



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

January 26, 2024

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

RE: 27 DE Reg. 486 DHSS/DMMA Continuous Coverage for Children Enrolled in Medicaid Regulations (January 1, 2024)

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 Division of Social Services Manual (incorporated into State regulation at 16 Del. Admin. Code §§14000 and 25000, as well as the Medicaid State Plan. This proposed rulemaking would make children under 19 enrolled in Medicaid eligible for a full 12-month period regardless of change of circumstances with limited exceptions. This rulemaking follows passage of the Consolidated Appropriations Act of 2023, which required States to provide 12 months of continuous eligibility for children under 19, starting January 1, 2024. Council generally **supports** the amendment as it enables Delaware to comply with federal law and provides additional stability in children's health coverage. This in turn helps ensure adequate medical care, essential for children with and without disabilities and for the prevention of disabilities in children who do not currently have a disability. Council would also like to share the following observation and recommendation.

There are some additional details regarding self-attested information, which are not easy to follow, in part because of a missing comma that changes the interpretation of exception #4. Without the comma exception 4 reads as follows: "[t]he agency determines that eligibility was erroneously granted at the most recent determination, or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative" (proposed DSSM §14810.2). This indicates that termination may occur when 1) eligibility was erroneously granted; or 2) renewal was because of agency error, fraud, abuse or perjury. However, the rulemaking continues by explaining that self-attested information will not be a cause for exclusion from continuous eligibility under exception 4, even once documentation is obtained and found to be contradictory, unless one of the five exceptions applies. This contradicts the way exception #4 is written, that an exception to continuous eligibility is "eligibility was erroneously granted."

Council would encourage DHSS to insert a comma following "eligibility" in proposed DSSM §14810.2, exception #4, as follows: "(4) The agency determines that eligibility was erroneously granted at the most recent determination, or renewal of eligibility, because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative".

Thank you for your time and consideration of our support and observation. 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