

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

PROPOSED

PUBLIC NOTICE

Long Term Care – Treatment of Income and Resources of Couples

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) 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 existing rules in the Division of Social Services Manual (DSSM) used to determine eligibility related to Long Term Care, specifically, applying couple computation rules.

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 Sharon L. Summers, Planning & Policy Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to 302-255-4425 by June 30, 2008.

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 proposed provides notice to the public that the Division of Medicaid and Medical Assistance (DMMA) intends to amend existing rules in the Division of Social Services Manual (DSSM) used to determine eligibility related to Long Term Care, specifically, applying couple computation rules.

Statutory Authority

- Social Security Act 1611(e)(3);
- 42 CFR §435.602(a)(4); *Financial Responsibility of Relatives and Other Individuals*; and,
- State Medicaid Manual, *Treatment of Couples in Medical Institutions*.

Summary of Proposal

DSSM 20810, ~~*Treatment of Couples in Medical Institutions*~~ *Treatment of Income and Resources of Couples*: First, the rule title has been renamed to reflect the revised content of the rule. Second, the language has been clarified to better describe how income and resources are counted when determining and redetermining long-term care Medicaid eligibility for legally married couples. The changes clarify how the couple income and resource standards should be applied. Current policy does not address how to treat the income and resources of the couple for the first six (6) months of institutionalization.

DMMA PROPOSED REGULATION #08-18

REVISION:

20810 – ~~Treatment of Couples in Medical Institutions~~

~~A legally married husband and wife who have continuously shared a room in a hospital, nursing home, skilled nursing facility or intermediate care facility for a period of at least 6 months, may be considered a Couples Case and the Couples Case income and resource limits would apply to them. Should a married couple be determined a Couples Case, then spousal rules will not apply. The decision to treat a married couple as a Couples Case or as 2 individuals should be based on the couple's best interests in regard to the income and resource limits. See DSSM 20100.2.2 and 20300.~~

20810Treatment of Income and Resources of Couples

This policy applies to all legally married couples when determining and redetermining Long Term Care Medicaid eligibility for both husband and wife.

Treatment of Home and Community Based Services (HCBS) Couples

The income and resource standards for a HCBS couple will be applicable if:

- Both are requesting HCBS AND reside at the same address; OR
- One is currently receiving HCBS and the spouse is requesting HCBS AND they reside at the same address.

Treatment of Couples Residing in an Institution

The income and resource standards for couples residing in an institution will be applicable if:

- Both are requesting institutional services AND they will be residing in the same facility;
OR
- One is currently receiving institutional services and the spouse is requesting institutional services at the same facility.

After a husband and wife have resided in the same nursing facility for 6 months they have the option of being budgeted as a couple or as two individuals. This decision should be based on the couple's best interests in regard to the income and resource limits.

See DSSM 20100.2.2 (income standards) and 20300 (resource standards).

11 DE Reg. 1580 (06/01/08) (Prop.)