

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

Asset Verification System

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 the Asset Verification System, specifically, to identify the contractor selected to implement the system. 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 August 2018 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August 31, 2018 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after October 1, 2018 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Title XIX Medicaid State Plan pages Supplement 16 to Attachment 2.6 A Pages 1 - 3 regarding the Asset Verification System, specifically, to identify the contractor selected to implement the system.

Background

In a letter dated February 8, 2012, CMS approved DE SPA# 11-011 which proposed to implement an Asset Verification System, a system for verifying the assets of aged, blind or disabled applicants for and recipients of Medicaid.

Individuals whose eligibility is being determined or redetermined (and others whose finances are relevant to eligibility) must authorize the State agency to obtain records from any financial institution in connection with the eligibility determination in order to verify the individual's assets. The verification program is to be "consistent with the approach of the Commissioner of Social Security" under Section 1631 of the SSA, i.e., an electronic verification system. Individuals who refuse or revoke their authorization may be determined ineligible for medical assistance.

For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity. The DE SPA# 11-011 did not identify a contractor.

Although Delaware has been complying with and meeting the requirements of AVS, in an effort to provide increased efficiency and oversight, a Request for Proposal was issued in 2017 and a contractor identified.

Statutory Authority

- Supplemental Appropriations Act of 2008, Public Law 111-148, Title VII, Section 7001(d)
- Social Security Act §1940, *Asset Verification through Access to Information Held By Financial Institutions*

Purpose

The purpose of this proposed regulation is to identify the contractor selected to implement the Asset Verification System.

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 on the proposed regulation. Comments were to have been received by 4:30 p.m. on August 31, 2018.

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

The following fiscal impact is projected:

	Federal Fiscal Year 2018	Federal Fiscal Year 2019
Federal funds	\$570,906	\$217,536
General (State) funds	\$91,137	\$72,512

Summary of Comments Received with Agency Response and Explanation of Changes

There were no comments received during the comment period.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 2018 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding the Asset Verification System, specifically, to identify the contractor selected to implement the system, is adopted and shall be final effective October 12, 2018.

Date of Signature: 9/18/18
Kara Odom Walker, MD, MPH, MSHS
Secretary, DHSS

FINAL

Supplement 16 to Attachment 2.6-A
Page 1

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**
ASSET VERIFICATION SYSTEM

1940(a)	<p>1. The Agency will provide for the verification of assets for purposes of determining or redetermining Medicaid eligibility for aged, blind and disabled Medicaid applicants and recipients using an Asset Verification System (AVS) that meets the following minimum requirements.</p> <p>A. The request and response system must be electronic:</p> <p>(1) Verification inquiries must be sent electronically via the internet or similar means from the Agency to the financial institution (FI).</p> <p>(2) The system cannot be based on mailing paper-based requests.</p> <p>(3) The system must have the capability to accept responses electronically.</p> <p>B. The system must be secure, based on a recognized industry standard of security (e.g., as defined by the U.S. Commerce Department's National Institute of Standards and Technology, or NIST).</p> <p>C. The system must establish and maintain a database of FIs that participate in the Agency's AVS.</p> <p>D. Verification requests also must be sent to FIs other than those identified by applicants and recipients, based on some logic such as geographic proximity to the applicant's home address, or other reasonable factors whenever the Agency determines that such requests are needed to determine or redetermine the individual's eligibility.</p> <p>E. The verification requests must include a request for information on both open and closed accounts, going back up to 5 years.</p>
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TN No. SPA 18-026

Approval Date

TN No. SPA 11-011

Effective Date July 1, 2018

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**
ASSET VERIFICATION SYSTEM

2. System Development

- A. ☐ The Agency itself will build and maintain an AVS.

In 3 below, describe how the system will meet the requirements in Section 1.

- B. ☒ The Agency will hire the following contractor to build and maintain an AVS.

In 3 below, identify the contractor, if known, and describe how the system will meet the requirements in Section 1.

- C. ☐ The Agency will be joining a consortium to develop an AVS.

In 3 below, identify the States participating in the consortium. Also identify the contractor, if known, who will build and maintain the consortium's AVS, and how the system will meet the requirements in Section 1.

- D. ☐ The Agency already has a system in place that meets the requirements for an acceptable AVS:

In 3 below, describe how the system meets the requirements in Section 1.

- E. ☐ Other alternative not included in A. - D. above.

In 3 below, describe this alternative approach how it will meet the requirements in Section 1.

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

ASSET VERIFICATION SYSTEM

[2.3.] Provide the AVS implementation description and other information requested for the implementation approach checked in Section 2.

~~The contractor is not known at this time.~~

~~The Agency will select a contractor through the Request for Proposal (RFP) process.~~

Delaware has contracted with Public Consulting Group Incorporated to provide an Asset Verification System (AVS), to identify assets of Medicaid applicants and recipients held at various Financial Institutions (FI's). This system complies. The system and entity chosen will be able to comply with the following requirements of Supplement 16 to Attachment 2.6-A, Page 1:

A. An electronic request and response process for asset verification;

B. A database of financial institutions (FIs) that provide data to the entity meeting the geographic requirements of the entity;

- C. A 5-year look-back of the assets on individual applicants, recipients, spouses and partners;*
- D. A secure system based on a recognized industry standard as defined by the United States Commerce Department's National Institute of Standards and Technology, or NIST;*
- E. Verification request will include both open and closed asset account information as determined by the State;*
- F. The acceptable asset verification entity will provide adequate data for the generation of all required reports expected to meet federal reporting requirements such as the number of requests, number of responses and amounts of undisclosed assets found.*

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TN No. SPA 11-011

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