



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
Margaret M. O'Neill Bldg., Suite 1, Room 311  
410 Federal Street  
Dover, Delaware 19901  
302-739-3621

The Honorable John Carney  
Governor

John McNeal  
SCPD Director

MEMORANDUM

DATE: August 23, 2017

TO: Ms. Nicole Cunningham, DMMA  
Planning & Policy Development Unit

FROM: Ms. Jamie Wolfe, Chairperson  
State Council for Persons with Disabilities

RE: 21 DE Reg. 127 [DMMA Proposed DPAP Elimination (8/1/17)]

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 the regulations establishing the Delaware Prescription Drug Payment Assistance Program (DPAP). The proposed regulation was published as 21 DE Reg. 127 in the August 1, 2017 issue of the Register of Regulations.

The DPAP has historically been paid from the Delaware Health Fund (p. 128). The rationale (p. 128) is as follows:

The most recent internal Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) report indicates that all but two members have prescription coverage through Medicare Part D. The program is being eliminated due to a reduction in usage, along with an overall reduction in expenditures by DMMA.

The SCPD has the following observations.

First, the above justification is not very illuminating since most DPAP enrollees have had Medicare-D coverage in past years as well. DMMA notes (p. 128) that most costs for low-income Medicare-D beneficiaries are covered by Medicare -D:

Individuals with Medicare (the majority of DPAP clients) would select a Part D Prescription Plan and apply for Extra Help (Low-Income Subsidy) through the Social Security Administration. The Low-Income Subsidy, or LIS, which is paid by the Centers for Medicare & Medicaid Services, would provide financial assistance (at levels of 100%, 75%, 50%, and 25%) for monthly Part D premiums, annual deductibles, and prescription coverage through the Part D coverage gap to low-income individuals. Medicare Part D would be primary to the Delaware Prescription Assistance Program.

However, it would be informative to disclose what costs the DPAP covered which Medicare-D and the Low-Income Subsidy do not cover. For example, it is troubling to note that the FY17 Delaware Health Fund Advisory Committee approved \$2.5 million for this program which was included in the FY17 budget.<sup>1</sup> See attachments. In contrast, the FY18 budget (excerpt attached) omits any DPAP funding and the DHSS website (excerpt attached) indicates the program has already been eliminated. A reasonable person might ask what the \$2.5 million covered in FY17 that will not be covered in FY18.

Second, consistent with the attached excerpt from the Delaware Code, the enabling legislation for the DPAP has been repealed. Therefore, as a practical matter, the current regulation merely implements the repeal of the enabling law. However, the SCPD would like more information on the effect of the repeal, they could request the last few annual reports on the DPAP prepared in fulfillment of Title 16 Del.C. §3006B.

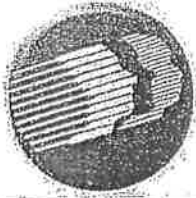
In summary:

1. The SCPD acknowledges the legislative repeal of the DPAP enabling law justifies the regulation;
2. The SCPD has concerns that the ramifications of the elimination of the program (which had a \$2.5 million appropriation in FY17) are not clear; and
3. The SCPD requests a copy of the last three annual reports prepared pursuant to the recently-repealed 16 Del.C. §3006B.

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

cc: Mr. Steve Groff, DMMA  
Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

21reg127 dmma-dpap elimination 8-23-17



**Delaware Health  
and Social Services**

EXCERPT

Office of the Secretary

1901 N. DUPONT HIGHWAY, NEW CASTLE, DE 19720 \* TELEPHONE: 302-255-9040 FAX: 302-255-4429

MEMORANDUM

TO: Governor Jack Markell  
Members of the General Assembly

FROM: Rita M. Landgraf, Secretary *RML*

DATE: November 17, 2015

SUBJECT: **Delaware Health Fund Advisory Committee  
Fiscal Year 2017 Recommendations**

On behalf of the Delaware Health Fund Advisory Committee (HFAC), I present you with our Fiscal Year 2017 (FY17) Health Fund recommendations. The Committee's final decisions reflect several hours of discussion.

The State anticipates receiving \$25,189.6 million (principal payment and interest) in Tobacco Settlement Funds for FY16. The available Reserve balance is \$405,100.

The FY17 recommendation of HFAC is as follows:

- Fund Medicaid and Medical Assistance mandates, the Department of Justice, Wesley College, the Department of Services for Children, Youth, & Their Families, and the Division of Alcohol and Tobacco Enforcement at the levels requested in their applications;
- Use General Fund dollars instead of Health Fund dollars to fund the positions at Delaware Technical and Community College (Del Tech) and to fund the Delaware Healthy Children Program;
- Increase funding for the Division of Public Health's Tobacco Prevention Programs;
- Increase funding for the Delaware Cancer Consortium Sub-Grantees; and
- Fund the remaining applicants at the same level as FY16.

In discussions leading to these recommendations, HFAC members responded to requests they heard from applicants and the public. Del Tech said that they would be asking for the funding for the positions currently supported by the Health Fund to be instead funded as part of their General Fund budget request. HFAC members strongly believe that these Del Tech positions should be funded and do not in any way recommend eliminating funding for them during the budget process. In the event General Fund dollars are not allocated for these Del Tech positions, then HFAC recommends funding Del Tech in the amount of \$1,828.7 from the Health Fund.

However, by transferring these positions to the General Fund, HFAC recognized that those Health Fund dollars could be used instead to avoid reducing funding for most other applicants.

During public comment periods, HFAC received testimony from many members of the public urging an increase in spending on Tobacco Prevention programs. Over the past several years, funding for Tobacco Prevention programs has been falling and these programs provide a documented role in reducing smoking rates. This work is both at the heart of the Tobacco Master Settlement Agreement that is the source of this revenue and saves lives, and money, because fewer people will develop tobacco-related health problems. The HFAC members thus recommend increasing funding for Tobacco Prevention programs and using General Fund dollars for the Delaware Healthy Children Program.

The details of this recommendation are set forth more fully in the attached spreadsheet. This recommendation expends \$25,189.6 million which can be done without spending any funds from the Reserve.

HFAC again recommends establishing an Innovation Fund at the Delaware Community Foundation for the purpose of funding health-related programs in concert with the intent of the Tobacco Master Settlement. Health Fund revenue has been decreasing, due to the decline in cigarette sales, a main goal of the tobacco lawsuit and Master Settlement Agreement. HFAC is extremely concerned about the sustainability of funding for the important work currently funded by the Health Fund in light of the decreasing revenue and thus seeks to explore leveraging private resources to support this important work. This recommendation includes having HFAC serve as the governing body for the Innovation Fund.

The details of this recommendation are set forth more fully in the attached spreadsheet.

As the Chair of the HFAC, I would like to commend the members for their dedication and contribution to the Health Fund process:

Senator Patricia Blevins  
Senator David McBride  
Senator Bethany Hall-Long  
Dr. Charles Reinhardt  
Ms. Bettina Riveros, Esq.

Representative Debra Heffernan  
Representative Edward Osienski  
Mr. Donald Fulton  
Ms. Paula Roy

Please contact me if you have any questions.

Enclosure

pc: Health Fund Advisory Committee Members  
Ann Visalli, Director, Office of Management and Budget  
Michael Morton, Office of the Controller General  
Kimberly Reinagel-Nietubicz, Office of the Controller General

**FY 2017 Health Fund Advisory Committee Final Recommendations - Details**  
**November 9, 2015 Meeting**

EXISTING PROGRAMS	FY '16 Budget	FY '17 Request	FY 17 FINAL HFAC RECOMMENDATION
<b>Cancer Programs</b>			
Cancer Consortium Recommendations (DHSS - DPH)	\$8,365.0	\$8,365.0	\$8,828.5
Consortium Sub-Grantees:			\$0.0
a) DE Breast Cancer Coalition	\$68.3	\$100.0	\$68.3
b) Breast and Cervical Cancer Treatment (DHSS - DMMA)	\$380.0	\$335.0	\$335.0
c) Cancer Care Connection	\$126.8	\$126.8	\$126.8
d) Cancer Support Community (Formerly The Wellness Community)	\$128.0	\$128.0	\$128.0
<b>Subtotal</b>	<b>\$9,068.1</b>	<b>\$9,054.8</b>	<b>\$9,486.6</b>
<b>Disability Programs</b>			
Medical Coverage for SSI Transition (DHSS - DMMA)	\$3,891.3	\$3,120.0	\$3,120.0
Attendant Care/HB 30 (DHSS - DDDS)	\$59.4	\$63.2	\$59.4
Attendant Care/HB 30 (DHSS - DSAAPD)	\$603.8	\$603.8	\$603.8
SSI Supplement (DHSS - DSS)	\$943.4	\$943.4	\$943.4
Money Follows the Person (DHSS - OSEC-\$32.0, DMMA-\$800.0)	\$842.0	\$832.0	\$832.0
<b>Subtotal</b>	<b>\$6,339.9</b>	<b>\$5,562.4</b>	<b>\$5,558.6</b>
<b>Tobacco Prevention and Control Programs</b>			
Tobacco Prevention - Department of Justice	\$243.5	\$223.4	\$223.4
Tobacco Prevention - Department of Services for Children, Youth & Their Families	\$39.9	\$40.0	\$40.0
Tobacco Prevention - Div. of Alcohol and Tobacco Enforcement	\$416.3	\$561.6	\$561.6
Tobacco Prevention (DHSS - DPH)	\$1,740.0	\$3,403.7	\$3,329.9
Mammography Van (Delaware Breast Cancer Coalition) Included in FY 15 DPH Tobacco Contractual Funding and FY 16 HFAC Recommendations	\$294.1	\$294.1	\$294.1
<b>Subtotal</b>	<b>\$2,733.8</b>	<b>\$4,522.8</b>	<b>\$4,449.0</b>
* Delaware Prescription Assistance Program (DHSS - DMMA)	\$2,500.0	\$2,500.0	* \$2,500.0
<b>Subtotal</b>	<b>\$2,500.0</b>	<b>\$2,500.0</b>	<b>\$2,500.0</b>
<b>Workforce Development Programs</b>			
New Nurse Formation Programs - Del Tech	\$1,977.0	\$2,535.0	\$0.0
Nursing Program - Wesley College	\$0.0	\$75.0	\$75.0
Nursing Program - Polytech Adult Education	\$74.4	\$79.1	\$74.4
Delaware State University - Nursing Program	\$101.5	\$101.5	\$101.5
<b>Subtotal</b>	<b>\$2,152.9</b>	<b>\$2,790.6</b>	<b>\$250.9</b>
<b>Behavioral Health Programs</b>			
Heroin Residential Program - Gaudenzia, Inc.	\$287.9	\$287.9	\$287.9
Substance Abuse Transitional Housing	\$140.7	\$140.7	\$140.7
Limn House	\$51.1	\$62.7	\$51.1
Delaware Schools ATODA Survey - University of Delaware	\$19.4	\$20.6	\$19.4
Project Renewal Program - Brandywine Counseling	\$113.0	\$148.0	\$113.0
<b>Subtotal</b>	<b>\$612.1</b>	<b>\$659.9</b>	<b>\$612.1</b>
<b>Consumer Education Programs</b>			
Nurse Family Partnership - Children & Families First	\$158.8	\$158.5	\$158.8

SB 265  
FY17 BUDGET

Year ending June 30, 2017

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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Personnel		
NSF	ASF	GF
108.8		78.1
	1.0	
108.8	1.0	78.1
108.8	1.0	78.1

	\$ Program		\$ Line Item	
	ASF	GF	ASF	GF
<b>(35-02-00) Medicaid and Medical Assistance</b>				
Personnel Costs				5,193.2
Travel				0.1
Contractual Services				3,964.4
Energy				29.3
Supplies and Materials				35.7
Capital Outlay				6.6
Tobacco Fund:				
Prescription Drug Program *			2,500.0	
Medical Assistance Transition			3,120.0	
Medicaid			667.0	
Money Follows the Person			800.0	
Delaware Healthy Children Program			1,936.3	
Cancer Council Recommendations:				
Breast and Cervical Cancer Treatment			335.0	
Other Items:				
Medicaid			23,000.0	752,301.2
Medicaid for Workers with Disabilities			47.5	
Medicaid/NonState			200.0	
DOC Medicaid			1,500.0	
Medicaid Other			500.0	
DPH Fees			300.0	
Delaware Healthy Children Program Premiums			600.0	
Delaware Healthy Children Program - DSCYF			800.0	
Cost Recovery			275.1	
Renal				729.5
Medicaid Long Term Care			20,115.0	
Disproportionate Share Hospital				3,901.4
Nursing Home Quality Assessment			14,000.0	
Technology Operations				1,211.3
<b>TOTAL -- Medicaid and Medical Assistance</b>			<b>70,695.9</b>	<b>767,372.7</b>
<b>(-01) Medicaid and Medical Assistance</b>	<b>70,695.9</b>	<b>767,372.7</b>		
<b>TOTAL -- Internal Program Unit</b>	<b>70,695.9</b>	<b>767,372.7</b>		

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 HB 00 205  
 FIVE BUDGET

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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Personnel		
NSF	ASF	GF
107.4		77.0
	1.0	
107.4	1.0	77.0
107.4	1.0	77.0
107.4	1.0	77.0

	\$ Program		\$ Line Item	
	ASF	GF	ASF	GF
(35-02-00) Medicaid and Medical Assistance				
Personnel Costs				6,239.1
Travel				0.1
Contractual Services				3,962.4
Energy				29.3
Supplies and Materials				35.7
Capital Outlay				5.9
Tobacco Fund: *				
Medical Assistance Transition			1,891.0	
Medicaid			667.0	
Money Follows the Person			545.0	
Delaware Healthy Children Program			1,936.3	
Renal			729.5	
Cancer Council Recommendations:				
Breast and Cervical Cancer Treatment			175.0	
Other Items:				
Medicaid			23,000.0	760,112.7
Medicaid for Workers with Disabilities			47.5	
Medicaid/NonState			200.0	
DOC Medicaid			1,500.0	
Medicaid Other			500.0	
DPH Fees			300.0	
Delaware Healthy Children Program Premiums			600.0	
Delaware Healthy Children Program - DSCYF			800.0	
Cost Recovery			275.1	
Medicaid Long Term Care			20,115.0	
Disproportionate Share Hospital				3,901.4
Nursing Home Quality Assessment			18,000.0	
Technology Operations				1,211.3
Pathways			200.0	
Promise			200.0	
<b>TOTAL -- Medicaid and Medical Assistance</b>			<b>71,681.4</b>	<b>775,497.9</b>
(-01) Medicaid and Medical Assistance	71,681.4	775,497.9		
<b>TOTAL -- Internal Program Unit</b>	<b>71,681.4</b>	<b>775,497.9</b>		

 Total Suspected Overdose Deaths in Delaware for 2017: 132  
(<http://www.helpisherede.com/#intro>)



DHSS Menu

(<http://delaware.gov>)

# Delaware Prescription Assistance Program

The program has ended and is no longer accepting applications.



# TITLE 16

## Health and Safety

### Regulatory Provisions Concerning Public Health

#### CHAPTER 30B. PRESCRIPTION DRUG PAYMENT ASSISTANCE PROGRAM

##### **§ 3001B Short title.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3002B Purpose.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; 75 Del. Laws, c. 17, § 1; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3003B Definitions.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; 75 Del. Laws, c. 17, § 2; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3004B Eligibility.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 17, §§ 3-7; 76 Del. Laws, c. 7, §§ 1, 2; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3005B Program administration.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; 75 Del. Laws, c. 17, §§ 8, 10; 75 Del. Laws, c. 363, § 1; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3006B Annual report.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; 75 Del. Laws, c. 17, § 11; repealed by 81 Del. Laws, c. 58, § 40, eff. July 3, 2017.;

##### **§ 3007B Pharmacist duty.**

72 Del. Laws, 1st Sp. Sess., c. 259, § 1; repealed by 81 Del. Laws, c. 58 § 40, eff. Mar. 7, 17. ;