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State/Territory Name: **Delaware**

State Plan Amendment (SPA) #: **22-0003**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

September 23, 2022

Stephen Groff
Director
Division of Medicaid Medical Assistance
P.O. Box 906
New Castle, DE, 19720

Re: Delaware (DE) State Plan Amendment (SPA) 22-0003-0

Dear Mr. Groff:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 22-0003-0. This amendment proposes to update Delaware State Plan to allow Medicaid recipients institutionalized in long-term care facilities to retain an allowance of income to pay for guardianship costs.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that Delaware Medicaid SPA 22-0003-0 was approved on September 22, 2022, with an effective date of April 1, 2022.

If you have any questions, please contact Talbatha Myatt at 215-861-4259 or via email at Talbatha.Myatt@cms.hhs.gov.

Sincerely,

A large black rectangular box redacting the signature of James G. Scott.

James G. Scott, Director
Division of Program Operations

cc: Kimberly Xavier, Chief, Policy & Planning
Melissa Dohring, State Plan Coordinator

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER <div style="text-align: center;">2 2 — 0 0 0 3</div>	2. STATE <div style="text-align: center;">D E</div>
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <div style="text-align: center;"> <input checked="" type="radio"/> XIX <input type="radio"/> XXI </div>	
5. FEDERAL STATUTE/REGULATION CITATION §1902(a)(50)(q) of the Social Security Act		4. PROPOSED EFFECTIVE DATE <div style="text-align: center;">April 1, 2022</div>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 2.6-A Page 4 Addendum		6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 2022 \$ 0 b. FFY 2023 \$ 273,600	
9. SUBJECT OF AMENDMENT Guardianship Fees - Post-Eligibility Protection of Income		8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 2.6-A Page 4 Addendum	
10. GOVERNOR'S REVIEW (Check One) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL </div> <div style="width: 45%;"> <input type="radio"/> OTHER, ASSPECIFIED: </div> </div>			
11. SIGNATURE OF STATE AGENCY OFFICIAL <div style="background-color: black; height: 20px; width: 100%;"></div>		15. RETURN TO Stephen M. Groff, Director, DMMA, P.O. Box 906 New Castle, DE19720	
12. TYPED NAME Stephen M. Groff		13. TITLE Director	
14. DATE SUBMITTED		16. DATE RECEIVED 06/28/2022	
FOR CMS USE ONLY			
18. EFFECTIVE DATE OF APPROVED MATERIAL 04/01/2022		17. DATE APPROVED 09/22/2022	
PLAN APPROVED - ONE COPY ATTACHED			
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott		19. SIGNATURE OF APPROVING OFFICIAL <div style="background-color: black; height: 20px; width: 100%;"></div>	
21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations		22. REMARKS	

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY
ACT STATE: DELAWARE
ELIGIBILITY CONDITIONS AND REQUIREMENTS
42 CFR 435.725; 43 CFR 435.733; 42 CFR 435.832

B. Post-Eligibility Treatment of Institutionalized Individuals (continued)

For the following individuals with a greater need (continued)

- d. \$50/month for NF and ICF/IID residents engaging in frequent and regular rehabilitation out-of-facility activities.
- e. For nursing facility residents who are participating in gainful employment, the following amounts, not to exceed the adult foster care rate (SSI benefit amount + \$140), will be deducted from gross earned income:
 - i. Mandatory payroll deductions that are a condition of employment including, but not limited to:
 - 1. Federal, State, and Local taxes
 - 2. FICA
 - 3. Union Dues
 - 4. Insurance Premiums
 - 5. Pension Contributions.
 - i. Transportation costs as paid to and from employment.
 - ii. Clothing and personal needs allowance of \$75/month.
- f. For nursing facility residents requiring a court appointed guardian, the following amounts will be deducted from the gross income:
 - i. Monthly guardianship fees not to exceed \$100
 - ii. Initial establishment of a guardianship (to include attorney's fees) not to exceed \$750

The maximum amount of income to be protected will not exceed the amount required to maintain an individual in adult foster/residential care. This amount is currently the SSI benefit plus \$140.