

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

GENERAL NOTICE

PUBLIC NOTICE

**Proposed Renewal for
1915(b)(4) Waiver Fee-for-Service Selective Contracting Program**

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice related to the renewal of an application for a fee-for-service selective contracting waiver under section 1915(b)(4) of the Social Security Act.

Background

In December 2014 the Centers for Medicare & Medicaid Services (CMS) approved 1915(i) home and community-based services (HCBS) State Plan Amendment (SPA) to support individuals with disabilities in attaining and sustaining competitive employment. The Program has operated as Delaware's Pathways to Employment (Pathways). The Pathways program expanded choices and opportunities for persons with disabilities seeking to enter the job market. The program offers individually-tailored employment support services to persons with visual impairments, physical disabilities, intellectual disabilities, autism spectrum disorder and Aspergers. Pathway is targeted to persons meeting the eligibility criteria specified in the Pathways SPA, including:

- 14 to 25 years of age,
- meet defined needs-based criteria, and
- have a desire to work in a competitive work environment.

The following services will be provided to Pathways program participants:

- Employment Navigation
- Financial Coaching Plus
- Benefits Counseling
- Non Medical Transportation
- Orientation, Mobility, and Assistive Technology
- Career Exploration and Assessment
- Small Group Supported Employment
- Individual Supported Employment
- Personal Care (including option for self direction)

CMS approved the 1915(i) home and community-based services SPA for 5 years. Concurrently, CMS approved Delaware to limit providers for the Employment Navigation and Transportation services provided by the Pathways program.

Section 1915(b) of the Social Security Act gives the Secretary of Health and Human Services the discretion to waive a broad range of requirements included in Section 1902 of the Act as may be necessary to enable a State to implement alternative delivery mechanisms for its Medicaid program. However, the Secretary may exercise that discretion only insofar as the alternative delivery mechanism is found to be cost-effective, efficient, and not inconsistent with the purposes of Title XIX of the Act.

In particular, subsection (b)(4) permits a State to restrict the provider from whom Medicaid beneficiaries receive services as long as such restrictions do not substantially impair access to services of adequate quality where medically necessary. This statutory authority (as well as implementing regulations at 42 CFR §431.55) can be used in both fee-for-service as well as managed care arrangements.

The 1915(b)(4) application renewal is targeted specifically to selective contracting arrangements that will be paid on a fee-for-service basis. In order to limit the number of providers rendering covered services to Medicaid beneficiaries, States must submit a waiver renewal to CMS, seeking permission to waive section 1902(a)(23)(A) of the Act, which otherwise permits beneficiaries free choice of providers.

Purpose

The purpose of this posting is to provide public notice and elicit public input regarding Delaware's renewal of the this waiver which seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

Overview and Summary of the Waiver Fee-for-Service Selective Contracting Program Renewal

Delaware proposes to renew the 1915(b)(4) Waiver Fee-for-Service Selective Contracting Program. The waiver must

be renewed every five years. This is the first renewal for Waiver Fee-for-Service Selective Contracting Program. The waiver seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

Change(s) to the current Pathways to Employment 1915(b)(4):

- There are no significant changes proposed. Only minor edits have been made such as renaming the service Employment Navigator to Employment Navigation, which better describes the service, and reported staff to participant ratio data associated with the Employment Navigation program.

Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118(a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations* on April 1, 2019. The public is invited to review and comment on the proposed Waiver Fee-for-Service Selective Contracting Program renewal. Comments must be received by 4:30 p.m. on May 1, 2019. Comments may be submitted in the following ways:

This public notice and the Renewal, and a summary of the Renewal are posted online at:

<https://dhss.delaware.gov/dhss/dmma/homeandc.html>

Individuals may submit written comments using one or all of the following methods:

(Please identify in the subject line: *Waiver Fee-for-Service Selective Contracting Program*)

By fax: 302-255-4481 to the attention of Glyne Williams

By email: glyne.williams@delaware.gov

By written comment:

Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

The hardcopy renewal will be available at the following locations from April 1, 2019 through May 1, 2019.

- DDDS Fox Run Office at: 2540 Wrangle Hill Road, Suite 200, Bear, DE 19701
- Thomas Collins Building at: 540 South Dupont Hwy, 1st Floor, Dover, DE 19901
- At the Woodbrook Office at: 1056 S. Governors Ave, Dover, DE 19904
- On the Stockley Center campus at: 26351 Patriots Way, Georgetown, DE 19947 - 101 Lloyd Lane and 101 Boyd Blvd.

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed Waiver Fee-for-Service Selective Contracting Program Renewal that will be submitted to CMS.

Lisa Zimmerman for Stephen M. Groff	<u>3/11/2019</u>
Stephen M. Groff	Date
Director	
Division of Medicaid and Medical Assistance	

22 DE Reg. 869 (04/01/19) (Gen. Notice)