

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

GENERAL NOTICE

Change To The Reimbursement Methodology For Supported Employment, Day Habilitation and Pre-Vocational Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512 and with 42 CFR §447.205, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to change the reimbursement methodology for payment of Supported Employment, Day Habilitation and Pre-Vocational Services.

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 Sharon L. Summers, Planning & Policy Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to 302-255-4425 by January 31, 2012.

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 proposed is in response to a requirement by the Centers for Medicare and Medicaid Services (CMS) to establish an hourly rate for the reimbursement of Supported Employment, Day Habilitation and Pre-Vocational Services.

Statutory Authority

- Social Security Act §1915, *Provisions Respecting Inapplicability and Waiver of Certain Requirements of this Title*
- 42 CFR §435.217, *Individuals receiving home and community-based services*
- 42 CFR §441, Subpart G, *Home and Community-Based Services Waiver Requirements*

Background

The waiver to provide home and community-based services to developmentally disabled adults was developed by the Division of Developmental Disabilities Services (DDDS) and the Division of Social Services (DSS) in 1982, received approval from the Center for Medicare and Medicaid Services (CMS), and became effective on July 1, 1983. The waiver includes support services necessary to maintain individuals in the community as an alternative to institutionalization. The cost of the Home and Community-Based Services Waiver for the Developmentally Disabled (HCBS/DD) shall not exceed the cost of care of the Intermediate Care Facility for the Developmentally Disabled (ICF/DD).

DDDS is the agency that has primary responsibility for administering the HCBS/DD waiver as well as providing, or contracting for the provision of, most of the services. Providers of Pre-Vocational Training, Supported Employment and Residential Habilitation services are certified by DDDS and contract directly with the Delaware Medical Assistance Program (DMAP).

Summary of Proposal

As a result of recent discussions with CMS regarding renewal of the DDDS Home and Community-Based Medicaid waiver, it is necessary to establish an hourly rate for Supported Employment, Day Habilitation and Pre-Vocational Services in addition to the current per diem rates. Therefore, as approved by CMS and effective January 1, 2012, the supported employment hourly rate will replace the current per diem rate. This will enable more than one type of waiver service to be billed in a day as authorized in the client's care plan. The hourly rate for Supported Employment is calculated using cost data as reported by providers of Supported Employment services. Total Medicaid allowable costs for each provider were determined and divided by total direct care staff (job coaches, employment specialists) hours worked to compute a cost per direct staff hour by provider. The provider unit costs were averaged to compute a single cost per hour across all providers. The hourly rates for Pre-vocational and Day Habilitation services were computed as part of the Inventory for Client and Agency Planning (ICAP) methodology.

This reimbursement policy change is initiated in order to compel supported employment providers to comply with CMS requirements that only services actually provided are billed to the HCBS waiver and also to allow providers to bill for more than one type of day program service in a single day. The proposed new hourly rate established is \$49.02.

This proposed regulation is also published concurrently herein under "Emergency Regulations".

Fiscal Impact Statement

- Based on comparison of FY10 supported employment expenditures to FY11 expenditures adjusted to the new rate of \$49.02 per hour.
- FY11 quarters 1 and 2 yielded a reduction in expenditures of \$634.4 when compared to the same period in FY10.
- FY11 quarters 3 and 4 yielded a reduction in expenditures of \$545.9 when compared to the same period in FY10.

It is expected that this pattern of increasing expenditures to continue as provider agencies become more acclimated to the new procedures.

Therefore, the estimated changes would be as follows:

FY12 quarters 1 and 2 - (\$469.4)

FY12 quarters 3 and 4 - (\$403.7)

FY13 - (\$645.8).

Based on current funding sources, 34% of supported employment expenditures come from DDDS funds; the balance of 66% funded via Medicaid.

15 DE Reg. 1088 (01/01/12)