



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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March 29, 2021

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: 24 DE Reg. 848 [DHSS/DMMA Proposed Streamlined Medicaid Application Regulation (March 1, 2021)]

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) proposal to amend Title XIX Medicaid State Plan regarding the Streamline Application. The changes pertain to including questions for the justice-involved population (incarcerated individuals) and about retroactive eligibility. Council **endorses** the proposed changes.

This regulation had its genesis in Executive Order 27, signed by Governor Carney on December 4, 2018. The order recognized that "it is a paramount interest of the State for the benefit of all its citizens to: improve the transition from correctional custody to release in the communities; increase public safety; reduce recidivism; make better use of resources in correctional facilities; and expand partnerships with communities, nonprofit services providers and reentry advocates, and statewide justice-oriented membership organizations." The changes included eligibility for individuals the month they submit an application and waiver of the three-month retroactive eligibility period. To help implement these changes, the applications for services would include questions for incarcerated individuals, incarcerated dependents and for retroactive eligibility.

The purpose of this regulation is to make it easier for incarcerated individuals to access benefits so that their reentry into society is easier and can help lower or prevent recidivism. To this extent, the changes in the forms are salutary.

Council would like to note however that because of the Medicaid Section 1115 Waiver, the State is eliminating the three-month period of retroactive eligibility for Medicaid benefits except for certain populations. This could be problematic. The reason given for eliminating the

retroactivity for most individuals is that it will allow the State to better control the Medicaid costs while providing “high quality health coverage.” Nevertheless, “if monitoring or evaluation data indicate that demonstration features are not likely to assist in promoting the objectives of Medicaid, CMS reserves the right to require the state to submit a corrective action plan to CMS for approval. Further, CMS reserves the right to withdraw waivers or expenditure authorities at any time it determines that continuing the waivers or expenditure authorities would no longer be in the public interest or promote the objectives of Medicaid.”

Although Medicaid retroactive benefits are being curtailed, a review mechanism allows CMS to require the State to correct or fix any problems that may result from the waiver or even to withdraw the waiver if it determines that the objectives of Medicaid are not promoted or that the waiver is not in the public interest. With that in mind, as mentioned earlier, Council endorses the proposed amendment.

Thank you for your time and consideration of our endorsement and observations. Please feel free to contact Wendy Strauss or me should you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc