



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: August 23, 2012

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

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

RE: 16 DE Reg. 166 [DMMA Proposed Estate Recovery & Civil Unions 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) proposal to update its regulations in the Division of Social Services Manual (DSSM) regarding Medicaid Estate Recovery by primarily incorporating references to "civil union partners" in the context of estate recover and liens. The proposed regulation was published as 16 DE Reg. 166 in the August 1, 2012 issue of the Register of Regulations.

Specifically, DMMA proposes to amend §20500.5.3.2 to add "civil union partner" to the list of relatives who are eligible to request a waiver of estate recovery based on undue hardship. This is authorized by the CMS guidance at p. 3. Note that "spouses" are protected by a different regulation, §20500.5.1. In addition, DMMA proposes to amend §20500.6.1 to include "civil union partner" to the list of relatives whose presence in the home may justify deferral of a lien for costs of care while the beneficiary is in a nursing facility. This is authorized at pp. 1-2 of the CMS guidance. The same deferral will apply if the home is jointly owned with the civil union partner.

SCPD endorses the proposed regulation.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position 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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