

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205

GENERAL NOTICE

Proposed Renewal for Pathways to Employment

1915 (i) HOME AND COMMUNITY-BASED SERVICES State Plan Amendment (SPA)

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice related to the renewal of Pathways to Employment Home and Community Based State Plan Amendment authorized under 1915 (i) of the Social Security Act.

Background

Section 6086 of the Deficit Reduction Act of 2007 (DRA) and the Affordable Care Act (ACA) of 2010 established and amended section 1915(i) of the Social Security Act to add an optional State Plan service that has many of the features of a Home and Community Based (HCBS) Waiver. Like an HCBS waiver, states can target services to persons based on age, diagnosis and condition, and also apply functional criteria such as limitations caused by disability. States can also provide community based services that would not otherwise be able to be covered under the Medicaid State Plan to allow persons to live independently in the community. Two notable differences from HCBS waivers are that a 1915(i) State Plan Amendment does not require individuals to meet an institutional level of care in order to qualify for HCBS and states are not permitted to limit participation in the program once an individual meets established eligibility criteria.

Purpose

The purpose of this posting is to provide public notice and elicit public input regarding Delaware's renewal of the Pathways to Employment program that services individuals with intellectual and developmental disabilities (IDD), visual impairments, autism spectrum disorder, and physical disabilities ages fourteen (14) and above to seek and maintain competitive employment.

Overview and Summary of the Pathways to Employment Renewal

Delaware proposes to renew the Pathways to Employment 1915 (i) State Plan Amendment (SPA). The SPA must be renewed every five years. This is the first renewal for Pathways to Employment. Pathways to Employment services are targeted to individuals with intellectual and developmental disabilities (IDD), visual impairments, autism spectrum disorder, and physical disabilities ages fourteen (14) and above to seek and maintain competitive employment in their community.

Change(s) to the current Pathways to Employment 1915(i):

- There are no significant changes proposed.

Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations on September 1, 2024. The public is invited to review and comment on the proposed Pathways to Employment renewal. Comments must be received by 4:30 p.m. on October 1, 2024. Comments may be submitted in the following ways:

This public notice, the Renewal, and a summary of the Renewal are posted online at:

<https://dhss.delaware.gov/dhss/dmma/homeandc.html>

The DMMA and DDDS website will indicate the locations at which the hardcopy can be viewed.

Individuals may submit written comments using one or all of the following methods:

By email: DMMA_PublicHearing@delaware.gov

(Please identify in the subject line: *Pathways to Employment Renewal*)

By fax: 302-255-4481 to the attention of Melissa Dohring

By written comments sent to:

Pathways to Employment Renewal

Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

The hardcopy renewal will be available at the following locations from September 1, 2024, through October 1, 2024.

- DDDS Fox Run Office at: 2540 Wrangle Hill Road, Suite 200, Bear, DE 19701
- Thomas Collins Building at: 540 South Dupont Hwy, 1st Floor, Dover, DE 19901
- At the Woodbrook Office at: 1056 S. Governors Ave, Dover, DE 19904
- On the Stockley Center campus at: 26351 Patriots Way, Georgetown, DE 19947 - 101 Lloyd Lane and 101 Boyd Blvd.

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed Pathways to Employment Renewal that will be submitted to CMS.

Andrew Wilson
Director
Division of Medicaid and Medical Assistance

7/26/2024 | 8:06 AM EDT
Date

Proposed Renewal for 1915(b)(4) Waiver Fee-for-Service Selective Contracting Program

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice related to the renewal of an application for a fee-for-service selective contracting waiver under section 1915(b)(4) of the Social Security Act.

Background

The Centers for Medicare & Medicaid Services (CMS) approved 1915(i) home and community-based services (HCBS) State Plan Amendment (SPA) to support individuals with disabilities in attaining and sustaining competitive employment. The Program has operated as Delaware's Pathways to Employment (Pathways). The Pathways program expanded choices and opportunities for persons with disabilities seeking to enter the job market. The program offers individually tailored employment support services to persons with visual impairments, physical disabilities, intellectual disabilities, and autism spectrum disorder. Pathways is targeted to persons meeting the eligibility criteria specified in the Pathways SPA, including:

- 14 and above years of age,
- meet defined needs-based criteria, and
- have a desire to work in a competitive work environment.

The following services will be provided to Pathways program participants:

- Employment Navigation
- Financial Coaching Plus
- Benefits Counseling
- Non-Medical Transportation
- Orientation, Mobility, and Assistive Technology
- Career Exploration and Assessment
- Small Group Supported Employment
- Individual Supported Employment
- Personal Care (including option for self-direction)

CMS approved the 1915(i) home and community-based services SPA for 5 years, which is up for renewal this year. Concurrently, CMS approved Delaware to limit providers for the Employment Navigation and Transportation services provided by the Pathways program.

Section 1915(b) of the Social Security Act gives the Secretary of Health and Human Services the discretion to waive a broad range of requirements included in Section 1902 of the Act as may be necessary to enable a State to implement alternative delivery mechanisms for its Medicaid program. However, the Secretary may exercise that discretion only insofar as the alternative delivery mechanism is found to be cost-effective, efficient, and not inconsistent with the purposes of Title XIX of the Act.

In particular, subsection (b)(4) permits a State to restrict the provider from whom Medicaid beneficiaries receive services as long as such restrictions do not substantially impair access to services of adequate quality where medically necessary. This

statutory authority (as well as implementing regulations at 42 CFR §431.55) can be used in both fee-for-service as well as managed care arrangements.

The 1915(b)(4) application renewal is targeted specifically to selective contracting arrangements that will be paid on a fee-for-service basis. In order to limit the number of providers rendering covered services to Medicaid beneficiaries, States must submit a waiver renewal to CMS, seeking permission to waive section 1902(a)(23)(A) of the Act, which otherwise permits beneficiaries free choice of providers.

Purpose

The purpose of this posting is to provide public notice and elicit public input regarding Delaware's renewal of this waiver which seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

Overview and Summary of the Waiver Fee-for-Service Selective Contracting Program Renewal

Delaware proposes to renew the 1915(b)(4) Waiver Fee-for-Service Selective Contracting Program. The waiver must be renewed every five years. This is the third renewal for Waiver Fee-for-Service Selective Contracting Program. The waiver seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

Change(s) to the current Pathways to Employment 1915(b)(4):

- There are no significant changes proposed.

Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations on September 1, 2024. The public is invited to review and comment on the proposed Waiver Fee-for-Service Selective Contracting Program renewal. Comments must be received by 4:30 p.m. on October 1, 2024. Comments may be submitted in the following ways:

This public notice, the Renewal, and a summary of the Renewal are posted online at:

<https://dhss.delaware.gov/dhss/dmma/homeandc.html>

Individuals may submit written comments using one, or all, of the following methods:

(Please identify in the subject line: *Pathways to Employment Renewal*)

By fax: 302-255-4425 to the attention of Melissa Dohring

By email: DMMA_PublicHearing@delaware.gov

By written comment:

Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

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Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed Waiver Fee-for-Service Selective Contracting Program Renewal that will be submitted to CMS.

Andrew Wilson
Director
Division of Medicaid and Medical Assistance

7/26/2024 | 8:06 AM EDT
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***Please Note: Due to formatting of certain documents, they are not being published here. Copies of the documents**

are available at:

[http://regulations.delaware.gov/register/september2024/general/1915b\(4\) Pathways Waiver Renewal Application CY25-29.pdf](http://regulations.delaware.gov/register/september2024/general/1915b(4) Pathways Waiver Renewal Application CY25-29.pdf)

[http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915\(i\) pre-print 2025-2029 Amended.pdf](http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915(i) pre-print 2025-2029 Amended.pdf)

[http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915\(i\) Renewal Template FY25-FY29 Clean.pdf](http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915(i) Renewal Template FY25-FY29 Clean.pdf)

28 DE Reg. 230 (09/01/24) (Gen. Notice)