

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

NOTICE OF INTENT #05-29

Pharmaceutical Services: Mail Order Pharmacy 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, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) provides notice of intent. This notice is being given to provide information of public interest with respect to the intent of DSS to amend the Title XIX Medicaid State Plan and the Division of Social Services Manual (DSSM) regarding the Pharmaceutical Services Program.

Purpose

The purpose of this action is to give public notice of the agency's intent to submit an amendment to the Title XIX Medicaid State Plan to the Centers for Medicare and Medicaid Services (CMS) to implement mail order prescription service.

Amending the Following Title XIX Medicaid State Plan Pages

- Attachment 3.1-A, Page 5c Addendum (new page)
- Attachment 4.18-A, Page 3
- Attachment 4.18-C, Page 3
- Attachment 4.19-B, Page 14

**Title XIX Medicaid State Plan Pharmaceutical Services Program
Summary of Provisions**

As a convenience, cost savings and quality improvement measure, the Delaware Medical Assistance Program (DMAP) will implement a statewide contracted mail order pharmacy program option. Medicaid may establish a contract with one or more mail order pharmacies to provide this service. DMAP will continue to reimburse local pharmacies for all covered drugs.

Medicaid clients statewide will be offered the option to have new and refill prescriptions dispensed by any willing Medicaid retail pharmacy provider or by the mail order contractor. The DMAP will contract with a mail order delivery service for prescription drugs; the service is optional and voluntary for eligible clients; drugs supplied through mail order are subject to special terms in addition to general pharmacy rules, for example, prior authorization; and, the contractor is reimbursed at a rate set by contract with the mail order pharmacy provider. In addition, this action allows the DMAP to dispense certain drugs in a ninety-day supply.

Effective July 1, 2005, the following provisions of this amendment shall be implemented:

(1) The contracted mail order pharmacy service is available as an option to all eligible DMAP clients statewide, subject to the:

- (a) Scope of the client's medical care program;
- (b) Availability of services from the contracted mail order provider; and
- (c) Special terms and conditions described in subsections (2) through (7) below.

(2) The mail order prescription service may not dispense medication in any quantity greater than authorized by the prescriber.

(3) Prescribed medications may be dispensed by the mail order pharmacy service within the following restrictions:

(a) Drugs available from mail order in no more than a ninety-day supply include:

(i) Preferred drugs identified by the Pharmaceutical and Therapeutics Committee (P & T Committee); and,

(ii) Drugs that do not require prior authorization or expedited prior authorization.

(b) All Medicaid state plan pharmacy limitations, restrictions and provider requirements continue to apply.

(4) All Medicaid program rules apply to the provider contract.

(5) The reimbursement rate for drugs dispensed through a contracted mail order delivery service will be the lowest of the following:

(a) The usual and customary charge to the public for the product;

(b) The Average Wholesale Price (AWP) minus 20% for Brand-name drugs and AWP minus 40% for Generic Drugs plus a \$1.50 dispensing fee;

(c) A State-specific maximum allowable cost (DMAC) and, in some cases, the federally defined Federal Upper Limit (FUL) prices plus a dispensing fee.

(6) There are no co-payment or any shipping and handling fees, if sent by U.S. mail, for delivery of the drug to the client's address or other location designated by the Medicaid client. The Point of Sale (POS) System will identify and exclude prescription drugs dispensed through the mail order pharmacy program.

(7) Eligible clients are not required to order and receive drugs through mail order. Clients may voluntarily choose to receive or not receive their prescriptions through a contracted mail order pharmacy provider and may discontinue the prescription by mail service at any time.

DSS will notify affected clients prior to implementation and provide clients and prescribers with instructions for submitting a prescription by mail order.

The proposed mail order pharmacy requirements are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning this notice must submit it to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by June 30, 2005.

8 DE Reg. 1737 (6/1/05)