STATE PLAN UNDER TITLE XIX
OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

HCFA-AT-80-38 (BPP)
May 22, 1980

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

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TN No. SPA# 250 Approval Date December 23, 1987
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TN No. Undesignated Effective Date July 1, 1987

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*Forms Provided

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No. Title of Attachment

*Supplement 5 – Section 1902(f) Methodologies for Treatment of Resources that Differ from those of the SSI Program

*Supplement 5a – Methodologies for Treatment of Resources for Individuals With Incomes Up to a Percentage of the Federal Poverty Level

*Supplement 6 – Standards for Optional State Supplementary Payments

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*Forms Provided

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*Forms Provided

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*Forms Provided

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Citation

As a condition for receipt of Federal funds under title XIX of the Social Security Act, the

42 CFR
430.10

DELAWARE DEPARTMENT OF SOCIAL SERVICES
(Single State Agency)

Submits the following State plan for the medical assistance program, and herby agrees the administer the program in accordance with the provisions of this State plan, the requirements of title XI and XIX of the Act, and all applicable Federal regulations and other official issuances of the Department.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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Citation	1.1 Designation and Authority
42 CFR 431.10 AT-79-29	(a) Delaware and Social Services is the single State agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named in this paragraph.) Attachment 1.1-A is a certification signed by the State Attorney General identifying the single State agency and citing the legal authority under which it administers or supervises administration of the program.

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Citation
Sec. 1902(a) of the Act

1.1(b) The State agency that administered or supervised the administration of the plan approved under title X of the Act as of January 1, 1965, has been separately designated to administer or supervise that part of this plan which relates to blind individuals.

☐ Yes. The State agency so designated is _____

This agency has a separate plan covering that portion of the State plan under title XIX for which it is responsible.

☒ Not applicable. The entire plan under title XIX is administered or supervised by the State agency named in paragraph 1.1(a).

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Citation		
Intergovernmental Cooperation Act of 1968	1.1(c)	Waivers of the single State agency requirement which are currently operative have been granted under authority of the Intergovernmental Cooperation Act of 1968.

☐ Yes. Attachment 1.1-B describes these waivers and the approved alternative organizational arrangements.

☐ Not applicable. Waivers are no longer in effect.

☒ Not applicable. No waivers have ever been granted.

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Citation
42 CFR 431.10
AT-79-29

1.1(d) ☐ The agency named in paragraph 1.1(a) has responsibility for all determinations of eligibility for Medicaid under this plan

☒ Determinations of eligibility for Medicaid under this plan are made by the agency(ies) specified in Attachment 2.2-A. There is a written agreement between the agency named in paragraph 1.1(a) and other agency(ies) making such determinations for specific groups covered under this plan. The agreement defines the relationships and respective responsibilities of the agencies.

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Citation
42 CFR 431.10
AT-79-29

1.1 (e) All other provisions of this plan are administered by the Medicaid agency except for those functions for which final authority has been granted to a Professional Standards Review Organization under title XI of the Act.

(f) All other requirements of 42 CFR 431.10 are met.

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Citation
42 CFR 431.11
AT-79-29

1.2 Organization for Administration

(a) Attachment 1.2-A contains a description of the organization and functions of the Medicaid Agency and an organization chart of the agency.

(b) Within the State agency, the DIVISION OF MEDICAID & MEDICAL ASSISTANCE has been designated as the medical assistance unit. Attachment 1.2-B contains a description of the organization and functions of the medical assistance unit and an organization chart of the unit.

(c) Attachment 1.2-C contains a description of the kinds and numbers of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.

(d) Eligibility determinations are made by State or local staff of an agency other than the agency named in paragraph 1.1(a). Attachment 1.2-D contains a description of the staff designated to make such determinations and the functions they will perform.

☒ Not applicable. Only staff of the agency named in paragraph 1.1(a) make such determinations.

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ORGANIZATION AND FUNCTION OF THE STATE AGENCY

Delaware and Social Services (DHSS) is the single State agency for the administration of Medicaid. The Division Medicaid and Medical Assistance (DMMA) within DHSS has direct responsibility for administering the Medicaid program. The Director of DMMA reports to the Secretary of DHSS.

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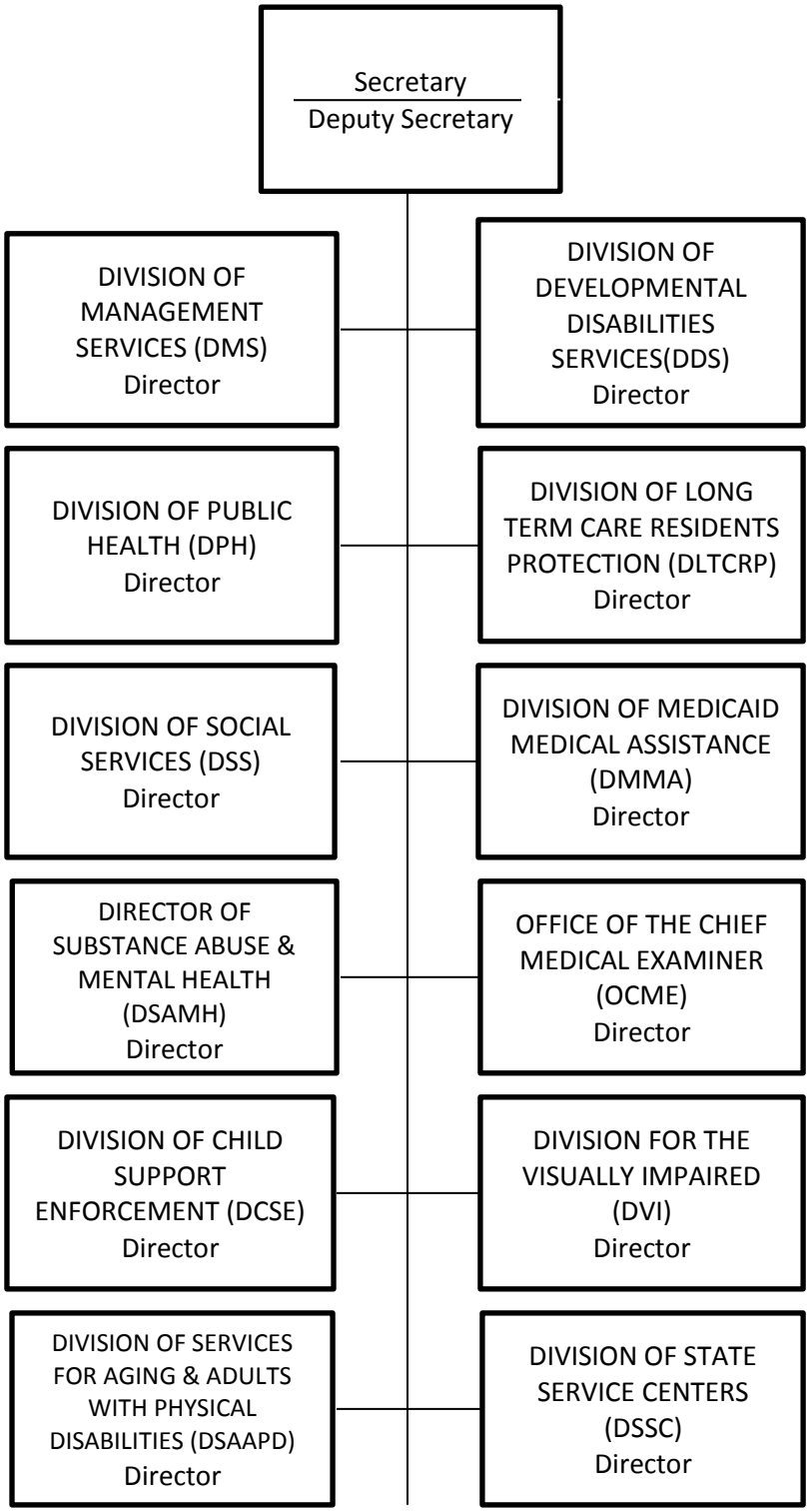
DELAWARE HEALTH AND SOCIAL SERVICES



Vincent P. Meconi
Vincent P. Meconi, Secretary

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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ORGANIZATION AND FUNCTION OF THE MEDICAL ASSISTANCE UNIT

The Division of Medicaid & Medical Assistance (DMMA) is a separate Division under the Secretary of Delaware Health and Social Services.

DMMA consists of management, professional, technical, clerical and medical personnel, and includes a Medicaid Director, program administrators, and support personnel. DMMA has responsibility for all Medicaid services in the State.

Medicaid claims processing is contracted out to a Fiscal Agent. There are Medicaid Eligibility Determination Units in each of the counties of ,the State, which carry out functions related to long-term care and non-grant medical assistance.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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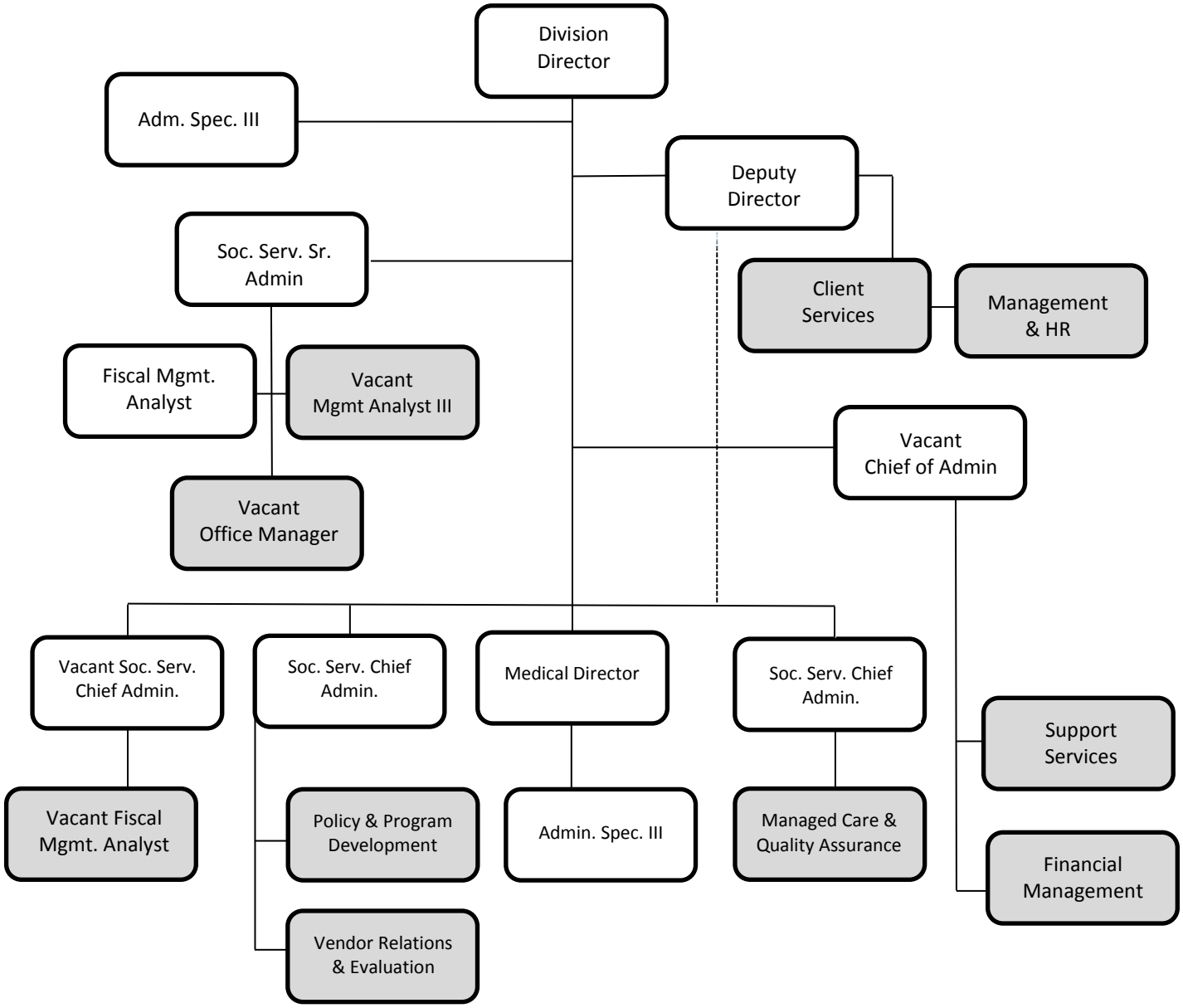
DIVISION OF MEDICAID & MEDICAL ASSISTANCE



//Harry B. Hill - signature//
Harry R. Hill, Director
9/19/05
Date

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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PROFESSIONAL MEDICAL AND SUPPORTING STAFF

The Division of Medicaid & Medical Assistance has consulting physicians and consultants in other medical specialties such as laboratory and optometry.

Psychiatric consultation is provided by the Division of Substance Abuse and Mental Health.

Other professional consultation is obtained through the Medical Care Advisory Committee, the Medical Society of Delaware, the Division of Public Health and other specialty groups.

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DESCRIPTION OF STAFF DESIGNATED TO MAKE ELIGIBILITY DETERMINATIONS

The Division of Medicaid & Medical Assistance (DMMA) is responsible for managing Medicaid as well as the other medical assistance programs. Program and policy development for Medicaid, the Delaware Healthy Children Program (DHCP), the Delaware Prescription Assistance Program (DPAP), the Non-Citizen Healthcare Program, and the Chronic Renal Disease Program (CRDP) resides in DMMA. Responsibility for medical and financial eligibility for Medicaid Long Term Care (LTC) programs resides in DMMA.

Responsibility for Medicaid eligibility associated with Temporary Assistance for Needy Families (TANF) and other poverty-related groups remains in DSS.

The Social Security Administration (SSA) is responsible for making eligibility determinations for Supplemental Security Income (SSI) for Aged, Blind or Disabled recipients. DMMA is responsible for issuing a Medicaid Identification Card to the SSI recipient. Medicaid eligibility information for SSI recipients is transmitted through the State Data Exchange (SDX) System.

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Citation
42 CFR
431.50(b)
AT-79-29

1.3 Statewide Operation

The plan is in operation on a Statewide basis in accordance with all requirements of 42 CRF 431.50.

☒ The plan is State administered.

☐ The plan is administered by the political subdivisions of the State and is mandatory on them.

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Citation	
42 CFR 431.12(b) AT-78-90	1.4 State Medical Care Advisory Committee There is an advisory committee to the Medicaid agency director on health and medical care services established in accordance with and meeting all the requirements of 42 CFR 431.12

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Citation
1928 of the Act

1.5 Pediatric Immunization Program

1. The State has implemented a program for the distribution of pediatric vaccines to program-registered providers for the immunization of federally vaccine-eligible children in accordance with section 1928 as indicated below.

   a. The State program will provide each vaccine-eligible child with medically appropriate vaccines according to the schedule developed by the Advisory Committee on Immunization Practices and without charge for the vaccines.

   b. The State will outreach and encourage a variety of providers to participate in the program and to administer vaccines in multiple settings, e.g., private health care providers, providers that receive funds under Title V of the Indian Health Care Improvement Act, health programs or facilities operated by Indian tribes, and maintain a list of program-registered providers.

   c. With respect to any population of vaccine-eligible children a substantial portion of whose parents have limited ability to speak the English language, the State will identify program-registered providers who are able to communicate with this vaccine-eligible population in the language and cultural context which is most appropriate.

   d . The State will instruct program-registered providers to determine eligibility in accordance with section 1928(b) and (h) of the Social Security Act.

   e. The State will assure that no program-registered provider will charge more for the administration of the vaccine than the regional maximum established by the Secretary. The State will inform program-registered providers of the maximum fee for the administration of vaccines.

   f. The State will assure that no vaccine-eligible child is denied vaccines because of an inability to pay an administration fee.

   g. Except as authorized under section 1915(b) of the Social Security Act or as permitted by the Secretary to prevent fraud or abuse, the State will not impose any additional qualifications or conditions, in addition to those indicated above, in order for a provider to qualify as a program-registered provider.

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Citation
the Act

2. The State has not modified or repealed any Immunization Law in effect as of May 1, 1993 to reduce the amount of health insurance coverage of pediatric vaccines.

3. The State Medicaid Agency has coordinated with the State Public Health Agency in the completion of this preprint page.

4. The State agency with overall responsibility for the implementation and enforcement of the provisions of section 1928 is:

☐ State Medicaid Agency

☒ State Public Health Agency

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SECTION 2 – COVERAGE AND ELIGIBILITY

Citation	
42 CFR 435.10 and Subpart J	2.1. Application, Determination of Eligibility and Furnishing Medicaid (a) The Medicaid agency meets all requirements of 42 CFR Part 435, Subpart J for processing applications, determining eligibility, and furnishing Medicaid.

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Citation				
42 CFR 435.914 1902(a)(34) of the Act	2.1	(b)	(1)	Except as provided in items 2.1(b)(2) and (3) below, individuals are entitled to Medicaid services under the plan during the three months preceding the month of application, if they were, or on application would have been, eligible. The effective date of prospective and retroactive eligibility is specified in ATTACHMENT 2.6-A
1902(e)(8) and 1905(a) of the Act			(2)	For individuals who are eligible for Medicare cost-sharing expenses as qualified Medicare beneficiaries under section 1902(a)(10)(E)(i) of the Act, coverage is available for services furnished after the end of the month in which the individual is first determined to be a qualified Medicare beneficiary. ATTACHMENT 2.6-A specifies the requirements for determination of eligibility for this group.
1902(a)(47) and 1920 of the Act		☒	(3)	Pregnant women are entitled to ambulatory prenatal care under the plan during a presumptive eligibility period in accordance with section 1920 of the Act. ATTACHMENT 2.6-A specifies the requirements for determination of eligibility for this group.
42 CFR 434.20		(c)		The Medicaid agency elects to enter into a risk contract with an HMO that is --

☐ Qualified under title XIII of the Public Health Service Act or is provisionally qualified as an HMO pursuant to section 1903(m)(3) of the Social Security Act.

☐ Not Federally qualified, but meets the requirements of 42 CFR 434.20(c) and is defined in ATTACHMENT 2 1-A

☒ Not applicable.

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Citation		
1902(a)(55) of the Act	2.1(d)	The Medicaid agency has procedures to take applications, assist applicants, and perform initial processing of applications from those low income pregnant women, infants, and children under age 19, described in §1902 (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), and (a)(10)(A)(ii)(IX) at locations other than those used by the title IV-A program including FQHCs and disproportionate share hospitals. Such application forms do not include the ADFC form except as permitted by HCFA instructions.

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Citation
42 CFR 435.10

2.2 Coverage and Conditions of Eligibility

Medicaid is available to the groups specified in Attachment 2.2-A.

☐ Mandatory categorically needy and other required special groups only.

☐ Mandatory categorically needy, other required special groups, and the medically needy, but no other optional groups.

☒ Mandatory categorically needy, other required special groups, and specified optional groups.

☐ Mandatory categorically needy, other required special groups, specified optional groups, and the medically needy.

The conditions of eligibility that must be met are specified in Attachment 2.6-A.

All applicable requirements of 42 CFR Part 435 and sections 1902 (a)(10)(A)(i)(IV), (V), and (VI), 1902 (a)(10)(A)(ii) (XI), 1902 (a)(10)(E), 1902(1) and (m), 1905 (p), (q) and (s), 1920, and 1925 of the Act are met.

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Citation		
435.10 and 435.403, and 1902(b) of the Act, P.L. 99-272 (Section 9529) And P.L. 99-509 (Section 9405)	2.3	Residence Medicaid is furnished to eligible individuals who are residents of the State under 42 CFR 435.403, regardless of whether or not the individuals maintain the residence permanently or maintain it at a fixed address.

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Citation		
42 CFR 435.530(b)	2.4	Blindness
42 CFR 435 .531		
AT-78-90		All of the requirements of 42 CFR 435.530 and 42 CFR 435.531 are met. The
AT-79-29		more restrictive definition of blindness in terms of ophthalmic measurement used in this plan is specified in ATTACHMENT 2.2-A.

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Citation		
42 CFR 435.121, 435.540(b) 435.541	2.5	Disability All of the requirements of 42 CFR 435.540 and 435.541 are met. The State uses the same definition of disability used under the SSI program unless a more restrictive definition of disability is specified in Item A.13.b. of Attachment 2.2-A of this plan.

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Citation
42 CFR 435.10 and Subparts G & H 1902(a)(10)(A)(i)(III), (IV),(V),(VI), and (VII), 1902(a)(10)(A)(ii)(IX), 1902(a)(10)(A)(ii)(X), 1902(a)(10)(C), 1902(f), 1902(1) and (m), 1905(p) and (s), 1902(r)(2), and 1920

2.6 Financial Eligibility

(a) The financial eligibility conditions for Medicaid-only eligibility groups and for persons deemed to be cash assistance recipients are described in ATTACHMENT 2.6-A.

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Citation		
431.52 and 1902(b) of the Act. P.L. 99-272 (section 9529)	2.7	Medicaid Furnished Out of State Medicaid is furnished under the conditions specified in 42 CFR 431.52 to an eligible individual who is a resident of the State while the individual is in another State, to the same extent that Medicaid is furnished to residents in the State.

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SECTION 3 - Services – GENERAL PROVISIONS

Citation

3.1 Amount, Duration and Scope of Services

42 CFR
Part 440
Subpart B
1902(a), 1902(e)
1905(a), 1905(p),
1915, 1920, and
1925 of the Act

(a) Medicaid is provided in accordance with the requirements of 42 CFR Part 440, Subpart B and sections 1902(a), 1902(e), 1905(a), 1905(p), 1915, 1920, and 1925 of the Act.

(1) Categorically Needy
Services for the categorically needy are described below and in Attachment 3.1-A. These services include:

1902(a)(10)(A) and
1905(a) of the Act

(i) Each item or service listed in section 1905(a)(1) through (5) and (21) of the Act, is provided as defined in 42 CFR Part 440, Subpart A, or, for EPSDT services, section 1905 (r) and 42 CFR Part 441, Subpart B.

(ii) Nurse-midwife services listed in section 1905(a)(17) of the Act, are provided to the extent that nurse-midwives are authorized to practice under State law or regulation and without regard to whether the services are furnished in the area of management of the care of mothers and babies throughout the maternity cycle. Nurse-midwives are permitted to enter into independent provider agreements with the Medicaid agency without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

☐ Not applicable. Nurse-midwives are not authorized to practice in this State.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1(a)(1) Amount, Duration and Scope of Services: Categorically Needy (Continued)

1902(e)(5) of the Act

(iii) Pregnancy-related, including family planning services, and postpartum services for a 60-day period (beginning on the day pregnancy ends) and any remaining days in the month in which the 60th day falls are provided to women who, while pregnant, were eligible for, applied for, and received medical assistance on the day the pregnancy ends.

☒ (iv) Services for medical conditions that may complicate the pregnancy (other than pregnancy-related or postpartum services) are provided to pregnant women.

1902(a)(10)(F)(VII)

(v) Services related to pregnancy (including prenatal, delivery, postpartum, and family planning services) and to other conditions that may complicate pregnancy are the same services provided to poverty level pregnant women eligible under the provision of sections 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX) of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1	Amount, Duration and Scope of Services: Categorically Needy (Continued)
1901(a)(10) (D) of the Act	(vi)	Home health services are provided to individuals entitled to nursing facility services as indicated in item 3.1(b) of this as plan.
1902(e)(7) of the Act	(vii)	Inpatient services that are being furnished to infants and children described in section 1902(1)(1)(B) through (D), or section 1905(n)(2) of the Act on the date the infant or child attains the maximum age for coverage under the approved State plan will continue until the end of the stay for which the inpatient services are furnished.
1902 (e)(9) of the Act	☐ (viii)	Respiratory care services are provided to ventilator dependent individuals as indicated in item 3.1 (h) of this plan.
1902(a)(52) and 1925 of the Act	(ix)	Services are provided to families eligible under section 1925 of the Act as indicated in item 3.5 of this plan.

Attachment 3.1-A identifies the medical and remedial services provided to the categorically needy, specifies all limitations on the amount, duration and scope of those services, and lists the additional coverage that is in excess of established service limits) for pregnancy-related services and services for conditions that may complicate the pregnancy.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1(a)(1)	Amount, Duration and Scope of Services: Categorically Needy (Continued)
1905(a)(26) and 1934	☒	Program of All Inclusive Care for the Elderly (PACE) services, as described and limited in Supplement 2 to Attachment 3.1-A. Attachment 3.1-A identifies the medical and remedial services provided to the categorically needy. (Note: Other programs to be offered to Categorically Needy beneficiaries would specify all limitations on the amount, duration and scope of those services. As PACE provides services to the frail elderly population without such limitation, this is not applicable for this program. In addition, other programs to be offered to Categorically Needy beneficiaries would also list the additional coverage - that is in excess of established service limits- for pregnancy-related services for conditions that may complicate the pregnancy. As PACE is for the frail elderly population, this also is not applicable for this program.)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1(a)(2)	Amount, Duration and Scope of Services (Continued)
42 CFR Part 440, Subpart B	(a)(2)	Medically needy.
	☐	This State plan covers the medically needy. The services described below and in Attachment 3.1-B are provided.
1902(a)(10)(C)(iv) of the Act, 42 CFR 440.220		Services for the medically needy include: (i) If services in an institution for mental diseases (42CFR 440.140 and 440.160) or an intermediate care facility for the mentally retarded (or both) are provided to any medically needy group, then each medically needy group is provided either the services listed in section 1905(a)(1) through (5) and (17) of the Act, or seven of the services listed in section 1905(a) (1) through (20). The services are provided as defined in 42CFR Part 440, Subpart A and in sections 1902, 1905, and 1915 of the Act.
1902 (e)(5) of the Act		☐ Not applicable with respect to nurse-midwife services under section 1902 (a)(17). Nurse-midwives are not authorized to practice in this State.
		(ii) Prenatal care and delivery services for pregnant women.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1(a)(2) Amount, Duration and Scope of Services: Medically Needy (Continued)

(iii) Pregnancy-related, including family planning services, and postpartum services for a 60-day period (beginning on the day the pregnancy ends) and any remaining days in the month in which the 60th day falls are provided to women who, while pregnant, were eligible for, applied for, and received medical assistance on the day the pregnancy ends .

☐ (iv) Services for any other medical condition that may complicate the pregnancy (other than pregnancy-related and postpartum services) are provided to pregnant women.

(v) Ambulatory services, as defined in Attachment 3.1-B, for recipients under age 18 and recipients entitled to institutional services.

☐ Not applicable with respect to recipients entitled to institutional services; the plan does not cover those services for the medically needy.

(vi) Home health services to recipients entitled to nursing facility services as indicated in item 3.1 (b) of this plan.

42 CFR 440.140, 440.150, 440.160 Subpart B, 442.441, Subpart C 1902 (a)(20) and (21) of the Act 1902(a)(10)(C)

☐ (vii) Services in an institution for mental diseases for individuals over age 65.

☐ (viii) Services in an intermediate care facility for the mentally retarded.

☐ (ix) Inpatient psychiatric services for individuals under age 21.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1(a)(2)	Amount, Duration and Scope of Services: Medically Needy (Continued)	
1902(e)(9) of the Act	☐	(x)	Respiratory care services are provided to ventilator dependent individuals as indicated in item 3.1(h) of this plan.
1905 (a)(23) and 1929 of the Act	☐	(xi)	Horne and Community Care for Functionally Disabled Elderly Individuals, as defined, described and limited in Supplement 2 to Attachment 3.1-A and Appendices A-G to Supplement 2 to Attachment 3.1-A.

Attachment 3.1-B identifies the services provided to each covered group of the medically needy; specifies all limitations on the amount, duration, and scope of those items; and specifies the ambulatory services provided under this plan and any limitations on them. It also lists the additional coverage (that is in excess of established service limits) for pregnancy-related services and services for conditions that may complicate the pregnancy.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1	Amount, Duration and Scope of Services (Continued)
1902(A)(1O)(e)(i) and clause (VIII) of the matter following (F), and 1905(p)(3) of the Act	(a)(3)	Other Required Special Groups: Qualified Medicare Beneficiaries Medicare cost sharing for qualified Medicare beneficiaries described in section 1905(p) of the Act is provided only as indicated in item 3.2 of this plan.
1902(a)(10) (E)(ii) and 1905(s) of the Act	(a)(4)(i)	Other Required Special Groups: Qualified Disabled and Working individuals Medicare Part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(iii) of the Act are provided as indicated in item 3.2 of this plan.
1902(a)(10) (E)(iii) and 1905(p)(3)(A)(ii) of the Act	(ii)	Other Required Special Groups: Specified Low-Income Medicare Beneficiaries Medicare Part B premiums for specified low- income Medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the Act are provided as indicated in item 3.2 of this plan.
1902(a)(10) (A)(ii), and 1933 of the Act	(iii)	Other required Special Groups: Qualifying (E)(iv)1905(p)(3) Individuals - 1 Medicare Part B premiums for qualifying individuals described in 1902(a)(10)(E)(iv)(I) and subject to 1933 of the Act are provided as indicated in item 3.2 of this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

1925 of the Act (a)(5) Other Required Special Groups: Families Receiving Extended Medicaid Benefits

Extended Medicaid benefits for families described in section 1925 of the Act are Provided as indicated in item 3.5 of this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation | 3.1(a)(6) Amount, Duration and Scope of Services: Limited Coverage for Certain Aliens (Continued)

1902(a) and 1903(v) of the Act

(iii) Aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law who meet the eligibility conditions under this plan, except for the requirement for receipt of AFDC, SSI, or a State supplementary payment, are provided Medicaid only for care and services necessary for the treatment of an emergency medical condition (including emergency labor and delivery) as defined in section 1903(v)(3) of the Act.

1905(a)(9) of the Act

(a)(7) Homeless Individuals.
Clinic services furnished to eligible individuals who do not reside in a permanent dwelling or do not have a fixed home or mailing address are provided without restrictions regarding the site at which the services are furnished.

1902 (a)(47) and 1920 of the Act

☐ (a)(8) Presumptively Eligible Pregnant Women
Ambulatory prenatal care for pregnant women is provided during a presumptive eligibility period if the care is furnished by a provider that is eligible for payment under the State plan.

42 CFR 441.55
50 FR 43654
1902(a)(43), 1905(a)(4)(B), and 1905 (r) of the Act

(a)(9) EPSDT Services
The Medicaid agency meets the requirements of sections 1902(a)(43), 1905 (a)(4)(B), and 1905(r) of the Act with respect to early and periodic screening, diagnostic, and treatment (EPSDT) services.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1(a)(9) Amount, Duration and Scope of Services: EPSDT Services (Continued)

42 CFR 441.60

☐ The Medicaid agency has in effect agreements with continuing care providers. Described below are the methods employed to assure the providers' compliance with their agreements.

42 CFR 440.240 and 440.250

1902(a) and 1902 (a)(10), 1902(a)(52), 1903(v), 1915(g), and 1925(b)(4) of the Act

(a)(10) Comparability of Services

Except for those items or services for which sections 1902 (a), 1902(a)(l0), 1903(v), 1915 and 1925 of the Act, 42 CFR 440.250, and section 245A of the Immigration and Nationality Act, permit exceptions:

(i) Services made available to the categorically needy are equal in amount, duration, and scope for each categorically needy person,

(ii) The amount, duration, and scope of services made available to the categorically needy are equal to or greater than those made available to the medically needy.

(iii) Services made available to the medically needy are equal in amount, duration, and scope for each person in a medically needy coverage group

☐ (iv) Additional coverage for pregnancy-related services and services for conditions that may complicate the pregnancy are equal for categorically and medically needy.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1(b) Home health services are provided in accordance with the requirements of 42 CFR 441.15.

42 CFR Part 440,
Subpart B
42 CFR 441.15
AT-78-90
AT-80-34

(1) Home health services are provided to all categorically needy individuals 21 years of age or over.

(2) Home health services are provided to all categorically needy individuals under 21 years of age.

- ☒ Yes
- ☐ Not applicable. The State plan does not provide for skilled nursing facility services for such individuals.

(3) Home health services are provided to the medically needy:

- ☐ Yes, to all
- ☐ Yes, to individuals age 21 or over; SNF services are provided
- ☐ Yes, to individuals under age 21; SNF services are provided
- ☐ No; SNF services are not provided
- ☒ Not applicable; the medically needy are not included under the plan

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1 Amount, Duration, and Scope of Services (continued)

CFR 431.53

(c)(1) Assurance of Transportation

Provision is made for assuring necessary transportation of recipients to and from providers. Methods used to assure such transportation are described in Attachment 3.1-D.

42 CFR 483.10

(c)(2) Payment for Nursing Facility Services

The State includes in nursing facility services at least the items and services specified in 42 CFR 483.10(c)(8)(i).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1(d) Methods and Standards to Assure Quality of Services
42 CFR 440.260 AT-78-90	The standards established and the methods used to assure high quality care are described in Attachment 3.1-C.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	3.1(e)	Family Planning Services
42 CFR 441.20 AT-78-90		The requirements of 42 CFR 441.20 are met regarding freedom from coercion or pressure of mind and conscience, and freedom of choice of method to be used for family planning.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.1(f)(1) Optometric Services

42 CFR 441.30
AT-78-90

Optometric services (other than those provided under §435.531 and 436.531) are not now but were previously provided under the plan. Services of the type an optometrist is legally authorized to perform are specifically included in the term "physicians' services" under this plan and are reimbursed whether furnished by a physician or an optometrist.

☐ Yes.

☒ No. The conditions described in the first sentence apply but the term "physicians' services" does not specifically include services of the type an optometrist is legally authorized to perform.

☐ Not applicable. The conditions in the first sentence do not apply.

(2) Organ Transplant Procedures

1903(i)(1)
of the Act,
P.L. 99-272
(Section 9507)
and P.L. 101-239
(Section 6403)

Organ transplant procedures are provided.

☐ No.

☒ Yes. Similarly situated individuals are treated alike and any restriction on the facilities that may, or practitioners who may, provide those procedures is consistent with the accessibility of high quality care to individuals eligible for the procedures under this plan. Standards for the coverage of organ transplant procedures are described at Attachment 3 .1-E.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation
42 CFR 431.110(b)
AT-78-90

3.1 (g) Participation by Indian Health Service Facilities
Indian Health Service facilities are accepted as providers, in accordance with 42 CFR 431.110(b), on the same basis as other qualified providers.

1902(e)(9) of the Act,
P.L. 99-509
(Section 9408)

(h) Respiratory Care Services for Ventilator-Dependent Individuals
Respiratory care services, as defined in section 1902(e)(9)(C) of the Act, are provided under the plan to individuals who—

(1) Are medically dependent on a ventilator for life support at least six hours per day;

(2) Have been so dependent as inpatients during a single stay or continuous stay in one or more hospitals, SNFs or ICFs for the lesser of—

☐ 30 consecutive days;

☐ ____ days (the maximum number of inpatient days allowed under the State plan);

(3) Except for home respiratory care, would require respiratory care on an inpatient basis in a hospital, SNF, or ICF for which Medicaid payments would be made;

(4) Have adequate social support services to be cared for at home; and

(5) Wish to be cared for at home.

☐ Yes. The requirements of section 1902(e)(9) of the Act are met.

☒ Not applicable. These services are not included in the plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation | 3.2 Coordination of Medicaid with Medicare and Other Insurance

1902(a)(10)(E)(i) and 1905(p)(1) of the Act

(a) Premiums

(1) Medicare Part A and Part B

(i) Qualified Medicare Beneficiary (QMB)

The Medicaid agency pays Medicare Part A premiums (if applicable) and Part B premiums for individuals in the QMB group defined in Item A.25 of Attachment 2.2-A, by the following method:

☐ Group premium payment arrangement for Part A

☒ Buy-In agreement for

☒ Part A ☒ Part B

☐ The Medicaid agency pays premiums, for which the beneficiary would be liable, for enrollment in an HMO participating in Medicare.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
1902(a)(10)(E)(ii) and 1905(s) of the Act	(ii)	Qualified Disabled and Working Individual (QDWI) The Medicaid agency pays Medicare Part A premiums under a group premium payments arrangement, subject to any contribution required as described in Attachment 4.18-E, for individuals in the QDWI group defined in item A.26 or Attachment 2.2-A of this plan.
1902(a)(10)(E)(iii) and 1905(p)(3)(A)(ii) of the Act	(iii)	Specified Low-Income Medicare Beneficiary/SLMB) The Medicaid agency pays Medicare Part B premiums under the State buy-in process for individuals in the SLMB group defined in item A.27 of Attachment 2.2-A of this plan.
1902(a)(1O)(E)(iv)(I), 1905(p)(3)(A)(ii), and 1933 of the Act	(iv)	Qualifying Individual-·1(Ql-1) The Medicaid agency pays Medicare Part B premiums under the State buy-in process for individuals described in 1902(a)(10)(E)(iv)(I) and subject to 1933 of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1843(b) and 1905(a) of the Act and 42 CFR 431.625

(v) Other Medicaid Recipients

The Medicaid agency pays Medicare Part B premiums to make Medicare Part B coverage available to the following individuals:

☒ All individuals who are: (a) receiving benefits under titles I, IV-A, X, XIV, or XVI (AABD or SSI); b) receiving State supplements under title XVI; or c) within a group listed at 42 CFR 431.625(d)(2).

☐ Individuals receiving title II or Railroad Retirement benefits.

☐ Medically needy individuals (FFP is not available for this group).

1902(a)(30) and 1905(a) of the Act

(2) Other Health Insurance

☐ The Medicaid agency pays insurance premiums for medical or any other type of remedial care to maintain a third party resource for Medicaid covered services provided to eligible individuals (except individuals 65 years of age or older and disabled individuals, entitled to Medicare Part A but not enrolled in Medicare Part B).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

(b) Deductibles/Coinsurance

(1) Medicare Part A and B

1902(a)(30), 1902(n), 1905(a),and 1916 of the Act

Supplement 1 to Attachment 4.19-B
describes the methods and standards for establishing payment rates for services covered under Medicare, and/or the methodology for payment of Medicare deductible and coinsurance amounts, to the extent available for each of the following groups.

Sections 1902 (a)(lO)(E)(i) and 1905 (p)(3) of the Act

(i) Qualified Medicare Beneficiaries (QMBS)

The Medicaid agency pays Medicare Part A and Part B deductible and coinsurance amounts for QMBs (subject to any nominal Medicaid copayment) for all services available under Medicare.

1902(a)(10), 1902 (a)(30), and 1905 (a) of the Act

(ii) Other Medicaid Recipients

The Medicaid agency pays for Medicaid services also covered under Medicare and furnished to recipients entitled to Medicare (subject to any nominal Medicaid copayment). For services furnished to individuals who are described in section 3.2(a)(1)(iv). Payment is made as follows:

42 CFR 431.625

☒ For the entire range of services available under Medicare Part B.

☐ Only for the amount, duration, and scope of services otherwise available under this plan .

1902 (a)(10), 1902 (a)(30), 1905(a), and 1905(p) of the Act

(iii) Dual Eligible – QMB plus

The Medicaid agency pays Medicare Part A and Part B deductible and coinsurance amounts for all services available under Medicare and pays for all Medicaid services furnished to individuals eligible both as QMBs and categorically or medically needy (subject to any nominal Medicaid copayment).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	Condition or Requirement
1906 of the Act	(c) Premiums, Deductibles, Coinsurance and Other Cost Sharing Obligations The Medicaid agency pays all premiums, deductibles, coinsurance and other cost sharing obligations for items and services covered under the State plan (subject to any nominal Medicaid copayment) for eligible individuals in employer-based cost-effective group health plans. When coverage for eligible family members is not possible unless ineligible family members enroll, the Medicaid agency pays premiums for enrollment of other family members when cost-effective. In addition, the eligible individual is entitled to services covered by the State plan which are not included in the group health plan. Guidelines for determining cost effectiveness are described in section 4.22 (h).
1902 (a)(10)(F) of the Act	(d) ☐ The Medicaid agency pays premiums for individuals described in item 19 of Attachment 2.2-A.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	Condition or Requirement
42 CFR 441.101, 42 CFR 431.620(c) and (d) AT-79-29	3.3 Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases Medicaid is provided for individuals 65 years of age or older who are patients in institutions for mental diseases. ☒ Yes. The requirements of 42 CFR Part 441, Subpart C, and 42 CFR 431.620(c) and (d) are met. ☐ Not applicable. Medicaid is not provided to aged individuals in such institutions under this plan.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

Citation	Condition or Requirement
42 CFR 441.252 AT-78-99	3.4 Special Requirements Applicable to Sterilization Procedures All requirements of 42 CFR Part 441, Subpart F are met.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.5 Families Receiving Extended Medicaid Benefits

1902(a)(52)
and 1925 of the Act

(a) Services provided to families during the first 6-month period of extended Medicaid benefits under Section 1925 of the Act are equal in amount, duration, and scope to services provided to categorically needy AFDC recipients as described in Attachment 3.1-A (or may be greater if provided through a caretaker relative employer's health insurance plan) .

(b) Services provided to families during the second 6-month period of extended Medicaid benefits under section 1925 of the Act are-

☒ Equal in amount, duration, and scope to services provided to categorically needy AFDC recipients as described in Attachment 3.1-A (or may be greater if provided through a caretaker relative employer's health insurance plan.)

☐ Equal in amount, duration, and scope to services provided to categorically needy AFDC recipients, (or may be greater if provided through a caretaker relative employer's health insurance plan) minus any one or more of the following acute services:

☐ Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

☐ Medical or remedial care provided by licensed practitioners.

☐ Home health services.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.5 Families Receiving Extended Medicaid Benefits (Continued)

- ☐ Private duty nursing services.
- ☐ Physical therapy and related services.
- ☐ Other diagnostic, screening, preventive, and rehabilitation services.
- ☐ Inpatient hospital services and nursing facility services for individuals 65 years of age or over in an institution for mental diseases.
- ☐ Intermediate care facility services for the mentally retarded.
- ☐ Inpatient psychiatric services for individuals under age 21.
- ☐ Hospice services.
- ☐ Respiratory care services.
- ☐ Any other medical care and any other type of remedial care recognized under State law and specified by the Secretary.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.5 Families Receiving Extended Medicaid Benefits (Continued)

(c) ☐ The agency pays the family's premiums, enrollment fees, deductibles, coinsurance, and similar costs for health plans offered by the caretaker's employer as payments for medical assistance-

☐ 1st 6 mos. ☐ 2nd 6 mos.

☐ The agency requires caretakers to enroll in employers' health plans as a condition of eligibility.

☐ 1st 6 mos. ☐ 2nd 6 mos.

(d) ☐ (1) The Medicaid agency provides assistance to families during the second 6-month period of extended Medicaid benefits through the following alternative methods:

☐ Enrollment in the family option of an employer's health plan.

☐ Enrollment in the family option of a State employee health plan.

☐ Enrollment in the State health plan for the uninsured.

☐ Enrollment in an eligible health maintenance organization (HMO) with a prepaid enrollment of less than 50 percent Medicaid recipients (except recipients of extended Medicaid).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 3.5 Families Receiving Extended Medicaid Benefits (Continued)

Supplement 2 to Attachment 3.1-A specifies and describes the alternative health care plan(s) offered, including requirements for assuring that recipients have access to services of adequate quality.

(2) The agency-

(i) Pays all premiums and enrollment fees imposed on the family for such plan(s).

☐ (ii) Pays all deductibles and coinsurance imposed on the family for such plan (s).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

Citation	4.1	Methods of Administration
42 CFR 431.15 AT-79-29		The Medicaid agency employs methods of administration found by the Secretary of Health and Human Services to be necessary for the proper and efficient operation of the plan .

Citation	4.2	Hearings for Applicants and Recipients
42 CFR 431.202 AT-79-29 AT-80-34		The Medicaid agency has a system of hearings that meets all the requirements of 42 CFR Part 431, Subpart E.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	4.3	Safeguarding Information on Applicants and Recipients
42 CFR 431.301 AT-79-29		Under State statute which imposes legal sanctions, safeguards are provided that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.
52 FR 5967		All other requirements of 42 CFR Part 431, Subpart F are met .

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 4.4 Medicaid Eligibility Quality Control (MEQC)

42 CFR 431
Subpart P and Q
50 FR 21839
75 FR 48847
1903(u) of the
Act, P.L. 99-509
(Section 9407)
P.L. 107-300
P.L. 111-3

(a) A system of quality control is implemented in accordance with 42 CFR of Part 431, Subpart P.

(b) In accordance with 431.806(c), the State operates a Medicaid quality control claims processing assessment system that meets the requirements of 431.830 - 431.836.

☐ Yes.

☒ Not applicable. The State has an approved Medicaid Management Information System(MMIS).

(c) In accordance with 431.806(b), Payment Error Rate Measurement (PERM) is implemented in accordance with 42 CFR Part 431, Subpart Q, in substitution to meet the statutory and regulatory ("traditional") Medicaid Eligibility Quality Control (MEQC) review during the State's PERM cycle.

☒ Yes.

☒ Effective for FFY 2012.

☒ Effective for FFY 2015.

☒ Effective for FFY 2018.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
§1902(a)(42)(B) P.L. 111-148 §42 CFR 455 Subpart A §42 CFR 455 Subpart F	4.5	Medicaid Agency Fraud Detection and Investigation Program The Medicaid agency has established and will maintain methods, criteria, and procedures for prevention and control of program fraud and abuse, including methods for identification, investigation, and referral of suspected fraud cases.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

4.5 Medicaid Recovery Audit Contractor Program

Citation

Section 1902(a)(42)(B)(i) of the Social Security Act

☐ The State has established a program under which it will contract with one or more recovery audit contractors (RACs) for the purpose of identifying underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.

Section 1902(a)(42)(B)(ii)(I) of the Act

☒ The State is seeking an exception to establishing such program for the following reasons:

Although the Delaware Division of Medicaid and Medical Assistance (DMMA) previously had a Recovery Audit Contract (RAC) vendor, that contract is no longer in place. DMMA posted a Request for Proposals (RFPs) in an attempt to attract a new RAC vendor, but received no bids. The majority of Delaware's Medicaid population is enrolled in managed care and the providers treating them are not subject to audit recovery contracting. There is not sufficient revenue generation to fund an adequate contingency fee

☐ The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RACs are consistent with the statute. Delaware RFP for RACs is completed.

Place a check mark to provide assurance of the following:

☐ The State will make payments to the RAC(s) only from amounts recovered.

☐ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

Section 1902 (a)(42)(B)(ii)(ll)(aa) of the Act

The following payment methodology shall be used to determine State payments to Medicaid RACs for identification and recovery of overpayments (e.g., the percentage of the contingency fee):

☐ The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to Medicare RACs, as published in the Federal Register

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

4.5 Medicaid Recovery Audit Contractor Program

Citation	☐	The State attests that the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will only submit for FFP up to the amount equivalent to that published rate.
	☐	The contingency fee rate paid to the Medicaid RAC that will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will submit a justification for that rate and will submit for FFP for the full amount of the contingency fee.
Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	☐	The following payment methodology shall be used to determine State payments to Medicaid RACs for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):
Section 1902 (a)(42)(B)(ii)(III) of the Act	☐	The State has adequate appeal process in place for entitles to appeal any adverse determination made by Medicaid RAC(s).
Section 1902(a)(42)(B)(ii)(IV)(aa) of the Act	☐	The State assures that the amounts expended by the State to carry out the program will be amounts expended as necessary for the proper and efficient administration of the State plan or waiver of the plan.
Section1902(a)(42)(B)(ii)(IV)(bb) of the Act	☐	The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act	☐	Efforts of the Medicaid RAC(s) will be coordinated with other contactors or entitles performing audits of entitles receiving payments under the State plan or waiver in the State, and/or State and Federal law enforcement entitles and the CMS Medicaid Integrity Program.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	4.6	Reports
42 CFR 431.16 AT-79-29		The Medicaid agency will submit all reports in the form and with the content required by the Secretary, and will comply with any provisions that the Secretary finds necessary to verify and assure the correctness of the reports . All requirements of 42 CFR 431.16 are met .

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	4.7	Maintenance of Records
42 CFR 431.17 AT-79-29		The Medicaid agency maintains or supervises the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of medical assistance, and administrative costs, and statistical, fiscal and other records necessary for reporting and accountability, and retains these records in accordance with Federal requirements. All requirements of 42 CFR 431.17 are met.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	4.8	Availability of Agency Program Manuals
42 CFR 431.18(b) AT-79-29		Program manuals and other policy issuances that affect the public, including the Medicaid agency's rules and regulations governing eligibility, need and amount of assistance, recipient rights and responsibilities, and services offered by the agency are maintained in the State office and in each local and district office for examination, upon request, by individuals for review, study, or reproduction. All requirements of 42 CFR 431.18 are met.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	4.9	Reporting Provider Payments to Internal Revenue Service
42 CFR 433.37 AT-78-90		There are procedures implemented in accordance with 42 CFR 433.37 for identification of providers of services by social security number or by employer identification number and for reporting the information required by the Internal Revenue Code (26 U.S.C. 6041) with respect to payment for services under the plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 431.51 AT-78-90
46 FR 48524
48 FR 23212
1902 (a) (23)
of the Act P.L. 100-93
(section 8(f)) P.L. 100-203
(section 4113)

4.10 Free Choice of Providers

(a) Except as provided in paragraph (b), the Medicaid agency assures that an individual eligible under the plan may obtain Medicaid services from any institution, agency, pharmacy, person, or organization that is qualified to perform the services, including an organization that provides these services or arranges for their availability on a prepayment basis.

(b) Paragraph (a) does not apply to services furnished to an individual—

(1) Under an exception allowed under 42 CFR 431.54, subject to the limitations in paragraph (c), or

(2) Under a waiver approved under 42 CFR 431.55, subject to the limitations in paragraph (c), or

(3) By an individual or entity excluded from participation in accordance with section 1902(p) of the Act.

(c) Enrollment of an individual eligible for medical assistance in a primary care case management system described in section 1915(b)(1), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive emergency services or services under section 1905(a)(4)(c).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 431.610 AT-78-90
AT-80-34

4.11 Relations with Standard-Setting and Survey Agencies

(a) The State agency utilized by the Secretary to determine qualifications of institutions and suppliers of services to participate in Medicare is responsible for establishing and maintaining health standards for private or public institutions (exclusive of Christian Science sanatoria) that provide services to Medicaid recipients. This agency is DIVISION OF PUBLIC HEALTH

(b) The State authority(ies) responsible for establishing and maintaining standards, other than those relating to health, for public or private institutions that provide services to Medicaid recipients is (are): DIVISION OF PUBLIC HEALTH

(c) Attachment 4.11-A describes the standards specified in paragraphs (a) and (b) above, that are kept on file and made available to the Health Care Financing Administration on request.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 431.610 AT-78-90 AT-89-34	4.11(d)	The DIVISION OF PUBLIC HEALTH (agency) which is the State agency responsible for licensing health institutions, determines if institutions and agencies meet the requirements for participation, in the Medicaid program . The requirements in 42 CFR 431.610 (e), (f) and (g) are met.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 4.12 Consultation to Medical Facilities

42 CFR 431.105 (b)
AT-78-90

(a) Consultative services are provided by health and other appropriate State agencies to hospitals, nursing facilities, nursing health agencies, clinics and laboratories in accordance with 42 CFR 431.105 (b).

(b) Similar services are provided to other types of facilities providing medical care to individuals receiving services under the programs specified in 42 CFR 431.105 (b).

☐ Yes, as listed below:

☒ Not applicable. Similar services are not provided to other types of medical facilities.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 4.13 Required Provider Agreement

With respect to agreements between the Medicaid agency and each provider furnishing services under the plan:

42 CFR 431.107

(a) For all providers, the requirements of 42 CFR 431.107 and 42 CFR Part 442, Subparts A and B (if applicable) are met.

42 CFR 483
1919 of the ACT

(b) For providers of NF services, the requirements of 42 CFR Part 483, Subpart B, and section 1919 of the Act are also met.

42 CFR Part 483, Subpart D

(c) For providers of ICF/MR services, the requirements of participation in 42 CFR Part 483, Subpart D are also met.

1920 of the Act

(d) For each provider that is eligible under the plan to furnish ambulatory prenatal care to pregnant women during a presumptive eligibility period, all the requirements of section 1920(b)(2) and (c) are met.

☐ Not applicable. Ambulatory prenatal care is not provided to pregnant women during a presumptive eligibility period.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902 (a)(58) 4.13 (e) For each provider receiving funds under
1902 (w) the plan, all the requirements for advance directives of section 1902 (w) are met:

(1) Hospitals, nursing facilities, providers of home health care or personal care services, hospice programs, health maintenance organizations and health insuring organizations are required to do the following:

(a) Maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization about their rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives.

(b) Provide written information to all adult individuals on their policies concerning implementation of such rights;

(c) Document in the individual's medical records whether or not the individual has executed an advance directive;

(d) Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

(e) Ensure compliance with requirements of State Law (whether

statutory or recognized by the courts) concerning advance directives; and

(f) Provide (individually or with others) for education for staff and the community on issues concerning advance directives.

(2) Providers will furnish the written information described in paragraph (1)(a) to all adult individuals at the time specified below:

(a) Hospitals at the time an individual is admitted as an inpatient.

(b) Nursing facilities when the individual is admitted as a resident.

(c) Providers of home health care or personal care services before the individual comes under the care of the provider;

(d) Hospice program at the time of initial receipt of hospice care by the individual from the program; and

(e) Health maintenance organizations at the time of enrollment of the individual with the organization.

(3) Attachment 4.34 A describes law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives.

☐ Not applicable . No State law or court decision exist regarding advance directives.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation 4.14 Utilization/Quality Control

42 CFR 431.60
42 CFR 456.2
50 FR 15312
1902(a)(30)(C) and 1902(d) of the Act, P.L. 99-509 (Section 9431)

(a) A Statewide program of surveillance and utilization control has been implemented that safeguards against unnecessary or inappropriate use of Medicaid services available under this plan and against excess payments, and that assesses the quality of services. The requirements of 42 CFR Part 456 are met:

☒ Directly - for Outpatient Services, NF and mental hospitals.

☒ By undertaking medical and utilization review requirements through a contract with a Utilization and Quality control Peer Review organization (PRO) designated under 42 CFR Part 462, The contract with the PRO -

(1) Meets the requirements of §434.6(a);

(2) Includes a monitoring and evaluation plan to ensure satisfactory performance;

(3) Identifies the services and providers subject to PRO review;

(4) Ensures that PRO review activities are not inconsistent with the PRO review of Medicare services; and

(5) Includes a description of the extent to which PRO determinations are considered conclusive for payment purposes.

☐ Quality review requirements described in section 1902(a)(30)(C)of the Act relating to services furnished by HMOs under contract are undertaken through contract with the PRO designed under 42 CFR Part 462.

1902(a)(30)(C) and 1902(d) of the Act, P.L. 99-509 (section 9431)

☐ By undertaking quality review of services furnished under each contract with an HMO through a private accreditation body .

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 456.2 4.14 (b) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart C,
50 FR 15312 for control of the utilization of inpatient hospital services .

☒ Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

☐ Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart C for:

☐ All hospitals (other than mental hospitals) .

☐ Those specified in the waiver .

☒ No waivers have been granted.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 456.2
50 FR 15312

4.14 (c) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart D, for control of utilization of inpatient services in mental hospitals.

☐ Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

☐ Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart D for:

- ☐ All mental hospitals .
- ☐ Those specified in the waiver.

☒ No waivers have been granted.

☐ Not applicable. Inpatient services in mental hospitals are not provided under this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 456.2 4.14 (d) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart E,
50 FR 15312 for the control of utilization of skilled nursing facility services.

☐ Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

☐ Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart E for:

☐ All skilled nursing facilities.

☐ Those specified in the waiver .

☒ No waivers have been granted.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 456.2
50 FR 15312

4.14 ☒ (e) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart F, for control of the utilization of intermediate care facility services. Utilization review in facilities is provided through:

☐ Facility-based review.

☐ Direct review by personnel of the medical assistance unit of the State agency.

☐ Personnel under contract to the medical assistance unit of the State agency.

☐ Utilization and Quality Control Peer Review Organizations.

☐ Another method as described in ATTACHMENT 4.14-A.

☒ Two or more of the above methods. ATTACHMENT 4.14-B describes the circumstances under which each method is used.

☐ Not applicable. Intermediate care facility services are not provided under this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.14 Utilization/Quality Control (continued)

1902(a)(30) and 1902(d) of the Act, P.L. 99-509 (Section 9431) P.L. 99-203 (section 4113)

(f) The Medicaid agency meets the requirements of section 1902(a)(30) of section 1902(a)(30) of the Act for control of the assurance of quality furnished by each health maintenance organization under contract with the Medicaid agency. Independent, external quality reviews are performed annually by:

☐ A Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

☐ A private accreditation body.

☐ An entity that meets the requirements of the Act, as determined by the Secretary.

The Medicaid agency certifies that the entity in the preceding subcategory under 4.14(f) is not an agency of the State.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 456.2
AT-78-90

4.15 Inspections of Care in Skilled Nursing and Intermediate Care Facilities and Institutions for Mental Diseases

All applicable requirements of 42 CFR Part 456, Subpart I, are met with respect to periodic inspections of care and services.

☐ Not applicable with respect to intermediate care facility services; such services are not provided under this plan.

☐ Not applicable with respect to services for individuals age 65 or over in institutions for mental diseases; such services are not provided under this plan.

☒ Not applicable with respect to inpatient psychiatric services for individuals under age 22; such services are not provided under this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 431.615(c) 4.16 4.16 Relations with State Health and Vocational Rehabilitation Agencies and Title V Grantees
AT-78-90

The Medicaid agency has cooperative arrangements with State health and vocational rehabilitation agencies and with title V grantees, that meet the requirements of 42 CFR 431.615.

ATTACHMENT 4.16-A describes the cooperative arrangements with the health and vocational rehabilitation agencies.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433.36(c) 1902(a)(18) and 1917(a) and (b) of the Act

4.17 4.17 Liens and Adjustments or Recoveries

(a) Liens

☐ The State imposes liens against an individual's real property on account of medical assistance paid or to be paid.

The State complies with the requirements of section 1917(a) of the Act and regulations at 42 CFR 433.36 (c)-(g) with respect to any lien imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf.

☐ The State imposed liens on real property on account of benefits incorrectly paid.

☐ *The State imposes TEFRA liens 1917(a) (1) (B) on real property of an individual who is an inpatient of a nursing facility, ICF/MR or other medical institution, where the individual is required to contribute toward the cost of institutional care all but a minimal amount of income required for personal needs.

The procedure by the State for determining that an institutionalized individual cannot reasonably be expected to be discharged are specified in Attachment 4.17-A. (NOTE: If the State indicates in its State plan that it is imposing TEFRA liens, the State is required to determine whether an institutionalized individual is permanently institutionalized and afford these individuals notice, hearing procedures, and due process requirements.)

☐ The State imposes liens on both real and personal property of an individual after the individual's death.

*The State only imposes TEFRA liens on real property of inpatient long term care residents age 55 and over under OBRA 93.

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STATE/TERRITORY: **DELAWARE**

(b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36 (h)-(1).

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/MR, or other medical institution.

☐ Adjustments or recoveries are made for all other medical assistance paid on behalf of the individual.

(2) ☐ The State determines "permanent institutional status" of the individuals under the age of 55 other than those with respect to whom it imposes liens on real property under §1917(a)(1)(B) (even if it does not impose those liens).

(3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services, and related hospital and prescription drug services.

☒ In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for all services under the State Plan as listed below:

All other medical assistance paid on behalf of the individual. including the total capitation payment for the period the beneficiary was enrolled in the managed care organization (MCO); for individuals age 55 and over, except for Medicare cost sharing identified at 4.17(b)(3) (Continued).

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4.17 (b) Adjustments or Recoveries

(3) (Continued)

Limitations on Estate Recovery - Medicare Cost Sharing

(i) Medical assistance for Medicare cost sharing is protected from estate recovery for the following categories of dual eligibles: QMB, SLMB, QI, QDWI, QMB+, SLMB+. This protection extends to medical assistance for four Medicare cost sharing benefits: (Part A and B premiums, deductibles, coinsurance, co-payments) with dates of service on or after January 1, 2010. The date of service for deductibles, coinsurance, and co-payments is the date the request for payment is received by the State Medicaid Agency. The date of service for premiums is the date the State Medicaid Agency paid the premium

(ii) In addition to being a qualified dual eligible the individual must also be age 55 or over. The above protection from estate recovery for Medicare cost sharing benefits (premiums, deductibles, coinsurance, co-payments) applies to approved mandatory (i.e., nursing facility, home and community-based services, and related prescription drugs and hospital services) as well as optional Medicaid services identified in the State plan, which are applicable to the categories of duals referenced above.

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STATE/TERRITORY: **DELAWARE**

1917(b)(1)(C) (4)

☒ If an individual covered under a long-term care insurance policy received benefits for which assets or resources were disregarded as provided for in Attachment 2.6-A, Supplement 8c (State Long-Term Care Insurance Partnership) the State does not seek adjustment or recovery from the individual's estate for the amount of assets or resources disregarded.

☐ The State disregards assets or resources for individuals who receive or are entitled to receive benefits under a long term care insurance policy as provided for in Supplement 8b to Attachment 2.6-A.

☒ The State adjusts or recovers from the individual's estate on account of all medical assistance paid for nursing facility and other long-term care services provided on behalf of the individual. (States other than California, Connecticut, Indiana, Iowa, and New York, which provide long-term care insurance policy-based asset or resource disregard, must select this entry. These five States may either check this entry or one of the following entries).

☐ The State does not adjust or recover from the individual's estate on account of any medical assistance paid for nursing facility or other long-term care services provided on behalf of the individual.

☐ The State adjusts or recovers from the assets or resources on account of medical assistance paid for nursing facility or other long-term care services provided on behalf of the individual to the extent described below:

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STATE/TERRITORY: **DELAWARE**

(c) Adjustments or Recoveries: Limitations

The State complies with the requirements of Section 1917(b)(2) of the Act and regulations at 42 CFR §433.36 (h) - (i).

(1) Adjustment or recovery of medical assistance correctly paid will be made only after the death of the individual's surviving spouse, and only when the individual has no surviving child who is under age 21, blind, or disabled.

(2) With respect to liens on the home of any individual who the State determines is permanently institutionalized and who must as a condition of receiving services in the institution apply their income to the cost of care; the State will not seek adjustment or recovery of medical assistance paid on behalf of the individual until such time as none of the following individuals are residing in the individual's home:

(a) a sibling of the individual (who was residing in the individual's home for at least one year immediately before the date the individual was institutionalized).
(b) a child of the individual (who was residing in the individual's home for at least two years immediately before the date the individual was institutionalized) who established to the satisfaction of the State that the care the child provided permitted the individual to reside at home rather than become institutionalized.

(3) No money payments under another program are reduced as a means of adjusting or recovering Medicaid claims incorrectly aid.

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STATE/TERRITORY: **DELAWARE**

(d) Attachment 4.17-A

(1) Specifies the procedures for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the procedure meets the requirements of 42 CFR 433.36(d).

(2) Specifies the criteria by which a son or daughter can establish that he or she has been providing care, as specified under 42 CFR 433.36(f).

(3) Defines the following terms:

- Estate (at minimum, estate as defined under State Probate law.) Except for the grandfathered States listed in Section 4.17(b)(3), if the State provides a disregard for assets or resources for any individual who received or is entitled to receive benefits under a long-term care insurance policy, the definition of estate must include all real, personal property and assets of an individual (including any property or assets in which the individual had any legal title or interest at the time of death to the extent of the interest and also including the assets conveyed through devices such a joint tenancy, life estate, living trust, or other arrangement).
- individual's home,
- equity interest in the home,
- residing in the home for at least 1 or 2 years,
- on a continuous basis,
- discharge from the medical institution and return home, and
- lawfully residing.

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(4) Describes the standards and procedures for waiving estate recovery when it would cause undue hardship.

(5) Defines when adjustment or recovery is not cost-effective. Defines cost effective and includes methodology or thresholds used to determine cost-effectiveness.

(6) Describes collection procedures. Includes advance notice requirements, specifies the method for applying for a waiver, hearing and appeals procedures, and the time frames involved.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.18 Recipient Cost Sharing and Similar Charges

42 CFR 447.51 through 447.58

(a) Unless a waiver under 42 CFR ~~431.55(g)~~ 431.57 applies deductibles, coinsurance rates, and co-payments do not exceed the maximum allowable charges under 42 CFR 447.54.

1916 (a) and (b) of the Act

(b) Except as specified in items 4.18 (b) (4), (5) and (6) below, with respect to individuals covered as categorically needy or as qualified Medicare beneficiaries (as defined in section 1905 (p) (1) of the Act) under the plan:

(1) No enrollment fee, premium, or similar charge is imposed under the plan.

(2) No deductible, coinsurance, co-payment, or similar charge is imposed under the plan for the following:

(i) Services to individuals under age 18, or under –
Age 19
Age 20
☒ Age 21

Reasonable categories of individuals who are age 18 or older, but under age 21, to whom charges apply are listed below, if applicable.

(iii) Services to pregnant women related to the pregnancy or any other medical condition that may complicate the pregnancy.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.51 through 447.58

4.18 (b)(2) (Continued)

(iii) All services furnished to pregnant women.

☐ Not applicable. Charges apply for services to pregnant women unrelated to the pregnancy.

(iv) Services furnished to any individual who is an inpatient in a hospital, long-term care facility, or other medical institution, if the individual is required, as a condition of receiving services in the institution, to spend for medical care costs all but a minimal amount of his or her income required for personal needs.

(v) Emergency services if the services meet the requirements in 42 CFR 447.53 (b)(4).

(vi) Family planning services and supplies furnished to individuals of childbearing age.

~~(vii) Services furnished by a health maintenance organization in which the individual is enrolled.~~

1916 of the Act, P.L. 99-272, (Section 9505)

~~(viii)~~ Services furnished to an individual receiving hospice care, as defined in section 1905 (o) of the Act.

Citation

42 CFR 447.51 through 447.59

4.18 (b) (Continued)

(3) Unless a waiver under 42 CFR ~~431.55 (g)~~ 431.57 applies, nominal deductible, coinsurance, co-payment, or similar charges are imposed for services that are not excluded from such charges under item (b) (2) above.

Not applicable. No such charges are imposed.

(i) For any service, no more than one type of charge is imposed.

(ii) Charges apply to services furnished to the following age groups:

18 or older
19 or older
20 or older
☒ 21 or older

Charges apply to services furnished to the following reasonable categories of individuals listed below who are 18 years of age or older but under age 21.

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STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.51 through 447.58 4.18(b)(3) (Continued)

(ii) For the categorically needy and qualified Medicare beneficiaries, Attachment 4.18-A specifies the:

A. Service(s) for which a charge(s) is applied;

B. Nature of the charge imposed on each service;

C. Amount(s) of and basis for determining the charge(s);

D. Method used to collect the charges(s);

E. Basis for determining whether an individual is unable to pay the charge and the means by which such an individual is identified to providers;

F. Procedures for implementing and enforcing the exclusions from cost sharing contained in 42 CFR 447.53 (b); and

G. Cumulative maximum that applies to all deductible coinsurance or co-payment charges imposed on a specified time period.

☐ Not applicable. There is no maximum.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
1916 (c) of the Act	4.18(b)(14)	A monthly premium is imposed on pregnant women and infants who are covered under section 1902 (a) (10) (A) (ii) (IX) of the Act and whose income equals or exceeds 150 percent of the Federal poverty level applicable to a family of the size involved. The requirements of section 1916 (c) of the Act are met. **Attachment 4.18-D** specifies the method the State uses for determining the premium and the criteria for determining what constitutes undue hardship for waiving payment of premiums by recipients.
1902 (a) (52) and 1925 (b) of the Act	4.18 (b) (5)	For families receiving extended benefits during a second 6-month period section 1925 of the Act, a monthly premium is imposed in accordance with sections 1925 (b) (4) and (5) of the Act.
1916 (d) of the Act	4.18 (b) (6)	A monthly premium, set on a sliding scale, imposed on qualified disabled and working individuals who are covered under section 1902 (a) (10) (E) (ii) of the Act and whose income exceeds 150 percent (but does not exceed 200 percent) of the Federal poverty level applicable to a family of the size involved. The requirements of section 1916 (d) of the Act are met. **Attachment 4.18-E** Specifies the methods and standards the State uses for determining the premium.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.51 through 447.58 — 4.18(c)

☐ Individuals are covered as medically needy under the plan.

(1) ☐ An enrollment fee, premium or similar charge is imposed. Attachment 4.18-B specifies the amount of and liability period for such charges subject to the maximum allowable charges in 42 CFR 447.52 (b) and defines the State's policy regarding the effect on recipients of non-payment of the enrollment fee, premium, or similar charge

447.51 through 447.58

(2) ☐ No deductible, coinsurance , coinsurance, copayment, or similar charge is imposed under the plan for the following:

(i) Services to individuals under age 18, or under –

☐ Age 19

☐ Age 20

☐ Age 21

Reasonable categories of individuals who are age 18, but under age 21, to whom charges apply are listed below, if applicable:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.51 through 447.58 — 4.18(c)(2) (Continued)

(ii) services to pregnant women related to the pregnancy or any other medical condition that may complicate the pregnancy.

(iii) All services furnished to pregnant women

☐ Not applicable. Charges apply for services to pregnant women unrelated to the pregnancy.

(iv) Services furnished to any individual who is an inpatient in a hospital, long-term care facility, or other medical institution, if the individual is required, as a condition of receiving services in the institution, to spend for medical care costs all but a minimal amount of his income required for personal needs.

(v) Emergency services if the services meet the requirements in 42 CFR 447.53 (b)(4).

(vi) Family planning services and supplies furnished to individuals of childbearing age.

1916 of the Act, P.L. 99-272 (Section 9505)

(vii) Services furnished to an individual receiving hospice care, as defined in section 1905(o) of the Act.

447.51 through 447.58

(viii) Services provided by a health maintenance organization (HMO) to enrolled individuals.

☐ Not applicable. No such charges are imposed.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.18(c)(3) Unless a waiver under 42 CFR 431.55(g) applies, nominal deductible, coinsurance, copayment, or similar charges are imposed on services that are not excluded from such charges under item (b)(2) above.

☒ Not applicable. No such charges are imposed.

(i) For any service, no more than one type of charge is imposed.

(ii) Charges apply to services furnished to the following age group:

☐ 18 or older

☐ 19 or older

☐ 20 or older

☐ 21 or older

Reasonable categories of individuals who are 18 years of age, but under 21, to whom charges apply are listed below, if applicable.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

447.51 through 447.58 — 4.18(c)(3) (Continued)

(iii) For the medically needy, and other optional groups, ATTACHMENT 4.18-C specifies the:

(A) Service (s) for which charge (s) is applied;

(B) Nature of the charge imposed on each service;

(C) Amount (s) of and basis for determining the charge (s);

(D) Method used to collect the charge (s);

(E) Basis for determining whether an individual is unable to pay the charge (s) and the means by which such an individual is identified to providers;

(F) Procedures for implementing and enforcing the exclusions from cost sharing contained in 42 CFR 447.53(b); and

(G) Cumulative maximum that applies to all deductible, coinsurance, or copayment charges imposed on a family during a specified time period,

☐ Not applicable. There is no maximum.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.19 Payment for Services

42 CFR 447.252
1902 (a)(13)
and 1923 of the
Act

(a) The Medicaid agency meets the requirements of 42 CFR Part 447, Subpart C, and sections 190(a)(13) and 1923 of the Act with respect to payment for inpatient hospital services.

ATTACHMENT 4.19 A describes the methods and standards used to determine rates for payment for inpatient hospital services.

☐ Inappropriate level of care days are covered and are paid under the State plan at lower rates than other inpatient hospital services, reflecting the level of care actually received, in a manner consistent with section 1861(v)(1)(G) of the Act.

☒ Inappropriate level of care days are not covered.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.201
42 CFR 447.302
52 FR 28648
1902(a)(13)(E)
1903(a)(1) and
(n), 1920, and
1926 of the Act

4.19(b) In addition to the services specified in paragraphs 4.19(a), (d), (k), (1), and (m), the Medicaid agency meets the following requirements:

(1) Section 1902(a)(13)(E) of the Act regarding payment for services furnished by Federally qualified health centers (FQHCs) under section 1905(a)(2)(C) of the Act. The agency meets the requirements of section 6303 of the State Medicaid Manual (HCFA-Pub. 45-6) regarding payment for FQHC services . ATTACHMENT 4.19-B describes the method of payment and how the agency determines the reasonable costs of the services (for example, cost-reports, cost or budget reviews, or sample surveys).

(2) Sections 1902(a)(13)(E) and 1926 of the Act, and 42 CFR Part 447, Subpart D, with respect to payment for all other types of ambulatory services provided by rural health clinics under the plan.

ATTACHMENT 4.19-B describes the methods and standards used for the payment of each of these services except for inpatient hospital, nursing facility services and services in intermediate care facilities for the mentally retarded that are described in other attachments.

1902(a)(10) and
1902(a)(30) of
the Act

SUPPLEMENT 1 to ATTACHMENT 4.19-B describes general methods and standards used for establishing payment for Medicare Part A and B deductible/coinsurance.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.40
AT-78-90

4.19(c) Payment is made to reserve a bed during a recipient 's temporary absence from an inpatient facility.

☒ Yes. The State's policy is described in ATTACHMENT 4.19-C.

☐ No.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 447.252
47 FR 47964
48 FR 56046
42 CFR 447.280
47 FR 31518
52 FR 28141

4.19(d) ☒ (1) The Medicaid agency meets the requirements of 42 CFR Part 447, Subpart C, with respect to payments for skilled nursing and intermediate care facility services .

ATTACHMENT 4.19-D describes the methods and standards used to determine rates for payment for skilled nursing and intermediate care facility services.

(2) The Medicaid agency provides payment for routine skilled nursing facility services furnished by a swing-bed hospital.

☐ At the average rate per patient day paid to SNFs for routine services furnished during the previous calendar year.

☐ At a rate established by the State, which meets the requirements of 42 CFR Part 447, Subpart C, as applicable .

☒ Not applicable. The agency does not provide payment for SNF services to a swing-bed hospital.

(3) The Medicaid agency provides payment for routine intermediate care facility services furnished by a swing-bed hospital.

☐ At the average rate per patient day paid to ICFs, other than ICFs for the mentally retarded, for routine services furnished during the previous calendar year.

☐ At a rate established by the State, which meets the requirements of 42 CFR Part 447, Subpart C, as applicable .

☒ Not applicable . The agency does not provide payment for ICF services to a swing-bed hospital.

☐ (4) Section 4 .19(d)(1) of this plan is not applicable with respect to intermediate care facility services; such services are not provided under this State plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 447.45(c) AT-79-50	4.19(e)	The Medicaid agency meets all requirements of 42 CFR 447.45 for timely payment of claims. ATTACHMENT 4.19-E specifies, for each type of service, the definition of a claim for purposes of meeting these requirements.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 447.15 AT-78-90 AT-80-34 48 FR 5730	4.19(f)	The Medicaid agency limits participation to providers who meet the requirements of 42 CFR 447.15. No provider participating under this plan may deny services to any individual eligible under the plan on account of the individual's inability to pay a cost sharing amount imposed by the plan in accordance with 42 CFR 431.55(g) and 447.53. This service guarantee does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the cost sharing change.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 47.201 42 CFR 477.202 AT-78-90	4.19(g)	The Medicaid agency assures appropriate audit of records when payment is based on cost of services or on fee plus cost of material.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 447.201 42 CFR 447.203 AT-78-90	4.19(h)	The Medicaid agency meets the requirements of 42 CFR 447.203 for documentation and availability of payment rates.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 447.201 42 CFR 447.204 AT-78-90	4.19(i)	The Medicaid agency's payments are sufficient to enlist enough providers so that services under the plan are available to recipients at least to the extent that those services are available to the general population.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 447.201 and 447.205	4.19 (j)	The Medicaid agency meets the requirements of 42 CFR 447.205 for public notice of any changes in Statewide method or standards for setting payment rates.
1903(v) of the Act	(k)	The Medicaid agency meets the requirements of section with respect to payment for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Payment is made only for care and services that are necessary for the treatment of an emergency medical condition, as defined in section 1903 (v) of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1928(c)(2)
(C)(ii) of the ACT

4.20 (m) **Medicaid Reimbursement for Administration of Vaccines under the Pediatric Immunization Program**

1926 of the Act

(i) A provider may impose a charge for the administration of a qualified pediatric vaccine as stated in 1928(c)(2)(C)(ii) of the Act. Within this overall provision, Medicaid reimbursement to providers will be administered as follows.

(ii) The State:

☐ sets a payment rate at the level of the regional maximum established by the DHHS Secretary.

☐ is a Universal Purchase State and sets a payment rate at the level of the regional maximum established in accordance with State law.

☒ sets a payment rate below the level of the regional maximum established by the DHHS Secretary.

☐ is a Universal Purchase State and sets a payment rate below the level of the regional maximum established by the Universal Purchase State.

The State pays the following rate for the administration of a vaccine:
fee is equal to or greater than the administration fee paid by a major insurance company.

(iii) Medicaid beneficiary access to immunizations is assured through the following methodology:

comparison of Medicaid fee for administration of pediatric vaccines to the administration fees paid by a major insurance company.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR
447.25(b)
AT-78-90

4.20 Direct Payments to Certain Recipients for Physicians' or Dentists' Services

Direct payments are made to certain recipients as specified by, and in accordance with, the requirements of 42 CFR 447.25.

☐ Yes, for ☐ physicians' services

☐ dentists' services

Attachment 4.20-A specifies the conditions under which such payments are made.

☒ Not applicable. No direct payments are made to recipients.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR
447.10(c)
AT-78-90
46 FR 42669

4.21 Prohibition Against Reassignment of Provider Claims

Payment for Medicaid services furnished by any provider under this plan is made only in accordance with the requirements of 42 CFR 447.10.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.22 Third Party Liability

42 CFR 433.137 (a) The Medicaid agency meets all requirements of:

(1) 42 CFR 433.138 and 433.139.
(2) 42 CFR 433.145 through 433.148.
(3) 42 CFR 433.151 through 433.154.
(4) Sections 1902(a)(25)(H) and (I).

1902(a)(25)(H) and (I) of the Act.

Sections 6035 of the DRA of 2005

(5) Section 6035 of the Deficit Reduction Act of 2005

42 CFR 433.138(f) (b) **Attachment 4.22-A**

(1) Specifies the frequency with which data exchanges required in §433.138(d)(1), (d)(3) and (d)(4) and the diagnosis and trauma code edits required in §433.138(c) are conducted;

42 CFR 433.138(g)(1)(ii) and (2)(ii)

(2) Describes the methods and the agency uses for meeting the follow-up requirements contained in §433.138(g)(1)(i) and (g)(2)(i);

42 CFR 433.138(g)(3)(j) and (iii)

(3) Describes the methods the agency uses for following up on information obtained through the State motor vehicle accident report file data exchange required under §433.138(d)(4)(ii) and specific the time frames for incorporation in to the eligibility case file and into its third party data base and thirty party recovery unity of all information obtained through the follow-up that identifies legally liable third party resources; and

§433.138(g)(4)(i) through (iii)

(4) Describes the methods the agency uses for following up on paid claims under §433.138(e) (methods include a procedure for periodically identifying those trauma codes that yield the highest third party collections and giving priority to following up on those codes) and specifies the time frames for incorporation into the eligibility case file and into its third party data base and third party recovery unit of all information obtained through the follow-up that identified illegally liable third party resources.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433.139(b)(3)(ii)(A) ☒ (c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency.

(d) Attachment 4.22-B - specifies the following:

42 CFR 433.139(b)(3)(ii)(C) (1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b)(3)(ii)(C).

42 CFR 433.139(f)(2) (2) The threshold amount or other guideline used in determining whether to seek recovery of reimbursement from a liable third party, or the process by which the agency determines that seeking recovery for reimbursement would not be cost effective.

42 CFR 433.139(f)(3) (3) The dollar amount or time period the State uses to accumulate billing from a particular liable third party in making the decision to seek recovery of reimbursement.

42 CFR 447.20 (e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433.151(a)

4.22(continued)

(f) The Medicaid agency has written cooperative agreements for the enforcement of rights to and collection of third party benefits assigned to the State as a condition of eligibility for medical assistance with the following:
(Check as appropriate.)

☒ State Title IV-D agency. The requirements of 42 CFR 433.152(b) are met .

☐ Other appropriate State agency(s)

_____
_____
_____
_____

☐ Other appropriate agency(s) of another State

_____
_____
_____
_____

☐ Courts and Law enforcement officials.

1902(a)(60) of the Act

(g) The Medicaid agency assures that the State has in effect the laws relating to medical child support under section 1908 of the Act.

1960 of the Act

(h) The Medicaid agency specific the guidelines used in determining the cost effectiveness of an employer-based group health plan by selecting one of the following.

☐ The Secretary's method as provided in the State Medicaid manual.

☐ The State provided methods for determining cost effectives on Attachment 4.22-C.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR Part 434.4
48 FR 54013

4.23 Use of Contact

The Medicaid agency has contracts of the type(s) listed in 42 CFR Part 434. All contracts meet the requirements of 42 CFR Part 434.

☒ Not Applicable. The State has no such Contracts.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation		
42 CFR 442.10 and 442.100 AT-78-90 AT-79-18 AT-80-25 AT-80-34 52 FR 32544 P.L. 100-203 (Sec. 4211) 54 FR 5316 56 FR 48826	4.24	STANDARDS for PAYMENTS for NURSING FACILITY and INTERMEDIATE CARE FACILITY for the MENTALLY RETARDED SERVICES With respect to nursing facilities and intermediate care facilities for the mentally retarded all applicable requirements of 42 CFR Pat 442, Subparts B & C are met. ☐ Not applicable to intermediate care facilities for the mentally retarded: such services are not provided under this plan.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 431.702
AT-78-90

4.25 Program for Licensing Administrators of Nursing Homes

The State has a program that, except with respect to Christian Science sanatoria, meets the requirements of 42 CFR Part 431, Subpart N, for the licensing of nursing home administrators.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1927(g)
42 CFR 456.700

4.26 Drug Utilization Review Program

A. 1. The Medicaid agency meets the requirements of Section 1927(g) of the Act for a drug use review (DUR) program for outpatient drug claims.

1927(g)(1)(A)

2. The DUR program assures that prescriptions for outpatient drugs are:

- Appropriate
- Medically necessary
- Are not likely to result in adverse medical results

1927(g)(1)(a)
42 CFR 456.705 (b) and
456.709(b)

B. The DUR program is designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse , or inappropriate or medically unnecessary care among physicians, pharmacists, and patients or associated with specific drugs as well as:

- Potential and actual adverse drug reactions
- Therapeutic appropriateness
- Overutilization and underutilization
- Appropriate use of generic products
- Therapeutic duplication
- Drug disease contraindications
- Drug-drug interactions
- Incorrect drug dosage or duration of drug treatment
- Drug-allergy interactions
- Clinical abuse/misuse

1927(g)(1)(B) 42 CFR
456.703 (d)and (f)

C. The DUR program shall assess data use against predetermined standards whose source materials for their development are consistent with peer-reviewed medical literature which has been critically reviewed by unbiased independent experts and the following compendia:

-American Hospital Formulary Service Drug Information
-United States Pharmacopeia-Drug Information
-American Medical Association Drug Evaluations

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1927(g)(1)(D)
42 CFR 456.703(b)

D. DUR is not required for drugs dispensed to residents of nursing facilities that are in compliance with drug regimen review procedures set forth in 42 CFR 483.60. The State has never-the-less chosen to include nursing home drugs in:

☒ Prospective DUR

☒ Retrospective DUR.

1927(g)(2)(A)
42 CFR 456.705(b)

E. 1. The DUR program includes prospective review of drug therapy at the point of sale or point of distribution before each prescription is filled or delivered to the Medicaid recipient .

1927(g)(2)(A)(i)
42 CFR 456.705 (b), (1)-(7))

2. Prospective DUR includes screening each prescription filled or delivered to an individual receiving benefits for potential drug therapy problems due to:

- Therapeutic duplication
- Drug-disease contraindications
- Drug-drug interactions
- Drug-interactions with non-prescription or over-the-counter drugs
- Incorrect drug dosage or duration of drug treatment
- Drug allergy interactions
- Clinical abuse/misuse

1927(g)(2)(A) (ii)
42 CFR 456.705 (c) and (d)

3. Prospective DUR includes counseling for Medicaid recipients based on standards established by State law and maintenance of patient profiles.

1927(g)(2)(B)
42 CFR 456.709 (a)

F. 1. The DUR program includes retrospective DUR through its mechanized drug claims processing and information retrieval system or otherwise which undertakes ongoing periodic examination of claims data and other records to identify:

- Patterns of fraud and abuse
- Gross overuse
- Inappropriate or medically unnecessary care among physicians, pharmacists, Medicaid recipients, or associated with specific drugs or groups of drugs .

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

927(g)(2)(C)
42 CFR 456.709 (b)

F2. The DUR program assesses data on drug use against explicit predetermined standards including but not limited to monitoring for:

- Therapeutic appropriateness
- overutilization and underutilization
- Appropriate use of generic products
- Therapeutic duplication
- Drug-disease contraindications
- Drug-drug interactions
- Incorrect drug dosage/duration of drug treatment
- Clinical abuse/misuse

1927(g)(2)(D)
42 CFR 456.711

3. The DUR program through its State DUR Board, using data provided by the Board, provides for active and ongoing educational outreach programs to educate practitioners on common drug therapy problems to improve prescribing and dispensing practices.

1927(g)(3)(A)
42 CFR 456.716(a)

G.1. The DUR program has established a state DUR Board either:

☒ Directly, or
☐ Under contract with a private organization

1927(g)(3)(B)
42 CFR 456.716
(A) and (B)

2. The DUR Board membership includes health professionals (one-third licensed actively practicing pharmacists and one"', third but no more than 51 percent licensed and actively practicing physicians) with knowledge and experience in one or more of the following:

- Clinically appropriate prescribing of covered outpatient drugs.
- Clinically appropriate dispensing and monitoring of covered outpatient drugs .
- Drug use review, evaluation and intervention.
- Medical quality assurance.

927(g)(3)(c)
42 CFR 456.716 (d)

3. The activities of the DUR Board include:

- Retrospective DUR,
- Application of Standards as defined in section 1927(g)(2)(C), and
- Ongoing interventions for physicians and pharmacists targeted toward therapy problems or individuals identified in the course of retrospective DUR.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1927(g)(3)(C)
42 CFR 456.711
(a)-(d)

G.4. The interventions include in appropriate instances:

- Information dissemination
- Written , oral, and electronic reminders
- Face-to-Face discussions
- Intensified monitoring/review of prescribers/dispensers

1927(g)(3)(D)
CFR 456.712
(A) and (B)

H. The State assures that it will prepare and submit an annual report to the Secretary, which incorporates a report from the State DUR Board, and that the State will adhere to plans, steps, procedures as described in the report.

1927 (h)(1)
42 CFR 456.722

☒ I.1. The State establishes, as its principal means of processing claims for covered outpatient drugs under this title, a point-of-sale electronic claims management system to perform on-line:

- real time eligibility verification
- claims data capture
- adjudication of claims
- assistance to pharmacists, etc. applying for and receiving payment.

1927(g)(2)(A)(i)
42 CFR 456.705(b)

☒ 2. Prospective DUR is performed using an electronic point-of-sale drug claims processing system.

1927 (j)(2)

J. Hospitals which dispense covered outpatient drugs are exempted from the drug utilization review requirements of this section when facilities use drug formulary systems and bill the Medicaid program no more than the hospital's purchasing cost for such covered outpatient drugs.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 431.115 (c)
AT-78-90
AT-79-74

4.27 Disclosure of Survey Information and Provider or Contractor Evaluation

The Medicaid agency has established procedures for disclosing pertinent findings obtained from surveys and provider and contractor evaluations that meet all the requirements in 42 CFR 431.115.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	
42 CFR 431.152; AT-79-18 52 FR 22444; Secs. 1902(a)(28)(D)(i) and 1919 (e)(7) of the Act; P.L. 100-203 (Sec. 4211(c)).	4.28 Appeals Process (a) The Medicaid agency has established appeals procedures for NFs as specified in 42 CFR 431.153 and 431.154 . (b) The State provides an appeals system that meets the requirements of 42 CFR 431 Subpart E, 42 CFR 483.12, and 42 CFR 483 subpart E for residents who wish to appeal a notice of intent to transfer or discharge from a NF and for individuals adversely affected by the preadmission and annual resident review requirements of 42 CFR 483 Subpart C.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

Sec. 1902(a)
(4) (C) of the Act
P.L. 95-559,
sec. 14
AT-79-42

4.29 Conflict of Interest Provisions

The Medicaid agency meets the requirements of Section 1902(a)(4)(C) of the Act concerning the prohibition against acts, with respect to any activity under the plan, that are prohibited by Section 207 or 208 of title 18, United States Code.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 1002.203
AT-79-54
48 FR 3742
51 FR 34772

4.30 Exclusion of Providers and Suspension of Practitioners and Other Individuals

(a) All requirements of 42 CFR Part 1002, Subpart B are met.

☐ The agency, under the authority of State law, imposes broader sanctions .

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(p) of the Act
P.L. 100-93 (secs. 7)

(b) The Medicaid agency meets the requirements of-

(1) Section 1902(p) of the Act by excluding from participation-

(A) At the State's discretion, any individual or entity for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII in accordance with sections 1128, 1128A, or 1866(b)(2).

(B) Any HMO (as defined in section 1903(m) of the Act) or an entity furnishing services under a waiver approved under section 1915(b)(1) of the Act, that-

(i) Could be excluded under section 1128(b)(8)relating to owners and managing employees who have been convicted of certain crimes or received other sanctions, or

(ii) Has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B) of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(39) of the Act
P.L. 100-93
(sec. 8(f))

(2) Section 1902(a)(39) of the Act by--

(A) Excluding an individual or entity from participation for the period specified by the Secretary, when required by the Secretary to do so in accordance with sections 1128 or 1128A of the Act; and

(B) Providing that no payment will be made with respect to any item or service furnished by an individual or entity during this period.

(c) The Medicaid agency meets the requirements of--

1902(a)(41)
of the Act
P.L. 96-272,
(sec. 308(c))

(1) Section 1902(a)(41) of the Act with respect to prompt notification to HCFA whenever a provider is terminated, suspended, sanctioned, or otherwise excluded from participating under this State plan; and

1902(a)(49) of the Act
P.L. 100-93
(sec. 5(a)(4))

(2) Section 1902(a)(49) of the Act with respect to providing information and access to information regarding sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1921 of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

455.103
44 FR 41644
1902(a)(38)
of the Act
PL 100-93
(sec. 8(f)}

4.31 Disclosure of Information by Providers and Fiscal Agents

The Medicaid agency has established procedures for the disclosure of information by providers and fiscal agents as specified in 42 CFR 455.104 through 455.106 and sections 1128(b)(9) and 1902(a)(38) of the Act.

Section 1137
Of the Act 435.940
through 435.960

4.32 Income and Eligibility Verification System

(a) The Medicaid agency has established a system for income and eligibility verification in accordance with the requirements of Section 1137 of the Act and 42 CFR 435.940 through 435.960.

(b) ATTACHMENT 4.32-A describes, in accordance with 42 CFR 435.948(a)(6), the information that will be requested in order to verify eligibility or the correct payment amount and the agencies and the State(s) from which that information will be requested.

(c) The State has an eligibility determination system that provides for data matching through the Public Assistance Reporting Information System (PARIS), or any successor system, including matching with medical assistance programs operated by other States. The information that is requested will be exchanged with States and other entities legally entitled to verify title XIX applicants and individuals eligible for covered title XIX services consistent with applicable PARIS agreements.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(48)
of the Act,
P.L. 99-570

(Section 11005)
P.L 100-93
(sec. 5(a)(3))

4.33 Medicaid Eligibility Cards for Homeless Individuals

(a) The Medicaid agency has a method for making cards evidencing eligibility for medical assistance available to an individual eligible under the State's approved plan who does not reside in a permanent dwelling or does not have a fixed home or mailing address.

(b) ATTACHMENT 4.33 A specifies the method for issuance of Medicaid eligibility cards to homeless individuals.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1137 of the Act

P.L. 99-603
(sec. 121)

4.34 Systematic Alien Verification for Entitlements

The State Medicaid agency has established procedures for the verification of alien status through the Immigration & Naturalization Service (INS) designated system, Systematic Alien Verification for Entitlements (SAVE), effective October 1, 1988.

☒ The State Medicaid agency has elected to participate in the option period of October 1, 1987 to September 30, 1988 to verify alien status through the INS designated system (SAVE).

☐ The State Medicaid agency has received the following type(s) of waiver from participation in SAVE.

☐ Total waiver

☐ Alternative system

☐ Partial implementation

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.35 Enforcement of Compliance for Nursing Facilities

42 CFR §488.402(f)

(a) Notification of Enforcement Remedies

When taking an enforcement action against a non-state operated NF, the State provides notification in accordance with 42 CFR 488.402(f).

(i) The notice (except for civil money penalties and State monitoring) specifies the:

(1) nature of noncompliance,
(2) which remedy imposed,
(3) effective date of the remedy, and
(4) right to appeal the determination leading to the remedy.

42 CFR §488.434

(ii) The notice for civil money penalties is in writing and contains the information specified in 42 CFR 488.434.

42 CFR §488.402(f)(2)

(iii) Except for civil money penalties and State monitoring, notice in a given at least 2 calendar days before the effective date of the enforcement remedy for immediate jeopardy situations and at least 15 calendar days before the effective date of the enforcement remedy when immediate jeopardy does not exist.

42 CFR §488.456(c)(d)

(iv) Notification of termination is given to the facility and to the public at least 2 calendar days before the remedy's effective date if the noncompliance constitutes immediate jeopardy and at least 15 calendar days before the remedy's effective date if the noncompliance does not constitute immediate jeopardy. The State must terminate the provider agreement of an NF in accordance with procedures in parts 431 and 442.

(b) Factors to be Considered in Selecting Remedies

42 CFR §488.488.404(b)(1)

(i) In determining the seriousness of deficiencies, the State considers the factors specified in 42 CFR 488.404 (b)(1) & (2).

☐ The State considers additional factors . Attachment 4.35-A describes the State 's other factors.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR

c) Application of Remedies

§488.410

(i) If there is immediate jeopardy to resident health or safety, the State terminates the NF 's provider agreement within 23 calendar days from the date of the last survey or immediately imposes temporary management to remove the threat within 23 days.

42 CFR §488.417 (b)
§1919(h)(2)(C)
of the Act.

(ii) The State imposes the denial of payment (or its approved alternative) with respect to any individual admitted to an NF that has not come into substantial compliance within 3 months after the last day of the survey.

42 CFR §488.414
S1919(h)(2)(D) of the Act.

(iii) The State imposes the denial of payment for new admissions remedy as specified in §488.417 (or its approved alternative) and a State monitor as specified at §488.422, when a facility has been found to have provided substandard quality of care on the last three consecutive standard surveys.

42 CFR §488.408
1919(h)(2)(A) of the Act.

(iv) The State follows the criteria specified at 42 CFR §488.408(c)(2), §488.408(d)(2), and §488.408(e)(2), when it imposes remedies in place of or in addition to termination.

42 CFR §488.412 (a)

(v) When immediate jeopardy does not exist, the State terminates an NF's provider agreement no later than 6 months from the finding of noncompliance, if the conditions of 42 CFR 488.412(a) are not met;

(d) Available Remedies

42 CFR S488.406(b)
S1919(h)(2)(A) of the Act

(i) The State has established the remedies defined in 42 CFR 488.406(b).

- ☒ (1) Termination
- ☒ (2) Temporary Management
- ☒ (3) Denial of Payment for New Admissions
- ☒ (4) Civil Money Penalties
- ☒ (5) Transfer of Residents; Transfer of Residents with Closure of Facility
- ☒ (6) State Monitoring

Attachments 4.35-B through 4.35-G describe the criteria for applying the above remedies.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR
§488.406(b)
§1919(h)(2)(B)(ii)
of the Act.

(ii) ☐ The State uses alternative remedies. The State has established alternative remedies that the State will impose in place of a remedy specified in 42 CFR 488.406(b).

☐ (1) Temporary Management

☐ (2) Denial of Payment for New Admissions

☐ (3) Civil Money Penalties

☐ (4) Transfer of Residents; Transfer of Residents with Closure of Facility

☐ (5) State Monitoring.

Attachments 4.35-B through 4.35-G describe the alternative remedies and the criteria for applying them.

42 CFR
§488.303(b) 1910 (h)(2)(F)
of the Act.

(e) ☐ State Incentive Programs

☐ (1) Public Recognition

☐ (2) Incentive Payments

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.36 Reimbursement for Prescription Drugs

Section 1927 of the Act

The State Medicaid agency meets all reporting and provision of information requirements as specified in Section 1927(b)(2).

The unit rebate amount is confidential and is not disclosed for purposes other than rebate invoicing and verification.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(11)(C) and 1902 (a)(53) of the Act

4.36 Required Coordination Between the Medicaid and WIC Programs

The Medicaid agency provides for the coordination between the Medicaid program and the Special Supplemental Food Program for Women, Infants, and Children (WIC) and provides timely notice and referral to WIC in accordance with section 1902 (a)(53) of the Act

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 483,75: 42 CFR 483 Subpart D; Secs. 1902(a)(28), 1919(e)(1) and (2), and 1919(f)(2), P.L. 100-203 (Sec. 4211(a)(3)) P.L. 101-239 (Secs. 6901(b)(3) and (4)); P.L. 101-508 (Sec. 4801(a)).

4.38 Nurse Aide Training and Competency Evaluation for Nursing Facilities

(a) The State assures that the requirements of 42 CFR 483,150(a), which relate to individuals deemed to meet the nurse aide training and competency evaluation requirements, are met.

☐ (b) The State waives the competency evaluation requirements for individuals who meet the requirements of 42 CFR 483.150(b)(1).

☐ (c) The State deems individuals who meet the requirements of 42 CFR 483,150(b)(2)to have met the nurse aide training and competency evaluation requirements.

(d) The state specifies any nurse aide training and competency evaluation programs it approves as meeting the requirements of 42 CFR 483.152 and competency evaluation programs it approves as meeting the requirements of 42 CFR 483.154.

☐ (e) The state offers a nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152.

☐ (f) The state offers a nurse aide competency evaluation program that meets the requirements of 42 CFR 483.154.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 483.751;
42 CPF 483 Subpart D;
Secs. 1902(a)(28),
1919(e)(1) and (2),
and 1919(f)(2),
P.L. 100-203 (Sec.
4211(a)(3)); P.L.
101-239 (Secs.
6901 (b)(3) and
(4)); P.L. 101-508
Sec.4801(a)).

(g) If the State does not choose to offer a nurse aide training and competency evaluation program or nurse aide competency evaluation program, the State reviews all nurse aide training and competency evaluation programs and competency evaluation programs upon request.

(h) The State survey agency determines, during the course of all surveys, whether the requirements of 483.75(e) are met.

(i) Before approving a nurse aide training and competency evaluation program, the State determines whether the requirements of 42 CFR 483.152 are met.

(j) Before approving a nurse aide competency evaluation program, the State determines whether the requirements of 42 CFR 483.154 are met.

(k) For program reviews other than the initial review, the State visits the entity providing the program.

(1) The State does not approve a nurse aide training and competency evaluation program or competency evaluation program offered by or in certain facilities as described in 42 CFR 483.151(b)(2) and (3).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 483.75; 42 CFR 483 Subpart D; Secs. 1902(a)(28), 1919(e)(1) and (2), and 1919(f)(2), P.L.100-203 (Sec. 4211 (a)(3)); P.L. 101-239 (Secs. 6901(b)(3) and (4)); P.L. 101-50 Sec. 4801 (a)).

(m) The State, within 90 days of receiving a request for approval of a nurse aide training and competency evaluation program or competency evaluation program, either advises the requester whether or not the program has been approved or requests additional information from the requester.

(n) The State does not grant approval of a nurse aide training and competency evaluation program for a period longer than 2 years

(o) The State reviews programs when notified of substantive changes (e.g., extensive curriculum modification).

(p) The State withdraws approval from nurse aide training and competency evaluation programs and competency evaluation programs when the program is described in 42 CFR 483.151(b)(2) or (3).

☒ (q) The State withdraws approval of nurse aide training and competency evaluation programs that cease to meet the requirements of 42 CFR 483.152 and competency evaluation programs that cease to meet the requirements of 42 CFR 483.154.

(r) The State withdraws approval of nurse aide training and competency evaluation programs and competency evaluation programs that do not permit unannounced visits by the State.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 483.75;
42 CFR 483 Subpart D;
Secs. 1902(a)(2),
1919(e)(1) and (21,
and 1919(f)(2),
P.L. 100-203 (Sec .
4211 (a)(3)); P.L.
101-239 (Secs.
6901(b)(3) and
(4)); P.L. 101-508
(Sec. 4801(a)).

(s) When the State withdraws approval from a nurse aide training and competency evaluation program or competency evaluation program, the State notifies the program in writing, indicating the reasons for withdrawal of approval.

(t) The State permits students who have started a training and competency evaluation program from which approval is withdrawn to finish the program.

(u) The State provides for the reimbursement of costs incurred in completing a nurse aide training and competency evaluation program or competency evaluation program for nurse aides who become employed by or who obtain an offer of employment from a facility within 12 months of completing such program.

(v) The State provides advance notice that a record of successful completion of competency evaluation will be included in the State 's nurse aide registry.

(w) competency evaluation programs are administered by the State or by a State-approved entity which is neither a skilled nursing facility participating in Medicare nor a nursing facility participating in Medicaid.

☒ (x) The State permits proctoring of the competency evaluation in accordance with 42 CFR 483.154(d).

(y) The State has a standard for successful completion of competency evaluation programs.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 483.75; 42 CFR 483 Subpart D; Secs. 1902(a)(28), 1919(e)(1) and (2), and 1919(f)(2), P.L. 100-203 (Sec. 4211 (a)(3)); P.L. 101-239 (Secs. 6901 (b)(3) and (4)); P.L. 101-508 (Sec. 4801(a)).

(z) The State includes a record of successful completion of a competency evaluation within 30 days of the date an individual is found competent .

☐ (aa) The State imposes a maximum upon the number of times an individual may take a competency evaluation program (any maximum imposed is not less than 3).

(bb) The state maintains a nurse aide registry that meets the requirements in 42 CFR 483.156.

☐ (cc) The State includes home health aides on the registry.

☒ (dd) The State contracts the operation of the registry to a non State entity.

☒ (ee) ATTACHMENT 4.38 contains the State's description of registry information to be disclosed in addition to that required in 42 CFR 483.156(c)(1)(iii) and (iv).

☒ (ff) ATTACHMENT 4.38-A contains the State's description of information included on the registry in addition to the information required by 42 CFR 483.156(c).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(28)(D)(i),
1919(e)(7), 1919(b)(3)(E)
of the Act;
P.L. 100-203
(Sec. 4211(c));
P.L. 101-508 (Sec. 4801(b))

4.39 Preadmission Screening and Annual Resident Review in Nursing Facilities

(a) The Medicaid agency has in effect a written agreement with the State mental health and mental retardation authorities that meet the requirements of 42 CFR 431.621(c).

(b) The State operates a preadmission and annual resident review program that meets the requirements of 42 CFR 483.100-138, and Section 1919(e)(7)(B)(iii) of the Act.

(c) The State identifies Nursing Facility (NF) applicants and residents who are known to, or have indications of possible, serious mental illness, intellectual disability or a related condition, and refers them to the State mental health or intellectual disability authorities for preadmission screening or resident review according to 42 CFR 483.128(a).

(d) The State does not claim as "medical assistance under the State Plan" the cost of services to individuals who should receive preadmission screening or annual resident review until such individuals are screened or reviewed.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

(e) With the exception of NF services furnished to certain long-term NF residents defined in 42 CFR 483.118(c)(1), the State does not claim as "medical assistance under the State plan" the cost of NF services to individuals who meet the State's medical necessity criteria for NF, but for whom NF is determined not to be a needed and appropriate setting according to 42 CFR 483.132. Determining appropriate placement considers community and other institutional options.

(f) The State defines minimum criteria, related to the resident assessment process for significant change in a residents physical or mental condition as required at 1919(b)(3)(E) of the Social Security Act, that require nursing facilities to promptly notify the State mental health or mental retardation authority that a resident review as required at section 1919(e)(7)(B)(iii) may be needed for residents with serious mental illness, intellectual disability or a related condition. The State mental health and intellectual disability authorities assess notifications from nursing facilities and upon determining that a resident review is needed, will promptly perform a PASRR Level II evaluation and determination.

(g) **ATTACHMENT 4.39 Page 1** specifies the State's definition of specialized services.

(h) The State applies any categorical determinations, as specified in **ATTACHMENT 4.39-A.**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.40 Survey & Certification Process

Sections 1919(g)(1) thru (2) and 1919(g)(4) thru (5) of the Act; P.L. 100-203 (Sec. 4212(a))

(a) The State assures that the requirements of 1919(g)(1)(A) through (C) and section 1919(g)(2)(A) through (E)(iii) of the Act which relate to the survey and certification of non-State owned facilities based on the requirements of section 1919(b), (c) and (d) of the Act are met.

1919(g)(1) (B) of the Act

(b) The State conducts periodic education programs for staff and residents (and their representatives). Attachment 4.40-A describes the survey and certification educational program.

1919(g)(1) (C)of the Act

(c) The State provides for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility or by another individual used by the facility. Attachment 4.40-B describes the State's process.

1919(g)(1) (C) of the Act

(d) The State agency responsible for surveys and certification of nursing facilities or an agency delegated by the State survey agency conducts the process for the receipt and timely review and investigation, of allegations of neglect and abuse and misappropriation of resident property. If not the State survey agency, what agency? **State Long-Term Care Ombudsman - Delaware Health and Social Services**

1919(g)(1) (C) of the Act

(e) The State assures that a nurse aide, found to have neglected or abused a resident or Act misappropriated resident property in a facility, is notified of the finding. The name and finding is placed on the nurse aide registry.**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.40 Survey & Certification Process

1919(g)(1)
(C) of the Act

(f) The State notifies the appropriate licensure authority of any licensed individual found to have neglected or abused a resident or misappropriated resident property in a facility. Allegations are investigated by the Delaware Attorney General's Office. Results are reported to the Delaware Board of Licensure and Discipline.

**The Delaware Attorney General's Office sends reports of all adjudicated Nurses Aides to the Delaware Office of Health Facilities Licensing and Certification (OHFLC) who notifies the Delaware Nurse Aide Registry.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	
1919(g)(2) (A)(i) of the Act	(g) The State has procedures, as provided for at section 1919(g)(2)(A)(i), for the scheduling and conduct of standard surveys to assure that the state has taken all reasonable steps to avoid giving notice through the scheduling procedures and the conduct of the surveys themselves. **Attachment 4.40-C** describes the State's procedures.
1919(g)(2) (A)(ii) of the Act	(h) The State assures that each facility shall have a standard survey which includes (for a case-mix stratified sample of residents) a survey of the quality of care furnished, as measured by indicators of medical, nursing and rehabilitative care, dietary and nutritional services, activities and social participation, and sanitation, infection control, and the physical environment, written plans of care and audit of resident's assessments, and a review of compliance with resident' s rights not later than 15 months after the date of the previous standard survey.
1919(g)(2)(A)(iii)(I) of the Act	(i) The State assures that the Statewide average interval between standard surveys of nursing facilities does not exceed 12 months .
1919(g)(2) (A) (iii)(II) of the Act	(j) The state may conduct a special standard or special abbreviated standard survey within 2 months of any change of ownership, administration, management, or director of nursing of the nursing facility to determine whether the change has resulted in any decline in the quality of care furnished in the facility.
1919(g)(2) (B)of the Act	(k) The State conducts extended surveys immediately or, if not practicable, not later than 2 weeks following a completed standard survey in a nursing facility which is found to have provided substandard care or in any other facility at the Secretary's or State's discretion.
1919(g)(2) (C)of the Act	(1) The State conducts standard and extended surveys based upon a protocol, i.e., survey forms, methods, procedures and guidelines developed by HCFA, using individuals in the survey team who meet minimum qualifications established by the Secretary.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation	
1919(g)(2) (D) of the Act	(m) The State provides for programs to measure and reduce inconsistency in the application of survey results among surveyors. **Attachment 4.40-D** describes the State's programs.
1919(g)(2) (E) (i) of the Act	(n) The State uses a multidisciplinary team of professionals including a registered professional nurse.
1919(g)(2) (E)(ii) of the Act	(o) The State assures that members of a survey team do not serve (or have not served within the previous two years) as a member of the staff or consultant to the nursing facility or has no personal or familial financial interest in the facility being surveyed.
1919(g)(2) (E) (iii) of the Act	(p) The State assures that no individual shall serve as a member of any survey team unless the individual has successfully completed a training and test program in survey and certification techniques approved by the Secretary.
1919(g)(4) of the Act	(q) The State maintains procedures and adequate staff to investigate complaints of violations of requirements by nursing facilities and onsite monitoring. **Attachment 4.40-B** describes the State's complaint procedures.
1919(g)(5) (A)of the Act	(r) The State makes available to the public information respecting surveys and certification of nursing facilities including statements of deficiencies, plans of correction, copies of cost reports, statements of ownership and the information disclosed under section 1126 of the Act.·
1919(g)(5) (B) of the Act	(s) The State notifies the State long-term care ombudsman of the State's finding of non- compliance with any of the requirements of subsection (b), (c), and (d) or of any adverse actions taken against a nursing facility.
1919(g)(5) (C) of the Act	(t) If the State finds substandard quality of care in a facility, the State notifies the attending physician of each resident with respect to which such finding is made and the nursing facility administrator licensing board.
1919(g)(5) (D) of the Act	(u) The State provides the State Medicaid fraud and abuse agency access to all information concerning survey and certification actions

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(68) of the Act,
P.L. 109-171 (section 6032)

4.42 Employee Education About False Claims Recoveries.

(a) The Medicaid agency meets the requirements regarding establishment of policies and procedures for the education of employees of entities covered by section 1902(a)(68) of the Social Security Act (the Act) regarding false claims recoveries and methodologies for oversight of entities' compliance with these requirements.

(1) Definitions.

(A) An "entity" includes a governmental agency, organization, unit, corporation, partnership, or other business arrangement (including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists), whether for-profit or not-for-profit, which receives or makes payments, under a State Plan approved under title XIX or under any waiver of such plan, totaling at least $5,000,000 annually.

If an entity furnishes items or services at more than a single location or under more than one contractual or other payment arrangement, the provisions of section 1902(a)(68) apply if the aggregate payments to that entity meet the $5,000,000 annual threshold. This applies whether the entity submits claims for payments using one or more provider identification or tax identification numbers.

A governmental component providing Medicaid health care items or services for which Medicaid payments are made would qualify as an "entity" (e.g., a state mental

health facility or school district providing school-based health services). A government agency which merely administers the Medicaid program, in whole or part (e.g., managing the claims processing system or determining beneficiary eligibility), is not, for these purposes, considered to be an entity.

An entity will have met the $5,000,000 annual threshold as of January 1, 2007, if it received or made payments in that amount in Federal fiscal year 2006. Future determinations regarding an entity's responsibility stemming from the requirements of section 1902(a)(68) will be made by January 1 of each subsequent year, based upon the amount of payments an entity either received or made under the State Plan during the preceding Federal fiscal year.

(B) An "employee" includes any officer or employee of the entity.

(C) A "contractor" or "agent" includes any contractor, subcontractor, agent, other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, Medicaid health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by the entity.

(2) The entity must establish and disseminate written policies which must also be adopted by its contractors or agents. Written policies may be on paper or in electronic form, but must be readily available to all employees, contractors, or agents. The entity need not create an employee handbook if none already exists.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

(3) An entity shall establish written policies for all employees (including management), and of any contractor or agent of the entity, that include detailed information about the False Claims Act and the other provisions named in section 1902(a)(68)(A). The entity shall include in those written policies detailed information about the entity's policies and procedures for detecting and preventing waste, fraud, and abuse. The entity shall also include in any employee handbook a specific discussion of the laws described in the written policies, the rights of employees to be protected as whistleblowers and a specific discussion of the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.

(4) The requirements of this law should be incorporated into each State's provider enrollment agreements.

(5) The State will implement this State Plan amendment on **January 1, 2007.**

(b) ATTACHMENT 4.42-A describes, in accordance with section 1902(a)(68) of the Act, the methodology of compliance oversight and the frequency with which the State will re-assess compliance on an ongoing basis.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(69)
of the Act,
P.L. 109-171
(Section 6034)

4.43 Cooperation with Medicaid Integrity Program Efforts

The Medicaid agency assures it complies with such requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936 of the Act.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

Section 1902(a)(80) of the Social Security Act, P.L. 111-148 (Section 6505)

4.44 Medicaid Prohibition on Payments to Institutions or Entities Located Outside of the United States

☒ The State shall not provide any payments for items or services provided under the State plan or under a waiver to any financial Institution or entity located outside the United States.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

1902(a)(77)
1902(a)(39) of
of the Act adds 1902(kk);
P.L. 111-148 and
P.L. 111-152

4.46 Provider Screening and Enrollment

The State Medicaid agency gives the following assurances:

42 CFR 455
Subpart E

PROVIDER SCREENING

☒ Assures that the State Medicaid agency complies with the process for screening providers under section 1902(a)(39), 1902(a)(77) and 1902(kk) of the Act.

42 CFR 455.410

ENROLLMENT AND SCREENING OF PROVIDERS

☒ Assures enrolled providers will be screened in accordance with 42 CFR 455.400 et seq.

☒ Assures that the State Medicaid agency requires all ordering or referring physicians or other professionals, who are not enrolled in Medicare, to be enrolled under the State plan or under a waiver of the Plan as participating providers.

42 CFR 455.412

VERIFICATION OF PROVIDER LICENSES

☒ Assures that the State Medicaid agency has a method for verifying providers licensed by a State and that such providers' licenses have not expired or have no current limitations at the time of enrollment or recertification.

42 CFR 455.414

REVALIDATION OF ENROLLMENT

☒ Assures that providers will be revalidated regardless of provider type at least every 5 years.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.46 Provider Screening and Enrollment Continued

42 CFR 455.416

TERMINATION OR DENIAL OF ENROLLMENT

☒ Assures that the State Medicaid agency will comply with 1902(a)(39) of the Act and with the requirements outlined in 42 CFR 455.416 for all terminations or denials of provider enrollment.

42 CFR 455.420

REACTIVATION OF PROVIDER ENROLLMENT

☒ Assures that any reactivation of a provider will include re-screening and payment of application fees as required by 42 CFR 455.460.

42 CFR 455.422

APPEAL RIGHTS

☒ Assures that all terminated providers and providers denied enrollment as a result of the requirements of 42 CFR 455.416 will have appeal rights available under procedures established by State Law or regulation.

42 CFR 455.432

SITE VISITS

☒ Assures that pre-enrollment and post enrollment site visits of providers who are in "moderate" or "high risk" categories will occur.

42 CFR 455.434

CRIMINAL BACKGROUND CHECKS

☒ Assures that providers as a condition of enrollment will be required to consent to criminal background checks including fingerprints if required to do so under State law or by the level of screening based on risk of fraud, waste or abuse for that category of provider.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

4.46 Provider Screening and Enrollment Continued

FEDERAL DATABASE CHECKS

42 CFR 455.436

☒ Assures that the State Medicaid agency will perform Federal database checks on all providers or any person with an ownership or controlling interest or who is an agent or managing employee of the provider.

NATIONAL PROVIDER IDENTIFIER

42 CFR 455.440

☒ Assures that the State Medicaid agency requires the National Provider Identifier of any ordering or referring physician or other professional to be specified on any claim for payment that is based on an order or referral of the physician or other professional.

SCREENING LEVELS FOR MEDICAID PROVIDERS

42 CFR 455.450

☒ Assures that the State Medicaid agency complies with 1902(a)(77) and 1902(kk) of the Act and with the requirements outlined in 42 CFR 455.450 for screening levels based upon the categorical risk level determined for a provider.

APPLICATION FEE

42 CFR 455.460

☒ Assures that the State Medicaid agency complies with the requirements for collection of the application fee set forth in section 1866 (j)(2)(C) of the Act and 42 CFR 455.460.

TEMPORARY MORATORIUM ON ENROLMENT OF NEW PROVIDERS OR SUPPLIERS

42 CFR 455.470

☒ Assures that the State Medicaid agency complies with any temporary moratorium on the enrollment of new providers or provider types imposed by the Secretary under section 1866(j)(7) and 1902(kk)(4) of the Act, subject to any determination by the State and written notice to the Secretary that such a temporary moratorium would not adversely impact beneficiaries' access to medical assistance.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 432. 10 (a)
AT-78-90
AT-79-23
AT-80-34

5.1 Standards of Personnel Administration

(a) The Medicaid agency has established and will maintain methods of personnel administration in conformity with standards prescribed by the U.S. Civil Service Commission in accordance with Section 208 of the Intergovernmental Personnel Act of 1970 and the regulations on Administration of the Standards for a Merit System of Personnel Administration, 5 CFR Part 900, Subpart F. All requirements of 42 CFR 432.10 are met.

☐ The plan is locally administered and State-supervised. The requirements of 42 CFR 432.10 with respect to local agency administration are met.

(b) Affirmative Action Plan
The Medicaid agency has in effect an affirmative action plan for equal employment opportunity that includes specific action steps and timetables and meets all other requirements of 5 CFR Part 900, Subpart F.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

5.2 [Reserved]

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR Part 432,
Subpart B
AT-78-90

5.3 Training Programs; Subprofessional and Volunteer Program

The Medicaid agency meets the requirements of 42 CFR Part 432, Subpart B, with respect to a training program for agency personnel and the training and use of subprofessional staff and volunteers.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433.32
AT-79-29

6.1 Fiscal Policies and Accountability

The Medicaid agency and, where applicable, local agencies administering the plan, maintains an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. The requirements of 42 CFR 433.32 are met.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433. 34
47 FR 17490

G.2 Cost Allocation

There is an approved cost allocation plan on file with the Department in accordance with the requirements contained in 45 CFR Part 95, Subpart E.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 433.33
AT-79-29
AT-80-34

6.3 State Financial Participation

(a) State funds are used in both assistance and administration.

☒ State funds are used to pay all of the non-Federal share of total expenditures under the plan.

☐ There is local participation. State funds are used to pay not less than 40 percent of the non-Federal share of the total expenditures under the plan. There is a method of apportioning Federal and State funds among the political subdivisions of the State on an equalization or other basis which assures that lack of adequate funds from local sources will not result in lowering the amount, duration, scope or quality of care and services or level of administration under the plan in any part of the State.

(b) State and Federal funds are apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 430.12 (c)

7.1 Plan Amendments

The plan will be amended whenever necessary to reflect new or revised Federal statues or regulations or material change in State law, organization, policy or State agency operation.

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Citation

45 CFR Parts
80 and 84

7.2 Nondiscrimination

In accordance with title VI of the Civil Rights Act of 1964 (42 U.S.C, 2000d et. seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 70b), and the regulations at 45 CFR Parts 80 and 84, the Medicaid agency assures that no individual shall be subject to discrimination under this plan on the grounds of race, color, national origin, or handicap.

The Medicaid agency has methods of administration to assure that each program or activity for which it receives Federal financial assistance will be operated in accordance with title VI regulations. These methods for title VI are described in ATTACHMENT 7.2-A.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

7.3 Maintenance of AFDC Efforts

1902(c) of the Act

☒ The state agency has in effect under its approved AFDC plan payment levels that are equal to or more than the AFDC payment levels in effect on May 1, 1988.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

Citation

42 CFR 430.12 (b)

7.4 State Governor's Review

The Medicaid agency will provide opportunity for the Office of the Governor to review State plan amendments, long-range program planning projections, and other periodic reports thereon, excluding periodic statistical, budget and fiscal reports. Any comments made will be transmitted to the Health care Financing Administration with such documents.

☐ Not applicable. The Governor—

☐ Does not wish to review any plan material.

☐ Wishes to review only the plan materials specified in the enclosed document.

I hereby certify that I am authorized to submit this plan on behalf of

the Department of Health and Social Services
(Designated Single State Agency)

Date: 10/23/91

(Signature)

Thomas P. Eichler
Secretary, Dept. of Health & Social Services
(Title)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

ATTORNEY GENERAL'S CERTIFICATION

I certify that:

The Department of Health and Social Services is the single state agency responsible for:

☒ administering the plan.

The legal authority under which the agency administers the plan on a Statewide basis is

31 Del. C. §§ 109, 111 and 112 and chapter 5

(statutory citation)

☐ Supervising the administration of the plan by local political subdivisions.

The legal authority under which the agency supervises the administration of the plan a Statewide basis is contained in

(statutory citation)

The agency's legal authority to make rules and regulations that are binding on the political subdivisions administering the plan is

(statutory citation)

August 28, 1979
Date

Signature

Attorney General
Title

Tr.....August 31, 1979	Approval Date September 7, 1979
Incorp. December 10, 1979	Effective Date August 28, 1979