



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904  
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December 20, 2019

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

**RE: 23 DE Reg. 427 [DMMA Proposed Drug Utilization Review Regulation (December 1, 2019)]**

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) reviewed the DMMA proposal to amend the Title XIX Medicaid State Plan regarding the Drug Utilization Review (DUR) in September of 2019 and has reviewed the republished changes. Council supported the proposed amendment in September; however, we would like to share the following observation on the republished amendments.

Council is concerned that while the previous proposal appeared consistent with federal regulations, the republished proposal may no longer comply with federal requirements.

In the previous publication, Section 5 "Provision of Section 1004 of the SUPPORT ACT" included four sections: (a) Claim Review Limitations; (b) Programs to monitor antipsychotic medications to children; (c) Fraud and abuse identification, and; (d) Managed Care Organization (MCO) Requirements. As written in the September proposal, these sections complied with federal requirements. In the December proposal, sections (a), (b), and (c) remain consistent with the September publication. However, section (d) "Managed Care Organization (MCO) Requirements," is not included in the December DUR publication. This Section previously stated "effective October 2019, DMMA contracts require MCOs to comply with the drug reviews included in the SUPPORT Act. Our MCO partners are employing the same review processes and limits as our fee-for-service program."

Federal regulation requires that the MCO operate a drug utilization review program that complies with the requirements described in the SUPPORT Act, “as if such requirement applied to the [MCO] instead of the State.” It is unclear why this requirement was not included in the republished proposal.

Council requests additional information and an explanation for the removal of section (d) “Managed Care Organization (MCO) Requirements”.

Thank you for this opportunity to share our comments with you. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

*Ann C Fisher*

Ann C. Fisher  
Chairperson

ACF: kpc