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

Delaware Medicaid Modified Adjusted Gross Income (MAGI) Eligibility and Benefits State Plan Amendments Eligibility Process

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 and with 42 CFR §447.205, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan to modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with the *Eligibility Process*.

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 October 31, 2013.

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 Division of Medicaid and Medical Assistance (DMMA) hereby affords the public notice of the filing of federally required state plan amendments (SPA) to modify eligibility standards and processes to conform to the requirements under the Affordable Care Act, and to exercise available related state options. This SPA regulatory action deals with the *Eligibility Process.*

Statutory Authority

Patient Protection and Affordable Care Act (Pub. L. No. 111-148 as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152)), together known as the *Affordable Care Act*

Background

The Affordable Care Act (ACA) was signed into law on March 23, 2010. Under the ACA, health reform will make health care more affordable, guarantee choices when purchasing health insurance, expands Medicaid coverage to millions of low-income Americans and makes numerous improvements to both Medicaid and the Children's Health Insurance Program (CHIP).

The Affordable Care Act (ACA) includes many provisions designed to expand and streamline Medicaid eligibility. The ACA offers the option to extend coverage to non-disabled, non-elderly citizens with income under 133 percent of the Federal Poverty Level (FPL); adopts new methodologies for determining and renewing eligibility; and requires establishment of a streamlined process to allow state Medicaid programs to coordinate seamlessly with other insurance affordability programs and affordable health insurance exchanges. These provisions are intended to change the Medicaid eligibility determination and renewal processes for most Medicaid applicants and beneficiaries from one based on a welfare model to one that utilizes information technology to provide the insurance coverage option that fits each individual's current circumstances and needs.

State Plan Amendments

In preparation for implementation of the Medicaid and CHIP changes related to the Affordable Care Act, states will be submitting a number of State Plan Amendments (SPAs). In particular, SPAs are needed to implement the MAGI-based eligibility levels and income counting methodologies for Medicaid and CHIP, to elect a state's single streamlined application format, and to indicate the design of their Medicaid alternative benefit plans (ABPs) for the new adult group in 2014. The vehicle for submitting these 2014-related SPAs are a set of "fillable" preprint documents. The Centers for Medicare and Medicaid Services (CMS) has asked states to submit these plan amendments together in order to provide a more comprehensive picture of the state's proposed eligibility framework.

Please note that provisions and conditions that are required of all states are pre-checked and do not require any entry

by the state. Also, by agreeing to any assurance the state is agreeing to comply with these requirements and conditions. The state provides this affirmative assurance by checking the box where indicated.

Description of State Plan Amendments and Effective Date

The MAGI and CHIP Eligibility and Benefit SPAs identify the groups that Delaware will cover in the Delaware Medicaid program. There are mandatory and optional coverage groups. These SPAs also identify the income limits for each group, if any, and criteria that the state has the option of selecting. The effective date of the following SPAs is October 1, 2013.

Delaware Medicaid MAGI SPAs include:

1. MAGI-Based Eligibility Group

   This SPA identifies the mandatory and optional coverage groups that Delaware will cover.
2. Eligibility Process

   This SPA identifies the use of Delaware's single, streamlined application and the methods by which an application is accepted. It also includes renewal processing.
3. MAGI Income Methodology

   This SPA identifies certain MAGI options Delaware has chosen.
4. Single State Agency

   This SPA identifies Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) as the Medicaid agency.
5. Residency

   This SPA identifies the state's residency requirements.
6. Citizenship and Immigration Status

   This SPA identifies the immigrant statuses eligible for Medicaid services. It also provides for a 90 day reasonable opportunity period for individuals who declare they are citizens or qualified immigrants to provide documentation. During this reasonable opportunity period, Delaware Medicaid must approve benefits if otherwise eligible.

CHIP MAGI Eligibility SPAs include:

1. MAGI Eligibility & Methods

   These SPAs identify the groups covered under Delaware's Title XXI CHIP program (Delaware Healthy Children Program).
2. Title XXI Medicaid Expansion

   This SPA identifies ACA expansion coverage for children age 6-18 years with income between 100% FPL up to 133% FPL.
3. Eligibility Process

   This SPA identifies the use of Delaware's single, streamlined application and the methods by which Delaware Medicaid can accept an application. It also includes renewal processing.
4. Non-Financial Eligibility

   These SPAs identify the CHIP programs non-financial eligibility criteria such as state residency, citizenship and lawful presence, and verification/use of applicant social security number.

REMINDER: In 2014, the following groups will not have any changes in eligibility for Medicaid and will remain eligible for Medicaid and will qualify based on current income and resource standards used today:

- Aged, Blind or Disabled individuals;
- Foster Care children; and,
- SSI cash recipients.

Summary of Proposal

Note: The regulation cited is Code of Federal Regulations.

Eligibility Process

42 CFR 435.10

42 CFR 435, Subpart J and Subpart M

Eligibility Process is the second of seven (7) SPA actions. State plan page S94 is used to indicate the application forms and methods for individuals to apply for and renew Medicaid coverage. Section 1413 of the Affordable Care Act provides for a streamlined process by which individuals seeking health coverage can receive eligibility determinations and enroll in

the coverage for which they are eligible. On this plan page, states also provide assurances relative to the eligibility process.

The state plan page further captures the state's choice of the frequency of redeterminations of eligibility for individuals whose eligibility is not based on a MAGI income standard. The state plan page also includes an assurance related to redetermination requirements for individuals whose eligibility is based on a MAGI income standard.

The Affordable Care Act requires that the state agency enter into agreements with the Exchange and other agencies administering insurance affordability programs for the coordination of eligibility and enrollment. The state plan page captures information concerning such agreements.

Hospital Presumptive Eligibility
42 CFR 435.1110

The Affordable Care Act added section 1902(a)(47)(B) of the Social Security Act to give hospitals the option, as of January 1, 2014, to determine presumptive eligibility for Medicaid. Unlike other types of presumptive eligibility, the Act provides this option to Medicaid hospital providers whether or not the state has elected to permit qualified entities to make presumptive eligibility determinations under other sections of the statute. A qualified hospital may elect to make presumptive eligibility determinations on the basis of preliminary information and according to policies and procedures established by the state Medicaid agency.

State plan page S21 contains assurance that no qualified hospitals in Delaware have elected to make presumptive eligibility determinations under 42 CFR 435.1110 at this time.

The provisions of this state plan amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

Fiscal Impact Statement

Change to Federal Expenditures	State Fiscal Year 2014	State Fiscal Year 2015
Former CHIP Kids	$ 124,986	$ 254,855
ACA Expansion	$ 11,924,412	$ 26,689,670
Transitional	$ 187,657	$ 566,356
Former Foster Children	$ -	$ -
Total	$ 12,237,055	$ 27,510,882

A file containing the PDFs associated with the MAGI-Based Eligibility Process is available here:
http://regulations.delaware.gov/register/october2013/proposed/S21-94.pdf