



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

John McNeal  
SCPD Director

**MEMORANDUM**

DATE: October 25, 2022

TO: Kimberly Xavier, DHSS-DMMA  
Planning and Policy Unit

FROM: Benjamin Shrader – Chairperson   
State Council for Persons with Disabilities

RE: 26 DE Reg. 294 [Proposed DHSS-DMMA State Plan Amendment  
regarding Telemedicine (October 1, 2022)]

The State Council for Persons with Disabilities (SCPD) has reviewed the DHSS-DMMA on amending the Title XIX Medicaid State Plan to remove telemedicine as a state plan service from the Medicaid State Plan. The regulation would apply to services provided on or after September 1, 2022, regarding telemedicine. The proposed regulation was published as 26 DE Reg. 294 in the October 1, 2022, Register of Regulations issue.

SCPD has the following observations:

- Telemedicine is an alternative to the traditional office visit way of providing medical care.
- In 2012, the Centers for Medicare and Medicaid Services (CMS) approved the Medicaid State Plan (MSP) that DMMA submitted to cover telemedicine services.
- Later, the CMS stated that since telemedicine is not a service itself but rather is a method for delivery of services, states are not required to submit a separate state

plan amendment (SPA) if the state decides to cover telemedicine services as they cover and pay for face-to-face services and visits.

- Nevertheless, if a state has an existing telemedicine SPA, such as the one DMMA has, the state is required to submit a SPA whenever it makes any changes, including expanding coverage, to how it implements telemedicine coverage.
- During the Covid-19 pandemic, rather than submitting a SPA to expand telemedicine coverage, DMMA sought and received emergency approval to expand telemedicine services and to afford greater flexibility to administer those services.
- To keep the expanded telemedicine and telehealth services and enhanced flexibility that DMMA currently has, DMMA needs to remove telemedicine from the Medicaid State Plan.
- By removing telemedicine from the Medicaid State Plan, DMMA can continue to cover telemedicine and telehealth services the way it has during the pandemic. The greater flexibility that DMMA now has will enable it to respond more quickly to any changes needed in the way medical services are delivered in Delaware.
- While this regulation is technical in nature but is necessary to enable DMMA to provide telemedicine services as it is currently doing so.

The State Council for Persons with Disabilities (SCPD) endorses this regulation, as telemedicine often offers persons with disabilities easier access to healthcare. However, the Council encourages DMMA to continue to monitor outcomes of telehealth, and to ultimately include consumer choice in healthcare options.

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

cc: The Honorable Molly Magarik, Secretary, DHSS  
Director Stephen Groff, DMMA  
Ms. Laura Waterland, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

26 reg 294 DHSS-DMMA Telemedicine 10-25-22