



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES  
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**MEMORANDUM**

DATE: September 29, 2011

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

FROM: Daniese McMullin-Powell, <sup>9/29/11</sup>Chairperson  
State Council for Persons with Disabilities

RE: 15 DE Reg. 278 [DMMA Proposed Tobacco Cessation Services Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) proposal to amend its Medicaid State Plan regarding coverage of tobacco cessation services. The regulation was published as 15 DE Reg. 278 in the September 1, 2011 issue of the Register of Regulations.

As background, CMS recently issued a June 24, 2011 guidance implementing Section 4107 of the Patient Protection and Affordable Care Act. States are now required to provide for Medicaid coverage of comprehensive tobacco cessation services to pregnant women which include the prenatal period through the postpartum period. The new standards are based on recommendations included in a 2008 Public Health Service (PHS) Guideline. DMMA proposes to implement this requirement through Medicaid Plan amendments. DHSS already offers a "Delaware Tobacco Quitline" through the Division of Public Health. Delaware will now be able to claim a 50% Federal Medicaid match for this service. Otherwise, the Plan amendments authorize Medicaid coverage of tobacco dependence assessment, face-to-face counseling, and pharmacotherapy such as nicotine patches. SCPD has the following observations.

First, DMMA interprets the CMA guidance as requiring coverage of tobacco cessation services for children. At 279. The Plan amendments do not address children. It would be preferable for DMMA to clarify whether tobacco cessation services for children is already covered in the State Plan or to develop a conforming State Plan amendment.

Second, the Plan amendments require reimbursable counseling to be "face-to-face". SCPD suspects that "in-person" counseling is generally more effective than telephone-based counseling. Cf. the attached 2008 Guideline at 166. However, the Guideline also describes a study involving an initial in-person counseling session followed by 12 telephone counseling sessions. DMMA may wish to

assess whether covering telephone counseling sessions may be appropriate. For example, there may be pregnant women who would prefer telephone-based counseling since it obviates transportation time and inconvenience (e.g. finding babysitter for existing children). Perhaps DMMA could consider a lower reimbursement rate for telephone-based counseling to provide an incentive for “in-person” counseling while not precluding reimbursement for telephone-based counseling altogether.

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

cc: Ms. Rosanne Mahaney  
Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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