



DEPARTMENT OF EDUCATION

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4/17/18

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Secretary of Education
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April 9, 2018

Ms. Dafne A. Carnright
Chairperson
Governor's Advisory Council for Exceptional Citizens
516 West Loockerman Street
Dover, DE 19904

Dear Ms. Carnright:

Thank you for your letter dated March 15, 2018 in which the Governor's Advisory Council for Exceptional Citizens (GACEC) provided comments relative to House Bill No. 142 of the 149th General Assembly regarding training for School Resource Officers (SROs). The Department of Education reviewed your letter and appreciates your input on the amendments to Regulation 610.

GACEC Comment: Delete extra bullets in chart under section 2.0 Definitions and throughout document wherever bullets are found.

DOE Response: The formatting issue which resulted in misplaced or extra bullets has been corrected.

GACEC Comment: Add a durational requirement; the disability-specific training should be at least eight hours, and not 30 minutes.

DOE Response: We further specified that the disability-specific training is consistent with the training that occurs within the specified school district or charter school. The length of the training is at the discretion of the individual school district or charter school.

GACEC Comment: Flesh out what "awareness level training" means. This appears to be a "term of art" in first responder training; it would be helpful to know what it actually means. Is it basic familiarity or working knowledge? (9.1)

DOE Response: "Awareness level training" is already defined in statute and reiterated in 9.1.1 through 9.1.5. DOE believes it would cause confusion if the regulation varied from the statutory description.

GACEC Comment: Articulate with more specificity the type of training referred to in 9.1.1. Is there a training module for teachers and administrators?

DOE Response: The type of training is identified in statute; the specifics for that training is at the discretion of individual school districts and charter schools.

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GACEC Comment: Specify that SRO training will incorporate hands-on training in de-escalation techniques. (9.1.2)

DOE Response: Hands-on training is not required by statute; providing it is within the discretion of the individual school districts and charter schools. DOE is aware that SROs receive hands-on training in de-escalation techniques as part of their initial training through the Council on Police Training and their respective Training Academy.

GACEC Comment: Require that the school provide current information on intervention decisions and techniques that are to be used with specific students. (9.1.3)

DOE Response: DOE agrees that adding the word “current” further clarifies the regulation as noted in 9.1.3 and has incorporated that change into the proposed amended regulation.

GACEC Comment: Clarify that SROs get training on specific IEPs and behavior plans that are in place for students that they may encounter in their schools or at least the full range of interventions that are currently in place in IEPs for students they may encounter. (9.1.4)

DOE Response: The “awareness level training” includes specific training on IEPs and behavior plans; see 9.1.4. In addition, in accordance with 9.3, the behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel are discussed with the SRO within 30 calendar days after the first student day.

GACEC Comment: Use of the word “refresher” course in 9.1.5 suggests that SROs are not required to attend any beginners or initial training that may be available. The word refresher is not in the statute. (9.1.5)

DOE Response: DOE agrees that removing the words “refresher in-service” in 9.1.5 further clarifies the timing requirement of the training and has incorporated that change into the proposed amended regulation.

GACEC Comment: Require that SROs be updated not only at the beginning of the year but also when new students with IEPs start school throughout the year or when IEPs change throughout the year and the changes are relevant to behavioral interventions. (9.3)

DOE Response: Due to privacy concerns, this is left to the school district’s or charter school’s discretion.

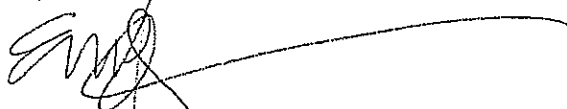
GACEC Comment: Clarify who is responsible for keeping track of the trainings completed by SROs throughout the districts. If the DOE is responsible for keeping track of trainings provided, will a report be available for review by the GACEC each year?

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DOE Response: Keeping track of each SROs training is not required by the statute, and is left to the school district's or charter school's discretion.

We greatly appreciate the opportunity to work collaboratively with you to amend this regulation to ensure it addresses the concerns of the citizens you represent.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily Cunningham', with a long horizontal flourish extending to the right.

Emily Cunningham
Chief of Staff/Policy Advisor

EC:tms

- 6.2.5 Experienced Specialists receiving a Summative Evaluation every two years in accordance with subsection 3.1 above shall earn an overall Student Improvement Component rating on the Summative Evaluation in accordance with the following chart in the DPAS II Revised Guide for Specialists:

Year 1 or 2	Year 1 or 2	Rating
Exceeds	Exceeds	Highly Effective
Exceeds	Satisfactory	Effective
Exceeds	Unsatisfactory	Effective
Satisfactory	Satisfactory	Effective
Satisfactory	Unsatisfactory	Needs Improvement
Unsatisfactory	Unsatisfactory	Ineffective

The first two columns above indicate the rating combinations earned in a two-year Summative Evaluation cycle, regardless of the order in which they were earned.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 4112F(c) (14 Del.C. §4112F(c))
14 DE Admin. Code 610

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

610 Limitations on Use of Seclusion and Restraint

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education intends to amend 14 DE Admin. Code 610 Limitations on Use of Seclusion and Restraint. This regulation is being amended to align with House Bill 142 of the 149th General Assembly which requires the regulation be amended to include improved guidelines for school districts regarding the training of School Resource Officers (SRO) and their duties when interacting with students with disabilities. In accordance with the statute, the Department of Education collaborated with the Governor's Advisory Council for Exceptional Citizens to update this regulation.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 4, 2018 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOERegulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, Finance Office located at the address listed above.

C. IMPACT CRITERIA

PROPOSED REGULATIONS

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation is intended to help ensure that all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? Per the statute, there is no expected cost to implementing this amended regulation as existing resources are to be used.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2018/proposed/21 DE Reg 851RFA 05-01-18.pdf>

610 Limitations on Use of Seclusion and Restraint (Break in Continuity of Sections)

2.0 Definitions

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

(Break in Continuity Within Section)

"Mechanical restraint" means the application of any device or object that restricts a student's freedom of movement or normal access to a portion of the body that the student cannot easily remove. "Mechanical restraint" does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including the following:

- ~~restraints~~ Restraints for medical immobilization;
- ~~adaptive~~ Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports;
- ~~vehicle~~ Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- ~~instruction~~ Instruction and use of restraints as part of a criminal justice or other course; or
- ~~notwithstanding~~ Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(Authority: 14 Del.C. §4112F(a)(2))

"Parent" means:

- a A biological or adoptive parent of a child;
- a A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- ~~an~~ An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver's School Authorization executed in compliance with 14 Del.C. §202(f)(1) is on file;
- ~~an~~ An individual who is otherwise legally responsible for the child's welfare; or
- a A surrogate parent who has been appointed in accordance with 14 DE Admin. Code 926.19.0 or Section 639(a)(5) of the Act.

The biological or adoptive parent, when attempting to act as the parent under these regulations, and when more than one party is qualified under this definition to act as a parent, must be presumed to be the parent for purposes of this definition unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this definition.

(Authority: 20 U.S.C. 1401(23); 14 Del.C. §3110)

"Physical restraint" means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. "Physical restraint" does not include physical contact that:

- ~~helps~~ Helps a student respond or complete a task;
- ~~is~~ is needed to administer an authorized health-related service or procedure; or
- ~~is~~ is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(Authority: 14 Del.C. §4112F(a)(3))

(Break in Continuity Within Section)

"Public school personnel" means an employee or contractor of a public school district or charter school. "Public school personnel" does not include the following:

- a A law enforcement officer as defined in § 9200(b) of Title 11; unless the law enforcement officer meets the definition of a School Resource Officer/SRO; or
- ~~an~~ An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.(Authority: 14 Del.C. §4112F(a)(4))

"School Resource Officer (SRO)" means a contractor, subcontractor or employee of a public school district or charter school who is a sworn law enforcement officer as defined in 11 Del.C. §9200.

(Break in Continuity of Sections)

9.0 School Resource Officer (SRO) Training

9.1 A SRO shall annually receive the following awareness level training from the school district or charter school in which they are assigned:

- 9.1.1 Training which is consistent with that which is required of other public school personnel within their school district or charter school for disability awareness and behaviors that may manifest as a result of disabilities;**
- 9.1.2 Best practices for de-escalation techniques utilized in the school setting;**
- 9.1.3 Current information on the intervention decisions and techniques used by school personnel within the school setting;**
- 9.1.4 Such other training as is necessary to protect the health and well-being of students with disabilities which shall include basic awareness training specific to Individualized Education Programs (IEP), functional behavior assessments and Behavior Support Plans;**

PROPOSED REGULATIONS

- 9.1.5 A SRO shall participate in the annual SRO training provided by the Delaware State Police or equivalent training provided by the police agency employing the SRO.
- 9.2 The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of a SRO as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under Regulation 601.
- 9.3 Prior to the start of each school year, or as soon as practical, but no later than 30 calendar days after the first student day of school, a representative of each school building shall meet with the SRO assigned to that school in order to be familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel in that school.
- 9.4 Nothing within this regulation or contained within 14 Del.C. §4112F shall be interpreted as creating any additional restrictions on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

610 Limitations on Use of Seclusion and Restraint

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and 303(a) (14 Del.C. §§122(b) and 303(a))
14 DE Admin. Code 1007

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

1007 DIAA Sportsmanship

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. Sections 122(b) and 303(a), the Secretary of Education seeks the approval of the State Board of Education to amend 14 DE Admin. Code 1007 DIAA Sportsmanship. The Delaware Interscholastic Athletic Association ("DIAA"), working in consultation and cooperation with the Department of Education, developed the amendments to 14 DE Admin. Code 1007. The amendments include adding definitions for the terms "DIAA" and "Executive Director" to subsection 1.1; striking the terms Administrative Head of School, "Department," "Guardian or Legal Guardian," "Individualized Education Program or IEP," "Legally in attendance," and "State Board" from subsection 1.1 as those terms do not appear elsewhere in the regulation; and revising subsection 2.3, which concerns penalties for sportsmanship violations.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 4, 2018 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, which is found at http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

PROPOSED REGULATIONS

- 2.3.2.3.2 Athletes who do not fulfill their penalty in the same sport or who do not retain eligibility shall be disqualified for the appropriate length of time in their next sport.
- 2.3.2.3.2.1 Seniors shall fulfill their penalty in another sport during the same season or another sport during a subsequent season.
- 2.3.2.3.2.2 When a senior is disqualified from the last game of his or her high school career, the Member School shall take appropriate administrative action to discipline the offending student, which may include withdrawing the student from a post-season all-star game. The Member School shall report the action taken to the Sportsmanship Committee.
- 2.3.2.4 A player or coach ejected for a second time during the same season shall be subjected to a two game suspension and shall meet, in a timely fashion, with the Sportsmanship Committee accompanied by the Principal or his or her designee and, in the case of an athlete, by the coach.
- 2.3.2.5 Appeal of a contest suspension resulting from a game ejection
- 2.3.2.5.1 A coach or player may appeal a contest suspension resulting from a game ejection to the DIAA Executive Director. Contest suspensions that may be appealed include suspensions from game ejections under the individual sport playing rules, other DIAA policies, or a suspension under subsections 2.3.1.1 or 2.3.1.1.1. The Executive Director may decide the appeal or, in his or her discretion, refer it to the Sportsmanship Committee or a subcommittee that may include the Board's Chairperson, the Sportsmanship Committee's Chairperson, the committee chairperson of the applicable recognized sports committee, the State rules interpreter for the applicable sport, a representative of the applicable officials' association, and any other individuals the Executive Director deems necessary.
- 2.3.2.5.2 If the Executive Director is unable to make a decision before the next contest, the suspension remains in effect. The Executive Director's, Sportsmanship Committee's, or subcommittee's decision to uphold or rescind the suspension resulting from a game ejection may not be appealed to the Board.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1007 DIAA Sportsmanship

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
 Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
 16 DE Admin. Code 20101, 20103, and 14100

PUBLIC NOTICE

Long Term Care Medicaid

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Long Term Care Medicaid, specifically, *to add additional application methods.*

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware

19720-0906, by email to Nicole.M.Cunningham@state.de.us, or by fax to 302-255-4413 by 4:30 p.m. on May 31, 2018. Please identify in the subject line: Long Term Care Medicaid.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Long Term Care Medicaid, specifically, to add additional application methods.

Statutory Authority

- 42 CFR 435.906
- 42 CFR 435.908
- 42 CFR 435.907(a)
- 42 CFR 435.930(a)
- 1902(a)(8)&(19) Social Security Act

Background

Current policy and practice requires a face to face interview when an individual applies for Long Term Care Medicaid. Additionally, current practice requires the application process to be completed by the applicant, their family member or their legal representative. The proposed policy change removes this restriction and allows the applicant the choice of who can apply for Long Term Care Medicaid on their behalf and removes the face-to-face interview requirement for applying for Long Term Care Medicaid. The proposed application process leaves the choice of the type of application method to the individual applying e.g. electronic, face-to-face interview, mail, fax, telephone.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to add additional application methods for Long Term Medicaid.

Summary of Proposed Changes

Effective for services provided on and after July 12, 2018, Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend sections 20101, 20103, and 20103.1.2 of the Delaware Social Services Manual (DSSM) regarding Long Term Care Medicaid, specifically, to add additional application methods.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on May 31, 2018.

Provider Manuals and Communications Update

A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates. Updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

Fiscal Impact

There is no anticipated fiscal impact to the agency as a result of this proposed clarification of policy.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2018/proposed/21 DE Reg 860RFA 05-01-18.pdf>

AMENDED

20101 Application Process - Long Term Care Services

The application process is twofold. Applicants for Medicaid must be medically and financially eligible to receive coverage. Referrals for Medicaid may come from many sources: the applicant, the family of the applicant, persons in the community, hospital social workers, etc. The potential nursing facility or Home and Community Based Waiver patient may be in an adult foster care home, in his own home, in the hospital or in a nursing facility as a private pay patient.

Rarely does the applicant himself initiate the referral. This means it is extremely important in the case of the mentally competent patient that the DSS nurse determine initially if the patient is aware that a referral for nursing facility admission or Home and Community Based Waiver has been made. The person must be willing to enter a nursing facility or accept Waiver services, otherwise placement or referral cannot be made. The DSS nurse and social worker may assist the family or others in helping the patient to accept the need for nursing facility or Waiver care, but the main responsibility belongs to the family or persons acting as family.

If the patient is not competent, the family or ~~legal representative~~ someone acting responsibly will act on behalf of the patient.

It is not the responsibility of DSS to find a nursing facility placement for a patient although they may give assistance when they have knowledge of available, Medicaid certified beds.

20103 Financial Eligibility Determination

This is the second step in the application process. A referral is passed to the LTC financial eligibility unit within two days of being referred to the Medicaid PAS unit.

~~An application for Medicaid is made only when an interview is held with the applicant or his family member who is applying on the applicant's behalf. Should anyone hold Power of Attorney or Guardianship over the applicant, he also must attend the interview along with the applicant/family member, unless his attendance is waived by the supervisor. In addition, the application form must be signed listing those individuals for whom Medicaid coverage is being sought. The applicant or his representative must sign the Application, Affidavit of Citizenship, and Responsibility Statement. The application date is considered to be the date of the interview unless the interview requirement is waived. The interview can only be waived if the applicant is medically unable to come in for the interview and there is no family member, POA agent or Guardian medically able to come in for the interview or other good cause exists. The unit Supervisor must approve the waiving of the interview requirement.~~

~~For cases in which the interview is waived, the application must be date stamped when it is received in the Division of Medicaid and Medical Assistance office. The stamped date sets the base for the timeliness of determination.~~

In accordance with section 1413(b)(1)(A) of the Affordable Care Act, the agency must accept an application from the applicant, an adult who is in the applicant's household, as defined in § 435.603(f), or family, as defined in section 36B(d)(1) of the Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant, and any documentation required to establish eligibility -

- (1) Through commonly available electronic means;
- (2) By telephone;
- (3) Via mail;

(4) In person

The Application, Affidavit of Citizenship and Responsibility Statement must be signed by the individual or a representative of their choice. For individuals who are minors or incapacitated a signature is required by someone acting responsibly on the applicant's behalf. The date of application is the date the application is received by LTC Medicaid Office.

42 CFR 435.906; 42 CFR 435.907(a) and Social Security Act 1943(b)

20103.1.2 Timely Documentation

The DMMA Medicaid worker must explain this 90-day time standard to the applicant or representative, ~~during the initial interview.~~ It must be emphasized ~~during the interview to the applicant or their representative,~~ that all documentation needed for the worker to determine Medicaid eligibility must be received by the date indicated on the "Request for Verification" letter (Form 415) or the application will be denied. In cases where verification is incomplete, the worker will give the applicant 15 days to return the information on the initial "Request for Verification" letter (Form 415). The date by which all documentation must be received must be clearly noted on this form.

14100.3 Interview Requirement for Some Eligibility Groups

An in-person interview is not required for any eligibility group subject to the modified adjusted gross income (MAGI)-based methodologies described in Section 16000.

An in-person interview is not required for ~~some~~ Long Term Care eligibility determinations. SEE SECTION 20101 - Application Process - Long-Term Care Services.

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)u.1 (16 Del.C. §122(3)u.1)
16 DE Admin. Code 4458A

PUBLIC NOTICE**4458A Cottage Food Regulations**

Health Systems Protection Section (HSP), Division of Public Health, Department of Health and Social Services, is proposing revisions to the regulations governing Cottage Foods. On May 1, 2018, the Division of Public Health plans to publish as "proposed" revised Cottage Food Regulations. The revisions include requirements related to food allergens, the length of time permits are valid for and other technical corrections.

Copies of the proposed regulations are available for review in the May 1, 2018 edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Elisabeth Scheneman by Friday, June 8, 2018, at:

Elisabeth Scheneman
Division of Public Health
417 Federal Street
Dover, DE 19901
Email: Elisabeth.scheneman@state.de.us
Phone: (302) 744-4951

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)**NOTICE****Delaware Diamond State Health Plan**
1115 Demonstration Waiver Amendment and Extension Requests

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) intends to submit a request to the Centers for Medicare and Medicaid Services (CMS) to immediately amend Delaware's Section 1115 Diamond State Health Plan (DSHP) Demonstration Waiver to address Medicaid coverage of substance use disorder (SUD) treatment services when provided in a setting that qualifies as an institution for mental diseases (IMD).

In compliance with federal public notice requirements of 42 U.S.C. §1315(d) and 42 CFR Part 431, Subpart G, as well as the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, DHSS / DMMA also gives notice of its intent to file an application with CMS to request a five year extension of the DSHP 1115 Demonstration Waiver, which is currently approved through December 31, 2018. The requested extension period is from January 1, 2019 through December 31, 2023. DHSS/DMMA is not currently requesting any changes to the DSHP 1115 Demonstration Waiver for the extension period, with the exception of the amendment described below.

Purpose

The purpose of this posting is to: (1) provide public notice and receive input for consideration regarding Delaware's DSHP Waiver amendment for SUD treatment services; and (2) provide public notice and receive public input for consideration regarding Delaware's DSHP 1115 Waiver five-year extension request. Delaware is proposing an amendment and an extension that will be submitted to CMS at the same time.

Proposed Amendment: Overview and Summary of Proposed 1115 DSHP Waiver Amendment for SUD Services in IMDs

Federal Medicaid rules generally prohibit Medicaid coverage of services for individuals ages 21-64 provided in settings that qualify as IMDs. However, Delaware's Medicaid managed care program has had a long-standing exception to these rules due to separate policies that govern Medicaid managed care contracts and payment rates, known as Medicaid "in lieu of" services. These policies allowed Delaware to provide coverage in settings that qualify as IMDs if an IMD is a cost-effective alternative setting to an allowable Medicaid state plan setting. In 2016, CMS revised the managed care regulations to limit such IMD stays to no more than 15 days in a month. In recognition of the national opioid/ SUD epidemic and the need for potentially longer, medically necessary residential treatment stays as part of a comprehensive continuum of care for SUD, CMS is now offering states the opportunity to apply for and receive 1115 waiver authority to include IMD settings as Medicaid-covered settings for SUD treatment.

If Delaware does not amend the 1115 waiver, Medicaid funding will no longer be available for SUD services provided in settings that qualify as IMDs. This amendment is needed to avoid unnecessarily disrupting Delaware's substance use continuum of care during the addiction epidemic in Delaware. This amendment will also remove federal Medicaid payment barriers for SUD treatment in IMD settings, regardless of whether the SUD treatment services are delivered through managed care or fee-for-service.

Proposed Extension: Overview and Summary of Proposed DSHP 1115 Waiver Extension**DSHP 1115 Waiver Program Description, Goals and Objectives**

Delaware's DSHP 1115 Demonstration Waiver was initially approved in 1995, and implemented on January 1, 1996. The original goal of DSHP 1115 Waiver was to improve the health status of low-income Delawareans by expanding access to healthcare to more individuals throughout the state; creating and maintaining a managed care delivery system with an emphasis on primary care; and controlling the growth of healthcare expenditures for the Medicaid population.

In order to achieve this goal, the DSHP 1115 Waiver was designed to mandatorily enroll eligible Medicaid recipients into managed care organizations (MCOs) and create efficiencies in the Medicaid program. Initial savings achieved under managed care enabled the expansion of coverage to certain individuals who would otherwise not be eligible for Medicaid, leading up to Medicaid expansion under the Affordable Care Act in 2014. Since 2012, the DSHP 1115 Waiver provides long-term services and supports (LTSS) to eligible individuals through DSHP Plus, as well as enhanced behavioral health services and supports for targeted Medicaid beneficiaries through a voluntary program begun in 2015 called Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE).

A complete description of the current DSHP 1115 Waiver is available at:

<http://dhss.delaware.gov/dhss/dmma/medicaid.html>

Delaware's goal today in operating the DSHP 1115 Waiver demonstration is to improve the health status of low-income Delawareans by:

- Improving access to health care for the Medicaid population, including increasing options for those who need long-term care (LTC) by expanding access to home and community based services (HCBS);
- Rebalancing Delaware's LTC system in favor of HCBS;
- Promoting early intervention for individuals with, or at-risk, for having, LTC needs;
- Increasing coordination of care and supports;
- Expanding consumer choices;
- Improving the quality of health services, including LTC services, delivered to all Delawareans;
- Creating a payment structure that provides incentives for resources to shift from institutions to community-based LTSS services where appropriate;
- Improving coordination and integration of Medicare and Medicaid benefits for full-benefit dual eligibles;
- Expanding coverage to additional low-income Delawareans;
- Improving overall health status and quality of life of individuals enrolled in PROMISE; and
- Increasing and strengthening overall coverage of former foster care youth to improve health outcomes for this population.

Delaware will continue working to improve the health status of low-income Delawareans during the DSHP 1115 Waiver extension. During the extension, DHSS/DMMA continues to plan and prepare for the future of healthcare in Delaware, including the roles of Medicaid and the Children's Health Insurance Program (CHIP).

DSHP 1115 Waiver Eligibility

No changes to the DSHP 1115 Waiver eligibility are proposed for the extension period. Most eligibility groups in the DSHP 1115 Waiver are approved in the Medicaid and CHIP State Plan. The 1115 Waiver extends eligibility to additional groups as necessary for their receipt of LTSS through DSHP Plus and behavioral health services through PROMISE. These groups are described in detail as "Demonstration Population Expenditures" in the current approved 1115 Waiver. A waiver amendment was recently approved to add coverage for out-of-state former foster care youth.

DSHP 1115 Waiver Benefits

No changes are proposed to the DSHP 1115 Waiver benefits for the extension period. Individuals enrolled in the DSHP 1115 Waiver receive most Medicaid and CHIP State Plan benefits through the DSHP 1115 Waiver delivery system (described below). Individuals eligible for DSHP Plus receive comprehensive, integrated LTSS and individuals eligible for PROMISE services receive an enhanced package of behavioral health services.

DSHP 1115 Waiver Delivery System

No changes are currently proposed to the DSHP 1115 waiver delivery system for the extension period. The delivery system for DSHP and DSHP-Plus benefits during the extension period will continue to be mandatory enrollment in MCOs. A limited number of benefits, such as children's dental and non-emergency transportation, are delivered through fee-for-service. PROMISE benefits will continue to be delivered through the fee-for-service PROMISE program administered through the Division of Substance Abuse and Mental Health (DSAMH). A waiver amendment was recently approved to include DDDS Lifespan Waiver enrollees in MCOs. The SUD amendment proposes to include IMDs as allowable settings for SUD treatment in managed care and fee-for-service.

DSHP Cost Sharing

No changes to cost sharing are proposed for the extension period. Cost-sharing will not differ from the approved Medicaid and CHIP State Plans.

DSHP Waiver Hypotheses and Evaluation

Once the SUD amendment has been approved by CMS, those hypotheses and evaluation plans will be incorporated into the extension period. The SUD amendment proposes to test whether Delaware can enhance the effectiveness of the SUD treatment system in Medicaid by maintenance and expansion of SUD residential services as part of a coordinated, full continuum of care, resulting in increased access and improved health outcomes for individuals with SUD. Delaware expects to evaluate whether the SUD amendment:

- Increases enrollee access to and utilization of appropriate SUD treatment services based on the American Society of Addiction Medicine (ASAM) Criteria;
- Decreases the use of medically inappropriate and avoidable high-cost emergency department and hospital services by enrollees with SUD;
- Increases initiation of follow-up after discharge from emergency department for alcohol or other drug dependence; and
- Reduces readmission rates for SUD treatment.

Details on the SUD amendment can be found in the draft application for public comment.

No other changes to the DSHP 1115 waiver proposed hypotheses and evaluation parameters are planned for the extension period. Delaware's proposed hypotheses and evaluation approach is in its draft Waiver Evaluation Plan pending before CMS. Delaware has proposed various methodologies to evaluate the impact of the 1115 Waiver on access to care, quality of care, cost-containment/cost-effectiveness, and the impact of rebalancing LTC in favor of HCBS. For example, Delaware has proposed to evaluate the following questions:

Access to Care

- Is access to primary care providers sufficient?
- Has access to specialists increased under the 1115 Waiver?
- Is access to HCBS providers sufficient in the community?
- Are the members satisfied with the services received under DSHP Plus?
- Has there been a shift in where services are being received from Nursing Home to community based care?
- What is the Nursing Home admission rate in the DSHP Plus population?
- What is the Nursing Home discharge rate (other than death) in the DSHP Plus population?

Quality of Care

- Has the health status of waiver enrollees improved?
- Has the quality of care improved for select performance measures?
- What is the level of enrollee satisfaction with MCOs?

Cost Containment/Cost Effectiveness

- Are actual expenditures less than the per member per month projections for the 1115 waiver?
- Did emergency room care utilization and expenditures decrease for select populations?
- Is there a decrease in nursing home utilization?

The proposed evaluation will use data from a variety of sources as follows:

- Provider Satisfaction Surveys
- Member Satisfaction Survey
- MCO member surveys
- External Quality Review Reports
- Enrollment files and reports.
- Fee-for-service claims and encounter data as applicable.
- Data submitted to the State for review such as contracts, quality management plans; select utilization reports.

An interim evaluation report will be submitted to CMS on ten of the eleven goals in place during the most recent waiver period. (The eleventh goal related to foster-care youth is too new to evaluate.) Overall, this interim evaluation concludes that Delaware has been successful in meeting the DSHP Waiver's goals, but additional efforts may be needed with respect to PROMISE behavioral health services and improving coordination for full-benefit dual eligibles. A summary of this interim evaluation is included in the draft application for public comment.

Waiver and Expenditure Authorities

Expenditure authority for the proposed SUD amendment is the only change proposed for the extension period. No other changes to the DSHP 1115 waiver and expenditure authorities are proposed for the extension period. DHSS/DMMA is requesting the same waiver and expenditure authorities as approved in the current DSHP 1115 Waiver. These include:

Waiver authorities:

1. Amount, duration and scope of services (Section 1902(a)(10)(B) and 1902(a)(17))-To permit benefit packages for DSHP and DSHP Plus enrollees that vary from the State Plan and permit the provision of additional benefits under DSHP Plus and PROMISE.
2. Provision of Medical Assistance Section 1902(a)(8) and 1902(a)(10)-To the extent necessary to enable Delaware to limit the provision of medical assistance (and treatment as eligible) for individuals described in the eligibility group under section 1902(a)(10)(A)(ii)(XX) of the Act and the Medicaid state plan to only former foster care youth who are under 26 years of age, were in foster care under the responsibility of another state or tribe on the date of attaining 18 years of age (or such higher age as the state has elected), were enrolled in Medicaid on that date, and are now residents in Delaware applying for Medicaid.
3. Freedom of Choice (Section 1902(a)(23)(A))-To permit mandatory enrollment in MCOs and selective contracting for certain HCBS and transportation providers.
4. Retroactive Eligibility Section 1902(a)(34)-To permit Delaware to not extend eligibility to DSHP and DSHP Plus participants prior to the date that an application for assistance is made, with the exception of institutionalized individuals in nursing facilities and workers with disabilities who buy-in for Medicaid coverage.

Current Expenditure authorities:

Expenditures for the following 1115 Demonstration Populations receiving LTSS or PROMISE services:

1. 217-Like Elderly and Disabled Home and Community Based Services (HCBS) Group
2. 217-Like HIV/AIDS HCBS Group
3. "At-risk" for Nursing Facility Group
4. TEFRA-Like Group
5. Continuing Receipt of Nursing Facility Care Group
6. Continuing Receipt of Home and Community-Based Services Group
7. Continuing Receipt of Medicaid State Plan Services Disabled Children Group.

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8. PROMISE Services Group

SUD Expenditure authority requested for amendment and extension periods:

Expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for substance use disorder (SUD) who are short-term residents in facilities that meet the definition of an IMD.

DSHP 1115 Waiver Estimate of Expected Increase/Decrease in Annual Enrollment and Annual Aggregate Expenditures

The expected increase in enrollment and expenditures through the extension period reflect the program as currently approved. The estimated enrollment and expenditures for 2018-2023 also reflect the proposed SUD amendment. The SUD amendment is not expected to have a material impact on Medicaid expenditures. No other changes are currently proposed for the extension period.

	Historical Data (Current Waiver Period)				
	2014	2015	2016	2017	2018* (estimated)
Enrollment	180,879	193,774	204,641	200,155	205,158
Expenditures	\$1,577,390,016	\$1,752,418,701	\$1,843,586,926	\$1,989,261,953	2,039,318,474

	Demonstration Extension Period				
	2019	2020	2021	2022	2023
Enrollment	208,974	212,861	216,820	220,853	224,961
Expenditures	\$2,209,320,592	\$2,362,914,413	\$2,527,612,873	\$2,704,251,065	\$2,893,729,626

Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*, scheduled for May 1, 2018. The public is invited to review and comment on the proposed amendment for SUD treatment services. Comments must be received by 4:30 p.m. on May 31, 2018 and may be submitted as described below.

As required by 42 CFR Part 431, Subpart G, DHSS/DMMA must provide opportunity for public comment on the DSHP 1115 Waiver extension request. Per Del. Code, Title 29, Ch. 101 §10118(a), the opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*, scheduled for May 1, 2018.

The public is invited to review and comment on the proposed DSHP 1115 Waiver extension and amendment as of the date of publication of this public notice. Comments must be received by 4:30 p.m. on May 31, 2018.

Comments on the amendment and the extension may be submitted in the following ways:

This public notice and copies of the draft amendment and extension applications are posted on the DHSS/DMMA website at: <http://dhss.delaware.gov/dhss/dmma/medicaid.html>

GENERAL NOTICES

Comments and input may be submitted in the following ways:

By email: Nicole.M.Cunningham@state.de.us

By fax: 302-255-4413 to the attention of Nicole Cunningham

By mail: Nicole Cunningham

Division of Medicaid and Medical Assistance

Planning, Policy & Quality Unit

1901 North DuPont Highway

P.O. Box 906

New Castle, Delaware 19720-0906

Hardcopies of the public notice may also be obtained by contacting Nicole Cunningham at the address above.

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

Stephen M. Groff

4/15/2018

Director

Division of Medicaid and Medical Assistance



SPONSOR: Rep. Hensley & Sen. Poore
Reps. Briggs King, Collins, Dukes, Hudson, Kenton,
Osienski, Outten, D. Short, Spiegelman, Yearick; Sens.
DeIcollo, Lawson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE CONCURRENT RESOLUTION NO. 34

ESTABLISHING A TASK FORCE TO INVESTIGATE THE COST OF SPECIAL EDUCATION AND MAKE
RECOMMENDATIONS RELATED TO COST EFFICIENCY.

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

1 WHEREAS, students with disabilities in Delaware are eligible for specialized services and educational supports to
2 ensure that they have access to and make meaningful progress in the general education curriculum; and

3 WHEREAS, district and charter schools design special education and related services to meet the unique needs of
4 each student; and

5 WHEREAS, Delaware is subject to the regulations and guidelines set forth by the federal Individuals with
6 Disabilities Act (IDEA) of 2004 and enhancements to those requirements in Delaware Code; and

7 WHEREAS, IDEA states that district and charter schools are obligated to ensure that students with disabilities are
8 appropriately identified and have access to a free and appropriate public education (FAPE) in the least restrictive
9 environment (LRE); and

10 WHEREAS, for the 2017–2018 school year, there were 21,296 students eligible to receive special education and
11 related services in Delaware schools; and

12 WHEREAS, students eligible for special education represent approximately 14% of the statewide school
13 population; and

14 WHEREAS, since 2012, the number of special education units has increased at a faster rate than traditional units;
15 and

16 WHEREAS, special education represents a growing financial commitment by school districts as the need for
17 services increases.

18 NOW, THEREFORE:

19 BE IT RESOLVED by the House of Representatives of the 149th General Assembly of the State of Delaware, the
20 Senate concurring therein, that the Task Force be created to study and make findings and recommendations regarding the
21 cost of special education in the state of Delaware.

22 BE IT FURTHER RESOLVED that a Task Force be composed of the following members:

- 23 1. A member of the Delaware House Majority Caucus, appointed by the Speaker of the House.
 - 24 2. A member of the Delaware House Minority Caucus, appointed by the House Minority Leader.
 - 25 3. A member of the Senate Majority Caucus, appointed by the President Pro Tempore.
 - 26 4. A member of the Senate Minority Caucus, appointed by the Senate Minority Leader.
 - 27 5. One representative of the Delaware Department of Education, appointed by the Secretary of the Department of
28 Education.
 - 29 6. One superintendent, appointed by the President of the Chief School Officers Association.
 - 30 7. One elementary school principal appointed by the Delaware Association of School Administrators.
 - 31 8. One high school principal appointed by the Delaware Association of School Administrators.
 - 32 9. One high school special education coordinator appointed by the Delaware Association of School
33 Administrators.
 - 34 10. One charter school leader, appointed by the Delaware Charter Schools Network.
 - 35 11. One representative of the Delaware State Education Association, appointed by the President of the Delaware
36 State Education Association.
 - 37 12. One representative of the Governor's Office, appointed by the Governor.
 - 38 13. One representative of the Governor's Advisory Council for Exceptional Citizens, appointed by the Council
39 Chair of the Governor's Advisory Council for Exceptional Citizens.
 - 40 14. Three parents or guardians of a public school student receiving special education services, appointed by the
41 Delaware Parent Teacher Association.
 - 42 15. One District CFO who has a deep understanding of the special education funding system.
 - 43 16. A member of the Special Education Directors Association appointed by the chair of that association.
 - 44 17. A member of the Special Education Strategic Plan Council appointed by the co-chairs of the council.
 - 45 18. A member of the School Boards Association.
- 46 BE IT FURTHER RESOLVED that this Task Force shall:
- 47 (1) Define the reasons behind the dramatic recent rise in special education units and funding;
 - 48 (2) Study issues related to the funding of special education programs for district and charters schools;

49 (3) Recommend strategies to reduce the costs associated with special education and related services, so that
50 savings from this improved efficiency can be redirected to provide more efficient and complete services and education for
51 students with disabilities; and

52 (4) Study and recommend standards and oversight to ensure that programs and services are delivered in a cost
53 efficient manner.

54 BE IT FURTHER RESOLVED that the staff support for the Task Force shall be provided by the Delaware
55 Department of Education.

56 BE IT FURTHER RESOLVED that the Task Force shall select a chairperson from among its members.

57 BE IT FURTHER RESOLVED that the Task Force report its findings and recommendations to the members of the
58 Delaware General Assembly by no later than April 1, 2019.

SYNOPSIS

This concurrent resolution establishes a Task Force to investigate the cost of special education and make recommendations related to cost efficiency.

New ED Data Express is coming. Share your input in this short survey.



ED Data Express:
Data about elementary & secondary schools in the U.S.

You are here: [Data Elements](#) » [State Facts and Figures](#) » [Students](#) » [Student Characteristics](#) »

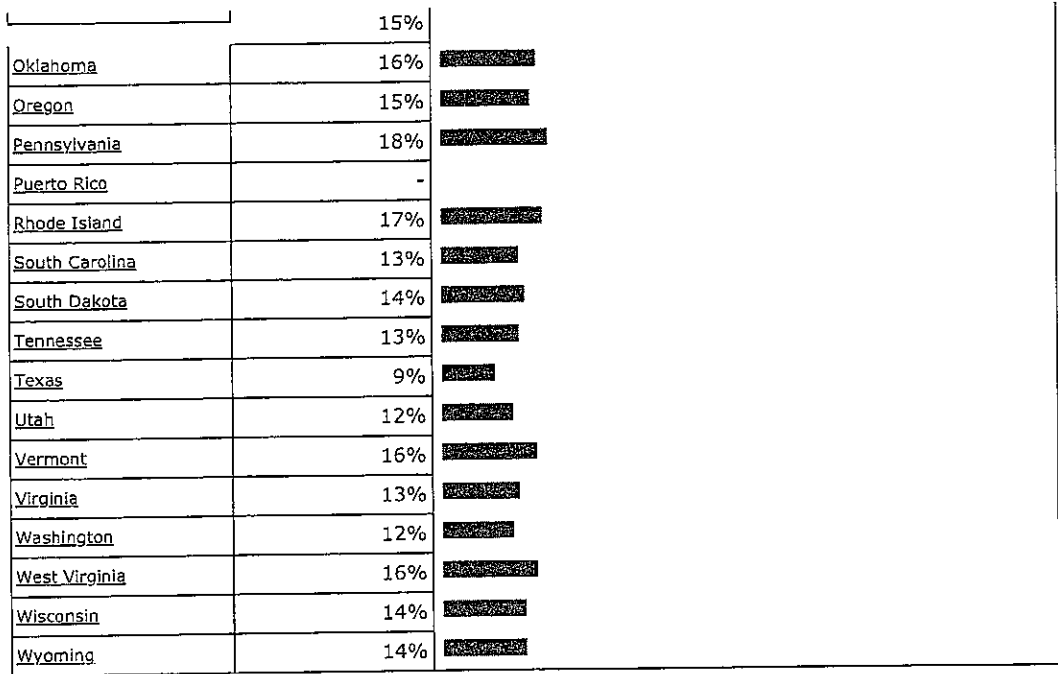
Percent Children with Disabilities: 2015-16 ¹

The percentage of students participating in an Individualized Education Program (IEP) and designated as special education students under the Individuals with Disabilities Education Act. [[More about...](#)]

[Graphs & Tables](#) [Data Mapping](#)

[Download Data Element Data](#)
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State	Value	
National	†	
Alabama	7%	
Alaska	14%	
Arizona	12%	
Arkansas	12%	
California	12%	
Colorado	-5	
Connecticut	14%	
Delaware	15%	
District of Columbia	15%	
Florida	13%	
Georgia	12%	
Hawaii	11%	
Idaho	10%	
Illinois	15%	
Indiana	16%	
Iowa	13%	
Kansas	14%	
Kentucky	14%	
Louisiana	13%	
Maine	17%	
Maryland	12%	
Massachusetts	17%	
Michigan	13%	
Minnesota	15%	
Mississippi	14%	
Missouri	14%	
Montana	12%	
Nebraska	15%	
Nevada	12%	
New Hampshire	-5	
New Jersey	16%	
New Mexico	15%	
New York	-5	
North Carolina	13%	
North Dakota	13%	
Ohio		



Key	
†	this symbol means not applicable.
-	this symbol means data value was not available.
n<	this symbol means that the data have been suppressed.
#	this symbol means data value rounds to zero.
‡	this symbol means reporting standards not met.

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SPONSOR: Sen. Sokola & Sen. Townsend & Sen. Pettyjohn &
Rep. Heffernan & Rep. Jaques
Sens. Ennis, Henry, Lavelle, Lopez; Reps. Briggs King,
Osienski, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 172

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL FUNDING
TRANSPARENCY.

1 WHEREAS, our State's educational success is dependent on the success of all students;

2 WHEREAS, current outcomes, especially for specific groups of students, demonstrate the need to understand our
3 State's investments – not just the amounts but the way they are allocated;

4 WHEREAS, Delaware does not report education spending at the school level in districts, which hinders the ability
5 of taxpayers, school board members, educators, parents, and others to make decisions and policies to:

6 Compare which schools are getting more or less funds;

7 Ensure funding is following target groups of students according to need; and

8 Learn ways to allocate resources effectively for student outcomes and to implement spending efficiencies;

9 WHEREAS, the federal Every Student Succeeds Act (ESSA) requires that the State collect and report per-pupil
10 expenditures at the school level, and requires community engagement and input from parents in public reporting; and

11 WHEREAS, districts and charter schools in Delaware use one common finance accounting system to track and
12 report expenses; however, there is no statewide approach for defining which expenses are considered school-level
13 expenditures. This means data, once public, will not be comparable across the State;

14 NOW, THEREFORE:

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

16 Section 1. Amend Title 14, Chapter 15 of the Delaware Code by making deletions as shown by strike through and
17 insertions as shown by underline as follows:

18 § 1511. School Funding Transparency.

19 (a) By December 2018, the Department of Education will create a standardized statewide approach to collecting
20 and reporting school-level per-pupil expenditures that all districts and charter schools must follow. At a minimum, the
21 standardized statewide approach must do all of the following:

22 (1) Comply with ESSA requirements by reporting federal funding separate from State and local funding.

23 (2) Create business rules that will identify which district and charter expenses are to be included and
24 excluded in the per-pupil calculation.

25 a. At a minimum, expense categories required under ESSA should be included such as
26 administration, instruction, attendance and health services, pupil transportation services, operation and
27 maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student
28 body activities.

29 b. At a minimum, expense categories that do not link directly to the day-to-day schooling of Pre-
30 K-12th grade students should be excluded. Excluded expense categories include adult education, capital
31 expenditures, community services, tuition, debt service, and rent.

32 (3) Define the method of determining student enrollment counts used in the per-pupil calculation.

33 (4) Require that districts and charter schools report 100% of included district and charter expenses, as
34 defined in § 1511(a)(2) of this section, in the following 2 school-level categories:

35 a. Category 1: Expenditures on resources actually tracked to the school.

36 b. Category 2: Each school's share of central office expenditures (expenditures shared across
37 multiple schools).

38 Each district and charter school must also report the grand total of Categories 1 and 2.

39 (5) Give clear guidance to districts and charter schools about how to assign district and charter expenses into
40 Categories 1 and 2 for reporting purposes. The guidance must do at least all of the following:

41 a. Require that at least the expense categories required under ESSA are commonly defined across the
42 State in how they get assigned to Category 1 or 2.

43 b. Require that districts and charter schools report whether they have assigned any expense categories that
44 they have discretion over into Category 1 or 2.

45 c. Require that all expenditures for personnel who work in schools at least 80% of the time are reported in
46 Category 1 using actual, not average, salary costs.

47 d. Require that central office expenditures be either divided across all schools according to student
48 enrollment or be divided by time spent in each school.

49 e. Require that charter schools without central offices report 100% of included district and charter
50 expenses, as defined in § 1511(a)(2) of this section, in Category 1, since all expenditures are made at the school
51 site, so that reporting is comparable across districts and charter schools.

52 f. Require that any expense categories and amounts excluded from the calculation, as defined in

53 § 1511(a)(2) of this section, are still reported.

54 g. Require that districts and charter schools commonly report the averages of teacher and paraprofessional
55 salaries at the school-level.

56 (b) Annually, beginning with school year 2018-2019 data reported no later than December 2019, the Department
57 of Education will publicly report school-level per-pupil expenditures, as defined in § 1511(a) of this section, as follows:

58 (1) The annual data must be publicly reported in at least the following formats:

59 a. Online individual school report cards.

60 b. Downloadable statewide data files or interactive, user-friendly online statewide data tools that
61 allow the user to draw comparisons between schools.

62 (2) At a minimum, the following information must be included with school-level per pupil expenditures:

63 a. The school level (Elementary, Middle or High School).

64 b. The grade levels served and student enrollment of each school.

65 c. The statewide school-level per-pupil expenditure averages, using the grand total of Categories
66 1 and 2 as defined in § 1511(a)(4) of this section.

67 d. The districtwide school-level per-pupil expenditure average, using districtwide averages for
68 Category 1 spending as defined in § 1511(a)(4) of this section.

69 e. School-level student demographics including rates of English learners, students living in
70 poverty, and special education students by need category.

71 f. School-level student outcomes, including proficiency in State assessments and graduation
72 rates.

73 g. Average teacher salary at the school-level.

74 h. Average paraprofessional salary at the school-level.

75 (3) The following information may be included with school-level per-pupil expenditures:

76 a. The district and statewide averages of student demographics, as defined in § 1511(b)(2)(e) of this
77 section.

78 b. The district and statewide averages of student outcomes, as defined in § 1511(b)(2)(f) of this section.

79 c. The district and statewide averages of teacher salaries and paraprofessional salaries, as defined in
80 §1511(b)(2)(g) and §1511(b)(2)(h) of this section.

81 d. Names of special programs in the school that drive resource allocation, such as districtwide special
82 education programs.

- 83 (4) Individual school report cards must be posted on State, district, and charter websites.
- 84 (c) The Department of Education must include public community involvement in developing the standardized
- 85 statewide approach as follows:
- 86 (1) Hold at least 3 public meetings to review and receive input on the standardized statewide approach
- 87 before finalizing the approach for district and charter school use.
- 88 (2) Hold at least 3 public meetings to review and receive input on the templates for publically reporting
- 89 data.
- 90 (3) Include representatives of at least the following constituencies:
- 91 a. District leaders.
- 92 b. Business managers.
- 93 c. Charter leaders.
- 94 d. Local school board members.
- 95 e. Business community.
- 96 f. Parents.
- 97 g. Advocates with specific knowledge of low income students, special education, or of English
- 98 learners.
- 99 (4) Report twice to the Chairs of the House and Senate Education Committees on how the requirements
- 100 of §1511(c) of this section were met and how feedback was incorporated by the end of December 2018
- 101 and again before the release of the 2018-2019 data that will be reported no later than December 2019.
- 102 (d) Each year, after new school-level per-pupil expenditure data is released to the public, the Department of
- 103 Education must offer at least 1 training session with the objective to increase understanding and use of the data in order to
- 104 make data-driven decisions for students. The training, which is optional, must be offered to at least each of the following
- 105 groups:
- 106 (1) Each of the local school boards and citizen's budget oversight committees.
- 107 (2) School and central office leaders from districts and charters.
- 108 (3) The general public and parents, which must be held at a time and place accessible to working parents
- 109 and with translation services available.

SYNOPSIS

This bill will increase the public transparency of education funding information by directing the Department of Education to:

1. Establish, in collaboration with stakeholders, a statewide approach for districts and charter schools for reporting expenditures at the school level and the school's share of central office expenditures so that per-pupil expenditure data is consistent and comparable across the State.

2. Report per-pupil expenditure data with key information that provide context on differences in funding such as school type, student demographics, and student outcomes.

3. Provide optional trainings to increase understanding of the data.

As a result, this bill is intended to enable all taxpayers, parents, and schools to understand their school spending and resources in order to make data-driven decisions for students.

Author: Senator Sokola



SPONSOR: Sen. Sokola

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 1
TO
SENATE BILL NO. 172

- 1 AMEND Senate Bill No. 172 by replacing on line 31 the word "tuition" with the words "fees for student services".
- 2 FURTHER AMEND Senate Bill No. 172 by inserting after line 98 the following:
- 3 "h. Educators and the Delaware State Education Association.
- 4 i. Governor's Advisory Council for Exceptional Citizens."

SYNOPSIS

This Amendment replaces the term "tuition" with "fees for student services" as an excluded expense category. The Amendment also adds Educators and the Delaware State Education Association and the Governor's Advisory Council for Exceptional Citizens as representatives that must be involved in developing the standardized statewide approach.

Author: Senator Sokola



in Committee

SPONSOR: Rep. Schwartzkopf & Rep. Potter & Sen. Lopez & Sen. Townsend
Reps. Baumbach, Bentz, Bolden, Heffernan, Hudson, Jaques, Q. Johnson, Kowalko, Mitchell, Osienski, Outten, Paradee, B. Short, Spiegelman, Viola, K. Williams; Sens. Delcollo, Henry, Marshall, Sokola

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 374

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE MEDICAL MARIJUANA ACT.

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

1 Section 1. Amend Section 4902A, Title 16 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 § 4902A. Definitions.

4 In this chapter, unless the context otherwise requires, the following definitions shall apply:

5 (3) "Debilitating medical condition" means 1 or more of the following:

6 a. Terminal illness, cancer, positive status for human immunodeficiency virus, acquired immune
7 deficiency syndrome, decompensated cirrhosis, amyotrophic lateral sclerosis, agitation of Alzheimer's disease,
8 post-traumatic stress disorder, intractable epilepsy, seizure disorder, glaucoma, chronic debilitating migraines,
9 pediatric autism spectrum disorder, pediatric sensory processing disorder or the treatment of these conditions.

10 b. A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the
11 following: cachexia or wasting syndrome; severe, debilitating pain that has not responded to previously prescribed
12 medication or surgical measures for more than 3 months or for which other treatment options produced serious
13 side effects; intractable nausea; seizures; severe and persistent muscle spasms, including those characteristic of
14 multiple sclerosis.

15 c. Any other medical condition or its treatment added by the Department, as provided for in § 4906A of
16 this title.

to be removed by amendment

SYNOPSIS

This bill adds glaucoma, chronic debilitating migraines, pediatric autism spectrum disorder, pediatric sensory processing disorder to the list of debilitating medical conditions which may qualify a person, upon certification by a physician, to be eligible for the use of medical marijuana in accordance with the terms of the Delaware Medical Marijuana Act.



SPONSOR: Rep. Schwartzkopf

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1
TO
HOUSE BILL NO. 374

1 AMEND House Bill No. 374 at line 9 by deleting "pediatric autism spectrum disorder, pediatric sensory
2 processing disorder".

SYNOPSIS

This amendment removes pediatric autism spectrum disorder and pediatric sensory processing disorder from the definition of debilitating medical condition in House Bill 374.

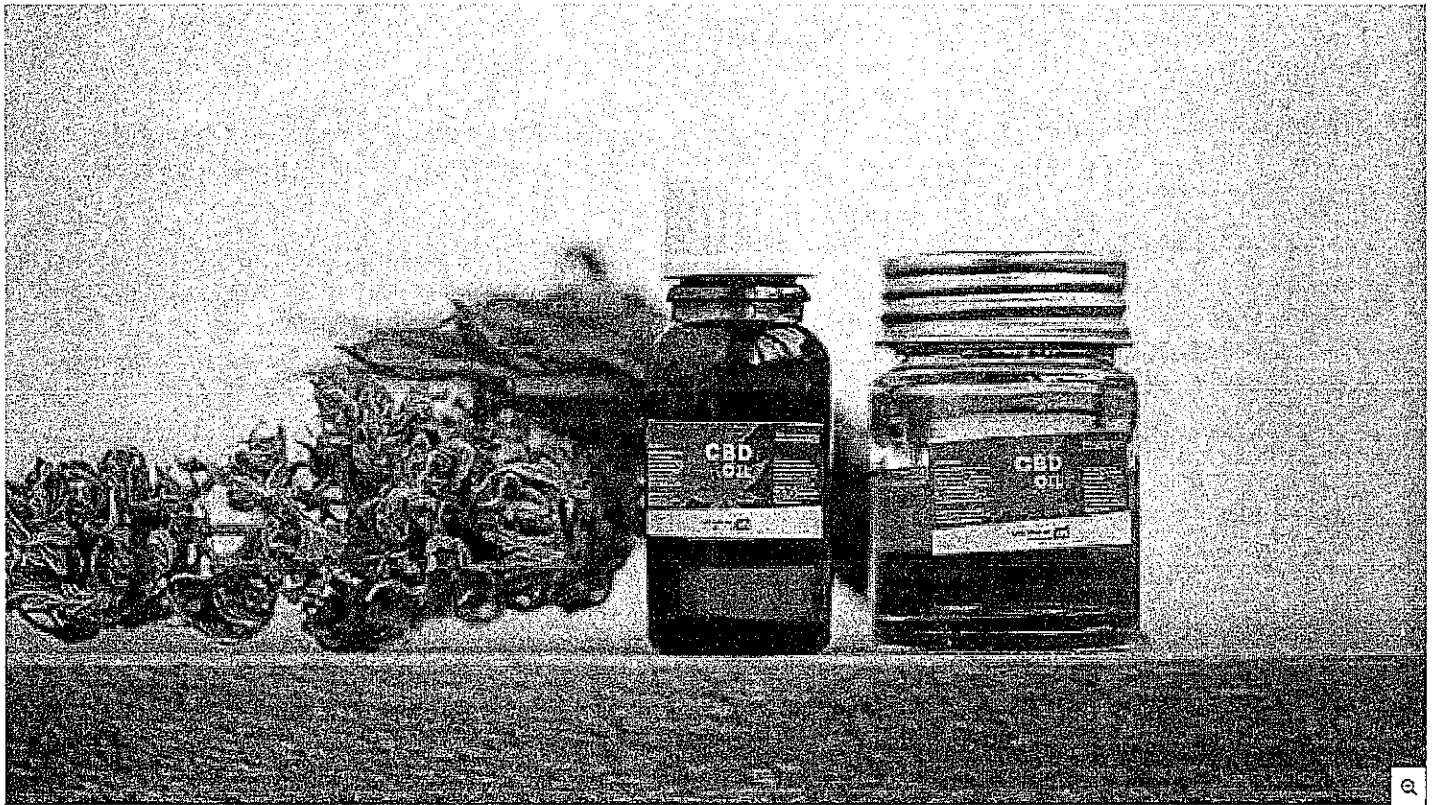
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Can Marijuana Treat Autism? These Clinical Trials Aim to Find Out

By Laura Geggel, Senior Writer | May 2, 2018 10:57am ET

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A growing number of clinical trials are looking into whether compounds in marijuana can be used to treat some of the symptoms of autism.

One of these clinical trials was just announced at the University of California, San Diego, and others are slated to take place in New York at Montefiore Medical Center and New York University, and in Israel at Shaare Zedek Medical Center.

These trials were prompted, in part, by the success of other clinical trials investigating whether cannabis could effectively and safely treat other neurological disorders, including two rare forms of epilepsy and a condition called fragile X syndrome. [7 Ways Marijuana May Affect the Brain]

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There have also been a slew of anecdotal stories from parents of children with autism saying that cannabis improved their children's symptoms. But more evidence is needed to make sure that specific compounds in cannabis are a safe and effective treatment for symptoms of autism spectrum disorder, said Dr. Orrin Devinsky, director of NYU Langone's Comprehensive Epilepsy Center, who is involved in two of the upcoming clinical trials. (Parents should not give their children cannabis, or cannabis-related compounds, without consulting with a doctor first.)

"There's not been a huge amount of data generated in this area," Devinsky told Live Science. "There's a lot of religion and not a lot of science."

New clinical trials

Autism spectrum disorder — a neurodevelopmental condition that affects communication, behavior and the ability to interact with others — is diagnosed in an estimated 1 in 59 children in the U.S., according to the Centers for Disease Control and Prevention.

There is no cure for autism (although a small percentage of children do appear to outgrow it), and there are few treatments for its symptoms. But, because of the potential promise of cannabis treatments, the Ray and Tye Noorda Foundation, a nonprofit based in Utah, donated \$4.7 million to the Center for Medicinal Cannabis Research (CMCR) at the UC San Diego School of Medicine — the largest private gift to date for medicinal cannabis research in the United States, according to an April 25 statement from the university.

Researchers at the CMCR plan to use the money to run a clinical trial testing whether cannabidiol (CBD), a nonpsychoactive compound in cannabis, can improve symptoms in children with severe autism, they said in the statement. (Unlike tetrahydrocannabinol, or THC, the psychoactive compound in marijuana, CBD does not cause a "high.")

The goals of the trial include determining whether CBD is safe, tolerable and effective in children with autism; whether and how CBD alters chemical messengers, known as neurotransmitters; if it improves brain connectivity; and whether biomarkers of brain inflammation, also associated with autism, are altered by CBD, the researchers said on the CMCR website.

The double-blind, placebo-controlled study, which is set to start a year from now, will be small — just 30 children ages 8 to 12. (A double-blind, placebo-controlled study means that half of the participants will be given a placebo instead of the drug, and neither the researchers nor the participants will know who received which compound until the trial is complete.)

Meanwhile, researchers are planning to test cannabidivarin (CBDV), another nonpsychoactive compound in cannabis, in a double-blind, randomized and placebo-controlled clinical trial of 100 children with autism, according to ClinicalTrials.gov. The goal of the trial is to see whether CBDV can improve certain behaviors of children with autism, said Devinsky, who is working on the trial with Dr. Eric Hollander, a clinical psychiatrist at Montefiore Medical Center.

Devinsky is working on another clinical trial at NYU, which will also investigate whether CBD is a safe and effective treatment for children with autism, he said. [11 Surprising Facts About Placebos]

And in Israel, researchers are studying whether a mix of CBD and THC is safe, tolerable and effective in children with autism, according to ClinicalTrials.gov.

That double-blind, randomized and placebo-controlled study will include 150 people ages 5 to 21, and will test participants on several behavioral and social measures over a period of 12 weeks.

Big picture

It's no surprise that more clinical trials are investigating whether different cannabis compounds can be used to treat autism, Devinsky said.

"There's an enormous amount of [cannabis] usage because 29 states and [the] District of Columbia have approved medical marijuana," Devinsky said. "In many of those states, parents of children with autism are able to obtain medical marijuana from a physician and use it to treat a variety of different problems, from anxiety, to aggressive behavior, to sleep problems."

However, he emphasized that it's still unclear whether cannabis can effectively treat these problems without causing significant side effects.

"Hopefully, it will be found to be effective, and hopefully, it will be found to be very safe for these individuals," Devinsky said. "But right now, we just don't have that knowledge."

Original article on Live Science.

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Author Bio



Laura Geggel, Senior Writer

As a senior writer for Live Science, Laura Geggel covers general science, including the environment, archaeology and amazing animals. She has written for The New York Times, Scholastic, Popular Science and Spectrum, a site covering autism research. Laura grew up in Seattle and studied English literature and psychology at Washington University in St. Louis before completing her graduate degree in science writing at NYU. When not writing, you'll find Laura playing Ultimate Frisbee. Follow Laura on Google+.

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Out of Committee

SPONSOR: Rep. Heffernan & Sen. Poore
Reps. Bentz, Briggs King, Spiegelman; Sens. Delcollo,
Ennis

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 401

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CONTROLLED SUBSTANCES ACT.

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

1 Section 1. Amend Chapter 47 of Title 16 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows:

3 § 4701 Definitions.

4 As used in this chapter:

5 (27) "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof,
6 the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or
7 preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the
8 stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or
9 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the
10 plant which is incapable of germination. Marijuana does not include products approved by the US Food and Drug
11 Administration.

12 § 4714 Schedule I.

13 (d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic
14 substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts,
15 isomers, and salts of isomers is possible within the specific chemical designation:

16 (19) Any material, compound, combination, mixture, synthetic substitute or preparation which contains any
17 quantity of marijuana or any tetrahydrocannabinols, their salts, isomers or salts of isomers and is not approved for use
18 by the US Food and Drug Administration;

SYNOPSIS

Currently the US FDA is reviewing a New Drug Application (NDA) of a pharmaceutical product containing cannabidiol (CBD) to treat patients with rare pediatric seizure disorders. If approved, this drug will be required to be prescribed and dispensed like other FDA approved products. However, to make sure that this product and future FDA approved marijuana containing products are available to patients as soon as possible, a change in Delaware law is required. This bill would exempt federally lawful FDA approved marijuana containing products from Schedule I of the state's

Controlled Substances Act until they are rescheduled under Delaware law. This would allow patient access to new therapies without an administrative delay, and allow FDA approved marijuana containing medicines to be prescribed, dispensed and regulated like other FDA approved pharmaceutical products. Illegal possession or sale of these drugs would be prosecuted as any other violation of the Controlled Substance Act.



SPONSOR: Rep. Briggs King & Sen. Poore
Reps. Baumbach, J. Johnson, Keeley, Osienski, Paradee,
Postles, D. Short; Sens. Cloutier, Hansen, Hocker,
Lavelle, Sokola

*out of
Committee*

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 344

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CLASSIFICATION AND EMPLOYMENT.

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

1 Section 1. Amend § 6531, Title 11 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 6531. Treatment and rehabilitation programs.

4 (a) Persons committed to the institutional care of the Department shall be dealt with humanely, with effort directed
5 to their rehabilitation. To the maximum extent possible, the Department shall evaluate each person using an objective risk
6 and needs assessment instrument and shall create a case plan for those persons assessed to be moderate- to high-risk that
7 targets the need factors identified by the assessment. The Department shall prioritize the provision of such evaluations
8 according to the length of sentence and the severity of the conduct giving rise to the sentence of incarceration. The
9 Department shall make efforts to provide treatment and services responsive to the person's needs and characteristics. Use of
10 the objective risk assessment instrument shall commence by December 31, 2013.

11 (b) The Department shall establish alcohol and drug counseling and treatment programs for inmates. The
12 Department may further establish a program of mandatory drug testing for inmates. In establishing such programs, the
13 Department shall also establish rules and regulations regarding the order in which inmates shall be eligible to participate in
14 such courses. Such regulations shall accord priority to inmates testing positive for illegal drugs, and inmates serving
15 sentences imposed for drug-related offenses.

16 (c) When the Department shall make programs of counseling and treatment available to inmates at a correctional
17 facility, inmates at such facility who are eligible in accordance with the rules and regulations of the Department established
18 under subsection (b) of this section, shall be required to enroll in and participate in such programs.

19 (d) The costs of providing such counseling and treatment programs established pursuant to subsections (b) and (c)
20 of this section shall, in accordance with a schedule to be established by the Department, be assessed against those inmates
21 required under subsection (c) of this section to be enrolled, and may be deducted from said inmate's account in accordance
22 with the provisions of § 6532(f) of this title.

23 (e) ~~Inmates required who have been court ordered~~ to participate in compulsory programs of drug or alcohol
24 counseling or treatment established by the Department pursuant to this section shall not be eligible for parole nor shall the
25 Department apply for modification of sentence until successfully completing such programs. Inmates refusing to participate
26 in such programs shall further be subject to such other disciplinary measures as the Commissioner shall establish by
27 regulation.

28 (f) The Department shall establish programs of work, case work counseling and psychotherapy, library and
29 religious services and commissary, and shall further establish procedures for the classification of inmates for those
30 purposes.

31 (g) The Department shall undertake an assessment of its ability to meet treatment and rehabilitation needs of the
32 confined population every 3 years and endeavor to provide programs in accordance with identified needs. The first report
33 shall be completed by December 31, 2012.

34 Section 2. Amend § 6531A, Title 11 of the Delaware Code by making deletions as shown by strikethrough and
35 insertions as shown by underline as follows:

36 § 6531A. Education programs.

37 (a) The Department of Education and the Department of Correction shall be jointly responsible for the
38 administration of a prison education program. The Department of Correction and the Department of Education shall work
39 collaboratively ~~through designated agency contracts~~ to accomplish this task.

40 (b) The Department of Education and the Department of Correction shall be responsible for the oversight and
41 management of the prison education program, including academic courses leading towards a high school diploma, life
42 skills, special education, ~~media resource services~~ and vocational technical courses. The Department of Education shall be
43 responsible for the establishment of rules and regulations ~~regarding the administration of academic and vocational programs~~
44 within the prison education program governing the maintenance of the Prison Education Program to provide educational
45 services for the Department of Correction. The Department of Education shall be responsible for hiring teachers to provide
46 instruction in these programs. The Department of Education shall further supervise these employees, who shall be
47 considered employees of the Department of Education and are subject to all applicable rules and regulations of the
48 Departments of Education and Correction. Employees who are assigned to the prison education program as teachers that

49 have remained Department of Correction employees shall be supervised by the Department of Education. Teachers who
50 were employees at the time this legislation is enacted, that work for the Department of Correction, shall have the right to
51 transfer to the Department of Education each year upon notification to the Department of Education by April 15 and such
52 transfer shall become effective July 1 of that year. Any position transfer made pursuant to this section shall become
53 permanent. If a remaining Department of Correction teacher position becomes vacant, the position and the associated
54 funding shall be transferred to the Department of Education. Any Department of Education employee working in the prison
55 education program and whose permanent work assignment location resides within or on the campus of a Department of
56 Correction ~~Level 5 or Level 4~~ facility must submit to the same random drug testing procedure required of Department of
57 Correction employees.

58 (c) The Department of Correction through the wardens of each facility shall be responsible for classifying
59 offenders in and out of the prison education program, providing dedicated facilities that accommodate the educational
60 needs, and disciplining inmates who have displayed inappropriate behavior in the prison education program. The
61 Department of Correction shall conduct security and background checks on all potential prison education personnel and
62 notify the Department of Education as to the results of that security check.

63 (d) When the Department of Education shall make prison education programs available to inmates at a correctional
64 facility, inmates at such facility who are eligible, in accordance with rules and regulations established under ~~subsections~~
65 subsection (b) and (c) of this section, shall be required to enroll in and attend such courses.

66 (e) ~~Inmates required~~ who have been court ordered to participate in compulsory programs of education as
67 established under this section shall not be eligible for parole nor shall the Department of Correction apply for a
68 modification of sentence until the inmate has successfully obtaining ~~obtained~~ a high school diploma or G.E.D. or has been
69 awarded a State of Delaware Diploma of Alternate Achievement Standards. Inmates refusing to participate in such
70 programs shall be subject to such disciplinary measures as the Commissioner of Correction shall establish by regulation.

71 (f) As used in this subsection, a State of Delaware Diploma of Alternate Achievement Standards shall be awarded
72 to an inmate who has met the requirements of the inmate's Individualized Education Program but the inmate will not
73 complete the high school graduation course credit requirements established by the State, district, or charter school for a
74 regular State of Delaware High School Diploma.

75 ~~(g)~~ (g) The Department of Education shall continue to provide funding through its discretionary federal special
76 education funds for a portion of the education costs associated with prison inmates aged 18 to 21 years who qualify for
77 special education.

SYNOPSIS

The language set forth in this statute would remove barriers for inmates who are students with disabilities and who have an Individualized Education Program (IEP) under state and federal law, when being considered for parole or a sentence modification. Requiring an inmate with an IEP to complete a GED or State of Delaware High School Diploma is counter-productive to the treatment and programming of this segment of the prison population and prohibits them from seeking the same benefits of parole or sentence modification afforded to those inmates who do not have an IEP. This amendment to the law allows an inmate the opportunity to earn a State of Delaware Diploma of Alternate Achievement Standards upon successful completion of the inmate's IEP.



*Unintended
5/2/18*

SPONSOR: Rep. Briggs King & Rep. Miro & Rep. Wilson &
Sen. Poore
Rep. Yearick

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 398

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO POWERS AND DUTIES.

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

1 Section 1. Amend § 122, Title 14 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 122. Rules and regulations.

4 (b) The Department shall prescribe rules and regulations:

5 (29) Governing the maintenance of the Prison Education Program to provide educational services for the
6 Department of Correction.

SYNOPSIS

This bill is a companion bill to House Substitute No. 1 for House Bill No. 344 and provides the authority for the Department of Education to prescribe the rules and regulations necessary to implement the Prison Education Program which provides educational services to the Department of Correction.

out of committee



SPONSOR: Rep. Longhurst & Rep. Matthews & Sen. Henry
Reps. Bentz, Kowalko, Lynn, K. Williams; Sen. Hansen

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 352

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSING.

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

1 Section 1. Amend § 1921, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1921. Applicability of chapter.

4 (a) This chapter ~~shall~~ does not apply to the following situations:

5 (10) ~~Administration~~ The administration of prescription or nonprescription ~~medications, other than by~~
6 ~~injection, medication~~ by child care providers who have successfully completed a state-approved medication training
7 ~~program, to children program and who administer the medication to a child in child day care homes or child day care~~
8 ~~centers regulated by the State under §§ 341-344 of Title 31; provided the Delaware Child Care Act, Subchapter III of~~
9 Chapter 3 of Title 31.

10 a. Medication may be administered under this paragraph (a)(10) of this section if the child's parent or
11 legal guardian provides all of the following:

12 1. ~~the medication and written~~ Written permission for the administration of the ~~particular medication~~
13 has been obtained from the child's parent or legal guardian and further provided medication.

14 2. ~~the~~ The medication is in its original container, properly labeled.

15 b. Properly labeled medication ~~shall~~ must include instructions for administration of the medication;

SYNOPSIS

This Act permits licensed child care providers, who successfully complete a State-approved medication training, to administer medication to children in their care, including by non-intravenous injection, if a child has a medical need during child care hours that requires it.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.



SPONSOR: Rep. B. Short & Sen. Bushweller
Reps. Bolden, Brady, Briggs King, Q. Johnson,
Spiegelman; Sens. Henry, Hocker

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 406

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO SMALL EMPLOYER HEALTH INSURANCE.

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

1 Section 1. Amend § 7218, Title 18 of the Delaware Code by making deletions as shown by strike through and
2 insertions as show by underline as follows:

3 ~~(e) A small employer health insurance carrier may not make available, issue, or renew a "stop loss" policy to a~~
4 ~~small employer if that small employer employs no more than 15 eligible employees, the majority of whom are employed~~
5 ~~within this State, on at least 50% of its working days during the preceding calendar quarter.~~ (e) A small employer health
6 insurance carrier may make available, issue, or renew a "stop loss" policy to a small employer if that small employer
7 employs more than 5 eligible employees, the majority of whom are employed within this State, on at least 50% of its
8 working days during the preceding calendar quarter.

SYNOPSIS

This bill allows for small employers who have more than 5 employees to obtain a "stop loss" policy for health insurance. This will provide more options for small employers in the health insurance market. Additionally these changes bring the section into compliance with the Delaware Legislative Drafting manual.



SPONSOR: Rep. Viola & Sen. Henry
Reps. Baumbach, Bentz, Heffernan, J. Johnson, Keeley,
Kowalko, Mitchell, Mulrooney, Osienski, Paradee, Potter,
K. Williams; Sens. Sokola, Townsend

out of committee

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 400

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

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

1 Section 1. Amend Subchapter V of Chapter 20, Title 15 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows and by redesignating accordingly:

3 § 2036. Deadline to register to vote: primary and general elections.

4 The last date to register to vote for any presidential primary, primary, special and general election shall be the
5 ~~fourth Saturday prior to the date of the election~~ day of that election. A person may register to vote at his or her polling
6 place from 7 am to 8 pm by submitting with that person's application a copy of a current and valid government issued photo
7 identification, or an original or legible copy of a current utility bill, bank statement, government check, paycheck or other
8 government document displaying the name and address of the person registering to vote. The term "current" when used in
9 this section as to forms of identification other than those that are government issued shall mean the documents must be
10 dated within 60 days prior to the registration date.

11 (1) Mail applications ~~postmarked~~ received on or before the deadline shall be considered to be on-
12 time and shall be immediately processed by the departments of elections; and

13 (2) Applications taken by agencies in accordance with subchapter VII of this chapter and received by
14 the departments of elections on or before the deadline shall be considered on-time and shall be processed by the
15 departments of elections immediately upon receipt.

16 ~~§ 2037. Deadline to register to vote: special elections.~~

17 ~~The last day to register to vote for any special election shall be 10 days prior to the date of the special~~
18 ~~election.~~

19 § 2038~~7~~. Registration applications received after a the deadline.

20 Registration applications received after a the deadline ~~and on or before the date of a primary or general~~
21 ~~election~~ shall be held and processed following that election.

22 § 2039~~8~~. Registration applications that update a registrant's record.



SPONSOR: Rep. M. Smith & Sen. Townsend
Reps. Brady, Hensley, Wilson, Yearick

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 104

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO SERVICES FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

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

1 Section 1. Amend Section 7909A, Chapter 79, Title 29 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows and redesignating accordingly:

3 § 7909A. Division of Developmental Disabilities Services.

4 (e) Beginning in fiscal year 2018, the Division of Developmental Disabilities Services shall phase in increases to
5 the rate system for services to adults with intellectual and developmental disabilities (I/DD) based on the market study
6 provided to the Office of Management and Budget and the Controller General on January 17, 2014 by the Department of
7 Health and Social Services Secretary, as subsequently updated with data for fiscal year 2017 and updated component
8 percentages. By fiscal year 2020, these rates shall be 100 percent of the benchmarked levels established in the 2014 market
9 study and shall be funded according to subsequent data updates. At a minimum of every three years thereafter, or whenever
10 the federal or state minimum wage rate is increased, another market study will be completed to determine whether an
11 increase should be granted in the DDDS rate system.

SYNOPSIS

The state is currently funding providers at 75% of the market rate established in a 2014 study that was done by DHSS. This bill would mandate an increase in the rates paid to providers according to the recommendations of the market study, so that by fiscal year 2020 the state would fund providers at 100% of the benchmarked rate. These rate increases are necessary to increase the hourly wages of Direct Support Professionals (DSPs), which along with the corresponding costs of program oversight, direct supervision of DSPs, and training, are essential to keep people with I/DD safe and integrated to the maximum extent possible in their local communities.