

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 20910

PROPOSED

PUBLIC NOTICE

Medicaid Long Term Care Program – Community Spouse

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Division of Social Services Manual (DSSM) regarding the Medicaid Long Term Care Program, specifically, to determine eligibility for medical assistance.

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, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on January 31, 2020. Please identify in the subject line: Medicaid Long Term Care Program – Community Spouse.

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 notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Medicaid Long Term Care Program – Community Spouse.

Statutory Authority

- Social Security Act §1924
- The State Medicaid Manual §3710, Special Post-Eligibility Process for Institutionalized Persons with Community Spouses

Background

DMMA currently applies Spousal Impoverishment regulations to a Community Spouse receiving Home and Community Based Services. The agency implemented this change as published in the Delaware *Register of Regulations* **10 DE Reg. 1619** (April 2007). Section 20910.2 Community Spouse, was not amended, in error.

Summary of Proposal

Purpose

This proposal is to align policy to reflect current practice.

Summary of Proposed Changes

Effective for services provided on and after March 11, 2020 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend section 20910.2 of Division of Social Services Manual (DSSM) regarding the Medicaid Long Term Care Program, specifically, *to determine eligibility for medical assistance*.

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 on the proposed regulation. Comments must be received by 4:30 p.m. on January 31, 2020.

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

The policy amendment will have no fiscal impact.

20910.2 Community Spouse

An individual who is married to an institutionalized spouse ~~and does not receive HCBS.~~

9 DE Reg. 1187 (02/01/06)

9 DE Reg. 1565 (04/01/06)

23 DE Reg. 526 (01/01/20) (Prop.)