



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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September 30, 2022

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

RE: 26 DE Reg. 153 [DHSS/DMMA Proposed Ambulatory Surgical Center Services Rate Regulation (September 1, 2022)]

Dear Ms. Xavier:

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 Statute regarding Ambulatory Surgical Center Services. The amendment concerns adjusting the current reimbursement methodology. Council **supports** this regulation as it aligns with the increasing accessibility of dental care to patients using Medicaid while ensuring such centers receive proper compensation for provision of services.

Council notes that historically, Ambulatory Surgical Centers (ASC) did not perform surgical dental procedures prior to October 1, 2021. According to the Centers for Medicare and Medicaid Services (CMS), ASCs are defined as "distinct entit[ies] that operate exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following an admission." However, as the COVID-19 pandemic greatly burdened access to traditional outpatient surgical space, DMMA expanded access by allowing surgical dental procedures in ASCs, beginning on October 1, 2021. DMMA has concluded, in the 11 months since implementing this change, that the ASC policy of reimbursement does not adequately cover the costs of performing dental services.

This proposed amendment endeavors to remedy the discrepancy between the cost of service and the amount covered by Medicaid. The amendment eliminates language stating, "an ambulatory surgical center being used for patient dental services will be reimbursed by Medicaid for such services at 50 percent of the current Medicare Outpatient Prospective Payment (OPPS) rate for procedure codes specified by the State for these dental services." The amended language, instead, states that effective October 1, 2022, ASCs that provide patients with dental services

will be reimbursed by Medicaid “at the facility’s usual and customary charge or a maximum fee for their service, whichever is lower.”

This amendment will improve wait times for individuals seeking dental care. Access to ASCs that provide extensive dental procedures for persons using Medicaid or Medicare would expand, as a significant amount of the procedure expense would be covered by the reimbursement method described in the amendment.

Therefore, this amendment would positively impact individuals with disabilities. Many people with disabilities use Medicaid to help cover medical expenses. Living with a disability can make the maintenance of dental health difficult. Mobility issues, neuromuscular issues, one’s ability to control body movements, anxiety, and other behavioral problems may result in two distinct consequences for persons with disabilities. Individuals with disabilities may require sedation during dental procedures directly because of a disability (e.g., if one has difficulty controlling his movements), or because lack of accessible and affordable dental facilities has prevented such individuals from seeking dental treatment at all. This means that when treatment is finally sought, more invasive procedures are needed. When dental health is overlooked, significant health consequences may also arise.

ASCs are often the only available locations for individuals with disabilities to receive dental services, as more invasive procedures are often required. If more ASCs receive appropriate compensation for provision of services, more people with disabilities will be able to receive treatment, resulting in better dental and overall health.

Thank you for your time and consideration of our support. Please feel free to contact Pam Weir or me should you have any questions on our comments.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc