



*Delaware Health and Social Services*

**DRAFT**

**Delaware Diamond State Health Plan  
Substance Use Disorders Treatment  
Section 1115 Demonstration Amendment Application**

**to**

**The Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services**

**State of Delaware**

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## **Section I – Summary**

The Delaware Department of Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) is requesting an amendment to the Delaware Diamond State Health Plan (DSHP) Section 1115 Demonstration Waiver to continue, and potentially expand, the use of Institutions for Mental Diseases (IMDs) for substance use disorder (SUD) residential treatment as part of an essential continuum of care for Medicaid enrolled individuals with opioid or other substance use disorders.

Delaware Medicaid currently covers all American Society of Addiction Medicine (ASAM) levels of outpatient and residential care and Medicaid managed care organizations (MCOs) currently utilize IMDs as part of their SUD residential treatment provider network under the Medicaid managed care rules for “in lieu of” services. In the absence of this demonstration amendment, recent federal changes to the managed care rules and longstanding fee-for-service rules that limit payment for treatment in an IMD setting would further restrict access to residential treatment while Delaware is in the middle of an opioid epidemic<sup>1</sup>. This demonstration amendment will enable Delaware to maintain and expand critical access to a range of existing SUD services and to create a more robust provider network.

## **Section II –Program Background, Description, Goals and Objectives**

### **Background**

Delaware, like other states across the nation, is facing an increasingly complex public health crisis related to the misuse and abuse of opioids. This includes prescription painkillers, as well as illegally obtained pills, heroin, and street-derived synthetic opioids, such as fentanyl. Over the past several years, Delaware has responded to this crisis in multiple ways: legislation has been passed that supports programs and initiatives that are designed to prevent opioid misuse and addiction; harm reduction strategies have expanded that reduce risk of overdose, and other associated health concerns related to misuse; and policymakers have supported increased expansion and access to treatment services. Delaware has also increased treatment capacity while creating a continuum of care that includes residential treatment options as well as medication assisted treatment (MAT), inpatient and outpatient detoxification programs. The treatment system in Delaware operates as a continuum in which clients may move from between levels of service intensity based on their individual treatment needs. A summary of a few of the approaches that Delaware has implemented to respond to the opioid epidemic are described below:

- **Expansion of the Medicaid SUD Continuum of Care.** Delaware Medicaid coverage includes all ASAM levels of care, including outpatient, intensive outpatient (IOP), medication assisted treatment (MAT), residential, inpatient, and MAT.
- **Coverage of MAT.** Delaware provides coverage for MAT, in combination with substance abuse counseling, to help individuals who have opioid dependence disorder manage their opioid addiction. Coverage is provided for Methadone, Buprenorphine, and Naltrexone, often referred to by the brand name, Vivitrol.

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<sup>1</sup> <https://www.delawareonline.com/topic/885f595b-ce73-4ce1-9002-092931aba2d0/heroin-delawares-deadly-crisis/>

- **Expansion of residential treatment capacity.** In 2016, Delaware:
  - Opened three 16-bed residential treatment programs and reconfigured the Delaware City program (78 to 95 beds)
  - Doubled sober living residential beds statewide (60 to 120 beds)
  - Doubled the residential treatment beds for individuals ages 18-25 recovering from addiction to opiates (16 to 32 beds)

Yet, according to the Prescription Opioid and Heroin Addiction Treatment Needs Assessment report produced for the Delaware Department of Justice (DOJ), the State's residential treatment system is being underutilized, and entry into this system has been constrained by insurers' policies, including Medicaid payment restrictions.<sup>2</sup> Delaware has addressed some of these restrictions through the passage of Senate Bill 109, but federal Medicaid rules continue to limit payment for IMD settings. The Delaware DOJ has developed a nine-point plan that includes a recommendation to expand the availability of "quality treatment facilities that allow for extended residential and outpatient treatment."<sup>3</sup>

- **Prescription Monitoring Program**

Delaware enacted its Prescription Monitoring Program (PMP) in August 2013, with prescribers required to be fully registered and using PMP by January 1, 2014. All practitioners that have a controlled substance registration and pharmacists who dispense controlled substances in Delaware were to register with the system (veterinarian exception).

Evaluation of Delaware's PMP from the Prescription Behavior Surveillance System at Brandeis University, which reports to the CDC, showed a greater than 50 percent decline (2012-2015), in the rate of multiple provider episodes in the state, which are correlated with "doctor shopping." In addition, the survey indicated a 26 percent decline during the same time period of high dosage prescriptions (over 100 morphine milligram equivalents, MMEs). Data from the PMP has also been used to identify troubling prescribing patterns.

- **Prescribing Guidelines and Limits**

As of April 2017, Delaware clinicians are required to follow new prescription guidelines which are similar to the recommendations proposed by the CDC.<sup>4</sup> Under these new regulations, medical practitioners can only prescribe a seven day supply of opioid medicine for first time patients with pain due to medical procedures or injuries. This will also apply to all minors who experience acute pain, whether first time patients or not. If more medicine is to be supplied, the PMP must be referenced for the patient's history with prescription drugs, and clinicians should follow a set of prescribing guidelines that mirror the CDC guidelines. Doctors can still use

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<sup>2</sup> Prescription Opioid and Heroin Addiction Treatment Needs Assessment Final Report, Produced for Delaware Department of Justice, August 2017.

<sup>3</sup> "Addressing Substance Use Disorder in Delaware: Third Annual Update and Plan for Future Action", Delaware Department of Justice, September 6, 2017.

<sup>4</sup> Uniform Controlled Substances Act Regulations, Controlled Substance Advisory Committee, Title 24 Regulated Professions and Occupations Delaware Administrative Code, April 1, 2017.

their medical discretion to prescribe outside of these limits, but they must provide an explanation for their decision to do so. In addition to limits on prescriptions, patients who receive opioids must sign informed consent documents that acknowledge that they understand the risk associated with the use of opioids (Goss, 2017b). Also, physicians must follow up with patients who receive opioids to monitor for signs of misuse and addiction.

In addition to the recent prescribing guidelines, Delaware mandated prescriber education in 2015. Practitioners who want to gain or renew a Controlled Substance Registration must take a one hour class that outlines the laws, regulations, and programs regarding DE substance distribution.

- **Patient Review and Restriction Programs**

Lock-In programs restrict Medicaid individuals whose utilization of medical services is documented as being excessive. Individuals are restricted to specific provider(s) in order to monitor services being utilized and reduce unnecessary or inappropriate utilization<sup>5</sup>. For example, AmeriHealth Caritas Delaware's lock-in programs assign members to a specific pharmacy to prevent and reduce the misuse of pharmacy services. A multi-disciplinary team reviews member medical and pharmacy utilization. If the team finds evidence of misuse, abuse, or potential fraud of pharmacy services from a member, they will lock-in the member and send notice to the member, the member's primary care provider and the pharmacy assigned to the lock-in member. Providers can refer members to the lock-in program if they suspect misuse, abuse, or potential fraud of pharmacy services.<sup>6</sup>

### **Vision for Substance Use Disorder Treatment**

Despite these efforts, there is much more that can be done to reduce the harm caused by opioid<sup>7</sup> misuse and other substance use disorders. Delaware is planning to develop a System of Care approach that has successfully been used with Trauma, Pediatric and Stroke programs to address opioid overdoses in the State. The System of Care is an organized approach to patient management throughout the continuum of care statewide. It involves coordination of care from pre-hospital transport through acute-care discharge, multidisciplinary involvement from dispatch, prehospital, hospitals, medical specialists, prevention, the use of documenting system data resulting in improved communication and collaboration among stakeholders to ensure patients receive the same quality of care no matter where in the state they enter the system.<sup>8</sup>

Delaware is also developing a Centers of Excellence (COE) Substance Use Model of Care<sup>9</sup>, in recognition of national estimates suggesting that only 10-25% of individuals with a SUD received treatment and

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<sup>5</sup> Medicaid Drug Utilization Review - State Comparison/Summary Report FFY 2015 Annual Report Prescription Drug Fee-For-Service Programs December 2016

<sup>6</sup> [Amerihealthcaritas Pharmacy Lock-in Program](#)

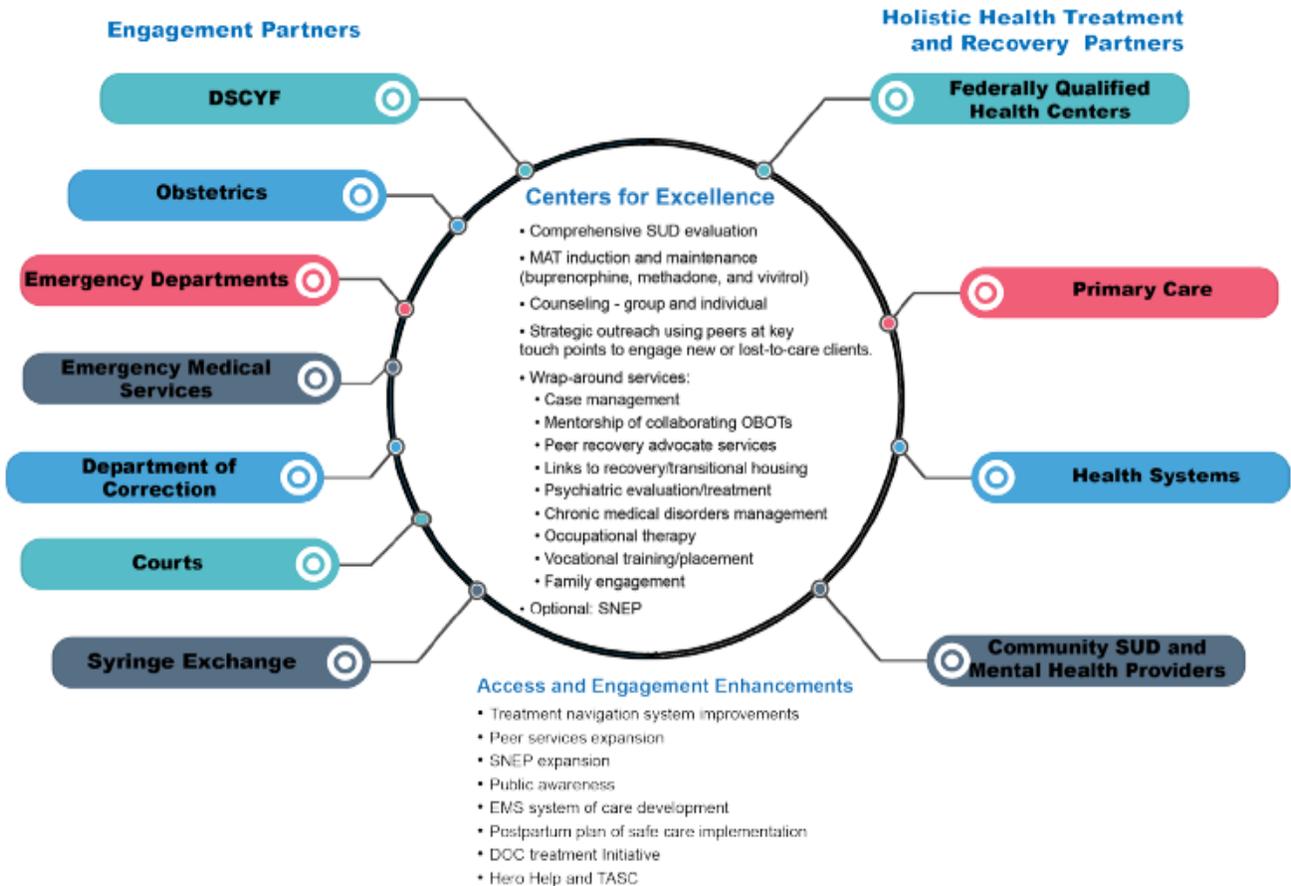
<sup>7</sup> Policy Brief: Addressing Opioid Abuse in Delaware, State Epidemiological Outcomes Work Group (SEOW), September 2017, available at <https://www.cdhs.udel.edu/content-sub-site/Documents/Opioid%20Use%20in%20Delaware%20and%20Policy%20Responses%20-%20September%202017.pdf>

<sup>8</sup> A Vision for Substance Use Disorder Treatment," DHSS Secretary Kara Odom Walker, MD, MPH, MSHS, Delaware Technical Community College, October 25, 2017, available at <http://www.dhss.delaware.gov/dhss/dph/hsp/opioidconres.html>.

<sup>9</sup> Opioid Use Disorder Centers Of Excellence (OUD-COE), Request For Proposals For Professional Services, Issued By Department Of Health and Social Services, Division Of Substance Abuse And Mental Health, January 26, 2018.

that silos occur between and within systems resulting in care gaps and incomplete treatment. The Opioid Use Disorder COE will operate alongside the existing provider networks and will serve as a vital link between engagement and treatment/recovery partners to ensure coordination and facilitate recovery-oriented and person-centered care transitions for individuals with OUD.

## Coordinated Substance Use Disorder Treatment System



### **Section III – Demonstration Goals and Objectives**

The goal of this demonstration is for Delaware to improve outcomes for Medicaid individuals experiencing SUD by maintaining and expanding access to SUD services, including inpatient and residential SUD services in settings that qualify as an IMD, as part of a full continuum of treatment services. For years, CMS has approved these IMD residential settings in Delaware as cost-effective alternatives to state plan residential treatment settings through the “in lieu of” services authority in the DSHP managed care program. However, recent changes to Medicaid managed care regulations and existing limitations in fee-for-service on the use of IMDs create barriers to ensuring that members are able to enter treatment at a level appropriate to their needs. **At a minimum, this demonstration amendment seeks authority so that new federal Medicaid managed care restrictions on IMDs as SUD providers do not disrupt the Medicaid SUD continuum in Delaware and reduce access to services. Delaware also seeks to use the demonstration to remove any Medicaid payment barriers that may result in unnecessary underutilization of residential treatment by individuals in need of these services.** By preserving and expanding residential treatment capacity, Delaware will be able to provide an effective SUD continuum of services with interventions that are capable of meeting individuals’ changing needs for various levels of care. As individuals move throughout the continuum in their recovery from SUD, they may need to transition to levels of care of greater or lesser intensity. Concurrent with the demonstration request, Delaware is continuing its efforts in to develop a vision and plan for a coordinated SUD System of Care approach with the OUD Centers of Excellence model as part of future improvements.

Delaware’s demonstration amendment will provide the State with authority to continue providing high-quality, clinically- appropriate SUD treatment services for all members, regardless of delivery system. This demonstration builds on the State’s existing efforts to improve models of care focused on supporting individuals in the community and home, outside of institutions, and strengthen a continuum of SUD services based on the ASAM criteria. Implementation of the demonstration will also result in a focus on using more data-informed approaches to monitor provider networks to ensure the availability of services in high-need areas, evaluating the service capacity of the provider network across levels of care, and establishing processes to ensure service provision consistent with ASAM guidelines.

During the demonstration period, Delaware seeks to achieve the following:

- Increase enrollee access to and utilization of appropriate SUD treatment services based on the ASAM Criteria;
- Decreased use of medically inappropriate and avoidable high-cost emergency department and hospital services by enrollees with SUD;
- Increased initiation of follow-up after discharge from emergency department for alcohol or other drug dependence; and
- Reduced readmission rates for SUD treatment.

## **Section IV – Eligibility, Benefits, Delivery System and Cost-Sharing**

### **Eligibility**

Medicaid eligibility requirements will not differ from the approved Medicaid state plan and approved DSHP 1115 demonstration. Delaware is not proposing changes to Medicaid eligibility standards in this amendment.

### **Benefits**

Benefits will not differ from the approved Medicaid state plan and approved DSHP 1115 demonstration. The demonstration will permit Delaware Medicaid individuals with substance use disorders to receive high-quality, clinically appropriate state plan-approved SUD services in outpatient and community-based settings as well as in residential and inpatient treatment settings that qualify as an IMD. Delaware’s SUD benefit package covers a full-range of community-based care (e.g., crisis intervention and outpatient addiction treatment, which includes MAT), as well as residential addiction treatment services. The Delaware Medicaid State Plan was updated in 2016 to add the full continuum of SUD ASAM levels of care.

### **Delivery system**

No changes to the current managed care and fee for service delivery systems are being proposed in this amendment.

Over 90% of Medicaid/CHIP beneficiaries in Delaware are enrolled in MCOs. DMMA currently contracts with two MCOs to serve DSHP and DSHP Plus beneficiaries. Mental health and SUD (MH/SUD) benefits are the shared responsibility of the Medicaid MCOs and fee-for-service (FFS), administered by the DHSS/Division of Substance Abuse and Mental Health (DSAMH) (for certain adults 18 and older) and the Delaware Department of Services for Children, Youth, and Their Families (DSCYF) (for children under 18.)

Children and Adolescents: MCOs are responsible for providing 30 units of MH/SUD outpatient services to members under 18. All inpatient and residential MH/SUD benefits and all outpatient MH/SUD benefits that exceed the MCO limit are provided in FFS through the DSCYF Division of Prevention and Behavioral Health Services (DPBHS).

Adults (PROMISE): DHSS has implemented recent initiatives designed to improve care in Delaware for Medicaid members, including new services for adults through the PROMISE program. The PROMISE program is administered by DSAMH through FFS and is for Medicaid individuals who have a severe and persistent mental illness (SPMI) and/or SUD and require Home- and Community-Based Services (HCBS) to live and work in integrated settings. Individuals eligible for PROMISE receive non-PROMISE services through the MCOs and PROMISE services, including state plan SUD services, through FFS.

Adults (non-PROMISE): MCOs are responsible for all MH/SUD benefits for members age 18 and older who are not enrolled in PROMISE.

The MCOs, DSAMH and DSCYF manage separate delivery systems and provider networks that have some overlap. The MCOs have been able to utilize IMDs as cost-effective alternative settings for SUD benefits through 1115 demonstration authority and, most recently, through the managed care “in lieu

of” services flexibility. DSAMH and DSCYF administer FFS provider networks that do not include IMDs for Medicaid populations.

### **Cost-sharing**

The cost-sharing requirements under this Demonstration will not differ from those provided under the Medicaid state plan.

## **Section V – Demonstration Hypothesis and Evaluation**

The demonstration will test whether Delaware can enhance the effectiveness of the SUD treatment system in Medicaid by maintenance and expansion of SUD residential services as part of a coordinated, full continuum of care, resulting in increased access and improved health outcomes for individuals with SUD.

### **Goals**

Delaware will evaluate whether the demonstration:

- Increases enrollee access to and utilization of appropriate SUD treatment services based on the ASAM Criteria;
- Decreases use of medically inappropriate and avoidable high-cost emergency department and hospital services by enrollees with SUD;
- Increases initiation of follow-up after discharge from emergency department for alcohol or other drug dependence; and
- Reduces readmission rates for SUD treatment.

### **Changes**

Resulting changes expected through the demonstration are:

- Greater availability of Medicaid residential service coverage, regardless of Medicaid delivery system.
- Use of data-informed approaches for:
  - Tracking service and provider network adequacy
  - Facilitating data information exchange to promote collaboration and ensure timely care transitions
- Implementation of additional quality monitoring and oversight to ensure providers’ adherence to the most current version of ASAM criteria.

### **Plan for Testing**

Upon approval of the waiver, Delaware will develop a Medicaid 1115 evaluation design plan that includes (for example):

- Analysis of claims, encounter, and public health data to measure changes in:

- Rates of Medicaid overdose episodes or deaths
  - Access to SUD services, including MAT
  - Hospital emergency department and inpatient services
  - Service utilization for SUD and/or mental health treatment across the continuum of care
  - Readmission rates for SUD residential and hospital inpatient services
- Development and use of protocols for assessing and reporting on provider/service capacity in order to:
    - Identify high need treatment areas and service gaps
    - Understand barriers to enrollment as an SUD residential treatment provider
    - Encourage MCOs' use of value-based payment approaches to incentivize provider enrollment and performance
  - Design and implementation of data approaches to promote collaboration across systems and levels of care

#### **Evaluation Indicators**

Delaware will use core quality metrics to evaluate the success of this demonstration. In addition, Delaware will work collaboratively with the provider network and MCOs to prioritize and determine the feasibility of requiring additional performance measures listed in Table 2 of SMD # 17-003 - Strategies to Address the Opioid Epidemic.

#### **Section VI – Waiver and Expenditure Authorities**

##### **Delaware requests the following Expenditure Authority:**

Expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for substance use disorder (SUD) who are short-term residents in facilities that meet the definition of an IMD.

**Section VII – Impact on Expenditures, Enrollment and Budget Neutrality**

This amendment would permit Delaware to continue covering SUD treatment services for members in IMDs generally consistent with historical policy. The enrollment and expenditures through 2018 reflect the program as currently approved because the SUD amendment is not expected to have a material impact on Medicaid expenditures, enrollment or the current DSHP Waiver budget neutrality.

	Historical Data (Current Waiver Period)				
	2014	2015	2016	2017	2018* (estimated)
Enrollment	180,879	193,774	204,641	200,155	205,158
Expenditures	\$1,577,390,016	\$1,752,418,701	\$1,843,586,926	\$1,989,261,953	\$2,039,318,474

**Section VIII – Public Notice (To be completed after public comment period ends.)**

1. Delaware provided an open comment period from May 1 through May 30, 2018 on the draft amendment application.
2. Delaware published a Notice of Public Comment in the Delaware Register of Regulations on May 1, 2018, and in the Delaware News Journal and the Delaware State News on XXX. The publication in the Delaware Register can be found at:  
<http://regulations.delaware.gov/default.shtml>
3. A draft of this Section 1115 Demonstration Waiver amendment application was posted on the Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) website on May 1, 2018 at: <http://dhss.delaware.gov/dhss/dmma/medicaid.html>
4. Delaware presented to the Medical Care Advisory Committee on April 24, 2018.
5. Delaware conducted three public hearings on this Section 1115 Demonstration Waiver. Individuals were also invited to attend via teleconference. The information for these hearings is as follows:

a. SUSSEX COUNTY

Date: May 9, 2018  
 Time: 10:00 AM – 11:00 AM  
 Location: Thurman Adams State Svc Center  
 546 S. Bedford St.  
 Georgetown, DE 19947

b. KENT COUNTY

Date: May 9, 2018  
Time: 1:30 PM – 2:30 PM  
Location: Thomas Collins Building  
540 S. DuPont Hwy  
Dover, DE 19901

c. NEW CASTLE COUNTY

Date: May 11, 2018  
Time: 3:00 PM – 4:00 PM  
Location: DDDS Fox Run Center  
2540 Wrangle Hill Road  
Suite 200, Bear, DE 19701

6. Delaware certifies that it used an electronic mailing list to notify the public.
7. Hardcopies of the public notice and draft waiver amendment were available by contacting Nicole Cunningham at the address below. Comments and input were also to be submitted in the following ways:  
  
By email: [Nicole.M.Cunningham@state.de.us](mailto:Nicole.M.Cunningham@state.de.us)  
By fax: 302-255-4413 to the attention of Nicole Cunningham  
By mail: Nicole Cunningham  
Division of Medicaid and Medical Assistance  
Planning, Policy & Quality Unit  
1901 North DuPont Highway  
P.O. Box 906  
New Castle, Delaware 19720-0906
8. The following is a list of comments received and associated responses that pertain to the 1115 Demonstration submission: *(TBD after public comment period ends.)*

**Section IX – Demonstration Administration**

Name and Title: Glyne Williams, Chief of Policy, Planning, and Quality, DMMA  
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Email Address: [Glyne.Williams@state.de.us](mailto:Glyne.Williams@state.de.us)