



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: March 27, 2012

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

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

RE: 15 DE Reg. 1265 [DMMA Proposed Disproportionate Share Hospital Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid & Medical Assistance's (DMMA) proposal to expand eligibility for Medicaid disproportionate share hospital funds published as 15 DE Reg. 1265 in the March 1, 2012 issue of the Register of Regulations. As background, the regulation notes that federal law requires states to offer disproportionate share hospital (DSH) payments to qualifying hospitals serving a large number of Medicaid and uninsured patients. There is both an overall state cap on funds and a per-hospital cap on funds. Delaware's eligibility criteria have been somewhat restrictive. As a result, only the Delaware Psychiatric Center has applied and qualified for DSH funds. DMMA hopes the new eligibility standards will allow other hospitals to qualify for funds. State matching funds are included in both the FY12 budget and proposed FY13 budget. SCPD has the following observations.

First, the regulation prioritizes payments to DPC in the event of insufficient funds to distribute to qualifying applicants. This is understandable, especially given the costs to implement the DOJ-DHSS settlement agreement.

Second, there is some "tension" between the authorization for a "psychiatric hospital" to qualify for DSH funds (p. 1271, bottom) and the categorical requirement that the psychiatric hospital "be a public psychiatric hospital (owned or operated by an agency of Delaware State government)" (p. 1270, Section (d)). Thus, the latter section would bar Rockford or MeadowWood from qualifying for DSH payments as a psychiatric hospital. The only exception is eligibility for a modest \$10,000 if the psychiatric hospital is a Medicaid MCO provider (p. 1272, Section 4). It's unclear why private psychiatric hospitals should be treated differently than acute care hospitals. Perhaps the State prefers payments to non-profit providers (p. 1270, top) and psychiatric

hospitals may be predominantly “for profit” providers.

SCPD endorses the concept of the proposed regulation since it may prompt hospitals to be more likely to treat Medicaid patients and offer uncompensated care. However, the qualifying criteria are complex.

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

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

15reg1265 dmma-disproportionate share hospital 3-12