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November 14, 2025

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

RE: 29 DE Reg. 326 DHSS/DMMA Proposed DDDS Home and Community Based (Lifespan) Waiver Amendment Regulations (October 1, 2025)]

To Whom It May Concern:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed 29 DE Reg. 326 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) Proposed Amendments to the DDDS Home and Community Based (Lifespan) Waiver regulations. The GACEC would like to share the following queries and observations.

The following areas were updated/added to the Waiver:

A. **Updating language to the Nurse Consultation service description to include the following text: "When it is appropriate, necessary, and in the best interest of the services recipient, the division may authorize a registered nurse to perform a medical procedure within the registered nurse's scope of practice, experience, and proficiency."**

Council endorses this action but would like to request more details about the specific scenarios where the need has arisen. Council would also like to point out that by removing "emergency" and adding "division may authorize" that these nurses would apparently need to get DDDS approval before performing medical procedures. Council wonders if this is the intended goal of the proposed change.

B. **Reducing the maximum allowable group size for Group Supported Employment to five (5) from eight (8).**

Council notes that this change is consistent with Employment First goals and the phase out of subminimum wage programs in Delaware codified in the Jamie Wolfe Employment Act, 19 Del Code 750 et seq, and fully implemented on January 31, 2024. This proposed change merits Council's support since smaller groups may lead to better employment outcomes and provide for a more integrated experience for DDDS service recipients.

C. Adding language to the Respite service description specifically around crisis respite as well as adding an additional provider type for Crisis Respite Agency.

On page 81 of the Waiver Amendment, DDDS adds a new type of respite called "Crisis Respite" as well as creating a new provider type called Crisis Respite Agency. Crisis Respite Services are designed to provide stabilization and support when a recipient cannot remain in their primary residence or home due to environmental or behavioral circumstances. The amendment also adds the following language on Page 81:

> Respite is not available to individuals receiving Residential Habilitation in a Neighborhood Group Home or Community Living Arrangement **unless the participant is unable to return to the home due to concerns about either their health, welfare, or safety or the health, welfare, and safety of other participants living in the home.**

Council has a number of questions on this section. Among those questions is whether the creation of this respite service is a way for providers to avoid following discharge procedures required by law in cases where a person has been removed from a licensed entity to a Crisis Respite group home. There is no discussion of what happens when the person is stabilized, or after 90 days, or whether the removal is with or without the consent of the participant or their guardian, as applicable.

It is commendable that DDDS is creating an alternative to sending a person in crisis to Delaware Psychiatric Center or another psychiatric facility. However, it is unclear if that is what DDDS means by "institutional placement." For the most part, these psychiatric facilities are acute care placements. DDDS might wish to clarify what "institutional placement" means.

Council would like to know what process would be in place if a crisis respite provider wants to remove someone from a crisis respite arrangement, as in many cases the person may not have the option to immediately go back to their previous living arrangement. It may also be helpful to develop specific guidelines about what happens after 90 days and whether there will be an exception to allow someone to stay longer.

Council is not comfortable fully endorsing the proposed changes until DDDS clarifies that residents of Neighborhood Group Homes or Community Living Arrangements who are sent to Crisis Respite group homes continue to have the right to notice and a hearing under Chapter 11 of Title 16 if the provider intends to not allow them to return. Providers cannot utilize the Crisis Respite service as a way to constructively discharge residents. Council would also like to advise DDDS that it should add language that a participant does not lose their place in a Neighborhood Group Home or Community Living Arrangement if they are sent temporarily to Crisis Respite Group Home.

D. Add Enhanced Behavioral Residential as a new service

Council endorses this new service. DDDS has been working on ways to meet the needs of individuals with co-occurring intellectual disability and mental illness for some time, and this is a step toward meeting that need. Council would also like to encourage DDDS to work creatively to make additional mental health support available to service recipients in all settings as a future goal.

E. Add Remote Supports as a new service

This service must be chosen by the participant or their guardian. Remote Supports are intended to increase an individual's independence and decrease dependence on staff while maintaining or improving quality of care, as well as building confidence in using technology as a transferrable skill. Remote Supports are customizable based on the member's needs, must be included in the member's person-centered plan, and are reviewed on an ongoing basis for continued assessment of appropriateness.

Remote Supports are not to be used as surveillance and shall not compromise privacy. The technology cannot be provided at the same time as personal care services are being delivered. The technology must not interfere with the individual's ability to engage with the community. Equipment must allow for two-way real-time communication. Interaction may be scheduled or on demand or in response to an alert. Equipment can include motion sensors, smoke and carbon monoxide alarms, bed or chair sensors, pressure sensors, audio or video, stove sensors, automated medication dispensers, GPS, wearable or virtual technologies, and software applications using pictures or videos to guide, teach or remind. The benefit includes training and support. The benefit is limited to $10,000 per two years, with exceptions on a case-by-case basis.

Council endorses this service extension with the caveat that no person should be pressured to accept remote services as a cost-saving measure only. While remote supports may be liberating for some service recipients, DDDS should be careful not to become overly reliant on remote services, which could lead to isolation and the provision of inadequate services.

F. Removed Specialized Medical Equipment and Supplies as a waiver service

The most important question in this proposed change is whether durable medical equipment (DME) is co-extensive with SME. Council's conclusion is that it is not, as DME has a much narrower definition. The definition of DME does not mention activities of daily living (ADLs) or devices that assist with communication, for example. The question here is whether the AT benefit available going forward will extend to the coverage lost if the Specialized Medical Equipment (SME) benefit is eliminated. SME is a subset of AT but broader than DME. Council would like to inquire whether the scope of the AT benefit would include specialized medical equipment.

Council would also like to note that just because DDDS recipients have not utilized SME does not mean it is not necessary. It may be an indication that navigators and case managers are not adequately aware of SME options and coverage through LifeSpan. Therefore, underutilization could be not because it is not needed, but because it has not been offered.

Council queries whether recipients, physicians and navigators/case managers even know about the benefit or about SME options. Council also questions the quality of data from MCOs regarding DME claims. Have all recipients been surveyed to establish whether their needs have been met or whether denials (formal or informal) have occurred to requests for supplies and equipment? Another question is why DDDS is removing something that isn't costing DDDS anything? Why not leave the benefit in place should a need arise (even if it is true that all DDDS recipient needs are currently being met.) Council objects to the elimination of this benefit.

Thank you for your time and consideration of our observations and questions. We appreciate and endorse the areas noted that Council feels merit our support. DDDS is to be commended for many of the proposed changes. We look forward to receiving information on our inquiries.

Please feel free to contact Pam Weir or me should you have any questions on our comments or requests for clarity on our inquiries.

Sincerely,

William H. Doolittle

William H. Doolittle
Chairperson
WHD: kpc