



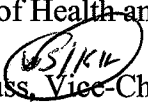
STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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**MEMORANDUM**

DATE: February 16, 2011

TO: The Honorable Rita Landgraf, Cabinet Secretary  
Department of Health and Social Services

FROM: Wendy Strauss,  Vice-Chairperson  
State Council for Persons with Disabilities

RE: 15 DE Reg. 1023 [DMMA Proposed Medicaid Alien Emergency, Labor & Delivery 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's) final regulation regarding *Coverage of Emergency Services and Labor and Delivery* published as 15 DE Reg. 1023 in the January 1, 2012 issue of the Register of Regulations. SCPD commented on the proposed version of this regulation in November 2011. A copy of the November 18, 2011 SCPD memo is attached for facilitated reference.

In a nutshell, the Council observed that DMMA had adopted a regulation in June 2011 limiting services eligibility of qualifying legally residing non-citizens to "emergency services and labor and delivery only". In commenting on the November regulation, the Council endorsed the concept of extending Medicaid "labor and delivery" coverage to include not only hospitals, but birthing centers as well. However, SCPD also recommended that DMMA similarly extend "emergency services" to be provided not only in hospital emergency rooms but in free-standing sites (e.g. Newark Emergency Center) as well. DMMA declined to follow the recommendation. It differentiates between "emergency care" and "urgent care" and recites that the latter excludes "life threatening" conditions. SCPD believes the differentiation is not entirely accurate. For example, the regulatory definition of "emergency" includes more than life-threatening conditions. It covers conditions which threaten serious long lasting disability.

As a follow-up, SCPD wanted to note that DHSS may be exclusively opting for high cost services by adopting a no-exceptions standard requiring "emergency" services to be provided in a hospital.

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

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

15reg1023 dmma-emergency final 2-16-12



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MEMORANDUM

DATE: November 18, 2011

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

FROM: Wendy Strauss, <sup>ws/kjf</sup> Vice-Chairperson  
State Council for Persons with Disabilities

RE: 15 DE Reg. 620 [DMMA Proposed Medicaid Alien Emergency, Labor & Delivery 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 regulation regarding *Coverage of Emergency Services and Labor and Delivery* published as 15 DE Reg. 620 in the November 1, 2011 issue of the Register of Regulations. In June 2011, DMMA adopted a regulation limiting Medicaid services eligibility of qualifying legally residing noncitizens to "emergency services and labor and delivery only." [14 DE Reg. 998 (April 1, 2011) (proposed); 14 DE Reg. 1361 (June 1, 2011)] The Division now proposes to adopt a regulation clarifying that labor and delivery services may be rendered not only in a hospital, but in a birthing center as well. SCPD endorses this clarification, but has the following observations on the proposed regulation.

The current regulation categorically limits emergency services to those "rendered in an acute care emergency room or in an acute care inpatient hospital". [Section 14370] Since DMMA is not limiting labor and delivery to hospital sites, it should consider whether covered emergency services can only be provided in a hospital. The DMAP definition of "emergency" includes a "severe acute illness or accidental injury that demands immediate medical attention or surgical attention" which, "without the treatment a person's life could be threatened or he or she could suffer serious long lasting disability." At 621.

There are free-standing emergency or urgent care centers which treat conditions covered by this standard. See attachments. For example, the Newark Emergency Center treats pneumonia, asthma, and fractures. If a patient presented with acute shortness of breath due to asthma and was treated with a nebulizer and concomitant treatment, that should be covered as a life-

threatening emergency. Similarly, the fracture of three fingers could be treated in the Center which would meet the standard of an accidental injury” which could result in “serious long-lasting disability.” Consistent with the attachment, the Silverside Medical Aid Network similarly covers broken bones, asthma, and pneumonia. It would be preferable for DMMA to expand the sites in which compensable emergency services can be provided. If free-standing center costs are less than hospital costs, such a change could also result in cost saving to the State.

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.  
Newark Emergency Center  
Silverside Medical Aid Network  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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