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

Title XIX Medicaid State Plan Medicaid Rehabilitative Services

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 the Delaware Title XIX Medicaid State Plan regarding *Medicaid Rehabilitative Services*.

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 its intention to amend the Title XIX Medicaid State Plan regarding its methods and standards for coverage and reimbursement of *Medicaid Rehabilitative Services*.

Statutory Authority

- §1905 of the Social Security Act (a)(13), *Other diagnostic, screening, preventive, and rehabilitative services*
- 42 CFR §440.130(d), *Rehabilitative services*
- 42 CFR §440.60, *Medical or other remedial care provided by licensed practitioners*
- 42 CFR §440.225, *Optional services*
- 42 CFR §440.20, *Outpatient hospital services and rural health clinic services*
- 42 CFR §447.205*, Public notice of changes in statewide methods and standards for setting payment rates*

Background

Section 1905(a)(13) of the Social Security Act (the Act) includes rehabilitative services as an optional Medicaid State plan benefit. Current Medicaid regulations at 42 CFR §440.130(d) provides a definition of rehabilitative services. Rehabilitative services are defined as “any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.” The broad general language in this regulatory definition has afforded States considerable flexibility under their State plans to meet the needs of their State's Medicaid population.

Rehabilitative services are specialized services of a medical or remedial nature delivered by uniquely qualified practitioners designed to treat or rehabilitate persons with mental illness or substance use disorder diagnoses. These services will be provided to recipients on the basis of medical necessity.

The Delaware Medical Assistance Program (DMAP) covers rehabilitative services provided to eligible Medicaid recipients by eligible providers. Rehabilitative services are medically related treatment, rehabilitative, and support services for persons with disabilities caused by mental illness and substance use disorder.

Summary of Proposal

Purpose and Rationale

This proposed State plan amendment (SPA) targets service delivery, specifically, substance use disorder treatment services, crisis intervention services, and other licensed behavioral health practitioners. This plan amendment makes the changes and clarifications necessary for Delaware to be responsive to the United States Department of Justice (DOJ) Settlement through the addition of new services and modifications to existing services.

The proposed SPA is designed to ensure that quality rehabilitative services are provided in a coordinated manner that is in the best interest of the individuals, are limited to rehabilitative purposes and, are furnished by qualified providers.

This proposed SPA would also provide guidance to ensure that services claimed under the optional Medicaid rehabilitative benefit are rehabilitative out-patient services, are furnished by qualified providers, and are provided to Medicaid eligible individuals according to a goal-oriented rehabilitation plan.

Proposed Amendment

Pursuant to the notice requirements of 42 CFR §447.205, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) hereby affords the public notice of its intention to file a state plan amendment regarding the rehabilitative services option. If implemented as proposed, the coverage and reimbursement methodology plan amendments will accomplish the following, effective October 2, 2013:

1. Remove mental health clinics from the Medicaid Clinic Option and cover the services provided by those facilities in the Other Licensed Practitioner Section of the State Plan. This will allow Medicaid to reimburse Psychologists, Licensed Clinical Social Workers, Licensed Professional Counselors of Mental Health, and Licensed Marriage and Family Therapists (LMFTs) services when provided in a clinic or community setting when permitted under State practice laws.
2. Include Crisis Intervention and Outpatient and Residential Substance Use Disorder Treatment in the Rehabilitation State Plan. This will allow the State to provide Medicaid eligible individuals with mobile and site-based crisis intervention for individuals experiencing a behavioral health crisis. In addition, the State will be able to provide recovery-oriented treatment for individuals with substance use disorders.
3. Remove the Community Support Service Program from the State Plan effective July 1, 2014. On that date, a new 1915(i)-like service under the 1115 demonstration waiver will begin operating for individuals under the DOJ settlement agreement to ensure that individuals with serious Mental illness (SMI) receive the supports necessary to remain in the community.

IMPORTANT NOTE: Federal law and regulations use the term “intermediate care facilities for the mentally retarded”. DHSS/DMMA prefers to use the accepted term “individuals with intellectual disability” (ID) instead of “mental retardation.” However, as “intermediate care facilities for the mentally retarded (ICF/MR)” is the term/acronym currently used in all Federal requirements, that term/acronym will be used on applicable amended State plan pages.

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

Fiscal Impact Statement

- There is no increase in cost on the General Fund.
- The proposed services in this State plan amendment will be budget neutral.
- Federal budget impact for federal fiscal years 2014 and 2015 are projected as follows:

Federal Fiscal Year 2014	Federal Fiscal Year 2015
$13,685,958.92	$17,469,215.07

DMMA PROPOSED REGULATION #13-37a

REVISIONS:

Attachment 3.1-A
Page 3 Addendum

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: Delaware

LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

6.b. Optometrists Services

These services are reimbursed:

1. as an EPSDT service (routine eye exams including refraction and provision of eyeglasses);
2. when the Medicaid recipient is also covered by Medicare and Medicare has paid for all but the patient’s coinsurance and deductible; or
3. when the Medicaid recipient needs diagnosis and monitoring of the sick eye and diagnostic testing which is within the scope of the practice of optometry as defined by State law.

6.d. Other Practitioners’ Services

6.d.1.Licensed Midwife services are services permitted under scope of practice authorized by state law for the licensed

midwife.

6.d.2.Licensed Behavioral Health Practitioner: A licensed behavioral health practitioner (LBHP) is an individual who is licensed in the State of Delaware to diagnose and treat mental illness or substance abuse acting within the scope of all applicable state laws and their professional license. A LBHP includes individuals licensed to practice independently:

- Licensed Psychologists
- Licensed Clinical Social Workers (LCSWs)
- Licensed Professional Counselors of Mental Health (LPCMHs)
- Licensed Marriage and Family Therapists (LMFTs)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

6.d.2.Licensed Behavioral Health Practitioner Continued:

Services which exceed the initial pass-through authorization must be approved for re-authorization prior to service delivery. In addition to individual provider licensure, service providers employed by addiction treatment services and co-occurring treatment services agencies must work in a program licensed by the Delaware Division of Substance Abuse and Mental Health (DSAMH) and comply with all relevant licensing regulations. Licensed Psychologists may supervise up to seven unlicensed assistants or post-doctoral individuals in supervision for the purpose of those individuals obtaining licensure and billing for services rendered. Services by unlicensed assistants or post-doctoral individuals under supervision may not be billed under this section of the State Plan. Instead, those unlicensed individuals must qualify under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program or rehabilitation sections of the State Plan or provide services under Home and Community-based authorities.

Inpatient hospital visits are limited to those ordered by the individual's physician. Visits to a nursing facility are allowed for LBHPs if a Preadmission Screening and Resident Review (PASRR) indicates it is a medically necessary specialized service in accordance with PASRR requirements. Visits to Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR) are non-covered. All LBHP services provided while a person is a resident of an Institute for Mental Disease (IMD) such as a free standing psychiatric hospital or psychiatric residential treatment facility are part of the institutional service and not otherwise reimbursable by Medicaid. Evidence-based Practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by Delaware Health and Social Services (DHSS) and/or its designee. A unit of service is defined according to the Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) approved code set consistent with the National Correct Coding Initiative unless otherwise specified.

DMMA PROPOSED REGULATION #13-37b
REVISIONS:

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

LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

9. Clinic Services

Clinic services are provided consistent with the provisions of 42 CFR 440.90, including the requirement that they be operated under the direction of a physician as described in the State Medicaid Manual section 4320, and include the following:

- Medical or rehabilitation clinics (~~excluding~~ including Mental Health clinics, which require certification by the Division of Substance Abuse and Mental Health (DSAMH) as part of the Single State Agency for Medicaid) and
- State Licensed Free Standing Surgical Centers (FSSCs) which equate to federally defined Ambulatory Surgical Centers (ACSs) using related policies for ACSs described in Sections 2265 and 2266 of the Medicare Carriers Manual.
- School-based Wellness Center Clinic Services provide primary prevention, early intervention and treatment services, including physical examinations, treatment of acute medical conditions, community referrals, counseling and other supportive services to children in school settings. Medicaid services provided by the School-Based Wellness Centers include but are not limited to:
  - ~~other~~ Other laboratory and X-ray services (1905(a)(3), 42 CFR 440.30)
  - ~~physicians'~~ Physicians' services (1905(a)(5), 42 CFR 440.50)
  - ~~medical~~ Medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners with the scope of their practice as defined by State law (1905(a)(6), 42 CFR 440.170)
  - ~~other~~ Other diagnostic screening, preventive and rehabilitative services (1905(a)(13), 42 CFR 440.130)
  - ~~primary~~ Primary care case management services (1905(a)(19), 42 CFR 440.168).

DMMA PROPOSED REGULATION #13-37c
REVISIONS:

~~ATTACHMENT 3.1-A~~
~~Page 6a~~

~~State: DELAWARE~~
~~LIMITATIONS ON REHABILITATIVE SERVICES~~

~~13d.Rehabilitative Services:~~

~~Rehabilitative Services are limited to: 1) *community support services* for individuals who would benefit from services designed for or associated with mental illness, alcoholism or drug dependence, excluding those services of an educational or vocational nature; and 2) *day health and rehabilitation services* for individuals who would benefit from services designed for or associated with the treatment of mental retardation or developmental disabilities.~~

~~1) *Community Support Services*~~

~~ELIGIBLE PROVIDERS~~

~~Providers are organizations certified by the Division of Alcoholism, Drug **Substance Abuse and Mental Health** (Division) in accordance with the Delaware Medical Assistance Program Medicaid Provider Manual for Rehabilitative/Community Support Service Programs.~~

~~DEFINITION OF COMMUNITY SUPPORT SERVICES~~

~~Community support services are medically related treatment, rehabilitative and support services provided through self-contained programs by teams of clinicians, associate clinicians and assistant clinicians under the supervision of a physician.~~

~~FREQUENCY, DURATION AND SCOPE~~

~~Community support services are provided, as medically necessary subject to the limitations of the state plan, to assist eligible persons cope with the symptoms of their illnesses, minimize the effects of their disabilities on their capacity for independent living and prevent or limit periods of hospital treatment.~~

~~Eligible recipients are Medicaid recipients who would benefit from services designed for or associated with mental illness, alcoholism or drug addiction. The provider's physician must certify medical necessity for community support services based on a completed comprehensive medical/psycho-social evaluation.~~

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~~13d.Rehabilitative Services (Continued)~~

~~QUALIFIED STAFF~~

~~Community support programs may bill Medicaid for community support services only when authorized as medically~~

necessary by a physician and delivered by qualified staff. Services rendered by any qualified staff other than a physician must be provided under a physician's supervision as defined in the Medicaid Provider Manual for Rehabilitative/Community Support Service Programs. Component community service activities require specific staff qualifications as defined in the Medicaid Provider Manual for Rehabilitative/Community Support Service Programs. Following are illustrative definitions of staff listed as qualified to provide one or more community support service activities.

1. Physician: a person with a Medical Degree or Doctorate of Osteopathy degree, who is licensed to practice Medicine in Delaware and has completed (or is enrolled in) an accredited residency training program in psychiatry, internal medicine or family practice.

2. Clinician: a person with a doctoral or master's degree in psychology, social work, nursing, rehabilitation or counseling from an accredited college or university (or a registered nurse with a certificate in mental health nursing from the American Nurses Association).

3. Associate Clinician: a person with a bachelor's degree in a human service field or a registered nurse.

4. Assistant Clinician: a person with an associate degree, a licensed practical nurse or a certified counselor lacking the academic credentials of an associate clinician.

5. Rehabilitative Services Assistant: a person with a high school diploma or GED who has received documented training that shall, at a minimum, include 1) a complete course in medications used in the treatment used in the treatment of mental illness including side effects assigned; 2) a course in mental illness including symptoms of the major mental illnesses, mood and personality disorders; 3) a course in first aid including CPR training.

A clinician with clinical/administrative experience in provision of community support services serves as program coordinator. A physician serves as clinical supervisor, providing direct supervision of the aspects of the program that relate to client treatment and providing clinical supervision of staff. The physician is available full- or part-time at provider sites to provide direct service, to provide direct supervision to other staff, and to participate in assessment of client needs and planning of service provision. The physician has 24-hour backup arrangements with other physicians for coverage when he/she is unavailable.

13d.Rehabilitative Services (Continued)

COVERED SERVICES

Enrolled providers may bill Medicaid for community support services when one or more of the following community support service activities are rendered to eligible recipients by qualified staff:

Comprehensive Medical/Psychosocial Evaluation: A multi-functional assessment of the client conducted by a physician (psychiatrist, internist or family practitioner), and clinicians under the supervision of the physician, to establish the medical necessity of provision of services by the community support service provider and to formulate a treatment plan.

The comprehensive medical/psychosocial evaluation will be conducted with **45** days of admission to the program and at least annually thereafter. It must be documented in the client's record on forms approved by the Division.

The comprehensive medical/psychosocial evaluation will include the following assessments: 1) extent and effects of drug and/or alcohol use; 2) medical systems survey; 3) medication history; 4) psychiatric history and mental status examination; 5) social history/update; 6) quality of life inventory; 7) social skills and daily living skills assessment; 8) diagnosis on all axes in accordance with DSM-III-R criteria; and 9) clinical risk factors. The evaluation will also include the formulation and review with the client of an individual treatment plan.

Physician Services: Services provided within the scope of practice of medicine or osteopathy as defined by State law and by or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

In the context of community support service programs, physician services refer to medical or psychiatric assessment, treatment, and prescription of pharmacotherapy. Medical and psychiatric nursing services including components of physical assessment, medication assessment and medication administration provided by registered nurses and licensed practical

nurses are provided under personal supervision of the physician.

Emergency Services: Therapy performed in a direct and face-to-face involvement with the client available on a 24-hour basis to respond to a psychiatric or other medical condition which threatens to cause the admission of the client to a hospital, detoxification or other crisis facility. Emergency services are provided by a physician, clinician, or associate clinician or rehabilitative services assistant.

13d.Rehabilitative Services (Continued)

COVERED SERVICES (Continued)

Counseling and Psychotherapy: Counseling is supportive psychotherapy performed as needed in a direct and face-to-face involvement with the client available on a 24-hour basis to listen to, interpret and respond to the client's expression of her/his physical, emotional and/or cognitive functioning or problems. It is provided within the context of the goals of the program's clinical intervention as stated in the client's treatment plan. Its purpose is to help the client achieve and maintain psychiatric and/or drug/alcohol-free stability. Its broader purpose is to help clients improve their physical and emotional health and to cope with and gain control over the symptoms of their illnesses and effects of their disabilities. Counseling is provided by physicians, clinicians or learning and practicing under direct supervision by a credentialed clinician.

In addition to supportive psychotherapy there are several highly specific modalities of psychotherapy, each based on an empirically valid body of knowledge about human behavior. Provision of each requires specific credentials. Although the nature of the client's needs and the specific modality of therapy determine its duration, psychotherapy has circumscribed goals, a definite schedule and a finite duration. Examples include: psychodynamic therapy, psychoeducational therapy, multi-family group therapy, and cognitive therapy. The assessments, treatment plan and progress notes in client records must justify, specify and document the initiation, frequency, duration and progress of such specialized modalities of psychotherapy.

Psychotherapy may be provided by physicians and clinicians who are credentialed in specific modalities or learning and practicing under the supervision of one who is credentialed.

Psychiatric Rehabilitative Services: Rehabilitative therapy provided on an individual and small group basis to assist the client to gain or relearn skills needed to live independently and sustain medical/psychiatric stability. Psychiatric rehabilitation is provided primarily in home and community based settings where skills must be practiced. Psychiatric rehabilitative services are provided by a physician, clinician, associate clinician, or assistant clinician or rehabilitative services assistant.

13d.Rehabilitative Services:

1) *Community Support Services*

COVERED SERVICES - continued

Psychosocial Rehabilitation Center Services: Facility based, group rehabilitative therapy for clients who cannot be adequately served through only individualized home and community based psychiatric rehabilitative services. Psychosocial rehabilitative therapy is provided to assist the client to gain or relearn skills needed to live independently and sustain medical / psychiatric stability. Therapy is provided in 5 4-hour blocks for up to five days per week at a psychosocial rehabilitation center facility. Services are provided by a physician, clinician, associate clinician, or assistant clinician or rehabilitative services assistant.

Residential Rehabilitation Services: Facility-based, 24-hour rehabilitative therapy for clients who cannot be adequately serviced through psychosocial rehabilitative center and/or individualized home and community based psychiatric rehabilitative services. Residential rehabilitation services are provided to assist the client to gain or relearn skills needed to live independently and sustain medical / psychological stability. Residential Rehabilitation Services are provided in a licensed mental health group home or a licensed alcoholism and drug abuse residential treatment program facilities shall be required to comply with all applicable facility licensing requirements. Services are provided by a physician, clinician,

~~associate clinician, or assistant clinician or rehabilitative services assistant. Facilities providing residential rehabilitation services shall not be larger than 16-bed capacity. Room and board costs are not included in the service costs.~~

~~Services must be authorized by a physician's determination of medical necessity, must be supported by an individual treatment plan signed by the physician and must be supervised by a physician in a manner prescribed by the Medicaid Provider Manual for Rehabilitative / Community Support Service Programs.~~

~~LIMITATIONS~~

~~Services provided beyond 60 days following entry to the program, or the anniversary date of entry to the program, without completion of a comprehensive medical and psychosocial assessment, treatment plan and physician's certification of medical necessity are not reimbursable. Psychosocial rehabilitation center services must be re-certified by the program physician every six months.~~

~~Vocational counseling, vocational training at a classroom or job site, academic/remedial educational services and services which are solely recreational in nature are not reimbursable by Medicaid.~~

~~Services must be provided in accordance with the Medicaid Provider Manual.~~

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~~13d.~~Rehabilitative Services

1) ~~*Community Support Services*~~

~~LIMITATIONS~~ ~~- continued~~

~~Services provided in an institution for mental disease are not reimbursable.~~

~~Room and board services are not coverable.~~

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

LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

13.d. Rehabilitative Services: 42 CFR 440.130(d)

Rehabilitative Services are limited to: 1A) crisis intervention (CI) services for adults with mental illness, alcoholism or drug dependence, 1B) substance use disorder (SUD) treatment services for adults with alcoholism or drug dependence, excluding those services of an educational or vocational nature (Note: services for children with medical illness, alcoholism or drug dependence are more expansive and are addressed in Section 4b of the Delaware Medicaid State Plan under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program and 2) day health and rehabilitation services for individuals who would benefit from services designed for or associated with the treatment of intellectual or developmental disabilities.

1A. Crisis Intervention (CI) Services are provided to a person who is experiencing a behavior health crisis, designed to interrupt and/or ameliorate a crisis experience including an assessment, immediate crisis resolution, and de-escalation, and referral and linkage to appropriate services to avoid, where possible, more restrictive levels of treatment. The goals of CI are symptom reduction, stabilization, and restoration to a previous level of functioning. All activities must occur within the context of a potential or actual behavioral health crisis. CI is a face-to-face intervention and can occur in a variety of locations, including but not limited to an emergency room or clinic setting, in addition to other community locations where the person lives, works, attends school, and/or socializes.

Specific activities include:

A. An assessment of risk and mental status, as well as the need for further evaluation or other mental health services. Includes contact with the client, family members, or other collateral sources (e.g., caregiver, school personnel) with pertinent information for the purpose of an assessment and/or referral to other alternative mental health services at an appropriate level.

B. Short-term CI including crisis resolution and de-briefing with the identified Medicaid eligible individual.

C. Follow-up with the individual, and as necessary, with the individual's caretaker and/or family member(s) including follow-up for individuals who are in crisis and assessed in an emergency room prior to a referral to the CI team.

D. Consultation with a physician or with other qualified providers to assist with the individuals' specific crisis.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Crisis Intervention (CI) Services Continued:

Certified staff shall assess, refer, and link all Medicaid eligible individuals in crisis. This shall include but not be limited to performing any necessary assessments; providing crisis stabilization and de-escalation; development of alternative treatment plans; consultation, training and technical assistance to other staff; consultation with the psychiatrist; monitoring of consumers; and arranging for linkage, transfer, transport, or admission as necessary for Medicaid eligible individuals at the conclusion of the CI service. CI specialists shall provide CI counseling, on and off-site; monitoring of consumers; assessment under the supervision of a certified assessor; and referral and linkage, if indicated. CI specialists who are nurses may also provide medication monitoring and nursing assessments. Psychiatrists in each crisis program perform psychiatric assessments, evaluation and management as needed; prescription and monitoring of medication; as well as supervision and consultation with CI program staff. Certified Peers may be utilized under clinical supervision for the activities of crisis resolution and de-briefing with the identified Medicaid eligible individual and follow-up.

Consumer Participation Criteria

These rehabilitative services are provided as part of a comprehensive specialized psychiatric program available to all Medicaid eligible consumers. CI services must be medically necessary. The medical necessity for these rehabilitative services must be recommended by a licensed practitioner of the healing arts who is acting within the scope of his/her professional license and applicable state law to promote the maximum reduction of symptoms and/or restoration of an individual to his/her best age-appropriate functional level. Licensed practitioners of the health arts include but are not limited to: Licensed Behavioral Health Practitioners (LBHPs), advanced practice nurses (APNs), nurse practitioners (NPs), and physicians. All individuals who are identified as experiencing a seriously acute psychological/emotional change which results in a marked increase in personal distress and which exceeds the abilities and the resources of those involved to effectively resolve it are eligible.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Crisis Intervention (CI) Services (Continued)

An individual in crisis may be represented by a family member or other collateral contact who has knowledge of the

individual's capabilities and functioning. Individuals in crisis who require this service may be using substances during the crisis. Substance use should be recognized and addressed in an integrated fashion as it may add to the risk increasing the need for engagement in care. The assessment of risk, mental status, and medical stability must be completed by a certified screener, Licensed Behavioral Health Practitioner (LBHP), advanced practice nurse (APN), nurse practitioner (NP), or physician with experience regarding this specialized mental health service, practicing within the scope of their professional license or certification. The crisis plan developed from this assessment and all services delivered during a crisis must be qualified staff provided under a certified program. Crisis services cannot be denied based upon substance use. The CI specialist must receive regularly scheduled clinical supervision from a person meeting the qualifications of a LBHP, APN, NP, or physician with experience regarding this specialized mental health service. The individual's chart must reflect resolution of the crisis which marks the end of the current episode. If the individual has another crisis within seven (7) calendar days of a previous episode, it shall be considered part of the previous episode and a new episode will not be allowed.

A unit of service is defined according to the Healthcare Common Procedure Coding System (HCPCS) approved code set unless otherwise specified.

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LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE
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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Crisis Intervention (CI) Services (Continued)

Provider Qualifications:
Individual practitioners may be licensed as:

- Psychiatrists, Board Certified Emergency Physicians, or a physician in another area of specialty. Board Certified Emergency Physicians must also complete a required informational training. Physicians in other areas of specialty must attend four (4) hours of training and be credentialed by the Delaware Division of Substance Abuse and Mental Health (DSAMH).
- Registered Nurse.
- Advanced Practice Nurse and employment under a formal protocol with a Delaware licensed physician
- Licensed Psychologist
- Licensed Clinical Social Worker (LCSW)
- Licensed Professional Counselor of Mental Health (LPCMH)
- Licensed Marriage and Family Therapist (LMFT)
- Licensed Physician Assistant and employment under the delegated authority of a licensed physician.

Individual practitioners may be certified as:

- Certified screeners who are not licensed must have two (2) years of clinical and/or crisis experience; at least a bachelors or master's degree in a mental health related field; and has committed to completing forty (40) hours of crisis services in an employed position under direct supervision of a psychiatrist or credentialed mental health screener following completion of the mental health screener training and satisfactory score on the mental health screener credentialing examination.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Crisis Intervention (CI) Services (Continued)

- A Certified Peer would be an individual who has self-identified as a consumer or survivor of mental health and/or substance use disorder (SUD) services and meets the qualifications set by the state including specialized training, to be considered in accordance with state standards, certification, and registration. The training provided/contracted by the Delaware Division of Substance Abuse and Mental Health (DSAMH) shall be focused on the principles and concepts of peer support and how it differs from clinical support. It will also provide practical tools for promoting wellness and recovery, knowledge about client rights and advocacy, as well as approaches to care that incorporate creativity. To qualify for peer certification training a peer must self-identify as a person with a lived experience of mental illness and/or substance abuse, be at least twenty-one (21) years of age, have at minimum a high school education or GED, (preferably with some college background) and be currently employed as a peer supporter in Delaware. It is required that Peers must complete Delaware state-approved standardized peer specialist training that includes academic information as well as practical knowledge and creative activities.

Provider Qualifications Continued:

Programs shall be certified by Medicaid and/or its designee. Each crisis program is supervised by a licensed practitioner of the healing arts who is acting within the scope of his/her professional licensed and applicable state law. A licensed practitioner of the healing arts who is acting within the scope of his/her professional licensed and applicable state law (e.g., Licensed Behavioral Health Practitioner (LBHP), physician, nurse practitioner (NP) or advanced practice nurse (APN) is available for consultation and able to recommend treatment twenty-four (24) hours a day, seven (7) days a week to the CI program.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Crisis Intervention (CI) Services (Continued)

Amount, Duration and Scope:

A unit of service is defined according to the Healthcare Common Procedure Coding System (HCPCS) approved code set unless otherwise specified. CI services by their nature are crisis services and are not subject to prior approval. CI services are authorized for no more than twenty-three (23) hours per episode. Activities beyond the twenty-three (23) hour period must be prior authorized by the State or its designee. Follow-up activities referred from emergency rooms will bill only the follow-up HCPCS codes. Components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual are not eligible for Medicaid reimbursement.

The CI services should follow any established crisis plan already developed for the consumer, if it is known to the team, as part of an individualized treatment plan to the extent possible. The CI activities must be intended to achieve identified care plan goals or objectives.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

1B. Addiction services include:

- Outpatient addiction services
- Residential addiction services

1. Outpatient addiction services include individual-centered services consistent with the individual's assessed treatment needs with a rehabilitation and recovery focus designed to promote skills for coping with and managing symptoms and behaviors associated with substance use disorders (SUD). These services are designed to help individuals achieve and maintain recovery from SUDs. Services should address an individual's major lifestyle, attitudinal, and behavioral problems that have the potential to undermine the goals of treatment. Outpatient services are delivered on an individual or group basis in a wide variety of settings including site-based facility, in the community or in the individual's place of residence. These services may be provided on site or on a mobile basis as defined by the Delaware Division of Substance Abuse and Mental Health (DSAMH). The setting will be determined by the goal which is identified to be achieved in the individual's written treatment plan.

   Outpatient services may be indicated as an initial modality of service for an individual whose severity of illness warrants this level of treatment, or when an individual's progress warrants a less intensive modality of service than they are currently receiving. For example, the individual exhibits minimal, current difficulty or impairment. There are minimal or mild signs and symptoms. Any acute or chronic problems will be able to be stabilized and functioning restored with minimal difficulty. Intensive outpatient treatment is provided any time during the day or week and provides essential skill restoration and counseling services for individuals with a moderate to severe dependence condition or for whom there is substantial risk of relapse. Medication-assisted therapies (MAT) should only be utilized when a client has an established SUD (e.g., opiate or alcohol dependence condition) that is clinically appropriate for MAT.

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LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE
AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Addiction Services Continued:

Provider qualifications: Services are provided by licensed and unlicensed professional staff, who are at least eighteen (18) years of age with a high school or equivalent diploma, according to their areas of competence as determined by degree, required levels of experience as defined by state law and regulations and departmentally approved program guidelines and certifications. All outpatient substance use disorder (SUD) programs are licensed under state law. Licensed practitioners are licensed by Delaware and include, but are not limited to Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs), nurse practitioners (NPs), advanced practice nurses (APNs), medical doctors (MD and DO) and psychologists. Any staff who is unlicensed and providing addiction services must be credentialed by the Delaware Division of Substance Abuse and Mental Health (DSAMH) and/or the credentialing board and be under the supervision of a qualified health professional (QHP). Unlicensed staff include certified peers, certified alcohol and drug counselor (CADC), internationally certified alcohol and drug counselor (ICADC), certified co-occurring disorders professional (CCDP), internationally certified co-occurring disorders professional (ICCDP), internationally certified co-occurring disorders professional diplomate (ICCDP-D) and licensed chemical dependency professional (LCDP). State regulations require supervision of non-credentialed counselors by QHP meeting the supervisory standards established by DSAMH. A QHP includes the following professionals who are currently registered with their respective Delaware board LCSWs, LPCMH, and LMFTs, APNs, NPs, medical doctors (MD and DO), and psychologists. The QHP provides clinical/administrative oversight and supervision of non-credentialed staff.

2. Residential services include individual centered residential services consistent with the individual's assessed treatment needs, with a rehabilitation and recovery focus designed to promote skills for coping with and managing substance use disorder symptoms and behaviors. These services are designed to help individuals achieve changes in their substance use disorder behaviors. Services should address an individual's major lifestyle, attitudinal, and behavioral problems that have the potential to undermine the goals of treatment. Residential services are delivered on an individual or group basis in a wide variety of settings including treatment in residential settings of sixteen (16) beds or less designed to help individuals achieve changes in their substance use disorder behaviors.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Addiction Services Continued:

Provider qualifications: Services are provided by licensed and unlicensed professional staff, who are at least eighteen (18) years of age with a high school or equivalent diploma, according to their areas of competence as determined by degree, required levels of experience as defined by state law and regulations and departmentally approved program guidelines and certifications. All residential programs are licensed under state law. Licensed practitioners are licensed by Delaware and include, but are not limited to Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs), nurse practitioners (NPs); advanced practice nurses (APNs), medical doctors (MD and DO) and psychologists. Any staff who is unlicensed and providing addiction services must be credentialed by the Delaware Division of Substance Abuse and Mental Health (DSAMH) and/or the credentialing board and be under the supervision of a qualified health professional (QHP). Unlicensed staff include certified recovery coaches, certified alcohol and drug counselor (CADC), internationally certified alcohol and drug counselor (ICADC), certified co-occurring disorders professional (CCDP), Internationally certified co-occurring disorders professional (ICCDP), Internationally certified co-occurring disorders professional diplomate (ICCDP-D) and licensed chemical dependency professional (LCDP). State regulations require supervision of non-credentialed counselors by QHP meeting the supervisory standards established by DSAMH. A QHP includes the following professionals who are currently registered with their respective Delaware board LCSWs, LPCMH, and LMFTs, APNs, NPs, medical doctors (MD and DO), and psychologists. The QHP provides clinical/administrative oversight and supervision of non-credentialed staff.

Addiction Services Limitations:

All addiction services are provided as part of a comprehensive specialized program available to all Medicaid eligible individuals with significant functional impairments resulting from an identified substance use disorder (SUD) diagnosis. Services are subject to prior approval, must be medically necessary and must be recommended by a licensed practitioner or physician, who is acting within the scope of his/her professional licensed and applicable state law, to promote the maximum reduction of symptoms and/or restoration of an individual to his/her best age-appropriate functional level according to an individualized treatment plan.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Addiction Services Continued:

The activities included in the service must be intended to achieve identified treatment plan goals or objectives. The treatment plan should be developed in a person-centered manner with the active participation of the individual, family, and providers and be based on the individual's condition and the standards of practice for the provision of rehabilitative services. The treatment plan should identify the medical or remedial services intended to reduce the identified condition as well as the anticipated outcomes of the individual. The treatment plan must specify the frequency, amount, and duration of services. The treatment plan must be signed by the licensed practitioner or physician responsible for developing the plan with the participant (or authorized representative) also signing to note concurrence with the treatment plan. The development of the treatment plan should address barriers and issues that have contributed to the need for substance use disorder (SUD) treatment. The plan will specify a timeline for reevaluation of the plan that is at least an annual redetermination. The reevaluation should involve the individual, family, and providers and include a reevaluation of plan to determine whether services have contributed to meeting the stated goals. A new treatment plan should be developed if there no measurable reduction of disability or restoration of functional level. The new plan should identify different rehabilitation strategy with revised goals and services.

Providers must maintain medical records that include a copy of the treatment plan, the name of the individual, dates of services provided, nature, content and units of rehabilitation services provided, and progress made toward functional improvement and goals in the treatment plan. Components that are not provided to, or directed exclusively toward the treatment of the Medicaid eligible individual are not eligible for Medicaid reimbursement.

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13.d. Rehabilitative Services: 42 CFR 440.130(d) Continued:

Addiction Services Continued:

Services provided at a work site must not be job task oriented and must be directly related to treatment of an individual behavioral health needs. Any services or components of services the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of a person receiving covered services (including housekeeping, shopping, child care, and laundry services) are non-covered. Services cannot be provided in an institute for mental disease with more than sixteen (16) beds. Room and board is excluded from addiction services rates. Delaware residential placement under the American Society of Addiction Medicine (ASAM) criteria requires prior approval and reviews on an ongoing basis as determined necessary by the State Medicaid Agency or its designee to document compliance with the placement standards.

A unit of service is defined according to the Healthcare Common Procedure Coding System (HCPCS) approved code set per the national correct coding initiative unless otherwise specified.

DMMA PROPOSED REGULATION #13-37d
NEW:

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

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

Other Licensed Behavioral Health Practitioners

Reimbursements for services are based upon a Medicaid fee schedule established by the State of Delaware.

If a Medicare fee exists for a defined covered procedure code, then Delaware will pay Psychologists at 100% of the Medicaid physician rates as outlined under Attachment 4.19-B, item 5. If a Medicare fee exists for a defined covered procedure code, then Delaware Medicaid will pay Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs) at 75% of the Medicaid physician rates as outlined under Attachment 4.19-B, item 5.

Where Medicare fees do not exist for a covered code, the fee development methodology will build fees considering each component of provider costs as outlined below. These reimbursement methodologies will produce rates sufficient to enlist enough providers so that services under the State Plan are available to individuals 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 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 will be 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.

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 October 2, 2013 and is effective for services provided on or after that date. All rates are published on the Delaware Medical Assistance Program (DMAP) website at www.dmap.state.de.us/downloads/hcpcs.html.

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

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

Other Licensed Behavioral Health Practitioners Continued:

The fee development methodology will primarily be composed of provider cost modeling, though 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., FICA, unemployment, and workers compensation)
- Program-Related Expenses (e.g., supplies)
- Provider Overhead Expenses
- 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.

DMMA PROPOSED REGULATION #13-37e
REVISION:

~~State:DELAWARE~~

~~Reimbursement Methodologies for Rehabilitative Services:~~

~~1)~~ ~~***Community Support Service Programs***~~

~~Reimbursement Methodology for Community Support Services~~

~~Rates for Community Support Services as defined in Attachment 3.1-A will be established by a rate setting committee composed of representatives of various Divisions of Delaware Health and Social Services, including the Division of Social Services (DSS), the Division of Management Services (DMS), and the Division of Substance Abuse and Mental Health (DSAMH).~~

~~A universal per-diem rate for all services with the exception of Psychosocial Rehabilitation Center Services and Residential Rehabilitation Services is to be set initially and for three subsequent fiscal years based upon a trend analysis of Medicaid expenditures for individualized home and community based Community Support Services during the base period of SFY 2000 through SFY 2002 and adjusted thereafter by the rate setting committee.~~

~~Rates for Psychosocial Rehabilitation Center Services and Residential Rehabilitation Services are provider specific and are calculated by determining the total costs for each provider of the respective services, including cost of services to all clients regardless of Medicaid eligibility. The rates will be per-diem for Residential Rehabilitation Services and per half-day unit for Psychosocial Rehabilitation Center Services.~~

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

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

Crisis Intervention Behavioral Health Services

Reimbursements for services are based upon a Medicaid fee schedule established by the State of Delaware.

If a Medicare fee exists for a defined covered procedure code, then Delaware will pay Psychologists at 100% of the Medicaid physician rates as outlined under Attachment 4.19-B, item 5. If a Medicare fee exists for a defined covered procedure code, then Delaware will pay Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs) at 75% of the Medicaid physician rates as outlined under Attachment 4.19-B, item 5.

Where Medicare fees do not exist for a covered code, the fee development methodology will build fees considering each component of provider costs as outlined below. These reimbursement methodologies will produce rates sufficient to enlist enough providers so that services under the State Plan are available to individuals 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 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 will be 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.

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 October 2, 2013 and is effective for services provided on or after that date. All rates are published on the Delaware Medical Assistance Program (DMAP) website at www.dmap.state.de.us/downloads/hcpcs.html.

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

Crisis Intervention Behavioral Health Services Continued:

The fee development methodology will primarily be composed of provider cost modeling, though 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., FICA, unemployment, and workers compensation)
- Program-Related Expenses (e.g., supplies)
- Provider Overhead Expenses
- 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.

DMMA PROPOSED REGULATION #13-37f
REVISION:

~~State/Territory: DELAWARE~~

~~ATTACHMENT 4.19-B~~
~~Page 5~~

~~13. Diagnostic, Screening, Preventive and Rehabilitative Services Other Than Those Described Elsewhere In This Plan. - continued~~

~~Audits: The Division of Alcoholism, Drug Abuse and Mental Health will conduct desk and field audits of providers to determine: 1) whether charges which have been billed are in accordance with federal, state and agency requirements; 2) whether services are being over or under organizational, administrative and program standards of the Medicaid Provider Manual. These audits will include a review of each provider's actual costs.~~

ATTACHMENT 4.19-B
Page 5

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE
REHABILITATIVE SERVICES

Addiction Services Rehabilitative Health Services

Reimbursements for services are based upon a Medicaid fee schedule established by the State of Delaware.

If a Medicare fee exists for a defined covered procedure code, then Delaware will pay Psychologists at 100% of the Medicaid physician rates as outlined under 4.19-B, item 5. If a Medicare fee exists for a defined covered procedure code, then Delaware will pay Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), Licensed Marriage and Family Therapists (LMFTs) at 75% of the Medicaid physician rates as outlined under 4.19-B, item 5.

Where Medicare fees do not exist for a covered code, the fee development methodology will build fees considering each component of provider costs as outlined below. These reimbursement methodologies will produce rates sufficient to enlist enough providers so that services under the plan are available to individuals 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 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 will be 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.

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. The agency's fee schedule rate was set as of October 2, 2013 and is effective for services provided on or after that date. All rates are published on the Delaware Medical Assistance Program (DMAP) website at www.dmap.state.de.us/downloads/hcpcs.html.

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

Addiction Services Rehabilitative Health Services Continued:

The fee development methodology will primarily be composed of provider cost modeling, though 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, unemployment, and workers compensation).
- Program-related expenses (e.g., supplies).
- Provider overhead expenses.
- 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.

DMMA PROPOSED REGULATION #13-37g
REVISION:

(NOTE: This Medicaid State Plan Page, Attachment 4.19-B Page 18, becomes obsolete with CMS-approval of these plan amendments as the services provided by Mental Health Clinics are covered and reimbursed in the "Other Licensed Practitioner" section of the State Plan. See proposed Reg 13-37a, proposed Attachment 3.1-A Page 3 Addendum, proposed Attachment 3.1-A Page 3 Addendum Continued and proposed Reg-13-37d, NEW Attachment 4.19-B Page 3a Addendum)

~~ATTACHMENT 4.19-B~~
~~Page 18~~

~~State~~ DELAWARE

~~**REIMBURSEMENT FOR MENTAL HEALTH CLINIC SERVICES**~~

~~Mental Health Clinics authorized by the Division of Alcohol, Drug Abuse and Mental Health (DADAMH) to provide clinic services will be reimbursed by a rate per procedure and unit of services as established by a rate setting committee of the Medicaid Single State Agency, The Delaware Department of Health and Social Services.~~