

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 20700

PROPOSED

PUBLIC NOTICE

Division of Developmental Disabilities Services (DDDS) Lifespan Waiver

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 the Developmental Disabilities Services (DDDS) Lifespan Waiver, specifically, to *clarify internal policy and procedures*.

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, or by fax to 302-255-4413 by 4:30 p.m. on October 31, 2017. Please identify in the subject line: Division of Developmental Disabilities Services (DDDS) Lifespan Waiver.

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 the Delaware Social Services Manual (DSSM) regarding the Developmental Disabilities Services (DDDS) Lifespan Waiver, specifically, to *clarify internal policy and procedures*.

Statutory Authority

- Social Security Act §1915(c), Home and community-based services
- 42 CFR 440.167, Personal care services

Background

On May 22, 2017 the Centers for Medicare & Medicaid Services (CMS) approved Delaware's request to amend the DDDS Lifespan Home and Community-Based Services (HCBS) Waiver effective July 1, 2017. The Waiver provides services and supports as an alternative to institutional placement for individuals with intellectual developmental disabilities (IDD) (including brain injury), autism spectrum disorder or Prader-Willi Syndrome. The description of the waivers target group allows for inclusion of individuals with IDD that are not in immediate need of a waiver residential setting. This allows individuals living in the family home who are receiving DDDS day services to be enrolled in the waiver.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to clarify internal policy and procedures regarding the Developmental Disabilities Services (DDDS) Lifespan Waiver.

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 Delaware Social Services Manual (DSSM) to clarify internal policy and procedures regarding the Developmental Disabilities Services (DDDS) Lifespan Waiver.

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 October 31, 2017.

Provider Manuals Update

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

The proposed regulation clarifies practice and procedures currently used by the Division of Medicaid and Medical Assistance and Division of Social Services and therefore will result in no fiscal impact.

Division of Developmental Disabilities Services (DDDS) Lifespan Waiver

AMENDED

20700.1 Division of Developmental Disabilities Services Lifespan Waiver

1. Only clients of the Division of Developmental Disabilities Services (DDDS) are eligible for this the Lifespan Waiver.
2. Individuals must be medically eligible.

~~Initial and ongoing medical eligibility is determined by DDDS staff. The DDDS Intake Coordinator makes a preliminary determination for each applicant for initial eligibility. Once an individual accepts a residential setting, the DDDS Social Service Benefits Administrator sends all waiver requests to the Division of Medicaid & Medical Assistance Medical Review Team (MRT) for review. Based on the information provided on the comprehensive Medical Report (MAP-25), Social Evaluation Form, Cost Projection Data Sheet and the Level of Care (LOC) form, the MRT will either concur with the initial decision to approve or deny the applicant for an ICF/MR level of care.~~

~~The MRT signs off on all forms sent by the DDDS Social Service Benefits Administrator.~~

3. Individuals must be financially and technically eligible.

If the client is not already Medicaid eligible as an SSI recipient, DDDS submits an application (individuals in residential placements) or referral packet (individuals residing in the family home) to the appropriate Long Term Care DMMA Operations Unit for the financial and technical eligibility determination. The financial and technical ~~Eligibility~~ determination is made by using financial criteria applied to those institutionalized and receiving Long Term Care (LTC) Medicaid.

15 DE Reg. 1718 (06/01/12)

AMENDED

20720 Patient Pay Calculation

This policy applies to all individuals receiving Medicaid through the Division of Developmental Disabilities Services (DDDS) Lifespan Waiver and the Long Term Care Community Services (LTCCS) Program.

1. The Medicaid recipient's total income will be used in the post eligibility treatment of income. This includes income that is counted for eligibility and income that is excluded for eligibility.
2. Allowable deductions are given based on an individual's circumstances. Not all deductions will apply to all individuals.
3. Any amount of income remaining after allowable deductions is the patient pay amount. This amount must be paid on a monthly basis as indicated below:
 - Individuals receiving Residential Habilitation funded by the DDDS waiver will submit their patient pay amount directly to the provider of Residential Habilitation.
 - Individuals residing in an Assisted Living Facility will submit their patient pay amount directly to the Assisted Living Facility.

The following deductions from the Medicaid recipient's total gross income should be taken in the following order:

15 DE Reg. 1718 (06/01/12)

20 DE Reg. 552 (01/01/17)

AMENDED

20720.1 Daily Living Needs

Individuals receiving Medicaid under the Division of ~~Developmentally Disabled~~ Developmental Disabilities Services (DDDS) Lifespan Waiver who receive Residential Habilitation services are allowed a deduction equal to the current Adult Foster Care (AFC) rate. The AFC rate is based on the current SSI income level plus \$140.00.

Individuals receiving Medicaid under the Long Term Care Community Services program and are residing in an Assisted

Living Facility are given a deduction based on the Adult Foster Care rate less an amount payable for room and board.

Individuals receiving Medicaid under the DDDS Lifespan Waiver who reside in the family home or in the Long Term Care Community Services (LTCCS) program are allowed an amount equal to their total income including income that is placed in a Miller Trust.

15 DE Reg. 1718 (06/01/12)

21 DE Reg. 269 (10/01/17) (Prop.)