

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

Excluded Earnings of Temporary Census Workers

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Excluded Earnings of Temporary Census Workers, specifically, *to add additional eligibility groups to that exclusion*. 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 September 2019 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 1, 2019 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, 2019 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Supplement 8A to Attachment 2.6 A Page 2 of Title XIX Medicaid State Plan regarding Excluded Earnings of Temporary Census Workers, specifically, to add additional eligibility groups to that exclusion.

Background

The Centers for Medicare and Medicaid Services (CMS) allows states to exclude the earned income of temporary census workers for purposes of eligibility. The Delaware state plan currently excluded earnings of temporary census workers to ensure that individuals (and their families), who are temporarily hired by the Census Bureau to assist in Census activities, do not lose eligibility for Medicaid because of the income they receive from employment with the Census Bureau. The purpose of this amendment is to add additional eligibility groups to that exclusion.

Statutory Authority

CMS, Informational Bulletin dated July 3, 2019, *Temporary Census Income and Medicaid and CHIP Eligibility*

Purpose

To add additional eligibility groups to that exclusion.

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 October 1, 2019.

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

Fiscal Impact Statement

There is no anticipated fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received related to the stated change.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the September 2019 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Excluded Earnings of Temporary Census Workers, specifically, to add additional eligibility groups to that exclusion, is adopted and shall be final effective December 11, 2019.

10/29/19

Date of Signature

Kara Odom Walker, MD, MPH, MSHS, Secretary,
DHSS

Supplement 8A to Attachment 2.6A
Page 2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT STATE/TERRITORY: DELAWARE

LESS RESTRICTIVE METHODS OF TREATING INCOME UNDER SECTION 1902(r)(2) OF THE ACT

- ☒ All wages paid by the U.S. Census Bureau for temporary employment related to ~~Decimal~~ Decennial Census activities are excluded for the eligibility groups listed below:

For 1902 mandatory eligibility groups:

- Poverty level pregnant women and infants (133% - 200% FPL) under 1902(a)(10)(A)(i)(VI);
- Poverty level children under age 6 (133% FPL) under 1902(a)(10)(A)(i)(VI);
- Poverty level children under age 19 (100% FPL) under 1902(a)(10)(A)(i)(VII), and;
- Qualified Pregnant Women and Children under 1902(a)(10)(A)(i)(III).

For optional categorically needy groups under 1902 as listed below:

NOTE: The Special Income Level Group under 1902(a)(10)(A)(ii)(V), the Individuals Who Would be Eligible if In an Institution Group under 1902(a)(10)(A)(ii)(VI) and the Hospice Group under 1902(a)(10)(A)(ii)(VII) cannot be included in this disregard.

- Individuals Eligible for Cash Except for Institutionalization under 1902(a)(10)(A)(ii)(IV);
- Individuals in Institutions Eligible under a Special Income Level under 1902(a)(10)(A)(ii)(V);
- Ticket to Work Basic Group 1902(a)(10)(A)(ii)(XV); and
- Individuals who would be eligible for **[case cash]** assistance (AFDC or SSI) if they were not in a medical institution under 1902(a)(10)(A)(ii)(IV).

For 1905(p) eligibility groups:

- Qualified Medicare Beneficiaries (QMBs) under 1902(a)(10)(E)(i);
- Specified-Low Income Medicare Beneficiaries (SLMBs) under 1902(a)(10)(E)(iii); and,
- Qualifying Individuals (QIs) under 1902(a)(10)(E)(iv)(I).

TN No. SPA #
Supersedes
TN No. SPA #09-001

Approval Date
Effective Date

