



DISABILITIES LAW PROGRAM

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MEMORANDUM

To: SCPD Policy & Law Committee

From: Brian J. Hartman

Re: Recent Regulatory Initiatives

Date: December 4, 2017

Consistent with Council requests, I am providing an analysis of four (4) proposed regulations appearing in the December, 2017 issue of the Register of Regulations. Given time constraints, the analyses should be considered preliminary and non-exhaustive.

1. DMMA Prop. Medicaid LTC Limit on Medical Cost Submission [21 DE Reg. 475 (12/1/17)]

The Division of Medicaid & Medical Assistance (DMMA) proposes to adopt a new long-term care Medicaid regulation.

As background, federal regulations authorize states to deduct certain expenses from the countable income of an institutionalized individual. For example, states may deduct medical expenses incurred in a period preceding Medicaid LTC eligibility not to exceed 6 months. See attached 42 CFR 435.725(a)(f). The current Delaware DMMA regulation currently authorizes a deduction for medical expenses incurred within 3 months of the beginning date of Medicaid eligibility. See 16 DE Admin Code 20620.2.3 (reproduced at 21 DE Reg 476-477).

The Division is now proposing to limit the time period for submission of proof of medical costs to “within one (1) year of the date(s) of coverage”. At 471.

I have the following observations.

While a 1 year time frame may appear reasonable on its face, it does not account for delays attributable to some common issues. For example, determination of a “final” medical cost may be delayed by several factors:

I. Processing of Insurance Claims

First, if the individual has multiple forms of insurance (e.g. Medicare; Medicaid; private insurance), sequential claims may have to be submitted and processed based on the order of financial responsibility. This process can easily take several months to complete for even “clean” claims. Second, a medical provider may not issue a bill in timely fashion which delays the processing of insurer claims and identification of the individual’s final financial responsibility. Third, if the individual has invoked internal and/or external appeals of insurer denials, that process could easily take several months to resolve. Consider the following timetables for health insurer determinations covered by the Delaware Department of Insurance: 1) the health insurer can delay issuing a claim decision by requesting more information (18 DE Admin Code 1310.6.0; 2) once a patient eventually receives the “final” insurer decision, the patient can request mediation or, within 4 months of the final insurer decision, request IHCAP review which takes another 45 days (18 DE Admin Code 1301.4.0, 5.1, and 5.7); and 3) in lieu of IHCAP review, the patient can opt for arbitration with the Insurance Department within 60 days of an insurer’s final decision and, subject to continuances, expect a decision within 45 days (18 DE Admin Code 1315.3.1 and 13.15.6.1).

II. Beneficiary Capacity

Second, the institutionalized Medicaid LTC patient will often have compromised health and cognitive capacity resulting in delayed processing of medical cost determinations and submission of such information to DMMA.

The bottom line is that a “no-exceptions” 1-year time period may result in injustice. DMMA could consider alternative revisions to mitigate the potential for an unjust result:

A. The following sentence could be added to proposed §20620.2.3.1: “This limitation may be extended for good cause (e.g. significant delay in final cost determination due to insurer processing or appeals).”

OR

B. DMMA could adopt a longer submission period. For example, the Division could substitute “18 months” for “one (1) year” in the regulation.

The Councils may wish to share the above observations with the Division.

2. DSS Prop. Drug Conviction Bar on TANF Eligibility Reg. [21 DE Reg. 477 (12/1/17)]

The Division of Social Services (DSS) proposes to amend its eligibility standards for the Temporary Assistance for Needy Families (TANF) program.

As background, the attached H.B. No. 11 was enacted in 2017 with an effective date of July 28, 2017. The legislation repealed a lifetime statutory ban on TANF eligibility for individuals with a felony drug conviction. The synopsis to the bill provides the rationale for the initiative. The SCPD and GACEC had endorsed the legislation and included a supporting Delaware News Journal editorial in their commentary. See attached March 20, 2017 SCPD memorandum.

The proposed regulation implements H.B. No. 11 by striking the DSS regulation which imposed the drug conviction eligibility ban. It is essentially a “housekeeping” measure to conform to the bill. The only identified regulatory feature of interest is the difference between the attached H.B. No. 11 fiscal note (projecting \$33,810 10-month State funds impact in SFY18) and the regulation’s fiscal impact of \$312,012 12-month State funds impact in FFY18). The difference is significant and it’s possible the \$312,012 figure is inaccurate.

Given their strong support of repeal of the statutory drug conviction ban on TANF eligibility, the Councils may wish to consider an endorsement. The Councils may also wish to suggest that DSS review the “fiscal impact” section given its divergence from the fiscal note in H.B. No. 11.

3. DOE Proposed State Content Standards Regulation [21 DE Reg. 468 (12/1/17)]

The Department of Education (DOE) proposes to adopt a few discrete revisions to its content standards regulation.

As background, many states offer financial literacy courses in their public school systems. In 2014, seventeen (17) states required enrollment in a high school financial literacy course prior to graduation. See attached A. Hill and M. Suiter, “Teaching About Personal Finance: The National Standards for Financial Literacy” (Federal Reserve Bank of Philadelphia September, 2014) at 2. Model national curricular standards were published in 2013 which cover the following topics: 1) earning income; 2) buying goods and services; 3) saving; 4) using credit; 5) financial investing; and 6) protecting and insuring. Id. at 3-4. In 2016, the Delaware Legislature enacted legislation (HJR No. 4) which established a financial literacy education task force. The task force resulted in a commitment to establish financial literacy standards for Delaware’s public schools. See attached S. Rosen and S. Gibson, “Financial Literacy Education: State of Delaware creating its first-ever K-12 financial literacy standards” (UDaily December 20, 2016) at 2.

Consistent with this initiative, the proposed regulation adds “financial literacy content standards” to the list of public school instructional programs which must be aligned to State content standards. At 470. The regulation contemplates “adoption” of the standards effective with the 2018-19 school year. Id. However, the actual time line for implementation is unclear. The regulation is somewhat cryptic in the context of the timetable for implementation:

1.1.1.3. Effective with the 2018-19 school year, the Financial Literacy Content Standards shall be adopted. For purposes of this subsection, “adopted” means to accept a set of standards as the basis for curriculum across the state according to a timeline established and disseminated by the Department of Education.

The above U. of D. article indicates that “(f)ull implementation is targeted for the 2020-21 school year.” At 2.

Apart from “financial literacy”, the proposed regulation also adds “computer science” to the list of content standards with an similarly obtuse time line. At 470.

The Councils may wish to consider an endorsement of the regulation given the importance of financial and computer competency in everyday life. However, the Councils could also suggest that the DOE adopt a clearer time line for the effective date.

Copies of comments could be shared with the DOE, SBE, and the legislative members of the task force, Rep. Ruth Briggs King and Rep. Paul Baumbach.

4. DHIN Prop. Health Care Claims Database Data Access Reg. [21 DE Reg. 463 (12/1/17)]

The Delaware Health Information Network (DHIN) is a quasi-public entity established by 16 Del.C. Ch. 103 to maintain a community-based health information network. Its enabling statute lists twenty-one (21) powers and duties of the DHIN ranging from acquisition and compilation of data to facilitation of health research. See 16 Del.C. §§10303 and 10311. The DHIN proposes to adopt standards defining “the allowable purposes for access to claims data, the process by which a request for access to claims data will be reviewed and evaluated, and factors that will be considered in granting or denying such requests.” At 463.

Overall, the structure of the standards is both logical and internally consistent. The standards also generally conform to the enabling law. However, I have the following observations which may prompt consideration of some revisions.

First, §2.0. Definitions, could be improved. The predicate describing a defined term varies as follows: “means”; “shall mean”; “refers”; “shall refer”; and “includes”. The Delaware Administrative Code Drafting and Style Manual counsels that the predicate should uniformly be “means”. See attached §4.3. The DHIN may wish to edit this section to conform to the Manual.

Second, in §2.0, the definition of “mandatory reporting entity” is generally based on 16 Del.C. §10312(4). However, unlike the statute, the proposed regulation does specifically refer to Medicare Parts C and D while omitting a reference to Medicare Parts A and B. For internal consistency, the DHIN could consider a revision to specifically refer to Medicare Parts A and B.

Third, in §2.0, the definition of “mandatory reporting entity” generally conforms to the enabling statute, 16 Del.C. §10312(4). However, it omits some programs which could logically be included. For example, it omits Division of Public Health programs such as the cancer treatment program (16 DE Admin Code 4203) which provides medical insurance coverage for cancer treatment. The DHIN may wish to consider whether the regulatory definition could be expanded.

Fourth, §2.0, the definition of “provider” is based on 16 Del.C. §10312. However, the DHIN could consider substituting “designated” for “designed”. It is possible that the statutory reference to “designed group of beneficiaries” was an inadvertent typographical error.

Fifth, as noted above, in §2.0, the definition of “provider” is based on 16 Del.C. §10312. However, the definition may literally exclude the Veterans Administration from participating in the DHIN since it is not “licensed, certified, or authorized under State law”. Perhaps this is intended. If the V.A. does participate in the DHIN, this may merit regulatory clarification and/or a revised definition of provider.

Sixth, §7.2 lists agencies which will be exempt from fees. It is based on 16 Del.C. §10314(c). Although the entire Department of Health & Social Services (DHSS) is a DHIN partner [16 Del.C. §§10311(c) and 10315(c)], only two divisions are listed as exempt from fees (DMMA and DPH). The DHIN could consider, consistent with §7.3, creating a categorical fee exemption for DSAMH, DDDS, and DSAAPD. Indeed, they could be listed in §7.3.

Seventh, §8.0 merits revision. The proposed regulation limits action on DHIN violations to the following: 1) revocation of permission to use data; and 2) civil remedies. In contrast, the statute [16 Del.C. §10307(c)] envisions mandatory reporting to the Attorney General for consideration of criminal action. A reference to the statutory reporting should be included in the regulation. In its discretion, the DHIN could also consider adding the following option:

8.1.3 Issue a referral to a licensing or accreditation body.

See 24 DE Admin Code §1700.17.13 and 24 DE Admin Code §1900.10.4.

The Councils may wish to consider sharing the above observations with the DHIN, the DHSS Secretary, and the Attorney General.

Attachments

E:\legis\fy18\1217bils

42 CFR 435.725 - Post-eligibility treatment of income of institutionalized individuals in SSI States: Application of patient income to the cost of care.

§ 435.725 Post-eligibility treatment of income of institutionalized individuals in SSI States: Application of patient income to the cost of care.

(a) **Basic rules.**

- (1) The agency must reduce its payment to an institution, for services provided to an individual specified in paragraph (b) of this section, by the amount that remains after deducting the amounts specified in paragraphs (c) and (d) of this section, from the individual's total income,
- (2) The individual's income must be determined in accordance with paragraph (e) of this section.
- (3) Medical expenses must be determined in accordance with paragraph (f) of this section.

(b) **Applicability.** This section applies to the following individuals in medical institutions and intermediate care facilities.

- (1) Individuals receiving cash assistance under SSI or AFDC who are eligible for Medicaid under § 435.110 or § 435.120.
- (2) Individuals who would be eligible for AFDC, SSI, or an optional State supplement except for their institutional status and who are eligible for Medicaid under § 435.211.
- (3) Aged, blind, and disabled individuals who are eligible for Medicaid, under § 435.231, under a higher income standard than the standard used in determining eligibility for SSI or optional State supplements.

(c) **Required deductions.** In reducing its payment to the institution, the agency must deduct the following amounts, in the following order, from the individual's total income, as determined under paragraph (e) of this section. Income that was disregarded in determining eligibility must be considered in this process.

- (1) **Personal needs allowance.** A personal needs allowance that is reasonable in amount for clothing and other personal needs of the individual while in the institution. This protected personal needs allowance must be at least -
 - (i) \$30 a month for an aged, blind, or disabled individual, including a child applying for Medicaid on the basis of blindness or disability;

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(ii) \$60 a month for an institutionalized couple if both spouses are aged, blind, or disabled and their income is considered available to each other in determining eligibility; and

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

(2) Maintenance needs of spouse. For an individual with only a spouse at home, an additional amount for the maintenance needs of the spouse. This amount must be based on a reasonable assessment of need but must not exceed the highest of -

(i) The amount of the income standard used to determine eligibility for SSI for an individual living in his own home, if the agency provides Medicaid only to individuals receiving SSI;

(ii) The amount of the highest income standard, in the appropriate category of age, blindness, or disability, used to determine eligibility for an optional State supplement for an individual in his own home, if the agency provides Medicaid to optional State supplement beneficiaries under § 435.230; or

(iii) The amount of the medically needy income standard for one person established under § 435.811, if the agency provides Medicaid under the medically needy coverage option.

(3) Maintenance needs of family. For an individual with a family at home, an additional amount for the maintenance needs of the family. This amount must -

(i) Be based on a reasonable assessment of their financial need;

(ii) Be adjusted for the number of family members living in the home; and

(iii) Not exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under § 435.811, if the agency provides Medicaid under the medically needy coverage option for a family of the same size.

(4) Expenses not subject to third party payment. Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including -

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical or remedial care recognized under State law but not covered under the State's Medicaid plan, subject to reasonable limits the agency may establish on amounts of these expenses.

(5) Continued SSI and SSP benefits. The full amount of SSI and SSP benefits that the individual continues to receive under sections 1611(e)(1) (E) and (G) of the Act.

(d) Optional deduction: Allowance for home maintenance. For single individuals and couples, an amount (in addition to the personal needs allowance) for maintenance of the individual's or couple's home if -

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- (1) The amount is deducted for not more than a 6-month period; and
- (2) A physician has certified that either of the individuals is likely to return to the home within that period.
- (3) For single individuals and couples, an amount (in addition to the personal needs allowance) for maintenance of the individual's or couple's home if -
 - (i) The amount is deducted for not more than a 6-month period; and
 - (ii) A physician has certified that either of the individuals is likely to return to the home within that period.

(e) Determination of income -

- (1) **Option.** In determining the amount of an individual's income to be used to reduce the agency's payment to the institution, the agency may use total income received, or it may project monthly income for a prospective period not to exceed 6 months.
- (2) **Basis for projection.** The agency must base the projection on income received in the preceding period, not to exceed 6 months, and on income expected to be received.
- (3) **Adjustments.** At the end of the prospective period specified in paragraph (e)(1) of this section, or when any significant change occurs, the agency must reconcile estimates with income received.

(f) Determination of medical expenses -

- (1) **Option.** In determining the amount of medical expenses to be deducted from an individual's income, the agency may deduct incurred medical expenses, or it may project medical expenses for a prospective period not to exceed 6 months.
- (2) **Basis for projection.** The agency must base the estimate on medical expenses incurred in the preceding period, not to exceed 6 months, and on medical expenses expected to be incurred.
- (3) **Adjustments.** At the end of the prospective period specified in paragraph (f)(1) of this section, or when any significant change occurs, the agency must reconcile estimates with incurred medical expenses.

[43 FR 45204, Sept. 29, 1978, as amended at 45 FR 24884, Apr. 11, 1980; 48 FR 5735, Feb. 8, 1983; 53 FR 3595, Feb. 8, 1988; 55 FR 33705, Aug. 17, 1990; 56 FR 8850, 8854, Mar. 1, 1991; 58 FR 4932, Jan. 19, 1993]



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Sens. Henry, Townsend, Hansen, Lopez, Poore

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 11

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO ELIGIBILITY FOR PUBLIC ASSISTANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 524. Eligibility for Temporary Assistance for Needy Families.

4 Pursuant to the option granted the State by 21 U.S.C. § 862a(d)(1), an individual convicted under federal or state
5 law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the
6 possession, use, or distribution of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. §
7 862a(a) against eligibility for assistance under 42 U.S.C. 601 et seq. if the individual is otherwise eligible for assistance
8 under the Temporary Assistance for Needy Families (TANF) funded program.

9 Section 2. This Act shall take effect 30 days after its enactment into law.

SYNOPSIS

This Act removes the prohibition against receipt of Temporary Assistance for Needy Families ("TANF" also referred to by the name Aid for Families with Dependent Children or "AFDC") funds by persons convicted of a drug felony, so long as that person is otherwise eligible for TANF assistance.

Even though federal laws such as PRWORA passed during the War on Drugs frequently prohibited access to public assistance for persons with drug felonies, these laws also gave states flexibility in determining eligibility for food aid and cash assistance for families with children when applicants had a criminal conviction. The majority of states have limited the federal bans in whole or in part. In 2011, Delaware opted out of restrictions on food aid, but it has not opted out of or limited federal restrictions on TANF—the cash assistance program that is the principal form of assistance available to most families in poverty to pay for things like electricity bills or school supplies.

Under existing law, individuals convicted of any state or federal drug felony, including possession of marijuana (which can be a felony under federal law), are ineligible for TANF for life. Although the children of a parent convicted of a drug crime can still receive assistance, the family's overall award is significantly reduced, and in practice this affects the well-being of families and children.



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: March 20, 2017

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: H.B. 11 (Removal of Bar on TANF Eligibility Based on Drug Conviction)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 11.

As the synopsis indicates, federal laws passed during the War on Drugs frequently barred access to public assistance programs for persons with drug felonies while allowing states to “opt out” of such bans. Most states have adopted limited or full “opt outs”. In 2011, Delaware removed the ban on drug felon eligibility for the Food Supplement Program (formerly “Food Stamps”) through enactment of S.B. No. 12. The SCPD endorsed that legislation. See attached January 25, 2011 SCPD memorandum. At that time the Council noted the common co-occurrence of substance abuse with mental health and other disorders. The Council also observed that limits on access to safety-net programs undermine successful reintegration of persons released from prison into the community. Last year, a Delaware News Journal editorial made the same point in supporting a prior version (H.B. 365) of H.B. No. 11. See attached May 18, 2016 article, “TANF Bill Sensible Step in Prison Reform”. The article reported that 24 states had adopted at least limited “opt outs” of the federal bans on TANF and Food Supplement Program eligibility. The editorial also linked access to such safety-net programs to lower recidivism rates.

The TANF program has been long-recognized as an important resource for persons with disabilities. See National Council on Disability Position Paper, “TANF and Disability-Importance of Supports for Families with Disabilities in Welfare Reform” (March 14, 2003), published at <https://www.ncd.gov/publications/2003/Mar52003>. See also MDRC report, “Assessing and Serving TANF Recipients with Disabilities” (December, 2013), published at

<http://www.mdrc.org/publication/assessing-and-serving-tanf-recipients-disabilities> [noting that 40% of adult TANF clients may have a mental or physical disability]. The legislation would therefore have a disproportionate beneficial effect on persons with disabilities. The Councils may wish to consider sharing a positive analysis of this initiative with policymakers.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on the proposed legislation.

cc: Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council
HB 11 removal of bar on tanf eligibility based on drug conviction 3-20-17



STATE OF DELAWARE
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MEMORANDUM

DATE: January 25, 2011

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: S.B. 12 [Removal of Bar on Food Supplement Program Eligibility Based on Drug Conviction]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 12 which removes the prohibition against persons convicted of any drug felony from receiving federal food benefit assistance. As background, the current statute (Title 31 Del.C. §605) bars Food Supplement Program (a/k/a Food Stamps) eligibility for persons convicted of drug felonies subject to some exceptions. S.B. 13 would result in the following simplified §605:

Pursuant to the option granted the State by 21 U.S.C. §862a(d)(1), an individual convicted under federal or state law of a felony involving possession, distribution or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. §862a(a) against eligibility for food stamp program benefits for such convictions.

SCPD endorses the proposed legislation which would have the same effect as legislation (S.B. 255) introduced in the last General Assembly. Council has the following observations.

Given the common co-occurrence of substance abuse with mental health and other disorders, the bill would ostensibly enhance flexibility in State "safety net" programs. On a practical level, if a person lacks access to basic sustenance for self and family, the prospect for recidivism may increase. The attached December 17, 2009 article notes that enforcement of the ban seriously undermines successful reintegration of persons released from prison into the community and has a disproportionate effect on women. The House Committee report on the predecessor bill noted the favorable effect on inmate transition efforts:

Committee Findings: The committee found that this law legalizes Delaware's "opt out"

option from the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The committee also found that this bill aligns with the state's prisoner re-entry effort.

Moreover, it is anomalous to bar food benefits from a person convicted of a drug offense when no such bar exists under federal law for persons convicted of other crimes (e.g. murder; rape).

Consistent with the attached May 10, 2010 DHSS memo commenting on the predecessor bill, at least nineteen (19) states have already lifted the lifetime drug felony conviction ban altogether.

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

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

sb 12 food stamp bar 1-25-11

OPINION

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EDITORIAL

TANF BILL SENSIBLE STEP IN PRISON REFORM

Don't let the headline fool you. A bill to "let drug felons get public assistance" isn't some kind of bleeding-heart effort to codify criminals.

It's actually a sensible, if not small, step for Delaware to help its future.

The federal Temporary Assistance for Needy Families program is the primary government cash-assistance program for low-income families with children, designed to help adults get by as they try to get a stable job.

The monthly benefits depend upon the size of the family: a family with one child receives \$201, while a family of eight can get \$681.

A family can receive TANF benefits for no more than 36 months.

During that time, an adult in the family must either work or participate in "work-related activities," like searching for a job, for 30 hours a week.

Hardliners may decry "cons" living on the "government dime," but lest we forget that Delaware

struggles to transform inmates into productive citizens once they serve their sentences.

Our state's recidivism rate is about 50 percent after a year and 77 percent by three years.

A study by the Kaiser Family Foundation found Delaware was one of 11 states to spend more of their general funds on corrections than on higher education in 2013.

Long story short, we are pouring money down the prison hole as thousands of young lives — mostly those of black men — are flushed away, as are the hopes of their kids, who, too often, follow the same path.

Delaware is not the first state to learn this lesson and recognize the need to address it. According to the Legal Action Center, 24 other states have modified — but not entirely eliminated — the federal ban on food stamps and TANF to those convicted of drug felonies.

Still, drug felons leave prison with, in some cases, hundreds of hurdles to overcome.

Consider this from the Alliance for a Just Society: On average, states have 123 mandatory bars and restrictions for would-be workers with felony convictions per state from employment in occupations or industries, from obtaining certain types of occupational licenses, and/or from obtaining certain types of business or property licenses. 10 states have more than 160 of these regulations, including 248 in Texas, 258 in Illinois, and 389 in Louisiana. Only nine states have fewer than 75 regulations.

Massachusetts has 70 such regulations. As of 2013, its three-year rate was 39 percent. In 2011, Louisiana, with its 389 regulations and the highest per-capita incarceration rate in the country, had a five-year recidivism rate of 48 percent.

Remember Delaware's numbers? 50 and 77 percent, respectively.

Every convicted drug felon must serve their sentence. It's what happens after that sentence that determines our future as a society.



149th GENERAL ASSEMBLY
FISCAL NOTE

BILL: HOUSE BILL NO. 11
SPONSOR: Representative Bentz
DESCRIPTION: AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO ELIGIBILITY FOR PUBLIC ASSISTANCE.

ASSUMPTIONS:

1. This Act is effective upon its enactment.
2. This Act removes the prohibition against receipt of Temporary Assistance for Needy Families (TANF) funds by persons convicted of a drug felony. TANF is the cash assistance program that is the principal form of assistance available to most families in poverty to pay for things like electricity bills or school supplies.
3. Currently, the children can receive TANF even if an adult is disqualified. Thus, this Act would increase the household payment by \$69.00 if Delaware allowed a drug felon parent to be included in the grant.
4. There are currently 49 drug felon parents participating in TANF. Assuming the grant would increase these families by \$69.00, the monthly additional cost of adding these clients would be \$3,381 a month or \$40,572 annually.
5. Due to client notice requirements and necessary computer system changes there will be a delay in the implementation of this requirement. As a result of these delays, the costs estimates reflect 10 month funding for the first year and the annualization of funding for the second and third years.

Cost:

Fiscal Year 2018: \$33,810 (10 month funding)
Fiscal Year 2019: \$40,572
Fiscal Year 2020: \$40,572

Prepared by Kimberly Reinagel-Nietubicz
Office of the Controller General



September, 2014

Teaching About Personal Finance: The National Standards for Financial Literacy

By Andrew T. Hill and Mary C. Suiter

First published in Social Education #78(4), pp. 189–191

In "Proposed National Standards for Financial Literacy: What's In? What's Out?" Maier, Figart, and Nelson pose the question: "How should educators use the standards?"¹ In answering that question, they suggest a number of issues and topics that they believe should be taught along with the *National Standards for Financial Literacy*. Among the most daunting challenges faced by standards writers in any discipline is the delineation of boundaries to define the breadth and scope of the discipline. The question of "What should be in and what should be out?" in these standards loomed large throughout the nearly two years of work on them. In this article, we provide additional explanations about the rationale for these standards and the process we used to develop them. We also describe how these standards can be used by educators nationwide.

The Rationale for the Standards Development

In an article published in *Social Education* in 2005, John Morton described personal finance as a "homeless curriculum." Morton explained that there was no "unified set of principles to inform personal finance curriculum." He further noted, "Without the focus and direction that a unified set of principles could provide, personal finance education in practice often comes to little more than pious admonitions and the pursuit of trivial facts."² While well-designed and implemented content standards for economics have existed since 1998,³ as Bosshardt and Walstad explain, no document up to this point has defined personal finance content "as an application or extension of economic understanding and analysis as applied to individual or household decision-making."⁴ Taken together, these factors combined to create a call to action for the development of the *National Standards for Financial Literacy*.

Bosshardt and Walstad described the three guiding principles for the preparation of these standards: (1) financial education content is, as previously noted, "an application or extension of economic understanding and analysis as applied to individual or household decision-making"; (2) personal financial decision-making is fundamental to financial education; and (3) content consistency would be maintained by employing national experts in economics and personal finance to write and review the standards and benchmarks to ensure overall

consensus within the discipline and applicability to schools nationwide. Furthermore, the authors sought to ensure that the standards and associated benchmarks avoided normative statements about what students "should do or how they should behave in conducting their financial affairs."⁵ And, as Siegfried and Meszaros explained when describing the process used for developing the first edition of the *Voluntary National Content Standards in Economics*, the authors of these new financial literacy standards sought to write standards and benchmarks that were parsimonious, conceptual, and reflected content essential to young people's financial success.⁶

How Current Teaching Practice Was Influential

In writing the *Standards*, the authors had to consider how personal finance content is currently taught in the United States. Only 19 states require that a high school course be offered and only 17 states require that the course be taken before graduation.⁷ Given these conditions, the majority of personal finance content currently taught in American classrooms is being integrated into other K-12 courses. Teachers who integrate personal finance into other subject areas have a very limited amount of time to devote to the content. Financial education leaders nationwide report classroom time as the leading obstacle to the teaching of personal finance content in the nation's schools.⁸ As a result, teachers have little time to engage their students in the many possible extensions and connections that could be made if they had unlimited classroom time. In those high schools where a stand-alone personal finance course is required to be or voluntarily offered, the course may be taught in any number of departments or disciplines including math, social studies, business, and family and consumer sciences. The *Standards* provide an easy to use and concise outline of personal finance content associated with the everyday financial decisions young people will make in adulthood.

Table 1: National Standards for Financial Literacy

Standard Number and Topic	Standard
----------------------------------	-----------------

Source: Council for Economic Education (2013), Bosshardt and Walstad (2014)

<p>I. Earning Income</p>	<p>Income for most people is determined by the market value of their labor, paid as wages and salaries.</p> <p>People can increase their income and job opportunities by choosing to acquire more education, work experience, and job skills. The decision to undertake an activity that increases income or job opportunities is affected by the expected benefits and costs of such an activity.</p> <p>Income also is obtained from other sources such as interest, rents, capital gains, dividends, and profits.</p>
<p>II. Buying Goods and Services</p>	<p>People cannot buy or make all the goods and services they want; as a result, people choose to buy some goods and services and not buy others. People can improve their economic well-being by making informed spending decisions, which entails collecting information, planning, and budgeting.</p>
<p>III. Saving</p>	<p>Saving is the part of income that people choose to set aside for future uses. People save for different reasons during the course of their lives. People make different choices about how they save and how much they save. Time, interest rates, and inflation affect the value of savings.</p>
<p>IV. Using Credit</p>	<p>Credit allows people to purchase goods and services that they can use today and pay for those goods and services in the future with interest. People choose among different credit options that have different costs. Lenders approve or deny applications for loans based on an evaluation of the borrower's past credit history and expected ability to pay in the future. Higher-risk borrowers are charged higher interest rates; lower-risk borrowers are charged lower interest rates.</p>

V. Financial Investing	Financial investment is the purchase of financial assets to increase income or wealth in the future. Investors must choose among investments that have different risks and expected rates of return. Investments with higher expected rates of return tend to have greater risk. Diversification of investment among a number of choices can lower investment risk.
VI. Protecting and Insuring	People make choices to protect themselves from the financial risk of lost income, assets, health, or identity. They can choose to accept risk, reduce risk, or transfer the risk to others. Insurance allows people to transfer risk by paying a fee now to avoid the possibility of a larger loss later. The price of insurance is influenced by an individual's behavior.
Source: Council for Economic Education (2013), Bosshardt and Walstad (2014)	

Structure and Content

The resulting standards and accompanying benchmarks at grades 4, 8, and 12 do not assume prior financial knowledge. They establish an academic base for the discipline of personal finance — that is, a "unified set of principles" that provide focus and direction for those teaching personal finance and those seeking to advance the teaching of personal finance nationally and at the state and local level. The six standards are organized around the major financial activities of individuals and households: (1) earning income, (2) buying goods and services, (3) saving, (4) using credit, (5) financial investing, and (6) protecting and insuring. A total of 144 benchmarks were written at the 4th, 8th, and 12th grade levels to inform the specific learning objectives students should achieve by the end of each of those grades. The standards are listed in Table 1.⁹

How Should the Standards Be Used?

The *Standards* were published in March 2013, and in April of that year, the Consumer Financial Protection Bureau (CFPB) released policy recommendations for advancing K-12 financial education.¹⁰ The CFPB outlined five essential strategies for advancing financial education for young Americans. The strategies include introducing personal finance content early, building the complexity and breadth of the personal finance content coverage across the kindergarten to high school grades, and capping a student's K-12 personal finance education with a high

school personal finance course. The *Standards* provide a guide for implementation of this recommendation. This is one way that the authors of the *Standards* envisioned their use — to inform the national implementation of K-12 personal finance education.

In June 2014, the Florida Board of Education voted to adopt standards in financial literacy. The adopted standards, while modified to parallel the wording used in Florida's academic content standards for other subject areas, are for the most part the benchmarks from the new *National Standards*. This adoption is another example of how the authors of the *Standards* hoped the document would be used — as a guide to provide focus and direction for states and local school entities seeking to advance the teaching of personal finance in schools nationwide. The authors wanted the document to be used by state departments of education and state boards of education that delineate standards and by school administrators and teachers who are charged with implementing state and district standards and mandates in classrooms, as well as by curriculum and textbook writers.¹¹

For classroom teachers, the *Standards* provide a guide for the teaching of personal finance across the K-12 grades. Teams of teachers within schools and across multiple schools in the same school district can use the standards to develop their own scope and sequence to ensure that students receive comprehensive personal financial education before they graduate. Individual teachers can use the standards and benchmarks to structure their own lesson plans. Additionally, classroom teachers can use the performance indicators that accompany each benchmark to assess student mastery of the content.

Connections with Other Content

There are many connections and extensions that can be made between the new financial literacy standards and associated disciplines. Maier, Figart, and Nelson suggest topics in the financial literacy standards that overlap with discussions and debates appropriate for social studies classrooms nationwide on the role of government, the importance of the not-for-profit sector, and broad social goals. Likewise, colleagues in business education, for example, can easily see connections between the content expressed in the new financial literacy standards and their work teaching students about entrepreneurship, business law, accounting, and marketing.

And as intended, there are numerous connections between the *National Standards for Financial Literacy* and the *Voluntary National Content Standards in Economics*. The authors of the financial literacy standards recognized that personal finance content aligns closely with economic content. In fact, while meeting benchmarks in the national financial literacy standards, teachers can easily teach economic content related to numerous standards in the *Voluntary National Standards in Economics*, including: Standard 1—Scarcity; Standard 4—Incentives; Standard 7—Markets and Prices; Standard 8—Role of Prices; Standard 10—Institutions; Standard 11—Money and Inflation; Standard 12—Interest Rates; Standard 13—Income; and Standard 16—Unemployment and Inflation. There are many important

connections between the financial literacy content and other academic content areas that teachers could make; however, given limited time, there is a significant opportunity cost to doing so.

We encourage educators across the country to augment the financial literacy standards and benchmarks as they see fit as long as the emphasis of the instruction is on content and concepts presented in these standards and benchmarks. We think that it is important that every student be taught this material. The *Standards* provide a concise document listing the personal finance content that we believe all U.S. students should be expected to know before graduating from high school.

We trust that talented teachers will use these content standards and benchmarks to guide their teaching of personal finance. And they will likely integrate additional content from other academic disciplines when most appropriate and as classroom time allows. We encourage government agencies and educational organizations engaged in promoting financial literacy to use these standards as a guide to encourage nationwide implementation of personal finance in the nation's schools. And we urge school boards and departments of education to adopt these standards and benchmarks as their own expectations for their teachers and schools. Finally, we call on curriculum developers and textbook publishers to align their instructional materials with these new financial literacy standards.


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The views expressed here are those of the authors and do not necessarily reflect the views of the Federal Reserve Bank of Philadelphia or the Federal Reserve System.

Notes

¹ Mark H. Maier, Deborah M. Figart, and Julie A. Nelson, "Proposed National Standards for Financial Literacy: What's In? What's Out?," *Social Education* 78, no. 2 (2014): 77-79.


² John S. Morton, "The Interdependence of Economic and Personal Finance Education," *Social Education* 69, no. 2 (2005): 66-69.

³ Council for Economic Education, *Voluntary National Content Standards in Economics*, www.councilforeconed.org/resource/voluntary-national-content-standards-in-economics/ .

⁴ William Bosshardt and William B. Walstad, "National Standards for Financial Literacy: Rationale and Content," *The Journal of Economic Education* 45, no. 1 (2014): 64-65.


⁵ *Ibid.*, 65.

⁶ John J. Siegfried and Bonnie T. Meszaros, "National Voluntary Content Standards for Pre-College Economics Education," *American Economic Review* 87 no. 2 (1997): 247-253.

⁷ See Council for Economic Education, Survey of the States – 2014, *Historical Comparisons–Personal Finance Education 1998-2014*, p. 7, www.councilforeconed.org/wp/wp-content/uploads/2014/02/2014-Survey-of-the-States.pdf. 

⁸ Andrew T. Hill and Bonnie T. Meszaros, "Status of K-12 Personal Finance in the United States," *Journal of Consumer Education* 28 (2011): 1-15.

⁹ For more details on the development of the standards and benchmarks see Bosshardt and Walstad, "National Standards for Financial Literacy: Rationale and Content."

¹⁰ Consumer Financial Protection Bureau, Transforming the Lives of a Generation of Young Americans: Policy Recommendations for Advancing K-12 Financial Education, http://files.consumerfinance.gov/f/201304_cfpb_OFE-Policy-White-Paper-Final.pdf. 

¹¹ The Council for Economic Education, a number of Reserve Banks, and other curriculum providers nationwide are realigning their curriculum resources to reflect the *National Standards for Financial Literacy*.



FINANCIAL LITERACY EDUCATION

Article by Sunny Rosen and Sarah Gibson | December 20, 2016

State of Delaware creating its first-ever K-12 financial literacy standards

Thanks to a task force including the University of Delaware's Bonnie Meszaros, Delaware students in grades K-12 will receive mandated financial literacy education for the first time.

Previously, the state of Delaware had only recommended financial literacy standards for grades 9-12, and had not mandated standards for any grade.

Meszaros, associate director of the Center for Economic Education and Entrepreneurship (<http://www.lerner.udel.edu/centers/ceee>) (CEEE) in UD's Alfred Lerner College of Business and Economics (<http://www.lerner.udel.edu/>), was chosen to be part of the state legislature's task force earlier this year.

"Our challenge was to make findings and recommendations concerning financial literacy programs and standards, with the intent of developing a regulatory framework that will strengthen financial literacy education in K-12," Meszaros said.

The task force recommended that the Delaware State Board of Education mandate these standards for grades K-12, and the state legislature agreed. School districts will be required to implement these standards, but they are free to integrate them into their curricula in the ways that work best for their schools.

Full implementation is targeted for the 2020-21 school year.

"This is a huge step" for financial literacy education in Delaware, Meszaros said.

Co-chairing the committee was Ronni Cohen, executive director of the Delaware Financial Literacy Institute, and Delaware State Rep. Ruth Briggs King. Both have worked with Meszaros for many years on improving financial literacy for Delaware's children.

Briggs King is passionate about these standards, she said, because she feels that many of society's problems can be attributed to a "lack of knowledge and good training in financial literacy."

"It doesn't matter what your walk in life is," Briggs King said. She's seen bad financial decisions cause people to be "enslaved to debt very early on, and they work to overcome that their whole lives."

Briggs King regularly meets with a group of students, and she said that at one of their recent meetings, students expressed a need for more financial literacy resources as they apply for student loans and make other financial decisions.

The students told her, "We just feel like we're missing out based on our curricula. Everybody assumes we know this stuff, and we don't."

These reasons are why, Briggs King said, "It's been a mission for me to try and make sure that we incorporate [financial literacy] into education."

Once the financial literacy standards are developed and approved by the State Board of Education, Meszaros said that she hopes more Delaware teachers will work with the CEEE in preparing to teach them. The CEEE offers numerous workshops each year in support of Delaware's teachers and provides various free resources.

Delaware teachers prepare for new curriculum

At one such recent workshop, high school educators developed their skills in using the “Keys to Financial Success” curriculum. Two of the day’s presenters were graduates of the UD Master of Arts in Economics and Entrepreneurship for Educators (<http://lerner.udel.edu/programs/specialized-graduate-programs/economics-and-entrepreneurship-for-educators-ma/>) (MAEEE) degree program.

Sandy Clevenstine from Appoquinimink High School, the evening’s first presenter, teaches social studies and was a graduate of the MAEEE Class of 2011. Clevenstine discussed how to provide students with free materials available from the Federal Trade Commission (FTC), and provided copies of resources to the teachers in attendance.

One teaching tool Clevenstine discussed was Plickers, a set of quick response (QR) codes printed on paper cards that teachers can use to judge how well their class understands a topic. During multiple choice questioning, each student presents a QR code with one of the four responses, which the teacher can then scan with a smartphone from the front of the room to record their answers for immediate instructional feedback.

Clevenstine also discussed something she called “the identity theft game.”

While teaching students about the importance of preventing identity theft, Clevenstine separates students into “families,” gives them each \$750 in mock money, and quizzes them about identity theft. When students cannot correctly answer a question, she takes some of their money, saying they lost it to scammers who stole their identities.

“They get really into it,” Clevenstine said.

The next presenter, Jennifer O’Neill from Concord High School, teaches math and graduated with her MAEEE in 2013. O’Neill’s presentation focused on modeling with mathematics to teach students how to reason abstractly and quantitatively.

In one example, O’Neill challenges her students to create a model budget for their senior year and analyze it, complete with graphs.

“I tell them beforehand: ‘Think about when you need this money,’” O’Neill said. “If prom is in June and you buy your dress in February, then that expense needs to go in the third marking period quarter, not the fourth.”

O’Neill said this teaches her students important lessons about budgeting for the real world. While some students are prepared to budget their money, O’Neill said, some need the lesson as a wake-up call.

The last speaker, Adrienne Deakins, teaches social studies at William Penn High

School.

Deakins used different websites to demonstrate some of her unique lesson plans on issues important to students seeking more information about their career goals. In her class, Deakins teaches students to research careers that will see growth in coming years, how much income students can expect from different careers and more.

CAMPUS ARTICLES

College Application Month 2017 (/udaily/2017/november/college-application-month/)

Become a UD Social Media Ambassador (/udaily/2017/december/sma-applications-spring-2018/)

UD graduate students rally in opposition to federal tax proposal (/udaily/2017/december/graduate-students-rally-protest-taxing-tuition-waivers/)

Cheese survey (/udaily/2017/november/udairy-creamery-cheese-survey/)

Empowered Women Empowering Women (/udaily/2017/november/lerner-womens-careers-leadership-panel-networking/)

- Place more important provisions before less important provisions;
- Place frequently used provisions before less frequently used provisions; and
- Place permanent provisions before temporary provisions.

4.3 Definitions (See Figure 4.1)

It is recommended that definitions of terms be included in each regulation. Definitions provide clarification of terms used within a regulation, save space in the body of the regulation, and allow the regulation writer to control the meaning of a word. Define a term only when the meaning of a word is important and it is used more than once in the regulation. Do not define ordinary words that are used in their dictionary context.

Regulatory information should not be included in the definition.

Example of a Definition that is Too Substantive:

"Lockup facility" means a secure adult detention facility used to confine prisoners waiting to appear in court and sentenced prisoners for not more than 90 days. In addition to the cell, a lockup facility must include space for moderate exercise and activity, such as weight lifting, ping-pong, table games, reading, television, and cards.

This definition should end at "90 days."

Definitions should be formatted as provided in this section.

- Place definitions at the beginning of the regulation as one of the first numbered sections (following a scope, purpose, or authority section).
- The first paragraph should read, "The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:"
- Arrange the words or specific terms being defined in alphabetical order.
- Do not number individual definitions.
- Capitalize the first letter of the first word in each definition (since it is the beginning of a sentence). All subsequent words in each definition should be lowercase, unless words are proper nouns. The word or term being defined should be placed within quotation marks and in bold font.
- Immediately after the defined word or term, insert the word "means".
- Avoid using dashes, slashes, or parentheses in a term being defined. For example, use "Individualized education plan" or "IEP" means... instead of "Individualized education plan (IEP)" means....

Figure 4.1

EXAMPLE:

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

"Adoptive parent" means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption.

"Adult" means an individual 18 years of age or older.

"Agency" means the local welfare or social services agency.