

December 30, 2014

Sharon Summers  
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Division of Medicaid & Medical Assistance  
1901 N. DuPont Hwy.  
P.O. Box 906  
New Castle, DE 19720-0906

**Re: DMMA Proposed Medicaid Rehabilitative Services Regulation [18 DE Reg. 429 (12/01/14)]**

Dear Ms. Summers:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Medicaid and Medical Assistance proposal to adopt a State Medicaid Plan amendment in reference to State Plan Rehabilitative Services specifically, Coverage and Reimbursement for Community Support Services. CMS has already approved an amendment to remove the "Community Support Service Program" entirely from the Medicaid State Plan effective January 1, 2015. At p. 430. The rationale for the deletion of the Program is that the PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment) program makes it "obsolete". *Id.* Support services previously provided under the Community Support Service Program" would be covered (along with other services) by PROMISE. Council understands that DMMA is proposing to formally delete the Community Support Service Program from the State Plan through the current proposed regulation and would like to share the following observations.

First, Council is concerned that eligibility for the PROMISE program is more limited than eligibility under the Community Support Service Program. As a result, some classes of individuals who were eligible for behavioral health support services under the former program will be left without coverage. Consider the following:

A. Per §5.0 from the Community Support Service Program Provider Manual, eligibility for the program was expansive and not limited by diagnosis:

5.0 Service Limitations

5.1. Eligibility Limitations

5.1.1 Community support services are limited to eligible DMAP clients who would benefit from services designed for or associated with mental illness, alcoholism or drug addiction.

5.1.1.2 Coverage for community support services is limited to those Medicaid clients who are certified by the program physician as severely disabled according to criteria for severity of disability caused by mental illness and/or substance abuse.

B. In contrast, the PROMISE program is highly prescriptive and only covers individuals with certain diagnoses. See excerpt from Medicaid Plan amendment.

While individuals with a Traumatic Brain Injury (TBI) diagnosis could have qualified under the “Community Support Service” eligibility standard, that diagnosis is non-qualifying under PROMISE. The GACEC requested reconsideration of the DMMA exclusion of TBI as a qualifying diagnosis under PROMISE. See attachment. Apart from TBI, there may be a host of other classes of individuals who would have been eligible under the Community Support Service program but who will be excluded from PROMISE based on a non-qualifying diagnosis, including the following:

- 1) intermittent explosive disorder (DSM V, 312.34);
- 2) conduct disorder (DSM V, 312.81, 312.82, and 312.89);
- 3) all neurocognitive disorders (DSM V, pp. 591-642); and
- 4) all trauma- and stressor-related disorders apart from PTSD (DSM V, pp. 265-290).

Second, DMMA indicates that PROMISE is intended to cover individuals qualifying under the Department of Justice (DOJ)-Delaware settlement. At p. 430. The population of individuals covered by the Settlement Agreement is not limited to certain diagnoses. See pp. 2-3 from Settlement Agreement. As a result, while an individual in the Delaware Psychiatric Center (DPC) with a diagnosis of intermittent explosive disorder will qualify for services under the Settlement Agreement, DHSS will have to spend 100% State funds for community programming for the individual since the person lacks a qualifying diagnosis to be eligible for PROMISE. Alternatively, the individual will be relegated to a narrow scope of services offered by a Managed Care Organization (MCO). See Waiver Amendment, p. 9. Council queries whether these results are fiscally and clinically prudent.

While the Division characterizes the Community Support Services program as “obsolete” as supplanted by the PROMISE program, this is not entirely accurate. It is unfortunate that the Division is proposing the elimination of a program with more progressive eligibility criteria and substituting a program with inflexible, no-exceptions diagnosis-based eligibility criteria.

If you have any questions on our comments, please contact me or Wendy Strauss at the GACEC office.

Sincerely,

Robert D. Overmiller  
Chairperson

RDO:kpc

CC: The Honorable Rita Landgraf, Department of Health and Social Services (DHSS)  
Stephen Groff, Division of Medicaid and Medical Assistance (DMMA)  
Melissa A. Smith, Division of Substance Abuse and Mental Health (DSAMH)  
Robert Bernstein, Ph.D., Court Monitor  
Jeanne Nutter, Delaware American Association of Retired Persons (AARP)

Attachments