



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Lookerman St., Dover, DE 19904  
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May 28, 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. 848 DHSS/DMMA Medicaid Workers with Disability Premiums Regulations (May 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 regulations and the State Medicaid Plan regarding Medicaid for Workers with Disabilities (MWD). These changes were triggered by the Consolidated Appropriations Act (CAA) of 2023, which required states to provide 12-months continuous eligibility to children under the age of 19 in Medicaid and Children's Health Insurance Program (CHIP), regardless of nonpayment of premiums. Because MWD may include individuals under the age of 19 (and up to 65), Delaware is revising MWD provisions to ensure compliance with the CAA. Council **commends** DMMA for dropping the premiums for MWD recipients and thanks DMMA for its commitment to Employment First for people with disabilities.

Removing the premiums is a tremendous benefit for MWD participants and fosters Delaware's Employment First commitment to create opportunities for employment for people with disabilities.

Delaware also proposes to make changes to unearned income exclusions and financial eligibility. To be financially eligible for MWD in Delaware, an applicant must show: 1) that the individual (not the individual + spouse, if applicable) has unearned income below a certain threshold; and 2) that the family's total countable income is below a certain level based on family size. Delaware proposes to modify the unearned income exclusion/limit in section 17908 from a set amount to the standard established by DMMA, which was \$956 in 2009 (and which is increased annually using the Cost of Living Adjustment in the Federal Register). The proposed regulation also adds to the unearned income exclusion section that "[t]here is no unearned income exclusion for a spouse who is not applying for MWD." This is somewhat confusing since a spouse's unearned income is not factored in for the unearned income step of a MWD applicant's eligibility, but rather only in the total countable income. It would be helpful if there was clarifying language either in 17908 (e.g.: There is no unearned income exclusion for a spouse who is not applying for MWD; this is because a nonapplying spouse's unearned income is not considered in the first test of Section 17911, Financial Eligibility Determination), or similar language in Section 17911.

Council notes that not all states have unearned income limits for their MWD programs and instead look at total countable income (earned and unearned together). See, e.g. Pennsylvania: <https://www.dhs.pa.gov/Services/Assistance/Documents/INDIVIDUAL%20PAGES/MAWD/MAWD%20FAQ.pdf>. This helps individuals who are receiving Social Security benefits to be found eligible for MWD. Individuals who are both working and receiving Social Security benefits (often off a parent's record) have unearned income that is above the Delaware limit, but their income all together would make

them eligible for MWD, particularly in the case of individuals with Developmental Disabilities. Using a total countable limit as opposed to unearned and countable separately, would facilitate more individuals with disabilities to benefit from MWD.

Finally, Delaware's MWD enrollment is extremely small at just over 100 participants based upon a report by DMMA to the Disabilities Law Program. Clear information to promote this beneficial program is missing (compare to Pennsylvania which has a MWD website with brochures, FAQs, and how to apply: <https://www.dhs.pa.gov/Services/Assistance/Pages/MA-for-Disabled-Workers.aspx>). Council notes that Delaware is lacking in clear public facing information to educate potential MWD eligible individuals about the program. Council therefore recommends that DHSS and the Department of Labor (DOL) collaborate in the creation of public facing information, policies and procedures to educate potential MWD eligible individuals about the program. Council would also ask that DHSS provide information on how they currently communicate information about MWD to the public.

Thank you for your time and consideration of our support, recommendations and request for information. 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