

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

Dental Fee Schedule

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Delaware Medicaid's Dental Fee Schedule, specifically, *to reduce reimbursement rates for dental services*. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the August 2017 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August 31, 2017 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 (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Delaware Medicaid's Dental Fee Schedule, specifically, *to reduce reimbursement rates for dental services*.

Statutory Authority

- 42 CFR 447.205, *Public notice of changes in Statewide methods and standards for setting payment rates*
- 42 CFR 440.100, *Dental Services*
- 42 CFR 447.201, *State plan requirements*

Background

According to Health Policy Institute (HPI), Delaware Medicaid ranks the highest with regard to payment of dental services to the Medicaid provider community at 81.1% of commercial insurance charges. Delaware reimburses dental providers a full 10.2% higher than the second highest ranking Medicaid agency, West Virginia, who has reimbursement rates at 69.9%. New Jersey and Connecticut Medicaid reimburse providers at 68.8% and 66.8% respectively.

In an effort to minimize Delaware's budget deficit, the Governor included a 14% reduction in dental rates, expected to take effect July 1, 2017, in the Fiscal Year (FY) 17/18 budget. This reduction aligns Delaware Medicaid more closely with other state Medicaid agencies. With this reduction in dental rates, Delaware still places among the three highest paying state Medicaid agencies, with regard to dental reimbursements. Additionally, DMMA has been working closely with this provider community to discuss the best strategy with regarding what types of services the rate reduction would be best absorbed by. With these factors in mind, Delaware does not anticipate that the 14% rate reduction in dental reimbursement will adversely affect access to dental care.

DMMA's current network includes dentists located in Delaware and the surrounding states. This network, highly concentrated in New Castle County, includes General Dentistry, Endodontics, Pediatric Dentistry, Oral and Maxillofacial Surgery, and Orthodontics and Dentofacial Orthopedics. DMMA will monitor the network for effects as a result of the rate reduction before and after the reduction is in place, and make adjustments if access to care is likely to become impacted.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to reduce Delaware Medicaid reimbursement rates for dental services.

Summary of Proposed Changes

Effective for services provided on and after July 1, 2017 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Title XIX Medicaid State Plan to reduce dental service rates.

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 were to have been received by 4:30 p.m. on August 31, 2017.

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 Update

Also, there may be additional provider manuals that will require small updates as a result of these changes. 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. DMAP provider manuals and official notices are available on the Delaware Medical Assistance Provider Portal website: <https://medicaid.dhss.delaware.gov/provider>

Fiscal Impact Statement

Delaware pays the highest rate for Medicaid Pediatric Dental services in the country according to a Health Policy Institute Research Brief from 2013 (<http://www.aapd.org/assets/1/7/PolicyCenter-TenYearAnalysisOct2014.pdf>). A reduction of 14% will bring the dental rates more in compliance with other State Medicaid Dental Rates.

The following savings are projected:

	Federal Fiscal Year 2018	Federal Fiscal Year 2019
General (State) funds	\$2,600,649	\$2,639,659
Federal funds	\$4,147,273	\$4,209,482

Summary of Comments Received with Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD) and the Governor's Advisory Counsel for Exceptional Citizens (GACEC) offered the following summarized observations:

First, SCPD and GACEC indicated that there is justification for the proposed rate reduction.

Agency Response: DMMA thanks both councils for their support.

Second, SCPD and GACEC observed the new rates would result in a higher reimbursement than application of the same rate in a state with a low commercial/insurance rate.

Agency Response: DMMA thanks both councils for their support.

Third, SCPD indicated that "...it would be difficult to prompt reconsideration of the proposed Medicaid Plan amendment."

Agency Response: DMMA thanks the council for its support.

Fourth, SCPD and GACEC commented that the lower reimbursement rates in our sister states have not had any negative effect on access to dentists accepting Medicaid.

Agency Response: DMMA thanks both councils for their comments.

Fifth, SCPD and GACEC commented that DMMA projects a cost savings of \$2.6 million in state funds and \$4.1 million in federal funds in FY18. Therefore, while the State may save \$2.6 million, the value of this savings is undercut by the loss of \$4.1 million in federal dollars to the Delaware economy.

Agency Response: DMMA acknowledges the comment.

Sixth, SCPD and GACEC commented that while Delaware is at the forefront in supporting child dental services, it is a lagged in supporting adult dental services.

Agency Response: While the proposal addresses dental care for children, the agency thanks both councils for the recommendation regarding adult dental.

DMMA is appreciative of the comments from The State Council for Persons with Disabilities and the Governor's Advisory Counsel for Exceptional Citizens. DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 2017 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding specifically, *to reduce reimbursement rates for dental services* is adopted and shall be final effective November 11, 2017.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-
OTHER TYPES OF CARE

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

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services are reimbursed as follows. Except as otherwise noted in the plan, State developed fee schedule rates are the same for both government and private providers.

Dental Services - Effective for dates of service on or after ~~April~~ July 1, 2012 2017, Delaware pays for dental services at the lower of:

- the provider's billed amount that represents their usual and customary charge; or
- the Delaware Medicaid maximum allowed amount per unit per covered dental procedure code according to a published fee schedule.

The Delaware Medicaid dental fee schedule will be developed based on the National Dental Advisory Service (NDAS) annual Comprehensive Fee Report. For each covered dental procedure code, Delaware's maximum allowable amount will be computed as a percentage of the NDAS published national fee. Delaware will rebase its dental fee schedule rates each time the NDAS publishes a new survey.

~~General Dental Services shall be paid at 84% of the NDAS 70th percentile amounts~~
~~Specialty Dental Services shall be paid at 80% of the NDAS 80th percentile amounts.~~
Preventive General Dental Services shall be paid at 50.00% of the NDAS 70th percentile amounts
Restorative General Dental Services shall be paid at 97.00% of the NDAS 70th percentile amounts
Adjunctive General Dental Services shall be paid at 72.24% of the NDAS 70th percentile amounts
Specialty Dental Services shall be paid at 68.80% of the NDAS 80th percentile amounts

~~Access-Based Fees for certain specialty procedure codes may be established to account for deficiencies in rates that are based on the NDAS fee schedule percentages above relating to the adequacy of access to health care services for Medicaid clients. These rates will be published on the DMAP website and a state plan amendment will be submitted any time these rates change indicating the new effective date.~~

The maximum allowed amounts for procedure codes not included in the NDAS fee schedule or for new procedure codes established after the annual NDAS fee schedule is published will be based on the existing rates for similar existing services. If there are no similar services the maximum allowed amount is set at 80% of the estimated average charge until a rate can be established based on the NDAS fee schedule.

The dental fee schedule is available on the Delaware Medicaid Assistance Program (DMAP) Medical Assistance Portal website at: ~~<http://www.dmap.state.de.us/downloads.html>~~ <https://medicaid.dhss.delaware.gov>

TN No. SPA <u>#17-020</u>	Approval Date _____
Supersedes	
TN No. SPA <u>#12-005</u>	Effective Date <u>July 1, 2017</u>