



September 19, 2017

Francis T. McCullough
Associate Regional Administrator
Division of Medicaid
The Centers for Medicare and Medicaid Services, Region III
Suite 216, The Public Ledger Building
150 South Independence Mall West
Philadelphia, PA 19106-3499

RE: Delaware's Section 1115 Waiver Amendment – Out-of-State Former Foster Youth

Dear Mr. McCullough:

The Delaware Division of Medicaid and Medical Assistance (DMMA) is pleased to submit, for CMS approval, the attached Section 1115 Waiver Amendment, to provide coverage, effective January 1, 2019, on a state-wide basis to former foster care youth who currently reside in Delaware and were in foster care and enrolled in Medicaid at age 18 or when they “aged out” of the system in a different state.

Through this waiver amendment, all former foster youth who were in foster care under the responsibility of a different state, and enrolled in Medicaid while in foster care, will receive benefits through the same managed care delivery system described in the state's approved Section 1115 Demonstration. Delaware projects that the number of recipients under this 1115 Demonstration will increase by 3 during federal Fiscal Year (FFY) 2018. This enrollment number amounts to a total expenditure of \$15,458 for FFY 2018 (of which \$8,7236 is federal dollars) and \$21,435 for FFY 2019 (of which \$9,318 is federal dollars).

Your approval of this waiver amendment is requested. If you have any questions, please contact Glyne Williams at 302-255-9628 or by e-mail at glyne.williams@state.de.us.

Please return the approved copy of the Amendment to:

Stephen M. Groff, Director
Division of Medicaid and Medical Assistance
Designee for Kara Odom Walker, Secretary
Delaware Health and Social Services
P.O. Box 906
New Castle, DE. 19720-0906

Sincerely,

A solid black rectangular box redacting the signature of Stephen M. Groff.

Stephen M. Groff, Director, DMMA
Designee for
Kara Odom Walker, MD, MPH, MSHS,
Secretary, DHSS



Delaware Health and Social Services

A Proposed Amendment to the Delaware
Section 1115 Demonstration Waiver

to

The Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services

State of Delaware

Stephen Groff, Director
Division of Medicaid & Medical Assistance (DMMA)

Section I – Program Description

Title IV-E foster care youth have been a mandatory Medicaid eligibility category since the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). On March 23, 2010, the Affordable Care Act (ACA) was signed into law, making a number of changes to Medicaid eligibility effective, January 1, 2014. The ACA includes many provisions designed to expand and streamline Medicaid eligibility, such as the option to extend coverage to a new adult group of non-disabled, non-elderly citizens with income under 133 percent of the Federal Poverty Level (FPL). Additionally, to further the overall goal of the ACA to expand health coverage, it included a new provision to allow youth to maintain coverage under their parents' or guardians' health insurance plan until age 26 (to the extent that such plan extends coverage to dependents). Section 2004 of the ACA added a new mandatory Medicaid eligibility group at section 1902(a)(10)(A)(i)(IX) of the Act to provide a parallel opportunity for former foster care youth to obtain Medicaid coverage until age 26 from the state responsible for the individual's foster care.

On January 22, 2013, the Center for Medicaid Services (CMS) issued a notice of proposed rulemaking that proposed to implement the former foster care eligibility group in regulations at 42 CFR 435.150. As part of that provision, CMS proposed to provide states the option to cover youth who were in foster care under the responsibility of another state, and enrolled in Medicaid, upon turning 18 or "aging out" of foster care in the other state. On November 21, 2016, CMS published the final rule clarifying that the Department of Health and Human Services (HHS) had determined that the state option to cover youth who were in foster care under the responsibility of another state was not available under section 1902(a)(10)(A)(i)(IX) of the Act. That section provides that, to be eligible under this group, an individual must have been "in foster care under the responsibility of the state" and to have been "enrolled in the state plan under this title or under a waiver of the plan while in such foster care [.]" Because the provision requires coverage specifically for youth in foster care under the responsibility of "the state"—not "a" or "any" state—CMS does not believe the provision provides states with the option to cover youth who were not under the responsibility of the state while in foster care under the former foster care eligibility group.

However, states can provide coverage to former foster care youth who were in Medicaid and foster care in a different state with income up to 133 percent of the federal poverty level (FPL) under the new adult group identified in the ACA. Additionally, states can use 1115 demonstration authority to provide coverage for former foster care youth who were in foster care under the responsibility of other states and have income higher than 133 percent of the FPL. States that provide coverage under the new adult group have the option of covering former foster care youth with MAGI-based income above 133 percent of the FPL, under the eligibility group described in section 1902(a)(10)(ii)(XX) of the Act and implementing regulations at 42 CFR 435.218 (the "XX" group). States would receive their standard Federal Medical Assistance Percentage (FMAP) for coverage of the "XX" group.

Delaware currently, and will continue to, provides coverage to former foster care youth under the age of 26, not otherwise mandatorily eligible, who were on Medicaid and in foster care in Delaware when they turned age 18 or “aged out” of foster care. Delaware also currently provides coverage to individuals with income up to 133 percent of the federal poverty level (FPL) under the new adult group identified in the ACA.

The purpose of this Demonstration is to provide coverage, effective January 1, 2019, on a state-wide basis to former foster care youth who currently reside in Delaware and were in foster care and enrolled in Medicaid at age 18 or when they “aged out” of the system in a different state. As such, Delaware will cover former foster care youth from a different state who have income at or below 133 percent Federal Poverty Level (FPL) under a mandatory coverage group or under the new adult group identified in the ACA. Additionally, on May 26, 2017, Delaware submitted an eligibility State Plan Amendment (SPA) electing to provide coverage to the optional eligibility group described under 1902(a)(10)(A)(ii)(XX) of the state plan. Delaware is also seeking an amendment and requests waivers of sections 1902(a)(8) and 1902(a)(10), to its current 1115 Demonstration Waiver, to the extent necessary, to permit the state to limit the provision of medical assistance (and treatment as eligible) for individuals described in the eligibility group under 1902(a)(10)(A)(ii)(XX) of the state plan, to former foster care youth who currently reside in Delaware, are under 26 years of age, were in foster care under the responsibility of another state, and were enrolled in Medicaid at age 18 or when they “aged out” of foster care.

Delaware proposes to test and evaluate how including former foster care youth who “aged out” of foster care in a different state increases and strengthens overall coverage for former foster care youth and improves health outcomes for these youth. Delaware expects that this hypothesis will be proven correct.

Section II – Demonstration Eligibility

The population affected by this Demonstration is former foster care youth who were in foster care under the responsibility of another state and enrolled in Medicaid at age 18 or when they “aged out” of foster care. Individuals who meet these criteria and have income at or below 133 percent FPL will be covered under a mandatory coverage group or under the new adult group. Individuals with income above 133 percent FPL require Section 1115 Demonstration authority. Delaware currently serves approximately 150 former foster care youth that “aged out” of foster care in Delaware. Therefore, Delaware does not anticipate a large number of individuals who “aged out” of foster care in a different state to seek Medicaid coverage in Delaware. Additionally, Delaware estimates that a large percentage of those individuals will fall under a different mandatory coverage or new adult group.

Eligibility Group	Description/ Social Security Act and CFR Citations	Income Level/FPL	Resource Standard	Benefit Package
Former foster care youth who were in foster care under the responsibility of another state and enrolled in Medicaid at age 18 or when they “aged out” of foster care.	§1115 of the Social Security Act; Demonstration Authority	>133%	N/A	Diamond State Health Plan (DSHP)

Section III – Demonstration Benefits and Cost-Sharing Requirements

Benefits provided to the population included in this application will be the same benefits that are provided for the current Medicaid population under Delaware’s Medicaid State plan.

1. Indicate whether the benefits provided under the Demonstration differ from those provided under the Medicaid and/or CHIP State plan:

Yes No

2. Indicate whether the cost sharing requirements under the Demonstration differ from those provided under the Medicaid and/or CHIP State plan:

Yes No

Section IV – Delivery System and Payment Rates for Services

The health care delivery system for Demonstration participants will be no different than the healthcare delivery system that is in place today for Delaware’s Medicaid population.

1. Indicate whether the delivery system used to provide benefits to Demonstration participants will differ from the Medicaid and/or CHIP State plan:

Yes No

Currently, there are approximately 150 former foster care youth who were in foster care under the responsibility of Delaware and enrolled in Medicaid at age 18 or when they “aged out” of foster care. Delaware projects that the number of recipients under this 1115 Demonstration will increase by 3 during federal Fiscal Year (FFY) 2018. This enrollment number amounts to a

total expenditure of \$15,458 for FFY 2018 (of which \$8,7236 is federal dollars) and \$21,435 for FFY 2019 (of which \$9,318 is federal dollars).

All former foster youth who were in foster care under the responsibility of a different state, and enrolled in Medicaid while in foster care, will receive benefits through the same managed care delivery system described in the state's approved Section 1115 Demonstration.

Section V – Implementation of Demonstration

Delaware is requesting approval, under Section 1115 Demonstration authority, to provide coverage for former foster care youth who were in foster care under the responsibility of other states and have income higher than 133 percent of the FPL. Delaware does not currently provide Medicaid coverage to this population, but is prepared to begin upon approval of the 1115 Demonstration.

On May 26, 2017, Delaware submitted a State Plan Amendment to CMS to elect the option to provide coverage to individuals with income above 133% of FPL and requests waivers of sections 1902(a)(8) and 1902(a)(10) to limit this state plan group coverage to former foster care youth who were in Medicaid and foster care in a different state. Additionally, Delaware published a final order on May 1, 2017 to amend eligibility requirements for the Former Foster Children Group effective May 21, 2017.

Section VI – Demonstration Financing and Budget Neutrality

Delaware is not requesting Section 1115 expenditure authority as the affected population is comprised of a Medicaid State Plan eligibility group described in section 1902(a)(10)(ii)(XX) of the Social Security Act (new adult group); therefore, no budget neutrality agreement is needed in conjunction with this Demonstration since expenditures will be reported under its State Plan.

Section VII – List of Proposed Waivers and Expenditure Authorities

Expenditure Authorities:

Delaware does not need expenditure authority for former foster care youth who are at least 21 years old through age 26, were in foster care under the responsibility of another state, and were enrolled in Medicaid at age 18 or when they "aged out" of the system, and have income above 133% of FPL as this population is covered under the eligibility group described in section 1902(a)(10)(ii)(XX) of the Social Security Act (new adult group), and is served under the State Plan.

Waiver Authorities:

Delaware submitted a State Plan Amendment to CMS on May 26, 2017 to elect the option to provide coverage to individuals with income above 133% of FPL and requests waivers of sections 1902(a)(8) and 1902(a)(10) to limit this state plan group coverage to former foster care youth who were in Medicaid and foster care in a different state.

Section VII – Public Notice

1. Delaware provided an open comment period from August 1, 2017 to September 11, 2017.
2. Delaware published a Notice of Public Comment and Hearing in the Delaware Register of Regulations, the Delaware News Journal, and the Delaware State News on August 1, 2017. The publication in the Delaware Register can be found at:
<http://regulations.delaware.gov/default.shtml>
3. A draft of this Section 1115 Demonstration Waiver application was posted on the Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) website on August 1, 2017 as well.
4. Delaware conducted three public hearings on this Section 1115 Demonstration Waiver. The information for these hearings is as follows:
 - a. NEW CASTLE COUNTY
Date: August 25, 2017
Time: 2:30 PM – 3:30 PM
Location: DDDS Fox Run Center; 2540 Wrangle Hill Road Suite 200, Bear, DE 19701
 - b. KENT COUNTY
Date: August 22, 2017
Time: 2:30 PM – 3:30 PM
Location: Legislative Hall; 411 Legislative Avenue Dover, DE 19901
 - c. SUSSEX COUNTY
Date: August 22, 2017
Time: 10:45 AM – 11:45 AM
Location: Thurman Adams State Svc Center; 546 S. Bedford St. Georgetown, DE 19947
5. Delaware certifies that it used an electronic mailing list to notify the public.
6. The following is a list of comments received and associated responses that pertain to the 1115 Demonstration submission:

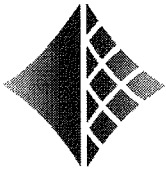
The State Council for Persons with Disabilities (SCPD) and the Governor's Advisory Council for Exceptional Citizens (GACEC) both endorsed the proposed amendment. No other comments were received.

Section IX – Demonstration Administration

Name and Title: Glyne Williams, Chief of Policy, Planning, and Quality, DMMA

Telephone Number: (302) 255-9628

Email Address: Glyne.Williams@state.de.us



The News Journal Media Group

A GANNETT COMPANY

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DMMA Deputy Director's Office

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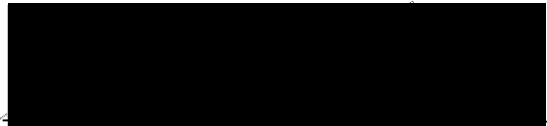
State of Delaware

New Castle County

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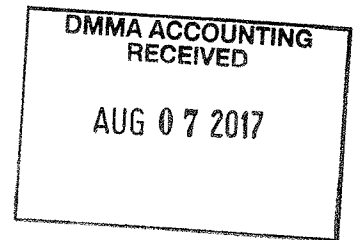
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**STATE OF DELAWARE
PUBLIC NOTICE AND NOTICE OF PUBLIC HEARINGS
DELAWARE HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
DELAWARE DIAMOND STATE HEALTH PLAN
1115 DEMONSTRATION WAIVER AMENDMENT**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS)/ Division of Medicaid and Medical Assistance (DMMA) intends to submit two requests to the Centers for Medicare and Medicaid Services (CMS) to amend Delaware's Section 1115 Diamond State Health Plan Demonstration Waiver.

DMMA Deputy Director's Office

Purpose

The purpose of this posting is to provide public notice and receive public input for consideration regarding Delaware's 1115 Diamond State Health Plan (DSHP) Waiver amendments. Delaware is proposing two amendments to the 1115 waiver that will be submitted to CMS at the same time. These amendments cover two separate populations. Amendment 1 addresses DDDS Lifespan Waiver enrollees in Managed Care. Amendment 2 addresses Out-of-State Former Foster Care Youth.

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Background

Delaware's 1115 DSHP Waiver demonstration was initially approved in 1995, and implemented on January 1, 1996. The demonstration mandatorily enrolls eligible Medicaid recipients into managed care organizations (MCOs) to create efficiencies in the Medicaid program and enable the expansion of coverage to certain individuals who would otherwise not be eligible for Medicaid. Beginning January 1, 2014, DSHP expanded eligibility for individuals with incomes up to and including 133 percent of the Federal Poverty Level (FPL). The demonstration also provides long-term care services and support (LTSS) to eligible individuals through a mandated managed care delivery system, entitled DSHP-Plus. Beginning January 1, 2015, the state implemented Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE), a voluntary program that provides enhanced behavioral health services and supports for targeted Medicaid beneficiaries.

Additionally, On May 25, 2017, CMS approved an amendment to Delaware's Home and Community-Based Services (HCBS) 1915(c) waiver that serves individuals with intellectual and developmental disabilities (IDD). The waiver was rebranded as the Divisions of Developmental Disability Services (DDDS) Lifespan Waiver and amended to allow Delaware to expand the waiver's target criteria to enroll individuals who live with their family. The amendment also added HCB services designed to meet the needs of families who support a loved one with intellectual and developmental disabilities in the family home.

Overview and Summary of Proposed 1115 DSHP Waiver Amendments**Proposed Amendment 1: DDDS Lifespan Waiver enrollees in Managed Care**

Under the current design of the 1115 DSHP Waiver, individuals enrolled in the 1915(c) Lifespan Waiver are excluded from the 1115 waiver as a result of a state policy decision made at the time the 1115 waiver was implemented in 1996. All benefits for individuals enrolled in the 1915(c) Lifespan Waiver, both waiver and non-waiver, are paid as fee for service. When an individual enrolls in the 1915(c) Lifespan Waiver, they are dis-enrolled from the 1115 waiver and are, therefore, also dis-enrolled from their Managed Care Organization. Individuals who are not enrolled in the 1915(c) waiver but have a diagnosis of IDD and live in their homes or family home, are enrolled in the 1115 Waiver—Managed Care program. Under this amendment, Delaware desires to enable individuals to remain enrolled in the 1115 DSHP Waiver in order to receive their State Plan benefits from a managed care organization if they also choose to enroll in the DDDS Lifespan waiver. If Delaware does not amend the 1115 waiver, new enrollees in the DDDS Lifespan 1915(c) waiver who have previously been enrolled in the 1115 waiver will be forced to dis-enroll from the Managed Care Organization. This amendment is needed to avoid unnecessarily disrupting the lives of prospective DDDS Lifespan waiver enrollees who live with their family. These individuals have established relationships with the Managed Care Organizations and their network of providers to whom they have become accustomed.

Proposed Amendment 2: Out-of-State Former Foster Care Youth

On November 21, 2016, CMS published the final rule clarifying that states can provide coverage to former foster care youth who were in Medicaid and foster care in a different state with income up to 133 percent of the federal poverty level (FPL) under the new adult group identified in the ACA. Additionally, states can use 1115 demonstration authority to provide coverage for former foster care youth who were in foster care under the

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coverage for former foster care youth who were in foster care under the responsibility of other states and have income higher than 133 percent of the FPL. States that provide coverage under the new adult group have the option of covering former foster care youth with MAGI-based income above 133 percent of the FPL, under the eligibility group described in section 1902(a)(10)(ii)(XX) of the Act and implementing regulations at 42 CFR 435.218.

Delaware currently provides coverage to former foster care youth under the age of 26, not otherwise mandatorily eligible, who were on Medicaid and in foster care in Delaware when they turned age 18 or "aged out" of foster care. Delaware also currently provides coverage to individuals with income up to 133 percent of FPL under the new adult group identified in the ACA. The purpose of this amendment is to provide coverage on a statewide basis to former foster care youth who currently reside in Delaware and were in foster care and enrolled in Medicaid at age 18 or when they "aged out" of the system in a different state.

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Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. The opportunity for public written comment shall be extended for a minimum of 15 days after the final public hearing when 1 or more public hearings are held on the proposal. The public is invited to review and comment on the proposed Life-span Waiver Amendment. Comments must be received by 4:30 p.m. on December 11, 2017. Comments may be submitted in the following ways:

This public notice and the Amendment are posted DHSS/DMMA website at: <http://dhss.delaware.gov/dhss/dmma/>

Comments and input may be submitted in the following ways:

- By email: Nicole.M.Cunningham@state.de.us
- By fax: 302-255-4413 to the attention of Nicole Cunningham
- By mail: Nicole Cunningham
Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

Public Hearings

Notice will be published regarding the amendments in the August 1, 2017 Delaware Register of Regulations. The comment period begins on August 1, 2017 and ends on September 11, 2017.

This timeframe allows an additional period of 15 days for the public to comment after the last public meeting. Following the comment period, the State reviews, considers, and responds to all comments received.

1. **NEW CASTLE COUNTY**

- Date: August 25, 2017
- TIME: 2:30 PM – 3:30 PM
- LOCATION: DDDS Fox Run Center
2540 Wrangle Hill Road
Suite 200, Bear, DE 19701

2. **KENT COUNTY**

- Date: August 22, 2017
- TIME: 2:30 PM – 3:30 PM
- LOCATION: Legislative Hall
411 Legislative Avenue
Dover, DE 19901

SUSSEX COUNTY

- Date: August 22, 2017
- TIME: 10:45 AM – 11:45 AM
- LOCATION: Thurman Adams State Svc Center
546 S. Bedford St.
Georgetown, DE 19947

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed 1115 DSHP Waiver Amendments that will be submitted to CMS.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least ten (10) days prior to the hearing for arrangements:

Lauren Gunton at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

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/S/ Stephen M. Groff
Director
Division of Medicaid and Medical Assistance

July 10, 2017
Date

DMMA Deputy Director's Office

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RE: [illegible]

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State of Delaware:

County of Kent:

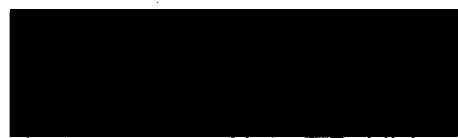
Before me, a Notary Public, for the County and State aforesaid, Edward Dulin, known to me to be such, who being sworn according to law deposes and says that he is President of Independent Newsmedia Inc. USA, the publisher of the **Delaware State News**, a daily newspaper published at Dover, County of Kent, and State of Delaware, and that the notice, a copy of which is hereto attached, as published in the **Delaware State News** in its issue of August 1, 2017.



President
Independent Newsmedia Inc. USA

Sworn to and subscribed before me this 1st

Day of August A.D. 2017



Notary Public



**STATE OF DELAWARE
PUBLIC NOTICE AND NOTICE OF PUBLIC HEARINGS
DELAWARE HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
DELAWARE DIAMOND STATE HEALTH PLAN 1115 DEMONSTRATION WAIVER AMENDMENT**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) intends to submit two requests to the Centers for Medicare and Medicaid Services (CMS) to amend Delaware's Section 1115 Diamond State Health Plan Demonstration Waiver.

Purpose
The purpose of this posting is to provide public notice and receive public input for consideration regarding Delaware's 1115 Diamond State Health Plan (DSHP) Waiver amendments. Delaware is proposing two amendments to the 1115 waiver that will be submitted to CMS at the same time. These amendments cover two separate populations. Amendment 1 addresses DDDS Lifespan Waiver enrollees in Managed Care. Amendment 2 addresses Out-of-State Former Foster Care Youth.

Background
Delaware's 1115 DSHP Waiver demonstration was initially approved in 1995, and implemented on January 1, 1996. The demonstration mandatorily enrolls eligible Medicaid recipients into managed care organizations (MCOs) to create efficiencies in the Medicaid program and enable the expansion of coverage to certain individuals who would otherwise not be eligible for Medicaid. Beginning January 1, 2014, DSHP expanded eligibility for individuals with incomes up to and including 133 percent of the Federal Poverty Level (FPL). The demonstration also provides long-term care services and support (LTSS) to eligible individuals through a mandated managed care delivery system, entitled DSHP-Plus. Beginning January 1, 2015, the state implemented Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE), a voluntary program that provides enhanced behavioral health services and supports for targeted Medicaid beneficiaries. Additionally, On May 25, 2017, CMS approved an amendment to Delaware's Home and Community-Based Services (HCBS) 1915(c) waiver that serves individuals with intellectual and developmental disabilities (IDD). The waiver was rebranded as the Divisions of Developmental Disability Services (DDDS) Lifespan Waiver and amended to allow Delaware to expand the waiver's target criteria to enroll individuals who live with their family. The amendment also added HCB services designed to meet the needs of families who support a loved one with intellectual and developmental disabilities in the family home.

Overview and Summary of Proposed 1115 DSHP Waiver Amendments

Proposed Amendment 1: DDDS Lifespan Waiver enrollees in Managed Care

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Proposed Amendment 2: Out-of-State Former Foster Care Youth

On November 21, 2016, CMS published the final rule clarifying that states can provide coverage to former foster care youth who were in Medicaid and foster care in a different state with income up to 133 percent of the federal poverty level (FPL) under the new adult group identified in the ACA. Additionally, states can use 1115 demonstration authority to provide coverage for former foster care youth who were in foster care under the responsibility of other states and have income higher than 133 percent of the FPL. States that provide coverage under the new adult group have the option of covering former foster care youth with MAGI-based income above 133 percent of the FPL, under the eligibility group described in section 1902(a)(10)(ii)(XX) of the Act and implementing regulations at 42 CFR 435.218.

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Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. The opportunity for public written comment shall be extended for a minimum of 15 days after the final public hearing when 1 or more public hearings are held on the proposal. The public is invited to review and comment on the proposed Lifespan Waiver Amendment. Comments must be received by 4:30 p.m. on September 11, 2017. Comments may be submitted in the following ways: This public notice and the Amendment are posted DHSS/DMMA website at: <http://dhss.delaware.gov/dhss/dmma/>

Comments and input may be submitted in the following ways:

- By email: Nicole.M.Cunningham@state.de.us
- By fax: 302-255-4413 to the attention of Nicole Cunningham
- By mail: Nicole Cunningham
Division of Medicaid and Medical Assistance Planning, Policy & Quality Unit
1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906

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3. SUSSEX COUNTY

Date: August 22, 2017
TIME: 10:45 AM – 11:45 AM
LOCATION: Thurman Adams State Svc Center, 546 S. Bedford St., Georgetown, DE 19947

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed 1115 DSHP Waiver Amendments that will be submitted to CMS.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least ten (10) days prior to the hearing for arrangements:

Lauren Gunton at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

Stephen M. Groff, Director

Date: July 10, 2017

Division of Medicaid and Medical Assistance

206126 DSN 8/1/2017

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

GENERAL NOTICE

**Delaware Diamond State Health Plan
1115 Demonstration Waiver Amendment**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) intends to submit two requests to the Centers for Medicare and Medicaid Services (CMS) to amend Delaware's Section 1115 Diamond State Health Plan Demonstration Waiver.

Purpose

The purpose of this posting is to provide public notice and receive public input for consideration regarding Delaware's 1115 Diamond State Health Plan (DSHP) Waiver amendments. Delaware is proposing two amendments to the 1115 waiver that will be submitted to CMS at the same time. These amendments cover two separate populations. Amendment 1 addresses DDDS Lifespan Waiver enrollees in Managed Care. Amendment 2 addresses Out-of-State Former Foster Care Youth.

Background

Delaware's 1115 DSHP Waiver demonstration was initially approved in 1995, and implemented on January 1, 1996. The demonstration mandatorily enrolls eligible Medicaid recipients into managed care organizations (MCOs) to create efficiencies in the Medicaid program and enable the expansion of coverage to certain individuals who would otherwise not be eligible for Medicaid. Beginning January 1, 2014, DSHP expanded eligibility for individuals with incomes up to and including 133 percent of the Federal Poverty Level (FPL). The demonstration also provides long-term care services and support (LTSS) to eligible individuals through a mandated managed care delivery system, entitled DSHP-Plus. Beginning January 1, 2015, the state implemented Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE), a voluntary program that provides enhanced behavioral health services and supports for targeted Medicaid beneficiaries.

Additionally, On May 25, 2017, CMS approved an amendment to Delaware's Home and Community-Based Services (HCBS) 1915(c) waiver that serves individuals with intellectual and developmental disabilities (IDD). The waiver was rebranded as the Divisions of Developmental Disability Services (DDDS) Lifespan Waiver and amended to allow Delaware to expand the waiver's target criteria to enroll individuals who live with their family. The amendment also added HCB services designed to meet the needs of families who support a loved one with intellectual and developmental disabilities in the family home.

Overview and Summary of Proposed 1115 DSHP Waiver Amendments

Proposed Amendment 1: DDDS Lifespan Waiver enrollees in Managed Care

Under the current design of the 1115 DSHP Waiver, individuals enrolled in the 1915(c) Lifespan Waiver are excluded from the 1115 waiver as a result of a state policy decision made at the time the 1115 waiver was implemented in 1996. All benefits for individuals enrolled in the 1915(c) Lifespan Waiver, both waiver and non-waiver, are paid as fee for service. When an individual enrolls in the 1915(c) Lifespan Waiver, they are dis-enrolled from the 1115 waiver and are, therefore, also dis-enrolled from their Managed Care Organization. Individuals who are not enrolled in the 1915(c) waiver but have a diagnosis of IDD and live in their homes or family home, are enrolled in the in the 1115 Waiver-Managed Care program. Under this amendment, Delaware desires to enable individuals to remain enrolled in the 1115 DSHP Waiver in order to receive their State Plan benefits from a managed care organization if they also choose to enroll in the DDDS Lifespan waiver. If Delaware does not amend the 1115 waiver, new enrollees in the DDDS Lifespan 1915(c) waiver who have previously been enrolled in the 1115 waiver will be forced to dis-enroll from the Managed Care Organization. This amendment is needed to avoid unnecessarily disrupting the lives of prospective DDDS Lifespan waiver enrollees who live with their family. These individuals have established relationships with the Managed Care Organizations and their network of providers to whom they have become accustomed.

Proposed Amendment 2: Out-of-State Former Foster Care Youth

On November 21, 2016, CMS published the final rule clarifying that states can provide coverage to former foster care youth who were in Medicaid and foster care in a different state with income up to 133 percent of the federal poverty level (FPL) under the new adult group identified in the ACA. Additionally, states can use 1115 demonstration authority to provide coverage for former foster care youth who were in foster care under the responsibility of other states and have income higher than 133 percent of the FPL. States that provide coverage under the new adult group have the option of covering former foster care youth with MAGI-based income above 133 percent of the FPL, under the eligibility group described in section 1902(a)(10)(ii)(XX) of the Act and implementing regulations at 42 CFR 435.218.

Delaware currently provides coverage to former foster care youth under the age of 26, not otherwise mandatorily eligible, who were on Medicaid and in foster care in Delaware when they turned age 18 or "aged out" of foster care. Delaware also currently provides coverage to individuals with income up to 133 percent of FPL under the new adult group identified in the ACA. The purpose of this amendment is to provide coverage on a state-wide basis to former foster care youth who currently reside in Delaware and were in foster care and enrolled in Medicaid at age 18 or when they "aged out" of the system in a different state.

Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. The opportunity for public written comment shall be extended for a minimum of 15 days after the final public hearing when 1 or more public hearings are held on the proposal. The public is invited to review and comment on the proposed Lifespan Waiver Amendment. Comments must be received by 4:30 p.m. on September 11, 2017. Comments may be submitted in the following ways:

This public notice and the Amendment are posted DHSS/DMMA website at: <http://dhss.delaware.gov/dhss/dmma/>

Comments and input may be submitted in the following ways:

By email: Nicole.M.Cunningham@state.de.us
By fax: 302-255-4413 to the attention of Nicole Cunningham
By mail: Nicole Cunningham
Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

Public Hearings

Notice will be published regarding the amendments in the August 1, 2017 Delaware *Register of Regulations*. The comment period begins on August 1, 2017 and ends on September 11, 2017.

This timeframe allows an additional period of 15 days for the public to comment after the last public meeting. Following the comment period, the State reviews, considers, and responds to all comments received.

1. NEW CASTLE COUNTY

Date: August 25, 2017
TIME: 2:30 PM - 3:30 PM
LOCATION: DDDS Fox Run Center
2540 Wrangle Hill Road
Suite 200, Bear, DE 19701

2. KENT COUNTY

Date: August 22, 2017
TIME: 2:30 PM - 3:30 PM
LOCATION: Legislative Hall
411 Legislative Avenue

Dover, DE 19901

SUSSEX COUNTY

Date: August 22, 2017
TIME: 10:45 AM - 11:45 AM
LOCATION: Thurman Adams State Svc Center
546 S. Bedford St.
Georgetown, DE 19947

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed 1115 DSHP Waiver Amendments that will be submitted to CMS.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least ten (10) days prior to the hearing for arrangements:

Lauren Gunton at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

Stephen M. Groff
Director
Division of Medicaid and Medical Assistance

July 10, 2017
Date

21 DE Reg. 156 (08/01/17) (Gen. Notice)