/periodic adjustments to the fee schedule are published in the Delaware Register of Regulations.

The Agency's fee schedule rate was set as of July 1, 2016 and is effective for services provided on or after that date. All rates are published on the Delaware Medical Assistance Program (DMAP) website at <http://www.dmap.state.de.us/downloads/feeschedules.html>.

Attachment 4.19-B
Page 19.1 Addendum

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE:DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES CONTINUED

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Rehabilitative Mental Health Services and Substance Use Disorder Services Continued

The fee development methodology will primarily be composed of provider cost modeling, through Delaware provider compensation studies, cost data, and fees from similar State Medicaid programs may be considered, as well. The following list outlines the major components of the cost model to be used in fee development:

- : Staffing Assumptions and Staff Wages
- : Employee-Related Expenses – Benefits, Employer Taxes (e.g., Federal Insurance Contributions Act (FICA), unemployment, and workers compensation)
- : Program-Related Expenses (e.g., supplies)
- : Provider Overhead Expenses
- : Program Billable Units.

The fee schedule rates will be developed as the ratio of total annual modeled provider costs to the estimated annual billable units.

19 DE Reg. 759 (02/01/16) (Final)