

November 28, 2016

Kimberly Xavier
Planning, Policy & Quality Unit
Division of Medicaid & Medical Assistance
1901 N. DuPont Hwy.
P.O. Box 906
New Castle, DE 19720-0906

RE: DMMA Proposed DDDS Waiver Participant Patient Pay Regulation [20 DE Reg. 340 (November 1, 2016)]

Dear Ms. Xavier:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Medicaid and Medical Assistance (DMMA) proposal to amend the Delaware Social Services Manual (DSSM) regarding Patient Pay Calculations, specifically, to change the entity responsible for the collection of the patient pay amount for Division of Developmental Disabilities Services (DDDS) waiver recipients.

DMMA is proposing to change this approach as follows:

Individuals receiving Residential Habilitation funded by the DDDS waiver will submit their patient pay amount directly to the provider of Residential Habilitation.

At 342. No fiscal impact is contemplated, Id. The proposal is intended "to be compliant with federal regulation". Id. The citation to the federal regulation is not provided.

Council would like to share two observations.

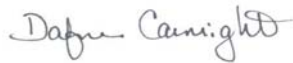
First, many DDDS waiver participants have one provider for residential habilitation and a different provider for day programming. Under the proposal, the residential provider would be paid 100% of the patient pay amount. The Centers for Medicare and Medicaid Services (CMS) regulation (42 C.F.R. §435.726) does not literally apportion the patient pay contribution exclusively to the

residential habilitation provider. It only generally refers to “home and community-based services”. DMMA may wish to assess whether 100% of the patient pay contribution is required to be paid exclusively to the residential provider. If not, the proposed approach may be inequitable for day program providers.

Second, Council assumes that part of the rationale for the proposal is a reduction of the administrative burden of DDDS accounting/allocating the patient pay funds. However, DDDS is the representative payee for the SSI/SSDI monthly benefits for several hundred DDDS clients. Therefore, reciting that “(i)ndividuals receiving Residential Habilitation...will submit their patient pay amount directly to the provider” will apparently still result in DDDS (as representative payee) allocating patient pay funds to providers. Moreover, if an individual defaults in payment to the provider, Council assumes this should affect waiver eligibility which is within the province of DDDS, not the provider. Therefore, if this change in approach is not required by federal regulation, DMMA may wish to consider retention of the current approach.

Thank you for your consideration of our observations on the proposed regulations. Please contact me or Wendy Strauss at the GACEC office if you have questions.

Sincerely,



Dafne A. Carnright
Chairperson

DAC:kpc

CC: Stephen Groff, DMMA
Jill Rogers, DDDS