

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 CHIP Compliance with MHPAEA

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XXI CHIP Plan regarding MHPAEA specifically, to align the Delaware CHIP Plan with new Federal Requirements. 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 February 2018 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 2, 2018 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 2, 2017 Delaware Health and Social Services/ Division of Medicaid and Medical Assistance proposes to amend Title XXI CHIP Plan sections 6.2, 8.2, 8.4, and 8.5 regarding MHPAEA specifically, to align the Delaware CHIP Plan with new Federal Requirements.

Background

The Centers for Medicare & Medicaid Services (CMS) issued a final rule that applies requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA) to Medicaid managed care organizations (MCOs), the Children's Health Insurance Program (CHIP), and Medicaid alternative benefit plans (ABPs). Delaware and its contracted Medicaid/CHIP MCOs were required to be in compliance with the final Medicaid/CHIP parity rule on or before October 2, 2017.

The State and its MCOs conducted a review of the State's Medicaid/CHIP delivery system to assess compliance with the final Medicaid/CHIP parity rule.

Additionally, CMS released a CHIP Plan template to document this compliance as it relates specifically to CHIP.

Statutory Authority

- Mental Health Parity and Addiction Equity Act (MHPAEA)
- Patient Protection and Affordable Care Act

Purpose

The purpose of this proposed regulation is to ensure that coverage provided to CHIP beneficiaries for mental health and substance use disorders be no more restrictive than coverage for medical/surgical conditions.

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 March 2, 2018.

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

There will be no or minimal fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received during the public comment period.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the February 2018 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XXI CHIP Plan regarding MHPAEA specifically, to align the Delaware CHIP Plan with new Federal Requirements, is adopted and shall be final effective April 11, 2018.

Kara Odom Walker, MD, MPH, MSHS
DHSS Secretary
3/20/18

Final Regulation Text

The text for the four final regulations may be viewed here:

DMMA CHIP Reg 6.2 <http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Reg 6.2.pdf>

Final text for the attachments may be viewed here:

<http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Attachment 1.pdf>

<http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Attachment 2.pdf>

<http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Attachment 3.pdf>

<http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Attachment 4.pdf>

DMMA CHIP Reg 8.2 <http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Reg 8.2.pdf>

DMMA CHIP Reg 8.4 <http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Reg 8.4.pdf>

DMMA CHIP Reg 8.5 <http://regulations.delaware.gov/register/april2018/final/DMMA CHIP Reg 8.5.pdf>

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