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

Reimbursement Methodology for Home Health Services

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Delaware Title XIX Medicaid State Plan regarding Home Health Services, specifically, *to update the methods and standards governing reimbursement methodology language for home health services*. 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 October 2015 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 30, 2015 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Medicaid and Medical Assistance proposes to amend the Title XIX Medicaid State Plan regarding Home Health Services specifically, *to ensure compliance with federal law and regulations by updating the methods and standards language governing reimbursement methodology for home health services*.

Statutory Authority

- 1902(a)(10)(D) of the Social Security Act, *Home health services*
- 42 CFR 440.70, *Home health services*
- 42 CFR 441.15, *Home health services*
- 42 CFR 441.16, *Home health services requirements for surety bonds*
- 42 CFR 440.70(a)(3), *Medical supplies, equipment, and appliances*
- 42 CFR 440.120, *Prosthetic devices*
- 42 CFR §447.205, *Public notice of changes in Statewide methods and standards for setting payment rates*

Background

Home Health Services provide medically necessary care to an eligible Medicaid recipient whose medical condition, illness, or injury requires the care to be delivered in the recipient's place of residence or other authorized setting. These services promote, maintain, or restore health, or minimize the effects of illness and disability.

Home Health Services, as federally defined and subject to the requirements of 42 CFR 441.15 and 42 CFR 441.16, include not only home health nursing services, but also home health aides; medical supplies, equipment and appliances suitable for use in the home; physical therapy, occupational therapy, and speech pathology and audiology services provided by a home health agency or facility licensed to provide medical rehabilitation services (42 CFR 440.70).

Mandatory Home Health Services are defined as nursing services, home health aide services, and medical supplies, equipment and appliances (42 CFR 440(b)).

Optional Home Health Services are defined as physical therapy, occupational therapy, and speech pathology and audiology services provided by a home health agency or facility licensed to provide medical rehabilitation services (42 CFR 440.70(b)).

Home Health Services are provided to a beneficiary at his/her place of residence or other authorized setting upon physician order as part of a written plan of care. Services include part-time or intermittent visits by a registered nurse; visits by credentialed home health aides employed by a home health agency participating in the Medicaid program; and medical supplies, equipment and appliances required by the beneficiary and suitable for use in the home. In addition, states may choose to have home health agencies provide, when medically necessary and ordered by the beneficiary's physician, physical therapy services, occupational therapy services, and speech pathology and audiology services.

Summary of Proposal

Home Health Services are Medicaid State Plan services that are provided on a part-time and intermittent basis to Medicaid beneficiaries of any age. Home health services include home health nursing, home health aide, and skilled therapies (physical therapy, occupational therapy, and speech-language pathology).

Purpose

During review and subsequent approval on December 31, 2014 of Delaware's 1915(i) Home and Community State Plan Option Amendment (Pathways to Employment), the Centers for Medicare and Medicaid Services (CMS) performed a program analysis of corresponding coverage sections not originally submitted with this SPA. This analysis revealed that the reimbursement language for home health services fails to comply with 42 CFR 430.10 and 42 CFR 447.252 which implement in part Section 1902(a)(30)(A) of the Social Security Act, to require collectively that States comprehensively describe the methodologies that they use to reimburse service providers. The methodologies must be understandable, clear, unambiguous and auditable. This amendment proposes to revise the payment methodology language for home health services.

Proposal

In order to comport with 42 CFR 430.10 and 42 CFR 447.252, DMMA proposes to clarify existing home health services reimbursement methodology language currently described at Medicaid State plan page Attachment 4.19-B Page 6 by:

- defining the reimbursable unit of service;
- describing payment limitations;
- providing a reference to the provider qualifications per the State Plan;
- publishing location to access State developed fee schedule rates.

Current Methodology:

Providers are reimbursed a prospective determined rate according to each Home Health service rendered.

Proposed Methodology:

The proposed methodology will be a universal rate for each Home Health service type. All providers would receive the same rate for each procedure code. Moreover, as the budget allows, update each rate annually by applying an inflation factor derived from the CMS Home Health Market Basket.

Durable Medical Equipment

Current state plan page Attachment 4.19-B Page 11 list "a nationally recognized pricing system" in the hierarchy of pricing. If there was no pricing found in the Durable Medical Equipment Regional Carrier (DMERC) Region A fee schedule, the Delaware Medical Assistance Program (DMAP) utilized EPIC Plus, a pricing software package produced by the Medical Data Institute (MDI). The EPIC Plus, updated periodically, ensured that the DMAP has the most current products and supplier information available. If no rate is found in the DMERC or the EPIC Plus, the provider's cost/price sheet is used.

MDI notified DMAP that support for the EPIC Plus disk will not be provided beyond June 2015. An amendment to the state plan is proposed to remove the nationally recognized pricing system reference language.

DMAP will continue to utilize the DMERC Region A fee schedule and information received from the DME provider such as catalog pages that include the manufacturer's name, item model number, and costs or a copy of the company's invoice that describes the item and gives an itemized explanation of all charges.

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 to the methods and standards governing payment methodology for home health services. Comments were due by 4:30 p.m. on October 30, 2015.

CMS Review and Approval

The provisions of this state plan amendment relating to methodology and payment rates of Home Health Services are subject to approval by 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 Update

Also, upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals 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 manual updates.

Fiscal Impact Statement

The proposed amendment clarifies reimbursement methodology descriptions and standardizes language. An estimated fiscal impact was obtained using State Fiscal Year (SFY) 2014 Home Health paid claim information. The following fiscal impact is projected for Federal Fiscal Years (FFY) 2016 and 2017:

	Federal Fiscal Year 2016	Federal Fiscal Year 2017
General (State) Funds	$ (2,951.00)	$ (2,752.00)
Federal Funds	$ (7,543.00)	$ (7,948.00)

DMAP's proposal involves no change in the definition of those eligible to receive home health services under Medicaid, and the home health services benefit to eligible beneficiaries remains the same.

Durable Medical Equipment

The proposed amendment updates reimbursement methodology description to reflect current practice; and, as such, DMAP does not anticipate any impact to the General Fund. DMAP's proposal involves no change in the definition of those eligible to receive durable medical equipment (DME) and supplies under Medicaid, and the DME services benefit to eligible beneficiaries remains the same.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

In general, the new methodology is a universal rate for each home health service type. All providers would receive the same rate for each procedure code and rates would be increased annually based on an inflation factor derived from a CMS source. Id. Reimbursement standards for durable medical equipment (DME) are being revised to reflect the discontinuation of the EPIC Plus pricing software.

GACEC only has the following technical observation: In the section on AAC systems, first paragraph, the word "devise" should be "device".

Agency Response: DMMA agrees; "devise" is changed to "device" and is indicated in the final order regulation in **[Bracketed bold type]**.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the October 2015 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Delaware Title XIX Medicaid State Plan regarding Home Health Services, *specifically, to update the methods and standards governing reimbursement methodology language for home health services*, is adopted and shall be final effective January 10, 2016.

Rita M. Landgraf, Secretary, DHSS

DMMA FINAL ORDER REGULATION #15-26a
REVISION:

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

PAYMENTS FOR MEDICAL AND REMEDIAL CARE AND SERVICES

HOME HEALTH SERVICES

42 CFR 440.70

~~Home Health Services~~

~~1. Providers of Home Health services shall be reimbursed prospectively determined rates according to standard HCPCS definitions.~~

~~2. Providers will be prospectively reimbursed the lower of their Usual and Customary charge or the Medicaid rate.~~

Home Health Services are reimbursed as follows:

Home Health Services are reimbursed in accordance with 42 CFR 42 CFR 440.70 and when provided as defined in Attachment 3.1-A of this State Plan, subject to the requirements of 42 CFR 441.15 and 42 CFR 441.16.

Home Health agencies must be certified by Medicare and be properly licensed by the State in which they are located.

Payment for Home Health Services shall be reimbursed as follows:

The rates are prospective and are arrayed to determine the seventy-fifth (75^{th}) percentile for each procedure code. The rates are then inflated (if the budget allows) by the four (4) quarter moving average within the CMS Home Health Market Basket Index. The inflated average cost is per fifteen (15) minutes of each agency. Supply costs will be reimbursed as part of the skilled nursing and home health aide prospective rates.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

PAYMENTS FOR MEDICAL AND REMEDIAL CARE AND SERVICES

HOME HEALTH SERVICES CONTINUED

42 CFR 440.70

An inflation factor will be applied to the prior year's rates to determine the current year's rates. The inflation indices are obtained from the CMS Home Health Market Basket Index.

The agency's fee schedule rate is based upon the Home Health cost of services for a Home Health Aide, Skilled Nurse, Physical Therapist, Occupational Therapist, and a Speech Therapist.

The fee schedule and any annual periodic adjustments to the fee schedule are published on the Delaware Medical Assistance Program (DMAP) website at: http://www.dmap.state.de.us/downloads/feeschedules.html

Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private providers.

DMMA FINAL ORDER REGULATION #15-26b
REVISION:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

PAYMENTS FOR MEDICAL AND REMEDIAL CARE AND SERVICES

~~*Reimbursement for Assistive Technologies and Supplies*~~

~~DURABLE MEDICAL EQUIPMENT (DME), SUPPLIES, APPLIANCES, ORTHOTICS AND PROSTHETICS~~

Durable Medical Equipment, Appliances, Prosthetics, Orthotics, and Supplies

42 CFR 440.70

In accordance with 42 CFR 440.70, the Delaware Medical Assistance Program (DMAP) will reimburse Durable Medical Equipment (DME) providers for the purchase/rental of medical equipment, appliances, orthotics and prosthetics and the purchase of medical supplies when ordered by a medical practitioner.

Reimbursement is determined by the DMAP based on one of the following:

- The Medicare fee schedule received yearly from the Region A - Durable Medical Equipment Regional Carrier (DMERC) OR
- ~~A nationally recognized pricing system OR~~
- Information received from the DME provider such as catalog pages that include manufacturer's name, item model number, and costs or a copy of the company's invoice that describes the item and gives an itemized explanation of all charges.(It is not permissible for the DME provider to "roll in" other expenses such as labor, delivery, fittings, etc.).

Except where there is a Medicare fee established, DMAP pays the lower of:

- Provider's usual and customary charges
- Cost + 20% (includes administration fee)
- List price.

Augmentative and Alternative Communication Devices/Systems

The reimbursement for augmentative and alternative communication devices/systems is determined based on documented actual cost to the provider for the device plus twenty percent (20%) on the first $1,000 and five percent (5%) on the balance, or the provider's usual and customary charge for the **[~~devise~~ device]**, whichever is lower.

The fee schedule and any annual periodic adjustments to these rates are published on the Delaware Medical Assistance Program (DMAP) website at: http://www.dmap.state.de.us/downloads/feeschedules.html

Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private individual providers.