



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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September 30, 2025

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

**RE: 29 DE Reg. 189 DHSS/DMMA Proposed Title XXI Medicaid State Plan CHIP
Juvenile Justice Initiative Regulations (September 1, 2025)**

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 Title XXI Medicaid State Plan regarding CHIP Juvenile Justice Initiative. This proposed regulation will amend the State Plan to bring it into compliance with requirements in the Federal Consolidated Appropriations Act of 2023 (CAA). This proposal is specific to the Children's Health Insurance Program (CHIP) program. The CAA included several provisions impacting access to state funded health services for incarcerated juveniles with Medicaid and/or CHIP. Prior to the CAA changes, while incarceration was not a barrier to eligibility for Medicaid, it was a barrier to CHIP. While any child can apply for and be found eligible for Medicaid during incarceration, that was not the case with CHIP. However, a child who was eligible for CHIP prior to incarceration would not lose eligibility during their period of continuous eligibility, even while incarcerated. The CAA makes several significant changes to these rules.

Council **supports** the proposed State Plan Amendment changes with respect to CHIP eligibility, moving from terminations to suspensions during detention, and changes around discharge transition screenings, diagnostic services or case management services. Helping to promote effective transition and medical services is a critical benefit to juveniles with disabilities. However, Council would like to inquire whether Division of Youth Rehabilitative Services and DMMA are going to be proactive in assisting children and their families in applying for either CHIP or Medicaid.

However, Council would like to note that there is some concerning language in the "Additional Information" section of the State Plan Amendment. It indicates:

The state may determine that it is not feasible to provide the required services during the pre-release period in certain carceral facilities (e.g., identified local jails, youth correctional facilities, and state prisons) and/ or circumstances (e.g. unexpected release or

short-term stays). The state will maintain clear documentation in its internal operational plan regarding each facility and/or circumstances where the state determines that it is not feasible to provide for the required services during the pre-release period. This information is available to CMS upon request. Services will be provided post-release, including the mandatory 30-days of targeted case management, screening, and diagnostic services; ...

This broad and vague language regarding the feasibility of pre-release services at certain locations is concerning. It appears to be the state giving itself an “out” from providing pre-release services in many settings. And it appears that CMS (Centers for Medicare & Medicaid Services) is allowing this. It would seem to undermine the entire purpose of the CAA provisions, which are to provide support and transition services so that a juvenile is set up for success and care before he or she is released. Very strict scrutiny should be given to any process where the state is excusing itself in advance from providing these services. The state should be looking for ways to make sure that these services can be provided, not looking for ways to avoid providing them. The transition of incarcerated juveniles to their communities should be multidisciplinary and include adequate planning well in advance of release.

Council would also like to request information from the Delaware Division of Youth Rehabilitative services on the status of the Internal Operational Plan to ensure that these activities will be provided in a timely manner consistent with the law.

Thank you for your time and consideration of our support and observations. We look forward to receiving information on our inquiry. Please feel free to contact Pam Weir or me should you have any questions on our comments.

Sincerely,

William H. Doolittle

William H. Doolittle
Chairperson

WHD: kpc