

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

Title XXI Delaware Healthy Children's Program State Plan – Health Services Initiatives – Vision Services – School-Based Initiative

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XXI Delaware Health Children's Program State Plan regarding Health Services Initiatives, specifically, to revise language for Delaware's CHIP State Plan Health Service Initiative to align with the Delaware Department of Education's (DDOE's) definition of low-income in its Vision Services - School-Based Initiative, and to revise the data collection process to aid in identification of uninsured children. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del.C.** §10115 in the January 2020 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 2020 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after October 1, 2020 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend section 2.2 of Title XXI Delaware Health Children's Program State Plan regarding Health Services Initiatives, specifically, to revise language for Delaware's CHIP State Plan Health Service Initiative to align with the Delaware Department of Education's (DDOE's) definition of low-income in its Vision Services - School-Based Initiative, and to revise the data collection process to aid in identification of uninsured children.

Background

Changes in USDA programs have affected how schools determine which students are eligible for free or reduced price lunches. With these changes, the ability to determine individual student status is no longer possible in all districts and schools. Section 104(a) of the Healthy, Hunger Free Kids Act of 2010 (HHFKA) amended section 11(a)(1) of the Richard B. Russell National School Lunch Act(NSLA)(42 U.S.C. 1759a(a)(1)) to provide an alternative to household applications for free and reduced price meals in high poverty local educational agencies (LEAs) and schools. This alternative is called the Community Eligibility Provision (CEP). CEP permits eligible schools to provide meal service to all students at no charge, regardless of economic status, while reducing burden at the household and local levels by eliminating the need to obtain eligibility data from families through a separate collection; schools can use only "direct certification" data, such as data from the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) program to determine the Federal cash reimbursement for school lunches provided by USDA. A school is eligible for CEP if at least 40% of its students are "directly certified" and the school provides free breakfast and lunch to all of its students.

As a result, the Delaware Department of Education (DDOE) has changed the methodology used to calculate the low income measure for Delaware schools. Whereas DDOE previously determined low income by identifying students that received TANF, SNAP, Medicaid, or free or reduced price lunch, low income is now determined by students who receive any one of the following benefits: TANF, SNAP (Direct Certification).

Statutory Authority

Healthy, Hunger Free Kids Act of 2010 (HHFKA)

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 29 **Del.C.** Ch. 101, 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 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 Statement

These changes are revisions in how the program is run and low-income children are identified for services. These are not new or expanded services, thus no fiscal impact is expected.

Summary of Comments Received with Agency Response and Explanation of Changes

The following summarized comments were received:

Comment: Two commenters opposed the definitional change because this change may result in fewer children receiving school-based vision services outlined under this plan.

Agency Response: The change in definition is necessary due to changes in the school-based nutrition program.

Comment: Two commenters recommended that DMMA not remove the requirement for parental consent, as required by state law.

Agency Response: DMMA will comply with state law requiring parental consent.

Comment: Two commenters recommended that DMMA include a timeline of when students can expect to receive corrective eyewear once insurance information is provided.

Agency Response: DMMA appreciates the input and will take this recommendation under consideration

Comment: One commenter recommended that, in addition to not removing the requirement for parental consent for the provision of the eye screening and examination, DMMA also include the request for insurance information in the initial consent form.

Agency Response: DMMA appreciates the input and will continue to collect the insurance information after the screening.

Comment: One commenter asked how children outside of CEP schools get access to vision services?

Agency Response: Vision services are a covered benefit for all children enrolled in the CHIP program.

Comment: One commenter recommended before a screening and prescription that earnest efforts be made to connect to the child's medical home or eye doctor.

Agency Response: Each of DMMA's health plans assist families in connection children to a medical home and eye care as needed. For those children who are uninsured, the mobile vision service provider each child with information on where to apply for CHIP or Medicaid.

Comment: One commenter recommended DMMA hold any provider of vision services under Section 2.2. to the same standard of care provided by eye care professionals (optometrists and ophthalmologists) when providing an "eye exam" to this underserved patient population.

Agency Response: The vision to learn service provider has licensed eye care professionals providing this service.

Comment: One commenter inquired about the processes in place to ensure collaboration with a child's current medical provider(s) and current specialist for eye care (if applicable)?

Agency Response: Each of DMMA's health plans has care coordinators who coordinate care for children enrolled in CHIP.

Comment: One commenter inquired about processes in place to ensure that families do not "use up" their annual vision benefit at school if they are already connected to an optometrist or ophthalmologist?

Agency Response: The Mobile Vision Services Program provides vision services in Community Eligibility Provision (CEP) qualified schools for children facing hardships accessing vision services. It is not meant to replace vision services for children who are already connected to an optometrist or ophthalmologist.

Comment: One commenter recommended that specific language be added to all informational materials and forms for school-based vision services that coverage for school-based services/eyeglass prescriptions are billed to the child's current insurance should they be insured.

Agency Response: DMMA appreciates the input and will take this recommendation under consideration.

Comment: One commenter inquired if DMMA had processes in place or would be established to connect an uninsured child to comprehensive health services?

Agency Response: The Mobile Vision Services contractor has been distributing brochures to uninsured at each visit to take home to let families know that they may qualify for Medicaid/CHIP benefits and provides information where they can

contact DSS to apply.

Comment: One commenter recommend the division focus on the identification of uninsured children and developing methods for ensuring that they are able to access needed vision services.

Agency Response: While uninsured children in need of vision services are also identified through vision to learn program, DMMA appreciates and takes under consideration your recommendation for focused attention on this population. DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Delaware Academy of Ophthalmology
- Delaware Optometric Association
- Governor's Advisory Council for Exceptional
- Nemours Children's Health System
- State Council for Persons with Disabilities

FINDINGS OF FACT:

The Department finds the proposed changes as set forth in the August 2020 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Division of Social Services Manual (DSSM) regarding Child Care Subsidy Program specifically, to explain the application processing standards for the Purchase of Care program, including the process for determining and assigning copayments for families who receive a child care subsidy, is adopted and shall be final effective November 11, 2020.

10/12/20

Date of Signature

Molly K. Magarik, Secretary, DHSS

- 2.2. Health Services Initiatives-** Describe if the State will use the health services initiative option as allowed at 42 CFR 457.10. If so, describe what services or programs the State is proposing to cover with administrative funds, including the cost of each program, and how it is currently funded (if applicable), also update the budget accordingly. (Section 2105(a)(1)(D)(ii)); (42 CFR 457.10)

Pursuant to Section 2105(a)(1)(D)(ii) of the Social Security Act, Delaware ~~with~~ will use administrative funds to offer health services initiatives under this plan with the goal of improving the health of children, defined as "individual(s) under the age of 19 including the period from conception to birth," per 42 CFR 457.10. Delaware assures that it will use no more than 10% of the total expenditures under this Plan, as specified in 42 CFR 457.618, to fund the State's health service initiatives.

Vision to Learn Services – School-Based Initiative

Access to vision exams and glasses is critical for students' educational achievements and health outcomes, as 80% of all learning during a child's first 12 years is vital. It comes as no surprise that students with vision problems tend to have lower academic performance, as measured by test scores and grades, and that students' performance in school impacts future employment earnings, health behaviors, and life expectancy. As such, Delaware seeks to use the health services initiative option to improve the health of low-income children by increasing their access to needed vision services and glasses through a targeted, school-based initiative. Delaware intends to contract with a ~~non-profit~~ Medicaid participating provider to offer these services on-site at certain Delaware schools. ~~(Delaware is currently engaged with Vision to Learn (VTL), which has been serving Delaware children since 2014 and is a certified Medicaid participating provider. VTL is a non-profit, philanthropically funded entity that provides free eye exams and glasses to students at schools in low-income communities.)~~

The following describes how the CHIP HSI will be operationalized:

- The qualified provider will target Delaware's low-income children by identifying ~~Title I schools in which at least 51% of the student body receives free or reduced price meals~~ Community Eligibility (CEP) Schools. A school is eligible for CEP if at least 40% of its students are "directly certified" through the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) and the school provides free breakfast and lunch to all of its students.
- These schools will provide the qualified provider with a list of children who have failed the school-supplied vision screening. ~~The qualified provider will give these children parental consent forms to take home.~~
- The qualified provider will send a [notice parental/guardian consent form] home with these children informing the parent/guardian that their child [will has the opportunity to] receive [a vision screening, eye exam vision services], and, if necessary, corrective lenses and frames [following the procedure

set forth in this policy]. The parent/guardian has the opportunity to return the form and [accept or refuse these services. [If no form is returned, no services will be provided to the child.]

- ~~For children whose return with parental consent, [The~~ For children who return with parental/guardian consent the] qualified provider will ~~[give one vision screening and eye exam provide vision services]~~ and, if needed, corrective lenses and frames (including replacements, as needed) on-site in a mobile eye clinic.
- If the vision [screening and eye exam service] results determine that corrective lenses and frames are needed, the qualified provider will send a notice home to the child's parent/guardian informing them of the results and requesting insurance information.
- ~~The qualified provider will collect identifying information from all children it serves (for example, name and date of birth) or and submit this information to the Delaware Division of Medicaid and Medical Assistance (DMMA). Based on this data, DMMA will identify children who are enrolled in Medicaid or CHIP and their managed care organization (MCO) and return this information to the qualified provider, who will then submit bills for Medicaid and CHIP enrollees directly to the MCOs. The MCOs will pay based on negotiated, standard fees.~~
- **[The qualified provider is then scheduled to return to the school to fit the child for glasses.]**
- The qualified provider will collect the following information, at a minimum, from all children it serves, and submit it to the Delaware Division of Medicaid and Medical Assistance (DMMA):
 - Child's first and last name;
 - Child's date of birth;
 - Name of the parent or guardian;
 - Name of the school the services were provided at and [its] CEP status;
 - Indication that the insurance information form was or was not returned; and if it was returned,
 - The insurance information that was provided.
- ~~Based on this data, DMMA will identify children on this list who are enrolled in Medicaid or CHIP and their managed care organization (MCO) and return this information to the qualified provider, who will then submit bills for Medicaid and CHIP enrollees directly to the MCOs. The MCOs will pay based on negotiated, standard fees.~~
- ~~The qualified provider will submit information about services provided to DMMA for the children ages 18 or younger who DMMA has not identified as enrolled in Medicaid or CHIP. DMMA will remit payment for these services through CHIP HSI funding.~~
- The qualified provider will use this data and submit a second report to DMMA to include only those children that are 18 years of age or under, returned the insurance information form, did not indicate a private insurance carrier, and were not identified by DMMA as enrolled in Medicaid or CHIP on the previous submission.
- DMMA will remit payment for these services through CHIP HIS funding.
- DMMA will perform outreach by supplying the provider with brochures and information about the CHIP and Medicaid Programs to provide to children that are not currently enrolled in Medicaid or CHIP.

Delaware provides the following assurances regarding this Health Service Initiative (HSI), ~~Vision to Learn (VTL) — Delaware Vision Services – School-Based Initiative:~~

- This HSI will only target children **[under the age of 19 18 years of age or under];**
- This HSI will not supplant or match CHIP Federal funds with other Federal funds nor allow other Federal funds to supplant or match CHIP Federal funds; and
- HSI funds will not be used for children with private coverage and will only be used to cover ~~VTL~~ services provided to uninsured children.