



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: December 23, 2013

TO: Ms. Sharon L. Summers, DMMA
Planning & Policy Development Unit

FROM: Jamie Wolfe, *JW/ps* Co-Chairperson
State Council for Persons with Disabilities

RE: DMMA Proposed & Emergency Medicaid Pregnant Women & Infants Income
Cap Regulation [17 DE Reg. 584 & 597 (12/1/13)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA's) emergency and proposed regulations regarding the Division's intentions to amend the Title XIX Medicaid State Plan and the Division of Social Services Manual (DSSM) to increase the Federal Poverty Level (FPL) for pregnant women and infants under age one (1) in Medicaid to 212% of the FPL. The emergency and proposed regulations were published as 17 DE Reg. 584 and 597, respectively, in the December 1, 2013 issue of the Register of Regulations.

As background, based on changes in federal law, DMMA was prompted to modify its calculation of the Medicaid countable income cap for pregnant women and infants under age 1. This resulted in an anomaly, i.e., pregnant women and infants under age 1 would be eligible with countable income up to 209% of the federal poverty level (FPL) but children between 1 and 18 would be eligible with countable income up to 212% of the FPL. DMMA would like to have the same standard so it is proposing to adopt the 212% FPL standard for both groups. CMS recommended that DMMA effect the revisions "immediately" (p. 598) so DMMA is issuing both an emergency and proposed regulation. DMMA indicates there is no negative financial impact on the State resulting from the proposed change. At p. 599.

Since the proposal would increase access to the Medicaid program with no negative financial impact, SCPD endorses the proposed regulation subject to consideration of a potential amendment. Both the emergency and proposed regulations recite that "Delaware will disregard an equal amount to the difference...". SCPD suspects that DMMA may have intended to recite that "Delaware will disregard an amount equal to the difference..."

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the emergency and proposed regulations.

cc:

Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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