

Delaware

I. State and Locally Financed Indigent Care

In the last few years, the State of Delaware has dramatically expanded coverage for the indigent uninsured. For many years, Delaware provided medical assistance to a very narrow category of unemployable recipients under its general assistance program. Beginning in 1996, Delaware extended Medicaid coverage to encompass all state residents with incomes below 100 percent of the federal poverty level under the state's Medicaid managed care program, the Diamond State Health Plan. While surrounding states have seen increases in the rate of uninsured individuals, Delaware's rates have declined slightly, from 14.8 % in 1990 to 13.6 % in 1995. Delaware officials attribute this decrease to implementation of the Diamond State Health Plan.¹

A. Medicaid Expansion

On March 3, 1996, Delaware expanded eligibility in its Medicaid managed care program to include adults with incomes at or below 100 percent of the federal poverty level.² There are no resource limits for individuals who meet this criteria. However, individuals who receive long term care services, who have accessible managed care coverage, other health insurance, or who are entitled to Medicare, are excluded from eligibility under this category.³

General Assistance recipients are also eligible for Medicaid services under the Diamond State Health Plan.⁴ Delaware general assistance statutes require the state to provide aid to individuals who are unemployable and who lack sufficient income and resources to provide for a reasonable subsistence consistent with decency and health.⁵ Individuals who have transferred property with a value of more than \$500 in the two years preceding application are ineligible for general assistance.

As a condition of receiving Medicaid services under the Diamond State Health Plan, single, non-disabled adults and general assistance recipients must be enrolled in a Medicaid managed care

¹AMERICAN HEALTH LINE, Vol. 5, No. 130, § 2 (October 4, 1996).

²Delaware Health and Social Services, Division of Health Services, Medical Assistance Manual § 301.25.B at 300-6 through 300-7. Delaware had already expanded Medicaid to cover pregnant women and infants under age one with family incomes of up to 185% of the federal poverty level and children 18 years of age or younger with family incomes of up to 100% of the federal poverty level. *Id.* at § 301.25, p. 300-8 .

³*Id.* at § 301.25.C, p. 300-7.

⁴*Id.*

⁵31 Del. Code. Ann. § 503(a).

organization.⁶ In addition, eligibility is limited to Delaware residents.⁷

The legislature has set aside a reserve for the Diamond State Program to ensure continued coverage of these groups in the event of federal cutbacks threatened by Congressional block grant proposals.

Individuals enrolled in the Diamond State Health Plan are disqualified from receiving county funded care. Under Delaware statutes, counties are not permitted to provide medical care or hospitalization for recipients of state financial assistance or medical care.⁸

B. State Reimbursement for Indigent Care

Hospitals that are not principally dependent upon state or federal funds may claim state reimbursement for indigent care.⁹ Hospital must submit claims for reimbursement to the Department of Health and Social Services for approval.

B. State Health Facilities

The state has established a variety of facilities for the treatment of the sick. The state has established the Governor Bacon Health Care Center, which treats mentally ill and disabled children and adults determined eligible for services by the Department of Health Services.¹⁰ The center is maintained at state expense and the state pays for indigent care costs.¹¹ However, patients remain liable for the costs of their care. The state also pays for the treatment of tuberculosis patients at Emily Bissell Hospital.¹²

The state also maintains the Delaware Hospital for the Chronically Ill.¹³ Non-Medicaid patients are eligible for admission at this facility if they (1) have resided in the state continuously for more than a year; (2) have insufficient property to meet the necessities of life; (3) have no permanent residence or place of abode; and (4) have no friends or relatives to support them. To gain admission, a patient must provide a written statement attesting to their condition and the statement of two witnesses. Mentally ill patients are ineligible for admission.

⁶Medical Assistance Manual, §301.25.C at 300-7.

⁷*Id.* at § 301.25, p. 300-13.

⁸31 Del. Code Ann. § 517.

⁹29 Del. Code Ann. § 7201.

¹⁰16 Del. Code Ann. § 3501 *et seq.*

¹¹16 Del. Code Ann. § 3524

¹²16 Del. Code Ann. § 151 *et seq.*

¹³16 Del. Code Ann. § 2801 *et seq.*

The state also maintains a state mental hospital. Under state law, the state is obligated to pay for indigent mental health care at the State Hospital.¹⁴ However, patients remain liable for the costs of this care. In addition, Delaware's courts have held that the statute of limitations is not a defense against state claims for reimbursement for the costs of this care.¹⁵

As a general rule, patients, spouses and the parents of minor children are liable for care received at facilities operated by the Department of Health Services.¹⁶ Spousal liability ends after a patient has remained in a State facility for five years.

C. Other Services

The state provides a range of other health care services to the indigent. The state funds a program for treatment of crippled children,¹⁷ dental hygiene services for indigent children,¹⁸ treatment for long term birth defects,¹⁹ vaccinations for individuals unable to pay for them,²⁰ and a variety of public health functions including immunizations, health tests and testing and treatment of communicable diseases.²¹ The state has established a program for the treatment of chronic renal disease, which extends financial assistance in obtaining nursing, medical, pharmaceutical and technical services, including the rental and purchase of home dialysis equipment.²² The state also provides free optometry services at clinics located in Sussex, Kent and New Castle Counties.²³

¹⁴29 Del. Code Ann. § 5128.

¹⁵*State Bd. of Trustees v. Boyer*, 159 A.2d 793 (Del. Super. 1960).

¹⁶29 Del. Code Ann. § 7940.

¹⁷16 Del. Code Ann. § 165.

¹⁸16 Del. Code Ann. § 171.

¹⁹16 Del. Code Ann. § 201.

²⁰31 Del. Code Ann. § 308.

²¹16 Del. Code Ann. § 122.

²²29 Del. Code Ann. § 7932.

²³16 Del. Code Ann. § 183.