

# DELAWARE RIVER BASIN COMMISSION

## PUBLIC NOTICE

The Delaware River Basin Commission will hold a public hearing on **Wednesday, November 14, 2018** beginning at 1:30 p.m. A business meeting will be held the following month on **Wednesday, December 12, 2018** beginning at 10:30 a.m. The hearing and meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania 18977. For more information, visit the DRBC web site at [www.drbc.gov](http://www.drbc.gov) or contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203 and [pamela.bush@drbc.gov](mailto:pamela.bush@drbc.gov).

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# DEPARTMENT OF EDUCATION

## PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, November 15, 2018 at 5:00 p.m. at Mispillion Elementary School located at 311 Lovers Lane, Milford, Delaware.

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# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

### PUBLIC NOTICE

#### Physician Assistants

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 Title XIX Medicaid State Plan regarding Physician Assistants (PA), specifically, to update current policy.

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@state.de.us](mailto:Nicole.M.Cunningham@state.de.us), or by fax to 302-255-4413 by 4:30 p.m. on December 3, 2018. Please identify in the subject line: Physician Assistant.

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.

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## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

### PUBLIC NOTICE

#### Prescription Assistance

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 Delaware Social Services Manual (DSSM) regarding Prescription Assistance, specifically, *to restore the Delaware Prescription Drug Payment Assistance Program*.

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@state.de.us](mailto:Nicole.M.Cunningham@state.de.us), or by fax to 302-255-4413 by 4:30 p.m. on December 3, 2018. Please identify in the subject line: Prescription Assistance.

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.

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## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

### PUBLIC NOTICE

## MAGI Methodology

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 the Delaware Social Services Manual (DSSM) regarding MAGI Methodology, specifically, to clarify policy related to special income counting rules for children and dependents.

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@state.de.us](mailto:Nicole.M.Cunningham@state.de.us), or by fax to 302-255-4413 by 4:30 p.m. on December 3, 2018. Please identify in the subject line: MAGI Methodology.

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.

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## DEPARTMENT OF INSURANCE

### OFFICE OF THE COMMISSIONER

#### PUBLIC NOTICE

#### 610 Automobile Premium Consumer Comparison

Chapter 18 of the Delaware Administrative Code at Regulation 610 requires insurers who have a prescribed market share to, annually, by October 1, submit certain data to the Department of Insurance (Department) concerning automobile rates so that the Department may use those data as the basis of its on-line rate comparison tool. The purpose of the on-line rate comparison tool was to allow consumers to easily compare automobile insurance rates based on set driving scenarios, driver profiles and zip codes.

However, since the inception of the rate calculator in 2006, insurers have built their own calculators which can be precisely tailored to fit an exact consumer profile. Thus, the Department's calculator is obsolete and the regulation requiring the data call should be repealed.

The Department does not plan to hold a public hearing on the proposed repeal of Regulation 610. The regulation proposed for repeal appears below and can also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed repeal of the regulation. Any written submission in response to this notice and relevant to the proposed repeal must be received by the Department of Insurance no later than 4:30 p.m. EST, the 3<sup>rd</sup> day, December, 2018. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance  
841 Silver Lake Blvd.  
Dover, 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@state.de.us](mailto:Leslie.Ledogar@state.de.us)

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## OFFICE OF THE COMMISSIONER

#### PUBLIC NOTICE

#### 1319 Arbitration of Disputes between Carriers and Primary Care and Chronic Care Management Providers

On August 29, 2018, the Governor signed into law SB 227 as amended by Senate Amendment No. 1 and House Amendment No. 1 as amended by House Amendment No. 1 to House Amendment No. 1, entitled "An Act to Amend Title 16, Title 18, and Title 29 of the Delaware Code Relating to Primary Care Services" (the Act). The Act provides that Sections 5 through 8 become effective on January 1, 2019 and expire "three years after enactment into law unless otherwise provided by a subsequent Act of the General Assembly."

Section 5 of the Act adds new 18 **Del.C.** §3342B to the Uniform Health Policy Provisions Law codified at 18 **Del.C.** Chapter 33, Subchapter 1. Section 6 of the Act adds new 18 **Del.C.** §3556A to Chapter 35 of the Delaware Insurance Code, which concerns group and blanket health insurance. Both new provisions require, *inter alia*, that insurance carriers

"provide coverage for chronic care management and primary care at a reimbursement rate that is not less than the Medicare reimbursement for comparable physician services."

The Act also requires that the Delaware Department of Insurance (the Department) "arbitrate disagreements regarding rates under this section" for which the parties involved in the dispute must pay, and that the Department "adopt regulations to implement the requirements of this section no later than 90 days after the effective date of this Act."

The Department is therefore proposing new 18 **DE Admin. Code** 1319, Arbitration of Disputes between Carriers and Primary Care and Chronic Care Management Providers, to implement the requirements of 18 **Del.C.** §§3342B and 3556A.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed new regulation. Any written submission in response to this notice and relevant to the proposed new regulation must be received by the Department of Insurance no later than 4:30 p.m., 3<sup>rd</sup> day, December, 2018 by mailing to:

Delaware Department of Insurance

Attn.: Leslie W. Ledogar, Esq., Regulatory Specialist

Docket No. 3909-2018

841 Silver Lake Boulevard

Dover, DE 19904

Comments may also be emailed to [leslie.ledogar@state.de.us](mailto:leslie.ledogar@state.de.us).

The Department of Insurance does not plan to hold a public hearing on the proposed new regulation. The proposed new regulation appears below and can also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

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## OFFICE OF THE COMMISSIONER

### PUBLIC NOTICE

#### 1320 Minimum Standards for Short-Term, Limited Duration Health Insurance Plans

Short-term, limited duration (STLD) health insurance has long been offered to individuals through the non-group market and through associations. The product was originally designed for people who experience a temporary gap in health insurance coverage. Unlike other products that are considered "limited benefit" or "excepted benefit" policies (cancer-only or hospital indemnity that pay a fixed dollar benefit per inpatient stay), STLD health insurance policies are sometimes advertised as providing "major medical" coverage.

STLD policies are distinguishable from other comprehensive major medical policies in that they only provide coverage for a limited term, typically less than 365 days, and, as the name implies, are not renewable. Thus, an individual who bought an STLD and then becomes seriously ill has historically been unable to renew coverage when the policy ends.

STLD policies also have other significant limitations, including the types of services covered, and caps on the maximum claims-paid amounts. Additionally, pursuant to an exemption in the federal Affordable Care Act (ACA), STLD policies are exempt from the market rules that apply to most major medical health insurance policies sold to individuals in the non-group market, including rules that prohibit medical underwriting, pre-existing condition exclusions, and lifetime and annual limits. They are also exempt from the ACA's minimum coverage standards.

In 2017, Congress reduced the ACA's individual mandate tax penalty, (the requirement that individuals have minimum essential health coverage or face a tax penalty) to \$0, beginning in 2019. It is possible that this change could lead more consumers to contemplate purchasing STLD policies.

On August 3, 2018, the federal government issued a rule that will apply to STLD health insurance policies sold on or after October 2, 2018. See 83 Fed. Reg. 38212 (the Final Rule). The Final Rule would extend the period during which plans can be sold from three to 12 months and would allow for consecutive renewal of short-term policies. The relaxation in renewal requirements allows consumers to enroll in the policies for a period arguably longer than "short term" and may re-enroll in the policies for an indefinite period of time.

Although the intent of the Final Rule is to grant consumers more affordable coverage alternatives than are offered through state health insurance marketplaces, the more "affordable" coverage comes with less actual coverage. Specifically, consumers who purchase these plans may face limited benefit offerings, significant out-of-pocket costs, the risk of plan cancellation due to pre-existing conditions, and possible deceptive advertising practices. A producer's duty of competence includes ensuring that consumers considering these policies are fully advised of the terms, benefits, and limitations of the coverage.

The Final Rule expressly describes short-term coverage as "a type of health insurance coverage that was primarily designed to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage (emphasis added)." *Id.* at 38213.

STLD health insurance policies are not considered minimum essential coverage for purposes of satisfying the ACA individual mandate. *Id.* at 38213 and 38225.

Increased sales of these plans to younger, healthy people is expected to draw thousands of healthy consumers out of

Delaware's Health Insurance Marketplace (HIM) risk pool, leading to an unhealthy risk mix and subsequent increases in marketplace health insurance premiums.

The sale of these plans can begin on October 1, 2018, which is 60 days after the Final Rule was issued. Therefore, states, including Delaware, have a short window within which to implement consumer protections, as the sale of these short-term policies could begin later this year.

The Final Rule specifically states that "states generally remain free to adopt . . . other standards as they see fit." *Id.* at 38225.

Elsewhere in this edition of the *Register of Regulations*, the Department published an emergency order by which it adopted new 18 **DE Admin. Code** 1320 - Minimum Standards for Short-Term, Limited Duration Health Insurance Plans, to ensure that carriers offering STLD health insurance plans comply with minimum consumer protection and notification standards so as to partially prevent the erosion of the stability of Delaware's HIM and to protect Delaware consumers from being potentially misled into purchasing a STLD health insurance plan without being fully informed of its coverage limits or applicability.

The Department is therefore concurrently proposing new 18 **DE Admin. Code** 1320 - Minimum Standards for Short-Term, Limited Duration Health Insurance Plans with the purpose of permanently codifying the regulations that are the subject of the Commissioner's Emergency Order adopting these same regulations.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed new regulation. Any written submission in response to this notice and relevant to the proposed new regulation must be received by the Department of Insurance no later than 4:30 p.m., 3<sup>rd</sup> day, December, 2018 by mailing to:

Delaware Department of Insurance

Attn.: Leslie W. Ledogar, Esq., Regulatory Specialist

Docket No. 3909-2018

841 Silver Lake Boulevard

Dover, DE 19904

Comments may also be emailed to [leslie.ledogar@state.de.us](mailto:leslie.ledogar@state.de.us).

The Department of Insurance does not plan to hold a public hearing on the proposed new regulation. The proposed new regulation appears below and can also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

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**DEPARTMENT OF JUSTICE**  
**FRAUD AND CONSUMER PROTECTION DIVISION**  
**INVESTOR PROTECTION UNIT**

**PUBLIC NOTICE**

**Rules Pursuant to the Delaware Securities Act**

In compliance with the State's Administrative Procedures Act (APA -Title 29, Chapter 101 of the Delaware Code) and Section 73-102(b) of Title 6 of the Delaware Code, the Investor Protection Unit of the Delaware Department of Justice ("the Unit") hereby publishes notice of a proposed revision to the Rules Pursuant to the Delaware Securities Act.

The proposed revision amends two existing Rules as follows:

- The proposed amendments include an amendment of Rule 610 relating to the examination requirements of individuals applying to be registered as a broker-dealer or broker-dealer agent. It will require that applicants new to the securities industry successfully complete the Securities Industry Essentials ("SIE").
- The proposed amendments also include an amendment to Rule 710 relating to the examination requirements of individuals applying to be registered as an investment adviser or investment adviser representative. It will require that applicants new to the securities industry successfully complete the SIE.

Persons wishing to comment on the proposed revision may submit their comments in writing to:

Jillian Lazar

Investor Protection Director

Department of Justice, Investor Protection Unit

State Office Building, 5<sup>th</sup> Floor

820 N. French Street

Wilmington, DE 19801

The comment period on the proposed revision will be held open for a period of thirty days from the date of the publication of this notice in the Delaware *Register of Regulations*.

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# DEPARTMENT OF SAFETY AND HOMELAND SECURITY

## DIVISION OF STATE POLICE 2400 BOARD OF EXAMINERS OF CONSTABLES PUBLIC NOTICE

Notice is hereby given that the Board of Examiners of Constables, in accordance with 10 **Del. C.** Ch. 27 proposes to amend the following adopted rules in 24 **DE Admin. Code** 2400 Board of Examiners of Constables: Rule 1.0 Licensing. If you wish to view the complete Rules, contact Ms. Ashley Hughes at 302-672-5337. Any persons wishing to present views may submit them in writing, by December 3, 2018, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold a meeting Wednesday, December 19, 2018, at the Tatnall Building, 150 Martin L. King, Jr. Boulevard South, Room 112, Dover, DE.

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# DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

## DIVISION OF FAMILY SERVICES OFFICE OF CHILD CARE LICENSING PUBLIC NOTICE

### 101 DELACARE: Regulations for Early Care and Education and School-Age Centers

The Office of Child Care Licensing (OCCL) proposes to amend DELACARE: Regulations for Early Care and Education and School-Age Centers. This proposal includes the following changes:

- Using plain language throughout the regulation;
- Clarification regarding the requirements for lead-paint risk assessments for centers that were built before 1978, including abatement for lead-paint hazards;
- Radon testing, including mitigation if necessary;
- Air quality testing for centers located in a building/structure that contains or contained a dry cleaner, nail salon, or any other use that may result in an unacceptable indoor air quality;
- Fingerprinting conducted before a staff member begins employment at the center;
- Comprehensive background checks for applicants, licensees, staff members, and volunteers before being alone with children;
- Broadening the education requirements for school-age site coordinators and reducing the experience requirements;
- Allowing early childhood interns to be alone with children during naptime;
- Certified staff at all times to administer medications, as needed;
- The allowance for licensees to be able to administer non-intravenous medication when requested by the parent; and
- Suspension and expulsion policies.
- Requiring centers to be free of lead-paint and radon hazards and the additional requirement for centers located in a building/structure that contains or contained a business that may result in unacceptable air quality to have the air quality tested protects children's health. Comprehensive background checks and suspension and expulsion policies are required to comply with the Child Development Block Grant Act of 2014. Lastly, by amending these regulations, the needs of children requiring medication (with parent/guardian permission) while in child care will be met, consistent with the principles of the Americans with Disabilities Act.

Interested parties wishing to offer comments, suggestions, data, briefs, or other materials concerning the proposed regulation may submit them to the Office of Child Care Licensing, Division of Family Services, Department of Services for Children, Youth and Their Families, 3411 Silverside Road, Hagley Building, Wilmington, Delaware, 19810, Attention: Kelly McDowell or email them to Kelly McDowell at [Kelly.McDowell@state.de.us](mailto:Kelly.McDowell@state.de.us) by the close of business on December 7, 2018.

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## Division of Family Services Office of Child Care Licensing PUBLIC NOTICE

### 103 Regulations for Family and Large Family Child Care Homes

The Office of Child Care Licensing (OCCL) proposes to amend DELACARE: Regulations for Family and Large Family Child Care Homes. This proposal includes the following requirements:

- Lead-paint risk assessments for family child care homes that were built before 1978, including abatement for lead-paint hazards;
- Radon testing for family and large family homes, including mitigation if necessary;
- Air quality testing for large family homes located in a commercially-zoned building/structure that contains or contained a dry cleaner, nail salon, or any other use that may result in an unacceptable indoor air quality;
- Fingerprinting conducted before a staff member begins employment and before a new adult household member moves into the home;
- Comprehensive background checks for applicants, licensees, adult household members, staff members, and adult volunteers;
- Qualified staff at all times to administer medications, as needed;
- The allowance for licensees to be able to administer non-intravenous medication when requested by the parent; and
- Suspension and expulsion policies.

Requiring family and large family homes to be free of lead-paint and radon hazards, and the additional requirement for large family homes located in commercially located buildings that contain or contained a business that may result in unacceptable air quality to have the air quality tested protects children's health. Lastly, by amending these regulations, the needs of children requiring medication (with parent/guardian permission) while in child care will be met, consistent with the principles of the Americans with Disabilities Act.

In addition, the application forms, the specific requirements to obtain a license, and due process provisions have been added to the regulation.

Interested parties wishing to offer comments, suggestions, data, briefs, or other materials concerning the proposed regulation may submit them to the Office of Child Care Licensing, Division of Family Services, Department of Services for Children, Youth and Their Families, 3411 Silverside Road, Hagley Building, Wilmington, Delaware, 19810, Attention: Kelly McDowell or email them to Kelly McDowell at [Kelly.McDowell@state.de.us](mailto:Kelly.McDowell@state.de.us) by the close of business on December 7, 2018.

## DEPARTMENT OF STATE

### PUBLIC SERVICE COMMISSION

#### PUBLIC NOTICE

#### 1010 Regulations Governing the Administration of the Electric and Natural Gas Utility Distribution System

The Delaware General Assembly has enacted legislation pursuant to which electric distribution and natural gas distribution utilities subject to the jurisdiction of the Delaware Public Service Commission (the "Commission") may file, on a semiannual basis, proposed rate schedules establishing a Distribution System Improvement Charge ("DSIC") rate that provides such utilities the opportunity to recover the cost of new, used and useful utility plant that meets certain eligibility criteria. See 26 **Del.C.** §315 (Electric and Natural Gas Utility Distribution System Improvement Charge). The legislation further provides that the Commission may adopt rules and regulations to administer the DSIC so long as those rules and regulations are not inconsistent with the Public Utilities Act of 1974.

The Commission has promulgated proposed regulations to implement and administer the DSIC (the "Proposed Regulations"), 26 *Del. Admin. Code* ch. 1010. The Proposed Regulations establish filing deadlines for DSIC applications; effective dates of new DSIC rates; requirements for filing a DSIC application; a review and approval process; and annual reconciliation and audit procedures.

The Commission has the authority to promulgate the Proposed Regulations pursuant to 26 **Del.C.** §§209(a), 315(d), and 29 **Del.C.** ch. 101.

The Commission hereby solicits written comments, suggestions, and compilations of data, briefs, or other written materials concerning the Proposed Regulations. Anyone submitting any written materials must email such materials to Joshua Bowman at [Joshua.Bowman@state.de.us](mailto:Joshua.Bowman@state.de.us) on or before December 3, 2018.

Any public hearing conducted by the Commission will be duly noticed in accordance with 29 **Del.C.** §§10115(b).

Copies of the Proposed Regulations may be obtained from the Commission office at 861 Silver Lake Blvd, Suite 100, Dover, DE 19904. The Proposed Regulations will also be available on the Commission's website: <https://depsec.delaware.gov/>.

Any individual with disabilities who wishes to review submissions or to participate in this docket should contact the Commission to discuss any auxiliary aids or services to facilitate such review or participation. Such contact may be in person, in writing, by telephone or otherwise. The Commission's toll-free telephone number in Delaware is (800) 282-8574. You may also make inquiries by voice telephone at 302-736-7500 or by internet email at [Joshua.Bowman@state.de.us](mailto:Joshua.Bowman@state.de.us).

## DEPARTMENT OF TRANSPORTATION

### DIVISION OF TRANSPORTATION SOLUTIONS

**PUBLIC NOTICE**

**2403 Special Events Policies and Procedures—Traffic Management**

Under Title 17 of the **Delaware Code**, Section 141, as well as 29 **Delaware Code** Section 8404(8), the Traffic Operations and Management Section of the Delaware Department of Transportation (DelDOT), has the authority to regulate the traffic impacts of special events that affect the safe movement of traffic on the State's transportation network, and adopted the Special Events Policies and Procedures – Traffic Management regulation. The Department seeks to adopt revisions to this regulation to waive temporary traffic control costs for special events held by an organizer exempt from federal income tax under Internal Revenue Code Section 501(c)(3) or if the applicant and organizer is a State Agency, County, incorporated Municipality, school district, or accredited college or university. The revisions allow organizers not meeting the conditions above to request a waiver if proceeds to an event are donated to a 501(c)(3) organization or if the need for temporary traffic control is created by impacts associated with a Department project.

The Department will take written comments on these proposed revisions to the Special Events Policies and Procedures – Traffic Management regulation from November 1, 2018 through December 3, 2018.

Questions or comments regarding these proposed revisions should be directed to: Donald Weber, P.E., Asst. Director, Traffic Operations and Management Section, Division of Transportation Solutions, Delaware Department of Transportation 169 Brick Store Landing Road Smyrna, DE 19977 (302) 659-4060 (telephone) (302) 653-2859 (fax) [don.weber@state.de.us](mailto:don.weber@state.de.us).