

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

Juvenile Justice Initiative

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 Juvenile Justice Initiative, specifically, to expand services provided for incarcerated individuals. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the March 2025 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2025, 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 (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Juvenile Justice Initiative.

Background

The CAA requires states to provide services to eligible juveniles incarcerated in public institutions. States must provide **[screenings and diagnostic services in accordance with the ~~certain services, such as~~** Early and periodic Screening, Diagnostic, and Treatment Services (EPSDT) and Targeted Case Management (TCM) for eligible juveniles who are within 30 days of release post adjudication **[,and Targeted Case Management for eligible juveniles who are within 30 days of release post-adjudication and for at least 30 days following release].**

Statutory Authority

- The Consolidated Appropriations Act (CAA) of 2023
- Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (The SUPPORT Act)
- 1902(a)(84)(D) of the Social Security Act

Purpose

The purpose of this regulation is to improve care transitions for certain individuals who are incarcerated **[individuals]** and are eligible for Medicaid.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to expand services provided for incarcerated individuals.

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 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 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 31, 2025.

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

	Federal Fiscal Year 2025	Federal Fiscal Year 2026
General (State) funds	\$0	\$151,184
Federal funds	\$0	\$221,282

Summary of Comments Received with Agency Response and Explanation of Changes

Comment: The commenter supports the proposed revisions.

Agency Response: DMMA appreciates the support.

Comment: The commenter recommends the inclusion of Health-Related Social Needs (HRSNs) as a part of the Targeted Case Management (TCM) care plan development.

Agency Response: DMMA appreciates this suggestion and will take it under consideration. DMMA is working with the Department of Services for Children Youth and Their Families (DSCYF) and the Department of Corrections (DOC) to ensure the TCM care plan policies and accompanying guidance meet the federal CFR requirements as well as individual needs.

Comment: The commenter asked how TCM will impact current case management and re-entry planning.

Agency Response: DMMA is working with DSCYF and DOC to ensure the CAA requirements coordinate with existing transition planning.

Comment: The commenter asked if DHSS is planning to pursue the optional CAA Section 5122 coverage for pre-adjudicated youth.

Agency Response: DMMA appreciates the recommendation. Optional CAA Section 5122 for pre-adjudicated youth is under consideration for future implementation.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Governor's Advisory Council for Exceptional Citizens (GACEC)

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DMMA Division Director has reviewed the proposed regulation as required by 29 **Del. C.** §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the March 2025 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Juvenile Justice Initiative, specifically, to expand services provided for incarcerated individuals, and shall be final effective

June 11, 2025.

5/14/2025 | 4:21 PM EDT

Date of Signature

Josette D. Manning, Esquire
Secretary, DHSS

***Please note that there is an Errata concerning this regulation included in the June 2025 issue of the *Delaware Register of Regulations*.**

Attachment 4.19-B

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METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

Targeted Case Management for Eligible Juveniles under the Consolidated Appropriations Act (CAA) (2023) Requirements

Reimbursements for services are based upon a Medicaid fee schedule established by the Delaware Medical Assistance Program (DMAP).

The fee development methodology-built fees considering each component of provider costs are outlined below. These reimbursement methodologies produced rates sufficient to enlist enough providers so that services under the State Plan are available to beneficiaries at least to the extent that these services are available to the general population, as required by 42 CFR 447.204. These rates comply with the requirements of Section 1902(a)(3) of the Social Security Act and 42 CFR 447.200, regarding payments and are consistent with economy, efficiency, and quality of care. Provider enrollment and retention will be reviewed periodically to ensure that access to care and adequacy of payments are maintained. The Medicaid fee schedule is equal to or less than the maximum allowable under the same Medicare rate, where there is a comparable Medicare rate. Room and board costs are not included in the Medicaid fee schedule.

The fee development methodology will primarily be composed of provider cost modeling, through Delaware provider compensation studies, cost data, and fees from similar State Medicaid programs may be considered, as well. The following list outlines the major components of the cost model to be used in fee development:

- Staffing Assumptions and Staff Wages;
- Employee-Related Expenses - Benefits, Employer Taxes (e.g., Federal Insurance Contributions Act (FICA), unemployment, and workers compensation);
- Program-Related Expenses (e.g., supplies);
- Practice model standards (compensation, supervision, materials and supplies, travel, training, administration, and utilization);
- Provider Overhead Expenses; and
- Program Billable Units.

The fee schedule rates will be developed as the ratio of total annual modeled provider costs to the estimated annual billable units. A unit of service is defined according to Healthcare Common Procedure Coding System (HCPCS) approved code set unless otherwise specified.

Except as otherwise noted in the State Plan, the State-developed fee schedule is the same for both governmental and private individual providers and the fee schedule and any annual/periodic adjustments to the fee schedule are published in the Delaware Register of Regulations. The Agency's fee schedule rate was set as of November 1, 2025, and is effective for services provided on or after that date. All rates are published on the Delaware Medical Assistance Program (DMAP) website at <https://medicaidpublications.dhss.delaware.gov/docs/search?EntryId=1080>.

TN: 25-0001

Supersedes TN: NEW

Approval Date: _____

Effective: 1/1/25

***Please Note: Due to formatting of certain amendments to the regulation, they are not being published here. Copies of the documents are available at:**

<https://regulations.delaware.gov/register/june2025/final/Supplement 5 to Attachment 3.1-A page 7-13 Amended.pdf>

<https://regulations.delaware.gov/register/june2025/final/Attachment 3.1-M pages 1-2 Amended.pdf>

