



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

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. 467 DHSS/DMMA Proposed Children's Health Insurance Program (CHIP) Early, Periodic, Diagnosis & Treatment (EPSDT) Coverage Regulations (December 1, 2022)

To Whom It May Concern:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposal to amend the Children's Health Insurance Program (CHIP) coverage to align it with Early, Periodic, Diagnosis & Treatment (EPSDT) coverage. Council would like to share the following observations.

This is a proposed CMS state plan amendment. The publication indicates that changes to the Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated as needed. Council **is concerned** by the DHSS noted intention to make changes to the DMAP policies and portal without public notice and opportunity for comments as this circumvents the requirements of the Administrative Procedures Act and its implementing regulations for public notice and comments.

Comparing section 6.2 versions, all pre-existing elections are included substantively as in the original except as noted below:

1. Inpatient mental health services are not specifically enumerated;
2. Outpatient mental health services are not specifically enumerated;
3. Wrap around and specialty dental services are not specifically enumerated although dental services are listed;
4. Inpatient substance abuse treatment services and residential substance abuse treatment services are not specifically enumerated;
5. Outpatient substance abuse treatment services are not specifically enumerated;
6. Medical transportation is no longer limited to emergencies or disasters;
7. Home and community-based health care services no longer excludes personal care, chore services, daycare, respite, or home modifications; and

8. Private duty nursing services is no longer subject to a 28 hour per week cap.

Presently CHIP excludes Non-Emergency Medical Transportation (NEMT) and Prescribed Pediatric Extended Care (PPEC). This proposed change would add NEMT and PPEC to CHIP benefits. DHSS also indicates that the change will reduce Centers for Medicare and Medicaid Services (CMS) administrative requirements that are placed on states whose CHIP and Medicaid programs do not align services. Council **supports** the expansion of NEMT to provide transportation services as this will likely increase access to healthcare for low-income children and increase/improve access to a variety of health services.

Council **would like to verify** that DHSS will be covering inpatient and outpatient mental health and substance abuse services, as well as wrap around and specialty dental care, in other categories, since specific language in reference to these services was removed. See list above. Not covering these items would have a hugely detrimental impact on children with disabilities.

The proposed amendment specifically includes the Medicaid Early Periodic Screening Diagnosis and Treatment (EPSDT) definition of medical necessity, as “Secretary-approved Coverage,” which is robust and expansive coverage. Council **supports** the DHSS adoption of EPSDT medical necessity standards for CHIP children as this will increase the provision of services to children with disabilities.

Thank you for your time and consideration of our observations. 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

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