

---

# Delaware Register of Regulations

---

Issue Date: March 1, 2007

Volume 10 - Issue 9, Pages 1343 - 1470

---

---



## IN THIS ISSUE:

Regulations:

Proposed

Final

Governor:

Executive Orders

Appointments

General Notices

Calendar of Events &

Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the Register contains all documents required to be published, and received, on or before February 15, 2007.

---

# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

---

## DELAWARE REGISTER OF REGULATIONS

The *Delaware Register of Regulations* is an official State publication established by authority of 69 *Del. Laws*, c. 107 and is published on the first of each month throughout the year.

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

The *Register* will also publish some or all of the following information:

- Governor's Executive Orders
- Governor's Appointments
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

---

## CITATION TO THE DELAWARE REGISTER

The *Delaware Register of Regulations* is cited by volume, issue, page number and date. An example would be:

9 **DE Reg.** 1036-1040 (01/01/06)

Refers to Volume 9, pages 1036-1040 of the *Delaware Register* issued on January 1, 2006.

---

## SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the *Delaware Register of Regulations* is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

---

## CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

Delaware citizens and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

---

# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

---

1345

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the *Register of Regulations*, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the *Register of Regulations*.

---

## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
April 1	March 15	4:30 p.m.
May 1	April 16	4:30 p.m.
June 1	May 15	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 16	4:30 p.m.

---

## DIVISION OF RESEARCH STAFF

**Deborah A. Porter**, Interim Supervisor; **Kathleen Morris**, Administrative Specialist I; **Georgia Roman**, Unit Operations Support Specialist; **Jeffrey W. Hague**, Registrar of Regulations; **Steve Engebretsen**, Assistant Registrar; **Victoria Schultes**, Administrative Specialist II; **Lady Johnson**, Administrative Specialist I; **Rochelle Yerkes**, Administrative Specialist II; **Ruth Ann Melson**, Legislative Librarian; **Debbie Puzzo**, Research Analyst; **Judi Abbott**, Administrative Specialist I; **Alice W. Stark**, Senior Legislative Attorney; **Deborah J. Messina**, Print Shop Supervisor; **Don Sellers**, Printer; **Teresa Porter**, Printer.

---

# TABLE OF CONTENTS

Cumulative Tables.....	1348
------------------------	------

## PROPOSED

<b>DELAWARE RIVER BASIN COMMISSION</b>	
Proposed Amendments to the Comprehensive Plan and Water Code.....	1356
<b>DEPARTMENT OF AGRICULTURE</b>	
<b>Harness Racing Commission</b>	
501 Harness Racing Rules and Regulations, Section 3.0, Officials.....	1358
<b>DEPARTMENT OF EDUCATION</b>	
<b>Office of the Secretary</b>	
925 Children with Disabilities.....	1365
<b>DEPARTMENT OF FINANCE</b>	
<b>Office of the State Lottery</b>	
450 Video Lottery Regulations.....	1367
<b>DEPARTMENT OF HEALTH AND SOCIAL SERVICES</b>	
<b>Division of Medicaid and Medical Assistance</b>	
Long Term Care Medicaid, DSSM 20320.7, Substantial Home Equity.....	1373
<b>Division of Public Health</b>	
4469 Personal Assistance Services Agencies .....	1376
<b>Division of Social Services</b>	
<b>DSSM:</b> 3024 Citizens and Aliens, and 9007.1 Citizenship and Alien Status.....	1389
5302 Exceptions, and 5307 Dismissal of Requests.....	1396
9028 Reduction in Public Assistance Benefits, 9092 Simplified Food Stamp Program. ....	1398
10007.3 Supportive Services Reimbursements.....	1401
<b>DEPARTMENT OF INSURANCE</b>	
1407 Supplemental Health Insurance Coverage For Children Of Insureds .....	1403
<b>DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL</b>	
<b>Division of Fish and Wildlife Management</b>	
3511 Summer Flounder Size Limits; Possession Limits; Season .....	1405
<b>DEPARTMENT OF STATE</b>	
<b>Division of Professional Regulation</b>	
1400 Board of Electrical Examiners .....	1407
2100 Board of Examiners in Optometry .....	1408
3800 Committee on Dietetics/Nutrition.....	1412
<b>DEPARTMENT OF TRANSPORTATION</b>	
<b>Division of Transportation Solutions</b>	
Utilities Manual Regulations .....	1415
<b>EXECUTIVE DEPARTMENT</b>	
<b>Delaware Economic Development Office</b>	
1151 Matching Grants Program; and 1152 Direct Grants Program .....	1415

## FINAL

<b>DEPARTMENT OF AGRICULTURE</b>	
<b>Harness Racing Commission</b>	
501 Harness Racing Rules and Regulations, Section 3.0, Officials.....	1421
Section 5.0, Licenses.....	1422
Section 8.0, Veterinary Practices, Equine Health Med.....	1424

---

# TABLE OF CONTENTS

1347

---

## DEPARTMENT OF EDUCATION

### Office of the Secretary

101 Delaware Student Testing Program.....	1425
247 Delaware Post Secondary Internship Program at The Washington Center (TWC).....	1430
885 Safe Management and Disposal of Chemicals in the Delaware Public School System .....	1432
1001 Participation in Extra Curricular Activities .....	1433

### Professional Standards Board

360 Certification Early Childhood Special Education Teacher, Repeal of.....	1434
---	------

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### Division of Medicaid and Medical Assistance

<b>DSSM</b> 20330.4 Retirement Funds.....	1436
20350.4 Multiple Transfers.....	1439

### Division of Social Services

<b>DSSM</b> 2023 Disqualification Hearings.....	1441
---	------

## DEPARTMENT OF SAFETY AND HOMELAND SECURITY

1300 Board of Examiners of Private Investigators and Private Security Agencies.....	1445
---	------

---

## GOVERNOR

Executive Order No. 95, Ordering a Cost, Benefit, and Policy Analysis of the Implementation of Toll Facility Bonding for the Completion of a Tolled Highway for US Route 301 by the Department of Transportation	1447
Executive Order No. 96, Reallocation Of State Private Activity Bond Volume Cap For Calendar Year 2006 And Initial Suballocation Of State Private Activity Bond Volume Cap For Calendar Year 2007..	1448
Appointments .....	1450

---

## GENERAL NOTICES

<b>DEPARTMENT OF INSURANCE</b> , Captive Insurance Bulletin No. 1.....	1455
<b>DNREC</b> , Concentration of Arsenic and Revision to the Remediation Standards Guidance .....	1455

---

## CALENDAR OF EVENTS/HEARING NOTICES

<b>Delaware River Basin Commission</b> , Notice of Proposed Rulemaking and Public Hearing.....	1460
<b>Dept. of Agriculture</b> , Harness Racing Commission, Public Notice.....	1461
<b>Dept. of Education</b> , Monthly Meeting and Notice of Public Hearing.....	1461
<b>Dept. of Finance</b> , State Lottery Office, Notice of Public Hearing .....	1463
<b>Dept. of Health and Social Services</b> , Notice of Public Comment Periods	
<i>Div. of Medicaid and Med. Assist.</i> , Long Term Care Medicaid .....	1463
<i>Div. of Public Health</i> , 4469 Personal Assistance Services Agencies.....	1464
<i>Div. of Social Services</i> , .....	1464
<b>Dept. of Insurance</b> , Notice of Public Hearing.....	1466
<b>DNREC</b> , <i>Div. of Fish and Wildlife</i> , Notice of Public Comment Period.....	1466
<b>Dept. of State</b> , <i>Div. of Professional Regulation</i> , Notices of Public Hearings	
Board of Chiropractic and Board of Electrical Examiners.....	1467
Board of Pharmacy and Board of Nursing.....	1468
Board of Examiners of Psychologists .....	1469
<b>Dept. of Transportation</b> , <i>Div. of Transportation Solutions</i> , Public Comment Period and Public Hearing	
Utilities Manual Regulations.....	1469
<b>Delaware Economic Development Office</b> , Notice of Public Comment Period.....	1470

The table printed below lists the regulations that have been proposed, adopted, amended or repealed in the preceding issues of the current volume of the *Delaware Register of Regulations*.

The regulations are listed alphabetically by the promulgating agency, followed by a citation to that issue of the *Register* in which the regulation was published. Proposed regulations are designated with (Prop.); Final regulations are designated with (Final); Emergency regulations are designated with (Emer.); and regulations that have been repealed are designated with (Rep.).

**COUNCIL ON POLICE TRAINING**

Council on Police Training..... 10 **DE Reg.** 341 (Final)

**DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY**

201 Delaware Manufactured Home Relocation Trust Fund Regulations ..... 10 **DE Reg.** 928 (Prop.)

**DELAWARE STATE FIRE PREVENTION COMMISSION**

2006 Delaware State Fire Prevention Regulations..... 10 **DE Reg.** 342 (Final)

**DEPARTMENT OF AGRICULTURE****Delaware Agriculture Lands Preservation Foundation**

1301 Regulations Governing the Delaware Agricultural Forestlands Preservation  
Program ..... 10 **DE Reg.** 9 (Prop.)  
..... 10 **DE Reg.** 825 (Final)

**Delaware Forest Service**

402 State Forest Regulations ..... 10 **DE Reg.** 88 (Final)

**Harness Racing Commission**

501 Harness Racing Rules and Regulations..... 10 **DE Reg.** 217 (Prop.)  
..... 10 **DE Reg.** 393 (Prop.)  
..... 10 **DE Reg.** 980 (Final)  
Sections 3.0, 5.0 and 8.0 ..... 10 **DE Reg.** 931 (Prop.)  
502 Delaware Standardbred Breeders Fund Regulations ..... 10 **DE Reg.** 982 (Final)

**Nutrient Management Commission**

1201 Nutrient Management Certification Regulations ..... 10 **DE Reg.** 411 (Prop.)  
..... 10 **DE Reg.** 1098(Prop.)  
1203 Mandatory Nutrient Management Plan Reporting Implementation  
Regulation..... 10 **DE Reg.** 411 (Prop.)

**Pesticides Management**

601 Pesticide Rules and Regulations..... 10 **DE Reg.** 236 (Prop.)  
..... 10 **DE Reg.** 833 (Final)  
..... 10 **DE Reg.** 1300 (Final)

**Thoroughbred Racing Commission**

1001 Thoroughbred Racing Rules and Regulations..... 10 **DE Reg.** 27 (Prop.)  
..... 10 **DE Reg.** 546 (Final)  
..... 10 **DE Reg.** 1086(Prop.)

**DEPARTMENT OF EDUCATION****Office of the Secretary**

101 Delaware Student Testing Program..... 10 **DE Reg.** 245 (Prop.)  
..... 10 **DE Reg.** 676 (Final)  
..... 10 **DE Reg.** 1103 (Prop.)  
103 Accountability for Schools, Districts and the State..... 10 **DE Reg.** 89 (Final)  
201 District and School Shared Decision Making..... 10 **DE Reg.** 1140 (Final)  
201 School Shared Decision Making Transition Planning Grants; 205 District  
Shared Decision Making Transition Planning Grants; 210 Approval of  
School Improvement Grants..... 10 **DE Reg.** 773 (Prop.)  
..... 10 **DE Reg.** 1140 (Final)

247 Delaware Post Secondary Internship Program at the Washington Center (TWC) for Internships and Academic Seminars.....	10 DE Reg. 779 (Prop.) 10 DE Reg. 1142 (Final)
284 Licensure and Certification of Public Education Employees in the Department.....	10 DE Reg. 600 (Prop.) 10 DE Reg. 983 (Final)
290 Approval of Teacher Education Programs.....	10 DE Reg. 835 (Final)
292 Post Secondary Institutions and Degree Granting Institutions of Higher Education.....	10 DE Reg. 850 (Final)
314 Certification Administrative Principal or Assistant Principal Administrator of Adult and Adult Alternative Education .....	10 DE Reg. 613 (Prop.)
(Repealed).....	10 DE Reg. 984 (Final)
320 Certification Adult Education Teacher .....	10 DE Reg. 613 (Prop.)
(Repealed).....	10 DE Reg. 984 (Final)
371 Certification Teacher of the Hearing Impaired.....	10 DE Reg. 781 (Prop.)
372 Certification Administrative Support Personnel (Formerly Secretarial Personnel).....	10 DE Reg. 785 (Prop.) 10 DE Reg. 1143 (Final)
398 Degree Granting Institutions of Higher Education .....	10 DE Reg. 417 (Prop.)
399 Approval of Teacher Education Programs.....	10 DE Reg. 428 (Prop.)
502 Alignment of Local School District Curricula to the State Content Standards... ..	10 DE Reg. 344 (Final) 10 DE Reg. 1202(Prop.)
503 Instructional Program Requirements .....	10 DE Reg. 615 (Prop.) 10 DE Reg. 985 (Final)
505 High School Graduation Requirements and Diplomas.....	10 DE Reg. 30 (Prop.) 10 DE Reg. 547 (Final)
540 Driver Education.....	10 DE Reg. 1205(Prop.)
745 Criminal Background Check for Public School Related Employment.....	10 DE Reg. 253 (Prop.) 10 DE Reg. 684 (Final)
885 Safe Management and Disposal of Chemicals in the Delaware Public School System .....	10 DE Reg. 952 (Prop.)
910 Delaware General Educational Development (GED) Endorsement .....	10 DE Reg. 442 (Prop.) 10 DE Reg. 862 (Final)
915 James H. Groves High School.....	10 DE Reg. 617 (Prop.) 10 DE Reg. 988 (Final)
1001 Participation in Extra Curricular Activities.....	10 DE Reg. 1112 (Prop.)
1103 Standards for School Bus Chassis and Bodies for Buses Placed in Production on or after January 1, 2007.....	10 DE Reg. 258 (Prop.) 10 DE Reg. 690 (Final)
<b>Professional Standards Board</b>	
360 Certification Early Childhood Special Education Teacher.....	10 DE Reg. 1114 (Prop.)
1501 Knowledge, Skills and Responsibility Based Salary Supplements for Educators.....	10 DE Reg. 1208(Prop.)
1511 Issuance and Renewal of Continuing License.....	10 DE Reg. 97 (Final)
1516 Standard Certificate.....	10 DE Reg. 1213(Prop.)
1521 Standard Certificate Agriculture Teacher.....	10 DE Reg. 100 (Final)
1522 Standard Certificate Business Education Teacher.....	10 DE Reg. 100 (Final)
1525 Standard Certificate English Teacher.....	10 DE Reg. 100 (Final)
1526 Standard Certificate English to Speakers of Other Languages.....	10 DE Reg. 34 (Prop.) 10 DE Reg. 208(Errata) 10 DE Reg. 388(Errata) 10 DE Reg. 995 (Final)
1527 Endorsement English to Speakers of Other Languages (ESOL) Teacher (Repealed).....	10 DE Reg. 38 (Prop.) 10 DE Reg. 999 (Final)
1528 Standard Certificate World Language Teacher Comprehensive.....	10 DE Reg. 100 (Final)



# CUMULATIVE TABLES

1534 Standard Certificate Mathematics Teacher Secondary.....	10 DE Reg. 100 (Final)
1537 Standard Certificate Bilingual Teacher K to 12 .....	10 DE Reg. 39 (Prop.)
	10 DE Reg. 693 (Final)
1539 Standard Certificate Social Studies Teacher Secondary.....	10 DE Reg. 100 (Final)
1540 Standard Certificate Science Teacher Secondary.....	10 DE Reg. 100 (Final)
1541 Standard Certificate Mathematics Teacher Middle Level.....	10 DE Reg. 100 (Final)
1542 Standard Certificate Science Teacher Middle Level.....	10 DE Reg. 100 (Final)
1543 Standard Certificate Art Teacher Comprehensive.....	10 DE Reg. 100 (Final)
1548 Standard Certificate Music Teacher Comprehensive.....	10 DE Reg. 100 (Final)
1551 Standard Certificate Physical Education Teacher Comprehensive.....	10 DE Reg. 100 (Final)
1554 Standard Certificate Reading Specialist.....	10 DE Reg. 100 (Final)
1556 Standard Certificate Elementary Teacher (Grades K-6).....	10 DE Reg. 100 (Final)
1558 Standard Certificate Bilingual Teacher (Spanish) Primary and Middle.....	10 DE Reg. 44 (Prop.)
	10 DE Reg. 695 (Final)
1561 Standard Certificate Teacher Exceptional Children Special Education Elementary, Repeal.....	10 DE Reg. 788 (Prop.)
1562 Standard Certificate Teacher Exceptional Children Special Education Secondary.....	10 DE Reg. 790 (Prop.)
1570 Standard Certificate Early Childhood Teacher Special Education .....	10 DE Reg. 45 (Prop.)
	10 DE Reg. 211 (Errata)
	10 DE Reg. 696 (Final)
1572 Standard Certificate Teacher of Students Who Are Deaf or Hard of Hearing.	10 DE Reg. 1144 (Final)
1579 Standard Certificate Teacher of the Visually Impaired.....	10 DE Reg. 623 (Prop.)
	10 DE Reg. 1147 (Final)

## DEPARTMENT OF FINANCE

### Division of Revenue

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs.....	10 DE Reg. 1502 (Prop.)
	10 DE Reg. 699 (Final)
301 Publication of Tax Information.....	10 DE Reg. 794 (Prop.)
	10 DE Reg. 1116 (Prop.)

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### Division of Long Term Care Residents Protection

Nursing Home Survey Process.....	10 DE Reg. 6 (Emer.)
----------------------------------	----------------------

### Division of Medicaid and Medical Assistance

Assisted Living Medicaid 1915(c) Waiver.....	10 DE Reg. 56 (Prop.)
.....	10 DE Reg. 1001 (Final)
Attendant Services Program .....	10 DE Reg. 954 (Prop.)
Section 1515(c).....	10 DE Reg. 1301 (Final)
Diamond State Health Plan 1115 Demonstration Waiver .....	10 DE Reg. 55 (Prop.)
	10 DE Reg. 549 (Final)
Title XIX Medicaid State Plan, Supplement 3 to Attachment 2.6-A, Pg. 1, Reasonable Limits on Amounts for Necessary Medical or Remedial Care Not Covered Under Medicaid.....	10 DE Reg. 52 (Prop.)
	10 DE Reg. 703 (Final)
Title XIX, Transfer of Assets for Less Than Fair Market Value Made on or After February 8, 2006.....	10 DE Reg. 955 (Prop.)
Title XXI Delaware Healthy Children State Program .....	10 DE Reg. 444 (Prop.)
	10 DE Reg. 865 (Final)

### DSSM:

20310 Long Term Care Medicaid.....	10 DE Reg. 553 (Final)
20320 Ownership of Real Property by Institutionalized Individuals, and 20330.3 Promissory Notes, Loans and Property Agreements.....	10 DE Reg. 1216 (Prop.)



20330.4, Retirement Funds.....	10	DE Reg. 795 (Prop.)
20330.4.1, Annuities.....	10	DE Reg. 798 (Prop.)
20330.7 U.S. Savings Bonds.....	10	DE Reg. 1219 (Prop.)
20350 Transfer of Assets .....	10	DE Reg. 955 (Prop.)
20350.4, Multiple Transfers.....	10	DE Reg. 1117 (Prop.)
20350.10, Long Term Care Medicaid, Exceptions to the Transfer of Assets .....	10	DE Reg. 50 (Prop.)
.....	10	DE Reg. 558 (Final)
20400.5 Irrevocable Trusts.....	10	DE Reg. 955 (Prop.)
20400.9.1.1 Treatment of Special Needs Trusts .....	10	DE Reg. 965 (Prop.)
.....	10	DE Reg. 1302 (Final)
20910.1 Long Term Care, Institutionalized Spouse .....	10	DE Reg. 701 (Final)
.....	10	DE Reg. 1220(Prop.)
20950 Initial Eligibility Determinations.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 702 (Final)
20970 Fair Hearings.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 702 (Final)
30000 Delaware Prescription Assistance Program.....	10	DE Reg. 446 (Prop.)
.....	10	DE Reg. 866 (Final)
50100 Services Provided by the Chronic Renal Disease Program.....	10	DE Reg. 347 (Final)
<b>Division of Public Health</b>		
4104 Conrad State 30/J-1 Visa Waiver Program.....	10	DE Reg. 1221(Prop.)
<b>Division of Social Services</b>		
<b>DSSM:</b>		
3000 Temporary Assistance for Needy Families (TANF).....	10	DE Reg. 286 (Prop.)
3001 Definitions.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 706 (Final)
3006 TANF Employment and Training Program.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 706 (Final)
3008 Eligibility of Certain Minors.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 706 (Final)
3012 School Attendance.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 706 (Final)
3031 Work for Your Welfare.....	10	DE Reg. 283 (Prop.)
.....	10	DE Reg. 706 (Final)
9013.1 Household Definition .....	10	DE Reg. 626 (Prop.)
.....	10	DE Reg. 1003 (Final)
9085 Reporting Changes .....	10	DE Reg. 57 (Prop.)
.....	10	DE Reg. 560 (Final)
11000 Child Care Subsidy Program.....	10	DE Reg. 447 (Prop.)
.....	10	DE Reg. 564 (Final)
.....	10	DE Reg. 1007 (Final)
15120 Financial Eligibility.....	10	DE Reg. 143 (Final)
16230.1.2 Self-Employment Income.....	10	DE Reg. 143 (Final)
17300.3.2 Self-Employment Income.....	10	DE Reg. 143 (Final)
20210.16 Self Employment .....	10	DE Reg. 143 (Final)
20400.9.1.1 Treatment of Special Needs Trusts.....	10	DE Reg. 1302 (Final)
20620.2 Necessary Medical Care Expenses.....	10	DE Reg. 52 (Prop.)
.....	10	DE Reg. 703 (Final)
20995.1 Post-Eligibility Deductions.....	10	DE Reg. 52 (Prop.)
.....	10	DE Reg. 703 (Final)
<b>DEPARTMENT OF INSURANCE</b>		
504 Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants.....	10	DE Reg. 60 (Prop.)
.....	10	DE Reg. 734 (Final)
608 Automobile Insurance Coverage.....	10	DE Reg. 1232(Prop.)

610 Automobile Premium Consumer Comparison.....	10 DE Reg. 62 (Prop.)
	10 DE Reg. 566 (Final)
704 Homeowners Premium Consumer Comparison .....	10 DE Reg. 967 (Prop.)
	10 DE Reg. 1304 (Final)
1215 Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities.....	10 DE Reg. 968 (Prop.)
301 Arbitration of Health Insurance Claims and Internal Review Process of Medical Insurance Carriers .....	10 DE Reg.1180(Emer.)
1215 Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities.....	10 DE Reg.1306 (Final)
1301 Arbitration of Health Insurance Claims and Internal Review Process of Medical Insurance Carriers .....	10 DE Reg.1233 (Prop.)
1403 Health Maintenance Organizations [Formerly Regulation 58] .....	10 DE Reg.1190(Emer.)
	10 DE Reg.1249 (Prop.)
1501 Medicare Supplement Insurance Minimum Standards.....	10 DE Reg. 802 (Prop.)
	10 DE Reg.1307 (Final)

**DEPARTMENT OF JUSTICE**

## Division of Fraud and Consumer Protection

Debt Management Services.....	10 DE Reg. 804 (Prop.)
	10 DE Reg.1308 (Final)
Identity Theft Passports.....	10 DE Reg. 811 (Prop.)
	10 DE Reg. 1151(Final)

**DEPARTMENT OF LABOR****Division of Employment and Training**

106 Apprenticeship and Training Regulations.....	10 DE Reg. 64 (Prop.)
(to be transferred to the Division of Industrial Affairs).....	10 DE Reg. 458 (Prop.)

**Division of Industrial Affairs**

106 Apprenticeship and Training Regulations.....	10 DE Reg. 1021(Final)
--	------------------------

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****Office of the Secretary**

106 Environmental Standards for Eligible Energy Resources .....	10 DE Reg. 350 (Final)
---	------------------------

**Division of Air and Waste Management**

1113 Open Burning.....	10 DE Reg. 1118 (Prop.)
1124 Control of Volatile Organic Compound Emissions, Section 46.....	10 DE Reg. 813 (Prop.)
	10 DE Reg. 867 (Final)
1141 Limiting Emissions of VOC from Consumer and Commercial Products .....	10 DE Reg. 465 (Prop.)
	10 DE Reg. 868 (Final)
1142 Specific Emission Control Requirements, Section 2.0 Control of NOx Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries.....	10 DE Reg.1280 (Prop.)
1146 Electric Generating Unit (EGU) Multi-Pollutant Regulations.....	10 DE Reg. 508 (Prop.)
	10 DE Reg.1022 (Final)
1302 Regulations Governing Hazardous Waste.....	10 DE Reg. 353 (Final)

**Division of Fish and Wildlife**

3200 Horseshoe Crabs (3203, 3207, 3210, 3211 and 3214; 3215).....	10 DE Reg. 519 (Prop.)
	10 DE Reg.1029 (Final)
3536 Fish Pot Requirements (Formerly Tidal Finfish Reg. 24).....	10 DE Reg. 629 (Prop.)
	10 DE Reg.1035 (Final)
3581 Spiny Dogfish; Closure of Fishery (Formerly Tidal Finfish Reg. 27).....	10 DE Reg.1285(Prop.)
3700 Shellfish Regulations (3711, 3712 and 3755).....	10 DE Reg. 522 (Prop.)
	10 DE Reg.1034 (Final)

**Division of Soil and Water Conservation**

- 5101 Sediment and Stormwater Regulations (Exempt from A.P.A.)..... 10 **DE Reg.** 735 (Final)
- 5102 Regulation Governing Beach Protection and the Use of Beaches..... 10 **DE Reg.** 870 (Final)

**Division of Water Resources**

- 7402 Shellfish Sanitation Regulations ..... 10 **DE Reg.** 145 (Final)

**Watershed Assessment Section**

**Total Maximum Daily Loads (TMDLs)**

- 7412 Chester River Watershed..... 10 **DE Reg.** 1041 (Final)
- 7413 Choptank River Watershed..... 10 **DE Reg.** 1041 (Final)
- 7414 Marshyhope Creek Watershed..... 10 **DE Reg.** 1041 (Final)
- 7415 Pocomoke River Watershed..... 10 **DE Reg.** 1041 (Final)
- 7416 Army Creek Watershed..... 10 **DE Reg.** 305(Prop.)
- 7417 Blackbird Creek Watershed..... 10 **DE Reg.** 1042 (Final)
- 7418 Broadkill River Watershed..... 10 **DE Reg.** 1037 (Final)
- 7419 Cedar Creek Watershed..... 10 **DE Reg.** 1038 (Final)
- 7420 Dragon Run Creek Watershed..... 10 **DE Reg.** 305 (Prop.)
- 7421 Leipsic River Watershed..... 10 **DE Reg.** 1042 (Final)
- 7422 Little Creek Watershed..... 10 **DE Reg.** 1037 (Final)
- 7423 Mispillion River Watershed..... 10 **DE Reg.** 1038 (Final)
- 7424 Red Lion Creek Watershed..... 10 **DE Reg.** 305 (Prop.)
- 7425 Smyrna River Watershed..... 10 **DE Reg.** 1042 (Final)
- 7426 St. Jones River Watershed..... 10 **DE Reg.** 1037 (Final)
- 7427 Appoquinimink River Watershed, Bacteria for, (formerly 7403)..... 10 **DE Reg.** 524 (Prop.)
- 7428 Murderkill River Watershed..... 10 **DE Reg.** 1039 (Final)
- 7429 Inland Bays Drainage Basin ..... 10 **DE Reg.** 524 (Prop.)
- 7430 Chesapeake Bay Drainage Basin..... 10 **DE Reg.** 1041 (Final)

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

**Board of Examiners of Private Investigators and Private Security Agencies**

- 1300 Board of Examiners of Private Investigators and Private Security Agencies . 10 **DE Reg.** 971 (Prop.)

**DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES**

**Division of Family Services**

- 101 Day Care Centers..... 10 **DE Reg.** 308 (Prop.)

**DEPARTMENT OF STATE**

**Division of Professional Regulation**

- 200 Board of Landscape Architects..... 10 **DE Reg.** 1124(Prop.)
- 500 Board of Podiatry..... 10 **DE Reg.** 309 (Prop.)
- 700 Board of Chiropractic..... 10 **DE Reg.** 1153 (Final)
- 1400 Board of Electrical Examiners..... 10 **DE Reg.** 146 (Final)
- 1770 Respiratory Care Advisory Council..... 10 **DE Reg.** 1126(Prop.)
- 1800 Board of Plumbing Examiners ..... 10 **DE Reg.** 631(Prop.)
- 1900 Board of Nursing..... 10 **DE Reg.** 1329 (Final)
- 2000 Delaware Board of Occupational Therapy..... 10 **DE Reg.** 354 (Final)
- 2000 Delaware Board of Occupational Therapy..... 10 **DE Reg.** 65 (Prop.)
- 2000 Delaware Board of Occupational Therapy..... 10 **DE Reg.** 1127(Prop.)
- 2000 Delaware Board of Occupational Therapy..... 10 **DE Reg.** 1286(Prop.)

# CUMULATIVE TABLES

2500 Board of Pharmacy.....	10 DE Reg. 311 (Prop.)
Section 8.0, Requirements for Obtaining a Permit to Distribute Drugs on a Wholesale Basis.....	10 DE Reg. 972 (Prop.)
Section 9.0, Hospital Pharmacy.....	10 DE Reg. 821 (Prop.)
2600 Examining Board of Physical Therapists.....	10 DE Reg. 318 (Prop.)
	10 DE Reg. 741 (Final)
2700 Board of Professional Landy Surveyors.....	10 DE Reg. 1290(Prop.)
3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals .....	10 DE Reg. 67 (Prop.)
Section 6.0, Renewal of Licensure.....	10 DE Reg. 871 (Final)
Sections 1.0 through 9.0, Reorganized and Renumbered.....	10 DE Reg. 872 (Final)
3100 Delaware Board of Funeral Services.....	10 DE Reg. 528 (Prop.)
.....	10 DE Reg. 1154 (Final)
3300 Board of Veterinary Medicine .....	10 DE Reg. 531 (Prop.)
	10 DE Reg. 884 (Final)
	10 DE Reg. 1137(Prop.)
3500 Board of Examiners of Psychologists, Sections 5.0 and 10.0.....	10 DE Reg. 1295(Prop.)
3600 Board of Registration of Geologists.....	10 DE Reg. 68 (Prop.)
	10 DE Reg. 567 (Final)
3900 Board of Clinical Social Work Examiners.....	10 DE Reg. 323 (Prop.)
.....	10 DE Reg. 886 (Final)
4400 Delaware Manufactured Home Installation Board.....	10 DE Reg. 331 (Prop.)
	10 DE Reg. 634 (Prop.)
	10 DE Reg. 1156 (Final)
5300 State Board of Massage and Bodywork .....	10 DE Reg. 71 (Prop.)
	10 DE Reg. 575 (Final)
<b>Office of the State Bank Commissioner</b>	
1101 Election to be Treated for Tax Purposes as a "Subsidiary Corporation" of a DE Chartered Banking Organization or Trust Company, National Bank having its Principle Office in Delaware, or Out-of-State Bank that Operates Resulting Branch in Delaware.....	10 DE Reg. 643 (Prop.)
1109 Instructions for Calculation of Employment Tax Credits .....	10 DE Reg. 643 (Prop.)
1113 Election by a Subsidiary Corporation of a Banking Organization or Trust Company to be Taxed in Accordance with Chapter 19 of Title 30 .....	10 DE Reg. 643 (Prop.)
1114 Alternative Franchise Tax.....	10 DE Reg. 643 (Prop.)
<b>Public Service Commission</b>	
Regulation Docket No. 49, Creation of a Competitive Market for Retail Electric Supply Service .....	10 DE Reg. 664 (Prop.)
.....	10 DE Reg. 1160 (Final)
Regulation Docket No. 50, Proposed Adoption of "Electric Service Reliability and Quality Standards" .....	10 DE Reg. 74 (Prop.)
.....	10 DE Reg. 576 (Final)
Regulation Docket No. 56, Proposed Adoption of "Rules to Implement Renewable Energy Portfolio Standards".....	10 DE Reg. 151 (Final)
<b>DEPARTMENT OF TRANSPORTATION</b>	
<b>Division of Planning and Policy</b>	
Development Related Improvements Requiring New Rights-of-Way.....	10 DE Reg. 892 (Final)
Utilities Manual Regulations.....	10 DE Reg. 1139(Prop.)
<b>Office of Motor Fuel Tax Administration</b>	
2401 Regulations for the Office of Retail Gasoline Sales.....	10 DE Reg. 542 (Prop.)

**GOVERNOR'S OFFICE****Executive Orders:**

Executive Order No. 87, Establishing The State Employees' Charitable Campaign .....	10 DE Reg. 158
Executive Order No. 88, Recognizing and Establishing the Delaware Science and Technology Council .....	10 DE Reg. 366
Executive Order No. 89, Creating the Governor's Consortium on Hispanic Issues .....	10 DE Reg. 578
Executive Order No. 90, Establishing The Recycling Public Advisory Council .....	10 DE Reg. 903
Executive Order No. 91, Amending Executive Order No. 84.....	10 DE Reg. 1067
Executive Order No. 92, Authorizing The Establishment Of A Special Fund To Assist Any Delaware National Guard Member Or Delaware-Based Reservist Who May Be Ordered To Active Duty.....	10 DE Reg. 1067
Executive Order No. 93, Amendment to Executive Order Number Eighty-Eight Regarding the Delaware Science and Technology Council.....	10 DE Reg. 1162
Executive Order No. 94 Declaring Tuesday, January 2, 2007 A Legal Holiday In Remembrance of Former President Gerald R. Ford .....	10 DE Reg. 1331

**Governor's Office**

Appointments and Nominations.....	10 DE Reg. 368
	10 DE Reg. 905
	10 DE Reg. 1332

**Symbol Key**

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

**Proposed Regulations**

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

---

**DELAWARE RIVER BASIN COMMISSION****PUBLIC NOTICE****Proposed Amendments to the Comprehensive Plan and Water Code Relating to a Flexible Flow Management Plan for Operation of the New York City Delaware Basin Reservoirs**

The Delaware River Basin Commission (DRBC or "Commission") is a federal-interstate compact agency charged with managing the water resources of the basin without regard to political boundaries. Its commissioners are the governors of the four basin states - Delaware, New Jersey, New York, and Pennsylvania - and a federal representative appointed by the President of the United States. The Commission is not subject to the requirements of 29 **Delaware Code** Chapter 101. This notice is published by the Commission for informational purposes.

**Proposed Amendments to the Comprehensive Plan and Water Code Relating to a Flexible Flow Management Plan for Operation of the New York City Delaware Basin Reservoirs**

**Summary:** The Delaware River Basin Commission (Commission) will hold a public hearing and accept written comment on a proposal to amend the agency's Comprehensive Plan and Water Code to establish a Flexible Flow Management Program (FFMP) for the New York City Delaware Basin Reservoirs ("City Delaware Reservoirs") for multiple objectives, including, among others, (a) water supply and drought mitigation; (b) management of the reservoir tailwater fisheries and other habitat needs, and (c) spill mitigation. The current reservoir releases program, which was established by Resolution No. 2004-3 in April of 2004, will expire on May 31, 2007. The current spill mitigation program, established by Resolution No. 2006-18, also will expire on May 31, 2007. The Commission also will accept comment on alternative reservoir management strategies that may be adopted in the event that consensus on the proposed FFMP is not reached. The alternative reservoir releases options to be considered are (1) extending the current reservoir releases program or (2) reinstating a previous drought operating plan. Either option would be considered in combination with a seasonal spill mitigation program or an annual spill mitigation program for the three reservoirs. The releases program adopted in the event consensus is not reached on the FFMP would continue in effect until any expiration date contained in the program adopted or unless and until replaced by another program that has been approved by the Commission following a notice and comment rulemaking process. In accordance with Section 3.3 of the Delaware River Basin Compact,

any program affecting the diversions, compensating releases, rights, conditions, and obligations of the 1954 Supreme Court Decree in the matter of *New Jersey v. New York*, 347 U.S. 995, 74 S. Ct. 842 requires the unanimous consent of the decree parties, which include the states of Delaware, New Jersey and New York, the Commonwealth of Pennsylvania, and the City of New York.

**Background.** The flow management objectives considered by the Supreme Court Decree of 1954 - water supply and drought - were far narrower than the diverse objectives that have emerged in the decades since. Today, the finite waters of the Delaware and the limited storage available in the basin are being managed for multiple purposes, including among others, water supply, drought mitigation, flood mitigation, and habitat protection in the tailwaters fishery, the mainstem and the estuary. In accordance with the Delaware River Basin Compact, a statute concurrently enacted in 1961 by the U.S. Government and the four basin states - Delaware, New Jersey, New York and Pennsylvania - the Delaware River Basin Commission may modify diversions, releases, rights, conditions and obligations established by the decree, provided that the decree parties unanimously consent to such modifications. The Commission and decree parties have made use of this authority to provide flexibility to respond to fluctuating hydrologic conditions and evolving priorities throughout the Commission's history. In 1983, in accordance with an agreement among the parties known as the "Good Faith Agreement," a reservoir release regime was established on a permanent basis to supplement the provisions of the decree for the limited purpose of protecting and enhancing the tailwaters fishery. Since the adoption of this regime in the form of a docket (similar to a permit) issued to the New York State Department of Environmental Conservation - Docket D-77-20 CP (Revised) - the "fishery management program" as the plan is sometimes called, has been modified repeatedly by the Commission with the unanimous consent of the decree parties. Resolution No. 2004-3, approving Docket D-77-20 CP (Revision 7), established the three-year interim program that is set to expire on May 31, 2007. A series of temporary spill mitigation programs also have been established, the latest in the form of Docket D-77-20 CP (Revision 9), approved by DRBC Resolution No. 2006-18 in September 2006.

Unlike the experimental programs instituted by the Commission in the past, the FFMP is intended to provide a comprehensive framework for addressing multiple flow management objectives, including water supply, drought mitigation, protection of the tailwaters fishery, a diverse array of habitat protection needs in the mainstem, estuary and bay, flood mitigation, recreational goals and salinity repulsion. Some of the flow needs identified by the parties have not yet been defined sufficiently for the development of detailed plans. These include protection of the dwarf wedgemussel, a federal and state-listed endangered species present in the mainstem, oyster production in Delaware Bay, and protection of warm-water and migratory fisheries in the lower basin. Incremental and periodic adjustments are expected to be made to the FFMP for these purposes, based upon ongoing monitoring, scientific investigation, and periodic re-evaluation of program elements.

A central feature of the reservoir release programs implemented to date for management of the tailwaters fishery has been the use of reservoir storage "banks" to be used for narrowly defined purposes under specific hydrologic and temperature conditions and at specified times of the year. These are applied in conjunction with a set of fixed seasonal flow targets. The system requires complex daily flow and temperature modeling as a component of determining the releases, and as a result, the program is difficult and costly to administer. The current approach also lacks the seasonal fluctuations characteristic of a natural flow regime. The FFMP would largely eliminate the use of banks and would base releases instead on reservoir storage levels, resulting in larger releases when water is abundant and smaller releases when storage is at or below normal. The result would more closely approximate a natural flow regime. In addition, the FFMP would provide for more gradual transitions (or "ramping") from higher to lower releases and vice versa than the current regime. The FFMP would include a spill mitigation component similar to but potentially more aggressive than the temporary programs implemented in the past. The storage represented by snowpack water content would continue to be considered.

Hydrologic modeling and habitat assessments are being undertaken to evaluate the sustainable benefits of the FFMP for the tailwaters fishery and for spill mitigation. In addition, an evaluation is being made of the potential benefits and costs of increasing storage in one or more of the City Delaware Reservoirs that may improve the capacity of the system to meet the full range of flow objectives.

If consensus among the decree parties and DRBC commissioners cannot be reached on details of the FFMP in time to approve and initiate implementation of the plan by June 1, 2007, the parties intend to continue to work at refining and improving the FFMP until such a consensus can be reached. The Commission will conduct a separate notice and comment rulemaking process on the proposed program at that time. Under such circumstances, for an interim period, the parties will consider extending the current fisheries management program



or reinstating a previous regime. In either case, the releases program will be considered in combination with a spill mitigation plan.

The proposed FFMP in its entirety will be posted on the website of the Delaware River Basin Commission, [www.drbc.net](http://www.drbc.net), on Tuesday, February 20, 2007.

**Dates:** Two public hearings on the proposal will be conducted at 2:30 p.m. and 6:30 p.m. respectively on Tuesday, March 27, 2007 at the Lake Wallenpaupack Environmental Learning Center in Hawley, Pa. Written comments will be accepted through April 6, 2007. To allow sufficient time for consideration by the Commission, comments must be received, not merely postmarked, by that date. In addition, three informational meetings will be held on the proposal. The first will take place during the morning conference session of the Commission's regularly scheduled meeting on Wednesday, February 28, 2007 at the DRBC office building in West Trenton, N.J. The second will take place during a meeting of the Commission's Regulated Flow Advisory Committee (RFAC), which will take place at 10:00 a.m. on Tuesday, March 6, 2007 at the Commission's office building in West Trenton, N.J. The third informational meeting will take place at 1:00 p.m. on Tuesday, March 27, 2007, immediately prior to the first public hearing on the proposal, scheduled for that date at the Lake Wallenpaupack Environmental Learning Center in Hawley, Pa.

**Addresses.** Directions to the Commission's office building, located at 25 State Police Drive in West Trenton, N.J., are available on the DRBC website at [www.drbc.net](http://www.drbc.net). Please do not rely upon MapQuest or other Internet mapping services for directions to the DRBC, as they do not provide accurate directions to this location. Directions to the Lake Wallenpaupack Environmental Learning Center are available at <http://www.pplweb.com/lake+wallenpaupack/contacts+and+directions/get+directions.htm> and also will be posted on the DRBC website, [www.drbc.net](http://www.drbc.net), by February 20, 2007. Written comments must include the name, address and affiliation of the commenter. Comments may be submitted by email to [paula.schmitt@drbc.state.nj.us](mailto:paula.schmitt@drbc.state.nj.us); by U.S. Mail to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, N.J. 08628-0360; and by fax to Attn: Commission Secretary at 609-883-9522. In all cases, the subject line, "Comment on Flexible Flow Management Plan for City Delaware Reservoirs" should be included.

**Further Information, Contacts:** The text of the proposed FFMP in its entirety will be posted on the website of the Delaware River Basin Commission, [www.drbc.net](http://www.drbc.net), on Tuesday, February 20, 2007 and will remain posted through May 10, 2007. Please contact Pamela M. Bush, Esquire, Commission Secretary and Asst. General Counsel at 609-883-9500 ext. 203 with questions about the proposed rule change or the rulemaking process.

Pamela M. Bush, Esquire  
Commission Secretary and Assistant General Counsel  
February 12, 2007

---

**DEPARTMENT OF AGRICULTURE**  
**HARNES RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)  
3 **DE Admin. Code** 501

**PUBLIC NOTICE**

The Delaware Harness Racing Commission (DHRC), pursuant to 3 **Del.C.** §10005, proposes to change DHRC Rule 3. The Commission will hold a public hearing on the proposed rule changes on April 10, 2007. Written comments should be sent to Hugh J. Gallagher, Administrator of Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901.

The proposed changes are for the purpose of updating the rules to reflect current policies, practices and procedures. For example, Rule 3.4 updates the responsibilities of the Paddock Judge.

---

## 501 Harness Racing Rules and Regulations

### *(Break in Continuity of Sections)*

### 3.0 Officials

#### 3.1 General Provisions

##### 3.1.1 Racing Officials

Officials at a race meeting may include the following, as determined by the Commission:

- 3.1.1.1 State Steward;
- 3.1.1.2 Board of judges;
- 3.1.1.3 racing secretary;
- 3.1.1.4 paddock judge;
- 3.1.1.5 horse identifier and equipment checker;
- 3.1.1.6 clerk of the course;
- 3.1.1.7 official starter;
- 3.1.1.8 official charter;
- 3.1.1.9 official timer;
- 3.1.1.10 photo finish technician;
- 3.1.1.11 patrol judge;
- 3.1.1.12 program director;
- 3.1.1.13 Commission veterinarian;
- 3.1.1.14 Bleeder Medication veterinarian;
- 3.1.1.15 Investigator; and
- 3.1.1.16 Administrator of Racing
- 3.1.1.17 any other person designated by the Commission.

##### 3.1.2 Eligibility

To qualify as a racing official the appointee must be licensed by the Commission after a determination that he/she:

- 3.1.2.1 is of good moral character and reputation;
- 3.1.2.2 is experienced in and/or knowledgeable of harness racing;
- 3.1.2.3 is familiar with the duties to which he/she is appointed and with the Commission's rules and regulations;
- 3.1.2.4 possesses the mental and physical capacity to perform his/her duties; and
- 3.1.2.5 is not under suspension or ejection by the U.S.T.A., the C.T.A. or any racing jurisdiction.

##### 3.1.3 Approval and Licensing

The Commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing.

##### 3.1.4 Prohibited Practices

Racing officials and their assistants shall not engage in any of the following activities while serving in an official capacity at a race meeting:

- 3.1.4.1 participate in the sale or purchase, or own any horse racing at the meeting;
- 3.1.4.2 sell or solicit horse insurance on any horse racing at the meeting;
- 3.1.4.3 be licensed in any other capacity without permission of the Commission;
- 3.1.4.4 wager on the outcome of any live or simulcast race;
- 3.1.4.5 refuse to take a breath analyzer test or submit to a blood or urine sample when directed by the Commission or its designee; or
- 3.1.4.6 perform their official duties on any day during which any horse entered in any live race at the association grounds is owned or trained, in whole or in part, directly or indirectly, or is driven by any parent, child or sibling of such official, or participate in the draw for any such race; provided, however, that a parent, child or sibling of an official acting solely as a groom for such a horse shall not be deemed to pose a conflict of interest for the official; provided further, that should any such conflict described above arise, the official will

immediately notify the State Steward; and provided, further, that should repeated such conflicts interfere with the official's performance of his/her normal duties, or with any other official's performance of his/her official duties, then the Commission shall appoint another person to replace the official with the familial conflict.

### 3.1.5 Report of Violations

Racing officials and their assistants shall report immediately to the State Steward or judges every observed violation of these rules and of the laws of this jurisdiction governing racing.

### 3.1.6 Complaints Against Officials

Any formal complaint against a racing official other than a judge shall be made to the State Steward or Presiding Judge in writing and signed by the complainant. All such complaints shall be reported to the Commission by the State Steward or Presiding Judge, as appropriate, together with a report of the action taken or the recommendation of the State Steward or Presiding Judge. Formal complaints against the State Steward or any judge shall be made in writing to the Commission and signed by the complainant.

### 3.1.7 Appointment

#### 3.1.7.1

A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the Commission. No person shall be appointed to or hold any such office or position who holds any official relation to any person, association, or corporation engaged in or conducting harness racing within this State. No Commissioner, racing official, steward, or judge whose duty is to insure that the rules and regulations of the Commission are complied with shall bet on the outcome of any race regulated by the Commission or have any financial or pecuniary interest in the outcome of any race regulated by the Commission. All employees appointed under 3 **Del.C.** §10007(a-c) shall serve at the pleasure of the Commission and are to be paid a reasonable compensation.

#### 3.1.7.2

The Commission shall appoint or approve the State Steward and judges at each harness race meeting. The Commission may appoint such officials on an annual basis. In addition to any minimum qualifications promulgated by the Commission, all applicants for the position of Steward must be certified by a national organization approved by the Commission. An applicant for the position of steward or race judge must also have been previously employed as a steward, patrol judge, clerk of scales or other racing official at a harness racing meeting for a period of not less than forty-five days during three of the last five years, or have at least five years of experience as a licensed driver who has also served not less than one year as a licensed racing official at a harness racing meeting or have ten years of experience as a licensed harness racing trainer who has served not less than one year as a licensed racing official at a harness racing meeting.

#### 3.1.7.3

The Commission may appoint such officers, clerks, stenographers, inspectors, racing officials, veterinarians, and such other employees as it deems necessary, consistent with the purposes of 3 **Del.C.** Chapter 100.

### 3.1.8 Appointment of Substitute State Steward/Judge

Should any State Steward or any judge be absent at race time, the State Steward, or, in his/her absence the remaining judge(s) shall appoint a deputy for the State Steward or judge(s). If a deputy State Steward or judge is appointed, the Commission shall be notified immediately by the State Steward or remaining judges.

## 3.2 State Steward/Judges

### 3.2.1 General Authority

#### 3.2.2.1

The State Steward and judges for each meeting shall be responsible to the Commission for the conduct of the race meeting in accordance with the laws of this jurisdiction and these rules.

#### 3.2.2.2

The State Steward and judges shall enforce these rules and the racing laws of the State of Delaware.

#### 3.2.2.3

The State Steward's authority includes supervision of all racing officials, licensed personnel, other persons responsible for the conduct of racing and patrons, as necessary to ensure compliance with these rules.

#### 3.2.2.4

The State Steward and Presiding Judge shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

#### 3.2.2.5

The State Steward and judges have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules.

#### 3.2.2.6

The State Steward shall be a representative of the Commission at all race meetings which the Commission may direct such State Steward to attend. The State Steward shall be the senior officer at such meetings and, subject to the control and direction of the Commission, shall have general supervision

over the racing officials, medication program and drug-testing officials, and all other employees and appointees of the Commission employed at such race meet or meetings. The State Steward shall, subject to the general control of the Commission, monitor the conduct of the racing and the pari-mutuel department, and supervise the testing of horses and drivers. The State Steward at all times shall have access to all parts of the association grounds, including the racecourse, physical plant and grounds. Upon instruction from the Commission, the State Steward shall conduct hearings and investigations, and report his findings to the Commission. The State Steward shall act for the Commission in all matters requiring its attention, to receive from all persons having knowledge thereof information required by the Commission and to perform all other duties for the compliance of the rules and regulations of the Commission and the laws of the State of Delaware.

3.2.2 Period of Authority

The State Steward's and judges' period of authority shall commence five (5) business days prior to the beginning of each race meeting and shall terminate with completion of their official business pertaining to the meeting.

3.2.3 Disciplinary Action

3.2.3.1 The State Steward and judges shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

3.2.3.2 The State Steward and judges shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

3.2.3.3 The State Steward and judges may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

3.2.3.4 The State Steward and judges may at any time inspect license documents, registration papers and other documents related to racing.

3.2.3.5 The State Steward and judges have the power to administer oaths and examine witnesses.

3.2.3.6 The State Steward and judges may consult with the Commission Veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

3.2.3.7 The State Steward and judges may impose, but are not limited to, any of the following penalties on a licensee for a violation of these rules:

3.2.3.7.1 issue a reprimand;

3.2.3.7.2 assess a fine;

3.2.3.7.3 require forfeiture or redistribution of purse or award, when specified by applicable rules;

3.2.3.7.4 place a licensee on probation;

3.2.3.7.5 suspend a license or racing privileges;

3.2.3.7.6 revoke a license;

3.2.3.7.7 exclude from grounds under the jurisdiction of the Commission;

or  
3.2.3.7.8 any relief deemed appropriate.

3.2.3.8 The State Steward and judges may take any appropriate actions against any horse for a violation or attempted violation of these rules.

3.2.3.9 The State Steward and judges may suspend a license; or they may impose a fine in accordance with these Rules for each violation; or they may suspend and fine; or they may order that a person be ineligible for licensing.

3.2.3.10 A State Steward's or judges' ruling shall not prevent the Commission from imposing a more or less severe penalty.

3.2.3.11 The State Steward or judges may refer any matter to the Commission and may include recommendations for disposition. The absence of a State Steward's or judges' referral shall not preclude Commission action in any matter.

3.2.3.12 Purses, prizes, awards, and trophies shall be redistributed if the State Steward or judges or Commission order a change in the official order of finish.

3.2.3.13 All fines imposed by the State Steward or judges shall be paid to the Commission within ten (10) days after the ruling is issued, unless otherwise ordered.

3.2.4 Protests, Objections and Complaints

The State Steward or judges shall investigate promptly and render a decision in every

protest made to them. They shall maintain a record of all protests. The State Steward or judges shall file daily with the Commission a copy of each protest, objection or complaint and any related ruling. All protests must be in writing and lodged with the State Steward or judges not later than forty-eight (48) hours after the race in question.

3.2.5 Judges' Presence

A board of judges shall be present in the judges' stand during the contesting of each race.

3.2.6 Order of Finish for Pari-Mutuel Wagering

3.2.6.1 The judges shall determine the official order of finish for each race in accordance with the rules of the race (see Rule 7.0).

3.2.6.2 The decision of the judges as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the contesting of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

3.2.7 Cancel Wagering

The State Steward or judges have the authority to cancel wagering and order refunds where applicable on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering.

3.2.8 Steward's List

3.2.8.1 The judges shall maintain a Steward's List of the horses which are ineligible to be entered in a race.

3.2.8.2 A horse that is unfit to race because it is dangerous, unmanageable or unable to show a performance to qualify for races at the meeting, scratched as a result of a high blood gas test, or otherwise unfit to race at the meeting may be placed on the Steward's List by the Presiding Judge and declarations and/or entries on the horse shall be refused. The owner or trainer shall be notified of such action and the reason shall be clearly stated. When any horse is placed on the Steward's List, the clerk of the course shall make a note on the eligibility certificate of such horse, showing the date the horse was put on the Steward's List the reason and the date of removal if the horse has been removed.

3.2.8.3 All horses scratched by a veterinarian for either lameness or sickness will be put on the Steward's List and can not race for seven (7) days from the date of the scratched race. Entries will be accepted during this seven (7) day period for a race to be contested after the seventh day.

3.2.8.3.1 Veterinarians may put a horse on the Steward's List for sickness or lameness for more than seven (7) if necessary. In that instance, the horse may not race until proscribed number of days has expired. Entries will be accepted during this period for a race to be contested after the proscribed number of days has expired.

3.2.8.4 No Presiding Judge or other official at a fair meeting shall have the power to remove from the Steward's List and accept as an entry any horse which has been placed on a Steward's List and not subsequently removed therefrom for the reason that he/she is dangerous or an unmanageable horse. Such meetings may refuse declarations and/or entries on any horse that has been placed on the Steward's List and has not been removed therefrom.

3.2.8.5 No horse shall be admitted to any racetrack facilities in this jurisdiction without having had a negative official test for equine infectious anemia within twelve (12) months.

3.2.8.6 The judges may put any horse on the Steward's List for performance when such horse shows a reversal of form or does not race near its own capabilities. Such horse shall qualify in a time comparable to its known capabilities from one to three times, at the discretion of the judges, before being allowed to start.

3.2.8.7 Any horse put on the Steward's List as unmanageable or dangerous must qualify in a satisfactory manner for the judges at least two times.

3.2.8.8 The judges may put any horse on the Steward's List for being noncompetitive or unfit to race at the meeting.

3.2.8.9 The judges may place a horse on the Steward's List when there exists a question as to the exact identification, ownership or management of said horse.

3.2.8.10 A horse which has been placed on the Steward's List because of questions as to the exact identification or ownership of said horse, may be removed from the Steward's List when, in the opinion of the judges, proof of exact identification and/or ownership has been established.

3.2.8.11 A horse may not be released from the Steward's List without the permission of the judges.

3.2.9 List of Nerved Horses

The judges shall maintain a list of nerved horses which are on association grounds and shall make the list available for inspection by other licensees participating in the race meeting.

3.3 Racing Secretary

3.3.1 General Authority

The racing secretary is responsible for setting the conditions for each race of the race meeting, regulating the nomination of entries and determining the amounts of purses and to whom they are due. The racing secretary shall check and verify the eligibility of all horses entered.

3.3.2 Eligibility Certificates

The racing secretary is responsible for receiving and safeguarding the eligibility certificates of all horses competing at the track or stabled on association grounds.

3.3.3 Race Information

The racing secretary shall be familiar with the age, class and competitive ability of all horses racing at the meeting.

3.3.4 Classifications

The racing secretary shall classify horses in accordance with these rules and list horses in the categories in which they qualify.

3.3.5 Listing of Horses

The racing secretary shall:

3.3.5.1 examine all entry forms and declarations to verify information as set forth therein; and

3.3.5.2 select the horses to start and the also eligible horses from the declarations in accordance with these rules.

3.3.5.3 provide the listing of horses in the daily program.

3.3.6 Nominations and Declarations

The racing secretary shall examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.

3.3.7 Conditions

The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the Commission and be posted in the racing secretary's office.

3.3.8 Posting of Entries

Upon completion of the draw each day, the racing secretary shall post a list of entries in a conspicuous location in his/her office and make the list available to the media.

3.3.9 Stakes and Entrance Money Records

The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all entrance monies due are paid not later than one hour prior to post time, regardless of whether the horse actually starts.

3.3.10 Winnings

3.3.10.1 For the purpose of establishing conditions, winnings shall be considered to include all monies and prizes won up to the time of the start of a race.

3.3.10.2 Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

3.3.11 Cancellation of a Race

In case of unfavorable weather or other unavoidable cause, associations, upon notifying of the State Steward may postpone or cancel races.

3.4 Paddock Judge

3.4.1 General Authority

Under the direction and supervision of the Presiding Judge, the Paddock Judge shall ~~have complete charge of all paddock activities, including but not limited to:~~

3.4.1.1 Ensuring e that all horses entered in a heat or dash are on the racetrack at the time designated by the Presiding Judge to be formed in a parade line; that such horses are attended by their drivers unless specifically excused by the Paddock Judge; that all horses in heat or race parade from the paddock upon the track and before the grandstand not later than five (5) minutes before Post Time; and that drivers not

## PROPOSED REGULATIONS

engage in conversation during the post parade. A horse failing to parade without being excused by the Paddock Judge may be scratched from the race or its driver or trainer may be penalized;

3.4.1.2 Supervising ~~e~~ the Horse Identifier ~~and~~ /Equipment Checker;

3.4.1.3 Supervising ~~e~~ the paddock gate operators;

3.4.1.4 Ensuring ~~e~~ that all horses are in the paddock at the time prescribed by the

Presiding Judge, but in any event not less than one hour but not more than two hours prior to post time of the race in which the horse is to compete. Except for warm-up trips, no horse shall leave the paddock until called to the post;

3.4.1.5 ~~Maintaining a proper check in and check out of horses and drivers. N~~

Ensure that no driver, trainer, owner-trainer or groom once admitted to the paddock or receiving barn shall leave the same other than to warm up said horse or other race related activity until such race, or races, for which he was admitted is contested; provided, however, that in the event of an emergency, trainers or grooms a license may leave the paddock but only with the permission of the Paddock Judge, in which case the Paddock Judge shall maintain a written record thereof, which shall be delivered to the Presiding Judge. ~~No person except an Only a licensed owner or trainer who has another horse racing in a later race, or an official, shall return to the paddock until all races of that program have been completed;~~

3.4.1.6 Directing the activities of the paddock blacksmith;

3.4.1.7 Ensuring ~~e~~ that only persons properly authorized ~~persons by the Licensing Office~~ are ~~permitted~~ admitted in the paddock, ~~to wit: including:~~

3.4.1.7.1 Owners of horses competing on the date of the race and whose horses are in the paddock; ~~with the exception of all owners of registered stables;~~

3.4.1.7.2 Trainers of horses competing on the date of the race and whose horses are in the paddock;

3.4.1.7.3 Drivers of horses competing on the date of the race and whose horses are in the paddock;

3.4.1.7.4 ~~G~~ No more than two grooms of horses competing on the date of the race and whose horses are in the paddock;

3.4.1.7.5 Officials whose duties require their presence in the paddock or receiving barn; and

3.4.1.7.6 ~~Such other persons as are authorized by the Commission; Provided, Ensure that no more than two members owners of a registered stable, other than the driver, shall be entitled to admission to the paddock on any racing day, except by permission of the Presiding or Paddock Judge, or written approval by the Commission;~~

3.4.1.7.7 ~~8~~ Notifying the Presiding Judge of any change in racing equipment or shoes before the race;

3.4.1.7.8 ~~9~~ Inspecting and supervising ~~e~~ the maintenance of all emergency equipment kept in the paddock;

3.4.1.7.9 ~~10~~ Notifying the judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race;

3.4.1.7.10 ~~11~~ Supervising ~~e~~ and maintaining the cleanliness of the paddock; and

3.4.1.7.11 ~~12~~ Supervising ~~e~~ the conduct of all persons in the paddock.

3.4.2 Report to the Presiding Judge

The Paddock Judge shall:

3.4.2.1 Immediately notify the Presiding Judge of anything that could in any way change, delay or otherwise affect the racing program; and

3.4.2.2 Report to the Presiding Judge any observed cruelty to a horse; and

3.4.2.3 Any other violations of these rules.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Harness Racing Commission is available at: <http://www.state.de.us/research/AdminCode/title3/500/index.shtml#TopOfPage>**



---

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 925

### Education Impact Analysis Pursuant To 14 Del.C. Section 122(d) **PUBLIC NOTICE**

#### 925 Children with Disabilities

#### A. Type Of Regulatory Action Required

Amendment to Existing Regulation

#### B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 925, Children with Disabilities by repealing 14 **DE Admin. Code** 925 and replacing it with the following eight (8) regulations. The proposed regulations will replace the existing regulation in its entirety.

14 **DE Admin. Code** 922 Children with Disabilities, Subpart A, Purposes and Definitions

14 **DE Admin. Code** 923 Children with Disabilities, Subpart B, General Duties and Eligibility of Agencies

14 **DE Admin. Code** 924 Children with Disabilities, Subpart C, Local Educational Agency Eligibility

14 **DE Admin. Code** 925 Children with Disabilities, Subpart D, Evaluations, Eligibility Determination,  
Individualized Education Programs

14 **DE Admin. Code** 926 Children with Disabilities, Subpart E, Procedural Safeguards for Parents and  
Children

14 **DE Admin. Code** 927, Children with Disabilities ,Subpart F, Monitoring, Enforcement and  
Confidentiality of Information

14 **DE Admin. Code** 928 Children with Disabilities, Subpart G, Use and Administration of Funds,  
Subpart H Reserved

14 **DE Admin. Code** 929 Children with Disabilities, Subpart I, Special Programs and Unique Educational  
Alternatives

The proposed regulations address the special education needs of children with disabilities. They implement 14 **Del.C.** Ch. 31 and Part B of the *Individuals with Disabilities Education Act*, 20 USC §1400, et.seq. ("IDEA") This regulation is being revised in response to the 2004 reauthorization of the IDEA. The proposed regulations are designed to continue the alignment of state and federal regulations addressing the education of children with disabilities, to ensure the rights and procedural protections of children with disabilities and their families, and to establish the conditions under which school districts, charter schools and other educational agencies may receive funding for the education of children with disabilities.

The IDEA specifically requires that the Department of Education notify school districts and other education agencies of any State requirements for the education of children with disabilities that exceed federal requirements. These proposed regulations identify those additional State requirements by *italicizing* them in the text of these proposed regulations.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before April 30, 2007 to Martha Toomey, Director, Exceptional Children and Early Childhood Education, Department of Education, at 401 Federal Street, Suite 2, Dover, DE 19901. The proposed regulations are available online at <http://www.state.de.us/research/register/march2007/proposed/index.shtml>. The proposed regulations are also available at many public libraries throughout the State and by contacting Ms. Louann Vari at the above address, or by e-mail at: [lvari@doe.k12.de.us](mailto:lvari@doe.k12.de.us)

#### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The proposed amendments address the achievement of children with disabilities,

including their achievement measured against state standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The proposed regulations assure children with disabilities receive a free, appropriate public education, including equitable access to the services they need to progress in the curriculum offered to students without disabilities.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The proposed regulations address the health and safety of children with disabilities in various programs and settings.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The proposed regulations specifically ensure and implement the rights of children with disabilities and their families under a variety of state and federal laws, including the *Individuals with Disabilities Education Act*, the *No Child Left Behind Act*, and the *Family Educational Rights and Privacy Act* and the provisions of Chapter 31 of Title 14 of the *Delaware Code*.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The proposed regulations are specifically designed to minimize State regulations to those required under state and federal statutes. The Individuals with Disabilities Education Act specifically requires that the Department of Education notify school districts and other education agencies of any State requirements for the education of children with disabilities that exceed federal requirements. These proposed regulations identify those "excess" State requirements by *italicizing* them in the text of these proposed regulations.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The proposed regulations are specifically designed to require only the local reporting and administration necessary to comply with State statutory and federal requirements consistent with the improved achievement and educational performance of children with disabilities.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The State and school districts and other local educational agencies share authority and accountability for the education of children with disabilities, and the proposed regulations reflect that partnership.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The proposed amendments more closely align requirements for the education of children with disabilities with other State educational policies, particularly those addressing achievement in the core curricular areas. The proposed regulations further reflect the increased federal alignment between the *Individuals with Disabilities Education Act* and the *No Child Left Behind Act*.

9. Is there a less burdensome method for addressing the purpose of the regulation? The proposed regulations are designed to assure compliance with applicable laws regarding the education of children with disabilities in these most efficient and effective way for the Department, the school districts and other affected State and local agencies.

10. What is the cost to the State and to the local school boards of compliance with the regulation? Compliance with the IDEA is required as a condition of federal funding.

**\*Please Note: Due to the size of the proposed regulation, it is not being published here. A PDF version is available at the website listed below:**

<http://www.state.de.us/research/register/march2007/proposed/925.pdf>  
(Adobe Acrobat Reader required)

---

---

## DEPARTMENT OF FINANCE STATE LOTTERY OFFICE

Statutory Authority: 29 Delaware Code, Section 4805 (29 Del.C. §4805)

### PUBLIC NOTICE

#### 450 Video Lottery Regulations

The Delaware State Lottery Office in accordance with 29 Del.C. §4805 is proposing to amend to its rules and regulations to eliminate the requirement for non-key employees and non-video operations employees to file completed License Application Forms, to change the licensing procedure to allow for temporary licenses and to change the amount of time a person licensed under the Video Lottery Regulations (or a person who has submitted an application to become licensed) has to report any new criminal charges from seven days to three. The proposed changes amend existing Video Lottery Regulations 6.30, 6.34(4), 14.1.1, 14.3 and 14.4 and 14.11 and 14.13.

A public hearing will be held at 10:00 am on April 2, 2007, at the Lottery Office, 1575 McKee Road, Suite 102, Dover, Delaware 19904 where members of the public can offer comments. Any person wishing to submit written comments may forward these to the Lottery Office at the above address. The final date to receive written comments will be at the public hearing.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of an office staff analysis and consideration of the comments and written materials presented by the public.

#### SUMMARY OF PROPOSED CHANGES

Currently, under the Video Lottery Regulations relating to 6.30, an ATM may not be located within 25 feet of a VLT.

Currently, under the Video Lottery Regulations relating to 6.33(4), all agent employees must file a completed License Application Form (LAF) with the Delaware State Police Video Lottery Enforcement Unit (VLEU). The VLEU only needs completed LAFs from key employees and video operations employees.

Currently, under the Video Lottery Regulations relating to 14.2.1.3 14.2.2 and 14.4 , the Delaware State Police Video Lottery Enforcement Unit (VLEU) must wait for the criminal history report from SBI before it can recommend suitability for licensure of an applicant to the Director. That process can take up to 10 weeks, during which time, the applicant/employee cannot begin working. The temporary license procedure set forth below is designed to allow the VLEU to conduct preliminary background checks and make temporary suitability recommendations about applicants shortly after the applicant applies.

Currently, under the Video Lottery Regulations relating to 14.12 and 14.14, a licensed employee of Video Lottery agent (or an employee who has submitted an application to become licensed) has seven days to notify the Delaware State Police Video Lottery Enforcement Unit of any change in his/her criminal history information. The proposal is to shorten that time to three days.

#### 450 Video Lottery Regulations

#### *(Break in Continuity of Sections)*

#### 6.0 Agents: Duties

The following duties are required of all licensed agents:

6.1 Provide a secure location for the placement, operation, and play of all licensed video lottery machines located on the licensed agent's premises.

6.2 Permit no person to tamper with or interfere with the approved operation of any licensed video lottery machine without prior written approval of the agency and the VLEU, unless otherwise directed by the Lottery.

6.3 Assure that telephone lines from the agency's central computer to the licensed video lottery machines located on the licensed agent's premises are at all times connected, and prevent any person from

tampering or interfering with the continuous operation of the lines.

6.4 With respect to video lottery operations, contract only with officers, directors, owners, partners, key employees, and suppliers of video lottery equipment and paraphernalia authorized by the agency to participate in video lottery operations within the State of Delaware.

6.5 Ensure that licensed video lottery machines are placed and remain as placed unless the agency authorizes their movement within the sight and control of the agent or a designated employee, through physical presence and by the use of surveillance cameras at all times.

6.6 Ensure that licensed video lottery machines are placed and remain as placed in the specific area of the premises as approved by the lottery. The initial placement and any subsequent relocation of any video lottery machine requires the prior written approval of the agency and the VLEU.

6.7 Monitor video lottery machine play and prevent access to or play by persons who are under the age of twenty-one (21) years or who are intoxicated, or whom the agent has reason to believe are intoxicated, and prohibit play by persons who are barred by law or self-banned from playing any video lottery machine.

6.8 Commit no violations of the laws of this State concerning the sale, dispensing, and consumption on the premises of alcoholic beverages that result in suspension or revocation of an alcoholic beverage license.

6.9 Maintain at all times sufficient, tokens change and cash in denominations accepted by the video machines located in the premises.

6.10 Exercise caution and good judgment in extending credit for video lottery machine play, and comply with all applicable federal and state laws.

6.11 Exercise caution and good judgment in providing cash for checks presented for video lottery machine play. The agent shall also ensure that any contractor who performs check cashing services for the agent also exercises caution and good judgment in providing cash for checks under this regulation.

6.12 Report promptly all video lottery machine malfunctions to the appropriate technology provider and agency and notify the agency of any technology provider failure to provide service and repair of such terminals and associated equipment.

6.13 Conduct agency approved advertising and promotional activities related to video lottery operations.

6.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

6.15 Conduct video lottery operations only during those hours established and approved by the Director or designee.

6.16 Assume responsibility for the proper and timely payment to players of credits or tokens awarded.

6.17 Prohibit the possession, use or control of gambling paraphernalia on the premises not directly related to the lottery or horse racing or harness horse racing and prohibit illegal gambling on the premises.

6.18 Attend all meetings, seminars, and training sessions required by the agency.

6.19 Supervise its employees and their activities to ensure compliance with these rules.

6.20 Assume responsibility for the proper and immediate redemption of all credits; however, no credits may be redeemed by a person under twenty-one (21) years of age, and no credits submitted for redemption beyond the one year time limit will be redeemed. No credits or prizes may be redeemed by any person illegally on the agent's premises or persons who have requested that they be self-banned from the agent's premises.

6.21 Provide dedicated power and a proper video lottery machine environment in accordance with the specifications of the agency. The agent shall permit no person to completely shut off power to an operational video lottery machine without the prior approval of the agency.

6.22 Furnish to the Director complete information pertaining to any change in ownership of the agent or the owner of the premises or beneficial owner (other than a change in ownership by an owner of less than twenty (20) percent of the issued and outstanding capital stock of the agent or premises owner if such stock is publicly traded).

6.23 Promptly report to the lottery any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations pursuant thereto, excluding violations concerning motor vehicle laws.

6.24 Conduct video lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the lottery.

6.25 Hold the Director, the State of Delaware, and employees thereof harmless from and defend and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees

thereof, arising from the participation in the video lottery system, except claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.

6.26 Maintain all required records.

6.27 Provide at the request of the Director or the VLEU immediate access to the premises and to all records related to any aspect of these regulations, including without limitation the duties imposed by these regulations.

6.28 Keep current on all payments, tax obligations and other obligations to the agency and other licensees with whom video lottery business is conducted. The agent shall pay the players and transfer the net proceeds to the State lottery fund in conformity with the requirements set forth in these regulations and 29 **Del.C.** Ch. 48.

~~6.29 Ensure that there are no automated teller machines (ATMs) within twenty five (25) feet of any video lottery machine on the premises.~~

6.30 29 Locate all video lottery machines within the viewing range of closed circuit television cameras at all times, including both normal business hours and those periods when video lottery operations are closed. The presence of these cameras is to ensure the integrity of the lottery, the video lottery operations, and the safety of the patrons. Surveillance tapes will be maintained by the agent according to a schedule established by the Director and the VLEU. The installation of any new closed circuit television or repositioning of any CCTV cameras or new surveillance system must be reviewed and approved by the Director and the VLEU before placed into operation.

6.34 30 Comply with such other requirements as shall be specified by the Director. The agent shall submit to the Director a description of its system of internal procedures and administrative and accounting controls which shall conform to the rules and regulations of the agency and be otherwise satisfactory to the Director in his or her sole discretion.

6.32 31 Provide, on a continuing basis, to the Director the names and addresses of all employees who are involved in the daily operation of the video lottery machines. These employees will include individuals or their supervisors involved with (1) the security of the video lottery machines, (2) the handling or transporting of proceeds from the video lottery machines, or (3) positions that provide direct access to video lottery machines. It shall be the continuing duty of the video lottery agent licensee to provide for the bonding of any of the above-mentioned employees to ensure against financial loss resulting from wrongful acts on their parts. Likewise, the agent shall post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bonds shall be issued by a surety company authorized to transact business in Delaware and said company shall be approved by the State Insurance Commissioner as to solvency and responsibility.

6.33 32 Notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees, and owners.

6.33 32.1 The video lottery agent shall provide this information to the Lottery and the VLEU on a weekly basis. Such persons will also be subject to a background investigation. The failure of any of the above-mentioned persons to satisfy a background investigation may constitute "cause" for the suspension or revocation of the video lottery agent's license, provided that an agent is first given a reasonable opportunity to remove or replace such person if the agent was unaware of such "cause" prior to the background investigation. The agent must supply the VLEU with the completed License Application Form ("LAF") and fingerprint cards for each employee before the employee begins employment. Agent employees required to be licensed by the Delaware Lottery laws, 29 **Del.C.** Ch. 48, and these Regulations must have been successfully completed and been issued a valid license under section 14.0 of these Regulations prior to commencement of employment.

6.33 32.2 The agent must notify the VLEU of the transfer of any employee within the agent's organization on a weekly basis. The Lottery and the VLEU will determine if a new or updated LAF must be submitted for the transferred employee.

6.33 32.3 The agent must notify the Lottery and the VLEU of the termination of any employee and the reason for the termination on a weekly basis.

6.33 32.4 The agent must submit to the Lottery and the VLEU on a weekly basis the names of all new employees who will work on the video lottery premises. ~~All employees who do not meet the definition of key employees or video lottery operations employees must file a completed LAF with the VLEU within seven (7) days of commencement of employment.~~

6.33 32.5 The agent must obtain advance approval before any temporary employee, consultant, or contractor will be permitted access to secure locations. Any such temporary employee, consultant, or

contractor must submit a Request for Temporary Work Approval Form to the VLEU at least forty-eight (48) hours prior to the date of assignment. Any such temporary employee, consultant, or contractor must also submit a license application pursuant to Regulation 14.0 and must be employed by a licensed technology provider. Any vendor who proposes to contract with a video lottery agent or the Lottery for the provision of goods or services, including management services, related to the video lottery operations, must obtain a technology provider license pursuant to Video Lottery Regulation 4.0. The Lottery will consider secure areas to include, but not be limited to, access to the inside of a video lottery machine, surveillance rooms, cash vaults, and cash booths.

~~6.34~~ ~~33~~ As soon as it is known to the agent, file with the Director a copy of any current or proposed agreement and disclose to the Director any other relationship between the agent, its parents, subsidiaries, related entities, partners, owners, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment of the agent's premises, or any other relationship of any vendor, manufacturer or other person who stands to benefit financially from the possession or use of video lottery machines by such agent. The agent shall file with the Director for approval every contract in excess of \$50,000 which pertains to the agent's video lottery operations. The agent shall notify the Director of any contract with an entity that is subject to the license requirements for vendors or technology providers under 29 **Del.C.** §4805(b)(17) and Chapter 4 of these Regulations.

~~6.35~~ ~~34~~ Comply with the applicable requirements contained in 3 **Del.C.** §10048 and §10148 and 28 **Del.C.** §427. The agent shall file an annual report, due January 15th of each year, which provides sufficient information for the Director to determine whether the agent has satisfied the requirements of this provision.

~~6.36~~ ~~35~~ Comply with the provisions of the business plans as approved and amended.

~~6.37~~ ~~36~~ Comply on a continuing basis with the requirements for obtaining or retaining a license under the provisions of these regulations and 29 **Del.C.** Ch. 48.

**2 DE Reg. 115 (7/1/98)**

**3 DE Reg. 1081 (2/1/00)**

**7 DE Reg. 206 (8/1/03)**

**7 DE Reg. 958 (1/1/04)**

**8 DE Reg. 1143 (2/1/05)**

**(Break in Continuity of Sections)**

**14.0 Employee License Procedure**

14.1 The license applicant, licensee, or video lottery agent or technology provider employee will contact the State Bureau of Identification or the Delaware State Police Video Lottery Enforcement Unit to make arrangements for fingerprint processing.

14.1.1 The applicant will complete the license application form for a VLT license as required by the Lottery and VLEU.

14.1.2 The completed license application form will be reviewed and witnessed by the applicant's human resources personnel or designee.

**14.2 Rehires/Transfers**

14.2.1 A licensee that voluntarily ends his or her employment or is terminated while in good standing with a former employer may apply for a new VLT license in the following manner:

14.2.1.1 Applicants will be required to follow the procedures in Video Lottery Regulations 14.1-14.8 if twelve (12) months or more have passed since the end of the applicant's former employment.

14.2.1.2 Applicants will be required to follow the procedures in Video Lottery Regulations 14.1-14.8, except for the fingerprinting requirements, if less than twelve (12) months but more than thirty (30) days have passed since the end of the applicant's prior employment.

14.2.1.3 Applicants will be required to complete a License Application Update Form including a release of information waiver form and submit to a new background investigation if less than thirty (30) days have passed since the end of the applicant's prior employment.

14.2.2 Transfers. Licensees transferring employment from one licensed entity to another licensed entity under these Video Lottery Regulations will be required to complete a License Application Update Form and submit to a new background investigation including a release of information waiver form.

14.3 A fee is required to be paid for state and federal processing of fingerprint cards and criminal history cards and criminal history records. The fee is set by the State Bureau of Identification and payment is to be made

directly to that agency.

14.4 An applicant must complete a fingerprint ~~card and form~~ cards/process with the necessary personal information, and sign an Authorization for Release of Information form to release criminal history to the ~~Director of the~~ VLEU. At the time of the processing, the applicant must show proof of identification to complete the criminal history request and pay the appropriate fee.

14.4.1 The applicant must contact the VLEU and submit the completed license application form and fingerprint verification/receipt for processing. No investigation will proceed without a copy of the SBI fingerprinting receipt.

14.4.2 Investigators assigned to the VLEU will conduct an initial investigation to determine the suitability of the applicant. If the applicant is approved, a temporary license may, at the discretion of the Director, be issued at that time pending SBI's final report. This temporary license is valid for thirty (30) days from the issue date.

14.4.3 A waiver will be signed by the applicant indicating that should an unfavorable criminal history background check be received by the VLEU, including any detrimental information or failure to fully disclose criminal history, the applicant's temporary license may be revoked. If revoked, the applicant will then be required to respond to VLEU within five (5) working days for another interview.

14.4.4 Should the Director determine the applicant is to be fully licensed, the permanent license badge will be delivered to the appropriate agent for delivery to the employee. The employee upon receipt of the permanent license badge shall turn in his temporary badge to the agent representative who in turn shall destroy the badge.

14.5 Certified copies of the criminal history record will be forwarded to ~~the Director of the Lottery or the~~ Video Lottery Enforcement Unit.

14.6 The State Bureau of Identification shall act as the intermediary for the receipt of the federal criminal history record checks performed by the Federal Bureau of Investigation. The State Bureau of Identification shall forward the results of these federal record checks to the attention of the VLEU in a confidential manner.

14.7 A person subject to 29 **Del.C.** §4807A shall have the opportunity to respond to the Lottery Director regarding any information obtained prior to a determination of suitability for licensure. Such a response shall be made within ten (10) working days of the person's receipt of the criminal background information from the Lottery.

The determination of suitability for licensure shall be made by the Lottery pursuant to the factors listed in 29 **Del.C.** §4807A regarding an applicant's criminal history. The Lottery will also consider the factors contained in 29 **Del.C.** Ch. 48 and these Video Lottery Regulations in considering applications for licensure. The Lottery will consider the truthfulness of the applicant, licensee, or employee in disclosing their criminal history. Under 29 **Del.C.** §4805(a)(16)(17), the Lottery Director shall consider the background of key employees or video lottery operations employees in order to determine if the person's reputation, habits, and associations pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery. It is specifically provided, pursuant to 29 **Del.C.** §4805(a)(16)(17), that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license or at any time thereafter shall be deemed unfit. The Director may determine whether the licensing standards of another state are comprehensive, thorough and provide similar adequate safeguards and, if so, may in the Director's discretion, license an applicant already licensed in such state without the necessity of a full application and background check. The Delaware State Police shall conduct the security, fitness, and background checks required by §4805(a)(16)(17) and the Video Lottery Regulations. The Director may deny a license application if an applicant fails to provide the required information necessary for the Lottery and the VLEU to determine and evaluate the applicant's background as required by 29 **Del.C.** §4805(a)(16)(17).

14.8 The Lottery shall communicate the results of the determination of suitability in writing, to the license applicant or licensee within thirty (30) days of receipt of the criminal history information, unless extenuating circumstances require a longer period. If the Lottery determines that an applicant has satisfied the licensing requirements of Video Lottery Regulation 14.7, the applicant will be issued a VLT License. If a determination is made to deny a person licensure, the person shall have an opportunity to appeal for reconsideration as set out below.

14.8.1 Appeal shall be initiated by a person notified that he/she is being denied a license pursuant to 29 **Del. C.** §4807A and Video Lottery Regulation 13.3 by submitting a request for a hearing to the Director within ten (10) working days of the receipt of the written notice.

14.8.2 The appeal shall be reviewed by the Lottery Director and the person shall be given the



right to be heard by the Director or the Director's designee within thirty (30) working days of the receipt of the letter of appeal, unless extenuating circumstances require a longer period. Any hearing will be pursuant to the procedures in the Video Lottery Regulations 13.5-13.11, whichever is applicable.

14.8.3 A written decision shall be rendered by the Director or the Director's designee within thirty (30) working days of the hearing unless extenuating circumstances require a longer period. All decisions made by the Lottery under this appeal procedure are final.

14.8.4 A person determined to be unsuitable for licensure pursuant to these Regulations shall be prohibited from reapplying for licensure for a period of twelve (12) months.

14.8.5 Every license issued by the Lottery shall bear thereon the distinguishing number assigned to the licensee and shall contain the name and photograph of the licensee. The license shall also contain the name of the sponsoring employer, agent, or technology provider.

14.8.6 The Lottery VLT License is the property of the Lottery. The VLT license shall be returned to the Lottery or the VLEU if the Director issues a decision to suspend or revoke a person's license to participate in video lottery operations. A license may be revoked or suspended for violations of 29 **Del.C.** Ch. 48 or these Video Lottery Regulations.

14.9 The Lottery or the Video Lottery Enforcement Unit will communicate the results of suitability in writing regarding an employee to either the video lottery agent or technology provider employing said individual. The Lottery will provide a copy of the criminal history record to the employee upon request.

14.10 All records pertaining to criminal background checks, pursuant to 29 **Del.C.** §4807A and copies of suitability determinations of applicants for licensure, shall be maintained in a confidential manner, including, but not limited to the following:

14.10.1 Access to criminal background check records, and letters of reference accompanying out-of-state criminal background checks, and determinations of suitability of applicants shall be limited to the Director and designated personnel;

14.10.2 All such records shall be kept in locked, fireproof cabinets;

14.10.3 No information from such records shall be released without the signed release of the applicant.

14.11 All licensees will prominently display their license while on duty or acting in their official capacity at the approved video lottery facility.

14.12 License renewal. The Lottery license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. ~~Thirty~~ At a minimum of sixty (60) days prior to expiration, each licensee shall contact the VLEU and submit a new and updated license application form for a background investigation. The background investigation will follow the procedures set forth in Video Lottery Regulations 14.7-14.8

14.13 Terminations/End of Employment. The Lottery license is the property of the Lottery and shall be returned to the Lottery or the VLEU when the licensee's employment is either terminated involuntarily by the employer or terminated at the request of the employee.

14.14 Any person licensed under these Video Lottery Regulations or any employee who has submitted a license application shall notify the VLEU within ~~seven (7) days~~ Seventy-two hours (72) of any change in his/her criminal history information. This subsequent criminal history information shall be used by the Lottery in making a determination about the person's continued suitability as a licensee or employee of a video lottery agent or other licensed entity.

**4 DE Reg. 498 (9/1/00)**

**5 DE Reg. 1286 (12/1/01)**

**7 DE Reg. 958 (1/1/04)**

## 15.0 Severability

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect.

**4 DE Reg. 498 (9/1/00)**

---

**\*Please Note:** As the rest of the sections were not amended, they are not being published. To obtain a copy of the rules and regulations for the Video Lottery, contact either the Delaware State Lottery Office or the Registrar's Office.

---

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### PUBLIC NOTICE

#### Long Term Care Medicaid DSSM 20320.7 Substantial Home Equity

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan and establish new rules in the Division of Social Services Manual (DSSM) to comply with the transfer of assets provisions mandated by the Deficit Reduction Act (DRA) of 2005 (Public Law 109-171).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to 302-255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

### SUMMARY OF THE PROPOSED AMENDMENT

#### Statutory Authority

Deficit Reduction Act of 2005 (Public Law 109-171), enacted on February 8, 2006

#### Background

On February 8, 2006, the Deficit Reduction Act (DRA) of 2005 was signed into law. The DRA made changes to certain Medicaid eligibility provisions in Section 1917(c)(1)(B)(i) of Social Security Act affecting Long Term Care services and supports.

#### Summary of Proposal

The DRA contains a number of provisions necessitating changes to Delaware rules. This regulatory action incorporates the mandatory provisions as it relates to: *Disqualification for Long-Term Care Assistance for Individuals with Substantial Home Equity*.

The provisions of this policy apply to nursing facility and HCBS recipients who are receiving Long-Term Care Medicaid on or after January 1, 2006, as follows:

- Section 6014 of the DRA amends section 1917 of the Social Security Act (the Act) to provide that in determining the eligibility of an individual to receive medical assistance payment for nursing facility services or other long-term care services, States must deny payment if the individual's equity interest in his or her home exceeds \$500,000. States have the option to substitute an amount exceeding \$500,000, but not in excess of \$750,000. These dollar amounts are increased, beginning in 2011, from year based on the Consumer Price Index (CPI) for all consumers, rounded to the nearest \$1,000.
- The limitations on home equity do not apply if the spouse of the individual, the individual's child

# PROPOSED REGULATIONS

- under 21, or the individual's blind or disabled child is lawfully residing in the home.
- This provision would not prevent an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.
  - Applicants and nursing facilities will be notified that the State has a process under which this limitation will be waived in cases of undue hardship.

The provisions of this amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

## DMMA PROPOSED REGULATION #07- 11a

NEW:

SUPPLEMENT 17 TO ATTACHMENT 2.6-A

Page 1

### STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: DELAWARE

### DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY

1917(f) The State agency denies reimbursement for nursing facility services and other long-term care services covered under the State plan for an individual who does not have a spouse, child under 21 or adult disabled child residing in the individual's home, when the individual's equity interest in the home exceeds the following amount:

X \$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

\_\_\_\_\_ An amount that exceeds \$500,000 but does not exceed \$750,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

The amount chosen by the State is \_\_\_\_\_.

\_\_\_\_\_ This higher standard applies statewide.

\_\_\_\_\_ This higher standard does not apply statewide. It only applies in the following areas of the State:

\_\_\_\_\_ This higher standard applies to all eligibility groups.

\_\_\_\_\_ This higher standard only applies to the following eligibility groups:

The State has a process under which this limitation will be waived in cases of undue hardship.

---

## DMMA PROPOSED REGULATION #07- 11b

### NEW:

#### 20320.7 Substantial Home Equity

The policy in this section applies to nursing facility and HCBS recipients who are receiving Long-Term Care (LTC) Medicaid on or after January 1, 2006. It does **not apply** to recipients who were receiving LTC Medicaid prior to January 1, 2006, and who maintain continuous Medicaid eligibility as per the Deficit Reduction Act section 6014.

##### 20320.7.A Receiving LTC Before 01-01-2006

If a Medicaid recipient started receiving LTC Medicaid **before** January 1, 2006, do not evaluate home equity at the next redetermination. As long as he remains continuously eligible for Medicaid, do not evaluate home equity. If the recipient is found ineligible for Medicaid, and he subsequently re-applies for LTC Medicaid, home equity must be evaluated when he reapplies.

##### 20320.7.B Receiving LTC On/After 01-01-2006

If a Medicaid recipient started receiving LTC Medicaid on or after January 1, 2006, evaluate home equity at the next redetermination.

Verification of the equity value of the home is required. Equity value is determined by using the current market value of the home minus any mortgages or loans on the home.

Individuals with equity value in home property that exceeds \$500,000 are NOT eligible for Medicaid payment of long-term care services unless the home is lawfully occupied by

- a spouse.
- a dependent child under age 21 years, or
- a blind or disabled child of any age.

\*Note: this is not a change in the general rule that excludes a home of any value for purposes of determining eligibility for Medicaid. It applies only to medical assistance payment for nursing facility services, or other long-term care services referred to in 1917(c)(i)(C)(i).

Individuals with substantial home equity may be eligible for Medicaid payment of other covered services if they meet all the other Medicaid eligibility requirements.

##### 20320.7.B.1 Reverse Mortgages

Reverse mortgages do not reduce equity value until payments are being received from the reverse mortgage.

##### 20320.7.B.2 Home Equity Credit Lines/Loans

A home equity line of credit or home equity loan does not reduce the equity value until credit line or loan has been used or payments from the credit line or loan have been received. DMMA shall verify that the home equity credit line or loan was not transferred for less than Fair Market Value.

##### 20320.7.C Co Owners

When there are co owners to the property, divide the total equity interest by the number of shared owners proportional to their interest in the property. Husband and wife are considered as one owner.

##### 20320.7.D Definition of Home

The home is defined as any residential property in which the applicant and/or spouse possess an ownership interest that also serves as the principal place of residence of the applicant and /or, spouse, or dependent child. An applicant and spouse may have an ownership interest in several residential properties, but only one shall be considered a home for the purposes of this section. See DSSM 20320.3.

##### 20320.7.E Home Equity Cap

Beginning in year 2011, the limit on home equity will be increased yearly based on the Consumer Price Index (CPI).

**20320.7.F      Hardship**

Applicants/recipients may request a hardship waiver. See DSSM 20400.12.1 for definition of hardship.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at: <http://www.state.de.us/research/AdminCode/title16/5000/index.shtml#TopOfPage>**

---

**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 122(1), (3)a and 11(8)  
(16 Del.C. §122(1), (3)a and 11(8))

**PUBLIC NOTICE****4469 Personal Assistance Services Agencies**

The Department Health and Social Services is proposing regulations which establish standards for regulation of the operation of Personal Assistance Services Agencies. The regulations for Personal Assistance Services Agencies apply to any program that provides personal care services to consumers primarily in their place of residence (excluding residents of hospitals and nursing facilities). Personal assistance services include individual assistance with/or supervision of activities of daily living, companion services and/or homemaker services. These services do not require the judgment and skills of a licensed nurse or other professional.

**NOTICE OF PUBLIC HEARING**

The Health Systems Protection Section, under the Division of Public Health, Department of Health and Social Services (DHSS), will hold a public hearing to discuss the proposed Delaware Regulations for Personal Assistance Services Agencies. The regulations for Personal Assistance Services Agencies apply to any program that provides personal care services to consumers primarily in their place of residence (excluding residents of hospitals and nursing facilities). Personal assistance services include individual assistance with/or supervision of activities of daily living, companion services and/or homemaker services. These services do not require the judgment and skills of a licensed nurse or other professional. Specific exclusions from licensure are included in the regulations.

The public hearing will be held on March 27, 2007 at 10:00 a.m. in the Felton-Farmington Room, located in the Delaware Department of Transportation Building, 800 Bay Road, Dover, Delaware.

Copies of the proposed regulations are available for review in the March 1, 2007, edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Office of Health Facilities Licensing and Certification at (302) 995-8521.

Anyone wishing to present his or her oral comments at this hearing should contact Mr. David Walton at (302) 744-4700 by March 26, 2007. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by March 31, 2007 to:

David Walton, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Fax 302-739-6659

**4469 Personal Assistance Services Agencies****1.0 Definitions**

1.1 The following words and terms, when used in this regulation, should have the following meaning

unless the context clearly indicates otherwise:

**“Activities of Daily Living”** means the tasks for self-care which are performed either independently, with supervision, or with assistance. Activities of daily living include but are not limited to ambulating, transferring, grooming, bathing, dressing, eating and toileting.

**“Agency”** means a personal assistance services agency licensed by the Department of Health and Social Services.

**“Change of Ownership (CHOW)”** see "Modification of Ownership and Control (MOC)".

**“Companion”** means a person who provides social interaction for an individual primarily in her/his place of residence. A companion may provide such services as cooking, housekeeping, errands, etc.

**“Consumer”** means the individual (client, customer, or other designation used) requesting and/or receiving personal assistance services as defined in this chapter, primarily in his/her residence.

**“Consumer Record”** means a written account of all services provided to a consumer by the personal assistance services agency, as well as other pertinent information necessary to provide care.

**“Contractor”** means an individual (subcontractor, independent contractor or other designation used) that does not meet the definition of employee, who holds a valid business license and provides services for the agency.

**“Department”** means the Delaware Department of Health and Social Services.

**“Direct Care Worker”** means those individuals (aide, assistant, caregiver, technician or other designation used) employed by or under contract to a personal assistance services agency to provide personal care services, companion services, homemaker services, transportation services and those services as permitted in 24 Del.C. Section 1921(a)(19) to consumers. The direct care worker provides these services to an individual primarily in their place of residence.

**“Director”** means a job-descriptive term used to identify the individual appointed by the governing body to act on its behalf in the overall management of the personal assistance services agency. Job titles may include administrator, superintendent, director, executive director, president, vice-president, or executive vice-president.

**“Governing Body or Other Legal Authority”** means the individual, partnership, agency, group, or corporation designated to assume full legal responsibility for the policy determination, management, operation and financial liability of the personal assistance services agency.

**“Homemaker”** means a person who performs household chores for an individual primarily in her/his place of residence. Household chores may include but are not necessarily limited to housekeeping, meal preparation and shopping.

**“Home Visit”** is a visit to the consumer's residence by an agency director, or designee, for the purpose of initial consumer need evaluation and update and revision of the service plan.

**“Immediate Jeopardy”** means a crisis situation in which the health and safety of consumers is at risk. It is a deficient practice which indicates an inability to furnish safe care and services.

**“Legal Entity”** means a business organizational structure that is recognized as such by 6 Del.C. or 8 Del.C.

**“License”** means a license issued by the Department.

**“Licensee”** means the individual, corporation, or legal entity with whom rests the ultimate responsibility for maintaining approved standards for the personal assistance services agency.

**“Majority Interest”** means the largest percentage of ownership interest.

**“Minority Interest”** means any percentage of ownership less than the majority interest.

**“Modification of Ownership and Control (MOC)”** means the sale, purchase, transfer or re-organization of ownership rights.

**“Office”** means the physical location in which the business of the personal assistance services agency is conducted and in which the records of personnel, contractors and consumers of the agency are stored. The office shall be located in the State of Delaware.

**“Owner”** means an individual or legal entity with ownership rights of the agency.

**“Ownership”** means the state or fact of exclusive possession and control of the agency.

**“Ownership Interest”** means the percentage of ownership an individual or legal entity possesses.

**“Personal Assistance Services”** means the provision of services for compensation that do not require the judgment and skills of a licensed nurse or other professional. The services are limited to individual assistance with/or supervision of activities of daily living, companion services, homemaker services, reporting changes in consumer's condition and completing reports. These services do not require physician's orders.

**“Personal Assistance Services Agency”** is an agency that employs or contracts with direct care workers

# PROPOSED REGULATIONS

to provide personal assistance services to consumers of the agency.

**“Plan of Correction”** means a personal assistance services agency's written response to findings of regulatory non-compliance. Plans must adhere to the format specified by the licensing agency, must include acceptable timeframes in which deficiencies will be corrected and must be approved by the licensing agency.

**“Representative”** means a person acting on behalf of the consumer, as permitted by Delaware law.

**“Residence”** means the domicile of the consumer either personally owned by that consumer or considered the place of residence of that consumer and that is not licensed, operated for profit, or operating as a healthcare facility.

**“Safety Supervision”** means the services provided by a direct care worker to help prevent wandering and other occurrences sometimes associated with dementia or diminished capacity.

**“Service Plan”** means a written plan that specifies scope, frequency and duration of services.

## 2.0 Licensing Requirements and Procedures

### 2.1 General Requirements

2.1.1 No person shall establish, conduct, or maintain in this State any personal assistance services agency without first obtaining a license from the Department.

2.1.2 A separate license shall be required for each office maintained by a personal assistance services agency.

2.1.3 The personal assistance services agency shall advise the Department in writing at least thirty (30) calendar days prior to any change in office location.

2.1.4 Any agency that undergoes a change of ownership is required to re-apply as a new agency.

2.1.5 A license is not transferable from person to person or from entity to entity.

2.1.6 The license shall be posted in a conspicuous place on the licensed premises.

### 2.2 Application Process

2.2.1 All persons or entities applying for a license shall submit a written statement of intent to the Department describing the services to be offered by the agency and requesting a licensure application from the Department.

2.2.1.1 The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department.

2.2.1.2 No person or entity shall hold themselves out to the public as being a personal assistance services agency until a license has been issued.

2.2.2 In addition to a completed application for licensure, applicants shall submit to the Department the following information:

2.2.2.1 The names, addresses and types of facilities owned or managed by the applicant;

2.2.2.2 A copy of the Applicant's policies and procedures manual as outlined in Regulation 4.2;

2.2.2.3 Identity of:

2.2.2.3.1 Each officer and director of the corporation if the entity is organized as a corporation;

2.2.2.3.2 Each general partner or managing member if the entity is organized as an unincorporated entity;

2.2.2.3.3 The governing body;

2.2.2.3.4 Proof of not-for-profit status if claiming tax-exempt status; and,

2.2.2.3.5 Any officers/directors, partners, or managing members, or members of a governing body who have a financial interest of five percent (5%) or more in a licensee's operation or related businesses;

2.2.2.4 Disclosure of any officer, director, partner, employee, direct care worker, managing member, or member of the governing body with a felony criminal record;

2.2.2.5 Name of the individual (director/administrator/etc.) who is responsible for the management of the personal assistance services agency;

2.2.2.6 A list of management personnel, including credentials;

2.2.2.7 A copy of the test to be given to each direct care worker, as required by



---

## Regulation 4.5:

2.2.2.8 Proof of insurance and bonding as required in Regulation 7.  
2.2.2.9 Any other information required by the Department.

### 2.3 Issuance of Licenses

#### 2.3.1 Probationary license

2.3.1.1 A probationary license shall be granted for a period of ninety (90) calendar days to every agency that completes the application process consistent with these regulations.

2.3.1.2 All personal assistance services agencies shall have an on-site survey during the first ninety (90) days of operation. A personal assistance services agency, at the time of an initial on-site survey, must meet the definition of a personal assistance services agency as contained within these regulations and must be in operation and caring for consumers. Personal assistance services agencies that, at the time of an on-site survey, do not meet the definition of a personal assistance services agency or that are not in substantial compliance with these regulations will not be granted a license.

2.3.1.3 A probationary license will permit an agency to hire or contract with direct care workers and establish a consumer caseload.

2.3.1.4 A probationary license may not be renewed.

#### 2.3.2 Provisional license

2.3.2.1 A provisional license may be granted, for a period of less than one year, to all personal assistance services agencies that:

2.3.2.1.1 are not in substantial compliance with these regulations; or

2.3.2.1.2 fail to renew a license within the timeframe prescribed by these regulations.

2.3.2.2 The Department shall designate the conditions and the time period under which a provisional license is issued.

2.3.2.3 A provisional license issued to an agency that is not in substantial compliance with these regulations may not be renewed unless a Plan of Correction has been approved by the Department and implemented by the personal assistance services agency.

2.3.2.4 A license will not be granted after the provisional licensure period to any agency that is not in substantial compliance with these regulations.

2.3.2.5 A license will be granted to the personal assistance services agency after the provisional licensure period if:

2.3.2.5.1 The agency has regained substantial compliance with these regulations and

2.3.2.5.2 The agency fulfilled the expectations of the plan of correction that was created to address the deficient practices that gave rise to the license action.

#### 2.3.3 License

2.3.3.1 A license shall be granted, for a period of one year (12 months) to all personal assistance services agencies which are and remain in substantial compliance with these regulations.

2.3.3.2 A license shall be effective for a twelve-month period following date of issue and shall expire one year following the issue date, unless it is: modified to a provisional license, suspended, revoked, or surrendered prior to the expiration date.

2.3.3.3 Existing personal assistance services agencies must apply for licensure at least thirty (30) calendar days prior to the expiration date of the license.

2.3.3.4 A license may not be issued to a personal assistance services agency that is not in substantial compliance with these regulations or whose deficient practices present an immediate threat to the health and safety of its consumers.

### 2.4 Disciplinary proceedings

2.4.1 The Department may impose any of the following sanctions (subsection 2.4.2 of this section) singly or in combination when it finds a licensee or former licensee is guilty of any offense described herein:

2.4.1.1 Violated any of these regulations;

2.4.1.2 Failed to submit a reasonable timetable for correction of deficiencies;

2.4.1.3 Exhibited a pattern of cyclical deficiencies which extends over a period of

two or more years;

# PROPOSED REGULATIONS

- 2.4.1.4 Failed to correct deficiencies in accordance with a timetable submitted by the applicant and agreed upon by the Department;
- 2.4.1.5 Engaged in any conduct or practices detrimental to the welfare of the consumers;
- 2.4.1.6 Exhibited incompetence, negligence, or misconduct in operating the personal assistance services agency or in providing services to individuals;
- 2.4.1.7 Mistreated or abused individuals cared for by the personal assistance services agency; or
- 2.4.1.8 Refused to allow the Department access to the agency or records for the purpose of conducting inspections/surveys/investigations as deemed necessary by the Department.
- 2.4.2 Disciplinary sanctions include:
- 2.4.2.1 Permanently revoke a license.
- 2.4.2.2 Suspend a license.
- 2.4.2.3 Issue a letter of reprimand.
- 2.4.2.4 Place a licensee on provisional status and require the licensee to:
- 2.4.2.4.1 Report regularly to the Department upon the matters which are the basis of the provisional status.
- 2.4.2.4.2 Limit practice to those areas prescribed by the Department.
- 2.4.2.4.3 Suspend new intakes and admissions.
- 2.4.2.5 Refuse a license.
- 2.4.2.6 Refuse to renew a license.
- 2.4.2.7 The Department may request the Superior Court to impose a civil penalty of not more than \$5,000 for a violation of these regulations. Each day a violation continues constitutes a separate violation.
- 2.4.2.7.1 In lieu of seeking a civil penalty, the Department, in its discretion, may impose an administrative penalty of not more than \$5,000 for a violation of these regulations. Each day a violation continues constitutes a separate violation.
- 2.4.2.7.2 In determining the amount of any civil or administrative penalty imposed, the Court or the Department shall consider the following factors:
- 2.4.2.7.2.1 The seriousness of the violation, including the nature, circumstances, extent and gravity of the violation and the threat or potential threat to the health or safety of a consumer(s);
- 2.4.2.7.2.2 The history of violations committed by the person or the person's affiliate(s), agents, employee(s), or controlling person(s);
- 2.4.2.7.3 The efforts made by the agency to correct the violation(s);
- 2.4.2.7.4 Any misrepresentation made to the Department; and
- 2.4.2.7.5 Any other matter that affects the health, safety or welfare of a consumer(s).
- 2.4.2.8 Or otherwise discipline.
- 2.4.3 Imposition of Disciplinary Action
- 2.4.3.1 Before any disciplinary action under this chapter is taken (except as authorized by 2.4.4):
- 2.4.3.1.1 The Department shall give twenty (20) calendar days written notice to the holder of the license, setting forth the reasons for the determination.
- 2.4.3.1.2 The suspension or revocation shall become final twenty (20) calendar days after the mailing of the notice unless the licensee, within such twenty (20) calendar-day period, shall give written notice of the Agency's desire for a hearing.
- 2.4.3.1.3 If the licensee gives such notice, the Agency shall be given a hearing before the Secretary of the Department or her/his designee and may present such evidence as may be proper.
- 2.4.3.1.4 The Secretary of the Department or her/his designee shall make a determination based upon the evidence presented.
- 2.4.3.1.5 A written copy of the determination and the reasons upon which it is based shall be sent to the Agency.

2.4.3.1.6 The decision shall become final twenty (20) days after the mailing of the determination letter unless the licensee, within the twenty (20) day period, appeals the decision to the appropriate court of the State.

2.4.4 Order to immediately suspend a license

2.4.4.1 In the event the Department identifies activities which the Department determines present an immediate or imminent danger to the public health, welfare and safety requiring emergency action, the Department may issue an order temporarily suspending the licensee's license, pending a final hearing on the complaint. No order temporarily suspending a license shall be issued by the Department, with less than 24 hours prior written or oral notice to the licensee or the licensee's attorney so that the licensee may be heard in opposition to the proposed suspension. An order of temporary suspension under this section shall remain in effect for a period not longer than 60 days from the date of the issuance of said order, unless the suspended licensee requests a continuance of the date for the final hearing before the Department. If a continuance is requested, the order of temporary suspension shall remain in effect until the Department has rendered a decision after the final hearing.

2.4.4.2 The licensee, whose license has been temporarily suspended, shall be notified forthwith in writing. Notification shall consist of a copy of the deficiency report and the order of temporary suspension pending a hearing and shall be personally served upon the licensee or sent by certified mail, return receipt requested, to the licensee's last known address.

2.4.4.3 A licensee whose license has been temporarily suspended pursuant to this section may request an expedited hearing. The Department shall schedule the hearing on an expedited basis provided that the Department receives the licensee's request for an expedited hearing within 5 calendar days from the date on which the licensee received notification of the Department's decision to temporarily suspend the licensee's license.

2.4.4.4 As soon as possible, but in no event later than 60 days after the issuance of the order of temporary suspension, the Department shall convene for a hearing on the reasons for suspension. In the event that a licensee, in a timely manner, requests an expedited hearing, the Department shall convene within 15 days of the receipt by the Department of such a request and shall render a decision within 30 days.

2.4.4.5 In no event shall an order of temporary suspension remain in effect for longer than 60 days unless the suspended licensee requests an extension of the order of temporary suspension pending a final decision of the Department. Upon a final decision of the Department, the order of temporary suspension shall be vacated in favor of the disciplinary action ordered by the Department.

2.4.5 Termination of license

2.4.5.1 Termination of a license to provide services as a personal assistance services agency occurs secondary to:

2.4.5.1.1 Revocation of a license or the voluntary surrender of a license in avoidance of revocation action.

2.4.5.1.2 Termination of rights to provide services extends to:

2.4.5.1.2.1 Agency;

2.4.5.1.2.2 Owner(s);

2.4.5.1.2.3 Officers/Directors, partners, managing members, or members of a governing body who have a financial interest of five percent (5%) or more in the personal assistance services agency; and

2.4.5.1.2.4 Corporation officers.

2.5 Modification of Ownership and Control (MOC)

2.5.1 Any proposed MOC must be reported to the Department a minimum of thirty (30) calendar days prior to the change.

2.5.2 A MOC voids the current license in possession of the agency.

2.5.3 A MOC may include but is not limited to:

2.5.3.1 Transfer of full ownership rights to a new owner;

2.5.3.2 Transfer of the majority interest to a new owner.

2.5.3.3 Transfer of ownership interests that result in the owner with the majority interest becoming a minority interest owner.

2.5.3.4 Transfer or re-organization that results in an additional majority interest that is equal in ownership rights.

2.5.3.5 Transfer resulting in a measurable impact upon the operational control of the agency.

2.6 Fees

2.6.1 Fees shall be in accordance with 16 Del.C. §122 (3)x.

2.7 Inspection

2.7.1 A representative of the Department shall periodically inspect every personal assistance services agency for which a license has been issued under this chapter. Inspections by authorized representatives of the Department may occur at any time and may be scheduled or unannounced.

2.8 Notice to Consumers

2.8.1 The personal assistance services agency shall notify each consumer or the consumer's authorized representative, and any third-party payers at least thirty (30) calendar days before the voluntary surrender of its license or as directed under an order of denial, revocation, or suspension of license issued by the Department.

2.9 Exclusions from Licensure

The following persons, associations or organizations are not required to obtain a Personal Assistance Services Agency license:

2.9.1 Those individuals who contract directly with a consumer to provide services for that consumer, where the consumer pays the individual for services rendered and neither the consumer nor the individual pays an agency on a periodic basis.

2.9.2 Those agencies that provide only durable medical equipment and supplies for in-home use.

2.9.3 Those agencies that provide staff to licensed personal assistance services agencies, such as temporary employment/staffing agencies.

2.9.3.1 Temporary employment/staffing agencies may not provide services under direct agreements with consumers.

2.9.3.2 Temporary employment/staffing agencies must be contractually bound to perform services under the contracting providers' direction and supervision.

2.9.3.3 Temporary staff working for a licensed provider must meet the requirements of these regulations.

2.9.4 Any visiting nurse service or personal assistance services conducted by and for those who rely upon spiritual means through prayer alone for healing in accordance with the tenets and practices of a registered church or religious denomination.

2.9.5 An agency which solely provides services as defined in 16 Del.C. Ch. 94, the Community Based Attendant Services Act.

2.9.6 A Home Health Agency which solely provides services defined in 16 Del.C. §122(o).

### **3.0 General Requirements**

3.1 The personal assistance services agency shall neither knowingly admit, nor continue to care for, consumers whose needs cannot be met by a personal assistance services agency.

3.2 The personal assistance services agency shall establish written policies regarding the rights and responsibilities of consumers.

3.3 The personal assistance services agency shall establish policies and procedures that address the handling and documentation of incidents, accidents and medical emergencies.

3.4 Reports of incidents, accidents and medical emergencies shall be kept on file at the agency for a minimum of six years.

3.5 The personal assistance services agency shall establish policies which control the exposure of consumers and staff to persons with communicable diseases.

3.6 A procedure including the consumers and families right to report concerns/complaints to the Department at a telephone number established for that purpose, shall be established to enable consumers and their families or representatives, if any, to have their concerns addressed without fear of reprisal.

3.7 The personal assistance services agency shall advise the Department in writing within fifteen (15) calendar days following any change in the designation of the director/administrator or other management personnel within the agency.

3.8 The personal assistance services agency may contract for services to be provided to its

consumers by direct care workers. Individuals providing services under contract must meet the same requirements as the direct care workers employed by the agency.

3.9 The director or a designee of any agency shall be available to consumers at all times during the operating hours of the personal assistance services agency.

3.10 The agency shall have policies and an operational system which assure uninterrupted implementation of the service plan. In furtherance of this requirement, the agency shall, at a minimum: 1) maintain a sufficient pool of qualified direct care workers to fulfill service plans and provide scheduled services; and 2) develop and maintain a back-up system to provide substitute direct care workers if regularly scheduled direct care workers are unavailable.

3.11 The personal assistance services agency shall permit photocopying of any records or other information by authorized representatives of the Department, as necessary to determine or verify compliance with these regulations.

## **4.0 Administration**

### **4.1 Agency Director**

4.1.1 Every Agency shall have a full-time agency director.

4.1.2 The director shall appoint an individual to act in the director's absence.

4.1.3 The director shall have full authority and responsibility to plan, staff, direct and implement the programs and manage the affairs of the agency.

### **4.2 Purchase of Contracted Services**

4.2.1 The personal assistance services agency maintains responsibility for all services provided to the consumer.

4.2.2 The personal assistance services agency shall establish a written contractual arrangement with a contractor for the provision of all services which are not provided directly by employees of the agency.

### **4.3 Written Policies**

4.3.1 The personal assistance services agency shall have written policies regarding qualifications, responsibilities and requirements for employment/referral for each job classification.

4.3.2 The written policies shall include but not be limited to:

4.3.2.1 Pre-employment/referral requirements;

4.3.2.2 Position descriptions;

4.3.2.3 Orientation policy and procedure for all direct care workers;

4.3.2.4 Annual performance review and competency testing policy and

procedure; and

4.3.2.5 Program review and evaluation of its program.

4.3.3 Policies shall be reviewed and dated annually and revised as necessary.

### **4.4 Direct Care Worker Records**

4.4.1 Records of each direct care worker shall be kept current and available upon request by authorized representatives of the Department.

4.4.2 For all direct care workers, the agency shall maintain individual records which shall contain at least:

4.4.2.1 Written verification of compliance with pre-employment/referral requirements;

4.4.2.2 Documentation of competence;

4.4.2.3 Educational preparation and work history;

4.4.2.4 Written performance evaluations or consumer satisfaction surveys

(annually); and

4.4.2.5 A letter of appointment specifying conditions of employment/referral.

4.4.2.6 Health History

4.4.2.6.1 Minimum requirements for pre-employment/referral and annual tuberculosis (TB) testing are those currently recommended by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

4.4.2.6.2 No person, including volunteers, found to have active tuberculosis in an infectious stage shall be permitted to give care or service to consumers.

# PROPOSED REGULATIONS

4.4.2.6.3 Any person having a positive skin test but a negative X-ray must complete a statement annually attesting that they have experienced no symptoms which may indicate active TB infection.

4.4.2.6.4 A report of all test results and all attestation statements shall be on file at the agency.

4.4.2.6.5 All new direct care workers shall be required to have a pre-employment/referral physical examination, a copy of which shall be maintained in individual files.

4.4.2.6.6 Any individual who cannot adequately perform the duties required or who may jeopardize the health or safety of the consumers shall be relieved of their duties and removed from the agency until such time as the condition is resolved. This includes infections of a temporary nature.

## 4.5 Orientation and Testing

4.5.1 All direct care workers are required to complete an orientation program given by the Agency before providing services to a consumer.

4.5.2 The orientation program shall include but not be limited to:

4.5.2.1 Organizational structure of the agency;

4.5.2.2 Agency consumer care policies and procedures;

4.5.2.3 Philosophy of consumer care;

4.5.2.4 Description of consumer population and geographic location served;

4.5.2.5 Consumer rights;

4.5.2.6 Agency personnel and administrative policies;

4.5.2.7 Principles of good nutrition;

4.5.2.8 Process of growth, development and aging;

4.5.2.9 Principles of infection control;

4.5.2.10 Observation, reporting and documentation of consumer status;

4.5.2.11 Maintaining a least restrictive environment;

4.5.2.12 Verbal/non-verbal communication skills;

4.5.2.13 Principles of body mechanics;

4.5.2.14 The needs of the elderly and persons with disabilities;

4.5.2.15 Activities of daily living;

4.5.2.16 Introduction to common assistive technology;

4.5.2.17 Meal planning, food purchasing and preparation of meals, including

special diets;

4.5.2.18 Information on the emotional and physical problems accompanying

illness, disability or aging;

4.5.2.19 Principles and practices in maintaining a clean, healthy, pleasant and safe environment that encourages morale building and self-help;

4.5.2.20 Items requiring referral to the personal assistance services agency, including changes in the consumer's condition or family situation;

4.5.2.21 Confidentiality of consumer information;

4.5.2.22 Service Plan specific description; and

4.5.2.23 Applicable state regulations governing the delivery of personal assistance

services to consumers.

4.5.3 All newly hired/contracted direct care workers must pass a competency evaluation test prior to providing care to consumers and annually thereafter.

4.5.3.1 The competency test must include questions addressing the competencies listed in Section 4.5.2.

4.5.3.2 It is the responsibility of the personal assistance services agency to ensure that direct care workers are proficient to carry out the care assigned in a safe, effective and efficient manner.

## **5.0 Consumer Care Management**

### 5.1 Admission/Intake

5.1.1 The personal assistance services agency shall have written policies governing intake procedures of consumers to agency services, referral of direct care workers and case closures.

5.1.2 The intake policies shall be discussed with each consumer or the consumer's representative.

5.1.3 The personal assistance services agency shall disclose to all consumers the personal assistance services agency's and the direct care worker's status with respect to attendant tax, worker's compensation and liability insurance obligations, insurance coverage or the lack thereof. Disclosure of this information shall be on a form developed by the Department.

5.1.4 There shall be a written agreement between the consumer and the personal assistance services agency. The agreement shall:

5.1.4.1 Specify the services to be provided by the agency, including but not limited to: scheduled days, scheduled hours, transportation agreements as appropriate, emergency procedures and procedures for termination of services.

5.1.4.2 Specify financial agreement which shall minimally include:

5.1.4.2.1 A description of services purchased and the associated cost;

5.1.4.2.2 An acceptable method of payment(s) for these services; and

5.1.4.2.3 An outline of the billing procedures.

5.1.4.3 Be signed by the consumer or their representative and the representative of the personal assistance services agency.

5.1.4.4 Be given to the consumer or representative and a copy shall be kept at the agency in the consumer record.

5.1.4.5 Be reviewed and updated as necessary to reflect any change in the terms.

## 5.2 Home Visits

5.2.1 An initial home visit of the consumer shall be performed by the agency director, or designee.

5.2.2 The initial home visit must be performed in the consumer's residence prior to or at the time that personal assistance services are initially requested by the consumer. The purpose of the home visit is to determine whether the agency has the ability to provide the necessary services in a safe manner.

5.2.3 The initial home visit shall include, at a minimum, an itemized written description of the consumer's:

5.2.3.1 Physical condition, including ability to perform activities of daily living and sensory limitations;

5.2.3.2 Social situation, including living arrangements and the availability of family and community support; and

5.2.3.3 Mental status, including any cognitive impairment and known psychiatric, emotional and behavioral problems.

5.2.4 Follow-up home visits shall occur at regular intervals based upon the consumer's condition and needs, but no less often than every ninety (90) calendar days.

5.2.5 A follow-up home visit, performed by the agency director or designee, shall be conducted when the needs of the consumer change which indicate a revision to the plan for services is needed.

5.2.6 The results of the initial home visit and follow-up home visits shall become a permanent part of the consumer's record.

## 5.3 Service Plan

5.3.1 The personal assistance services agency shall provide services in accordance with a written service plan developed under the supervision of the agency director.

5.3.2 A service plan shall be developed at intake based upon the initial home visit of the consumer.

5.3.3 The service plan shall be developed in consultation with the consumer or the consumer's representative.

5.3.4 The service plan shall be reviewed no less often than every ninety (90) calendar days and revised as necessary.

## 5.4 Scope of Services

5.4.1 Competent consumers who do not reside in a medical facility or a facility regulated pursuant to 16 Del.C. Ch. 11 may delegate personal care services to direct care workers provided:

5.4.1.1 The nature of the service/task is not excluded by Del.C. or other state or

# PROPOSED REGULATIONS

federal regulation.

5.4.1.2 The services/tasks are those competent consumers could normally perform themselves but for functional limitation.

5.4.1.3 The delegation decision is entirely voluntary.

5.4.2 For consumers who are not able to delegate services/tasks due to impaired cognitive function, services/tasks shall be limited by the following:

5.4.2.1 Skin Care

5.4.2.1.1 Skin care which is preventive rather than therapeutic may be provided and may include: application of non-medicated or non-prescribed lotions or creams, massaging of non-reddened areas and application of preventive spray on unbroken skin areas that may be susceptible to development of pressure sores. Also permitted is the application of band aids to minor skin breaks.

5.4.2.1.2 Skin care which may not be provided includes sterile invasive procedures involving a wound or anatomical site and application of prescription medications.

5.4.2.2 Fingernail Care

5.4.2.2.1 Fingernail care includes: soaking of nails, pushing back cuticles, and trimming/filing/polishing of nails.

5.4.2.2.2 Fingernail care may not be provided in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation. Toenail care may not be provided.

5.4.2.3 Mouth Care

5.4.2.3.1 Mouth care includes denture care and basic oral hygiene.

5.4.2.3.2 Mouth care may not be provided when the consumer is unconscious or when oral suctioning is required.

5.4.2.4 Shaving

5.4.2.4.1 Shaving may be performed only with the consumer's personal electric razor.

5.4.2.4.2 Shaving may not be performed on an area where there is the presence of an injury or infection.

5.4.2.5 Feeding

5.4.2.5.1 Feeding includes assistance with eating by mouth, using common or adaptive feeding utensils.

5.4.2.5.2 Feeding may not be provided when oral suctioning is also needed or when there is a high risk of choking that could result in the need for emergency measures such as cardiopulmonary resuscitation. Tube and syringe feeding are not permitted.

5.4.2.6 Adult Transfers

5.4.2.6.1 Assistance with transfer may be provided when the consumer has sufficient balance and strength to assist with the transfer to some extent.

5.4.2.6.2 Assistance with transfer is not permitted if the consumer is unable to assist with the transfer.

5.4.2.7 Bladder Care

5.4.2.7.1 Bladder care includes assistance to and from the bathroom; assistance with bedpans, urinals or commodes; and changing of pads or diapers used for the care of incontinence.

5.4.2.7.2 Bladder care does not include insertion or removal of a foley or suprapubic catheter; care of a foley or suprapubic catheter; and care for an ostomy.

5.4.2.8 Bowel Care

5.4.2.8.1 Bowel care includes assistance to and from the bathroom; assistance with bedpans or commodes; and changing of pads or diapers used for the care of incontinence.

5.4.2.8.2 Bowel care does not include digital stimulation; enemas; and care for an ostomy.

5.4.2.9 Medication Assistance

5.4.2.9.1 A direct care worker, who has taken a Board approved medication training program, may assist the consumer in self-administration of medication other than by injection, provided that the medication is in the original container with a proper label and directions.

5.4.2.9.2 The direct care worker may hold the container for the consumer, assist with the opening of the container, and assist the consumer in taking the medication.



## 5.5 Records and Reports

5.5.1 There shall be a separate record maintained at the personal assistance services agency for each consumer which shall contain:

5.5.1.1 Intake data including:

5.5.1.1.1 Consumer's name;

5.5.1.1.2 Consumer's birth date;

5.5.1.1.3 Consumer's home address;

5.5.1.1.4 Consumer's identification for purposes of third party billing, if

applicable.

5.5.1.1.5 Consumer's date of intake;

5.5.1.1.6 Consumer's primary physician's name, address and telephone

number; and

5.5.1.1.7 Names, addresses and telephone numbers of family members, friends, or other designated people to be contacted in the event of illness or an emergency.

5.5.1.2 Request for Services or Consumer Intake Form;

5.5.1.3 Records of Home visits (initial and follow-up);

5.5.1.4 Individual service plan (initial and reviews);

5.5.1.5 Direct care worker activity logs documenting services provided on a daily

basis;

5.5.1.6 A copy of the written agreement between the consumer and the personal assistance services agency including any updates made to the original reflecting changes in services or arrangements;

5.5.1.7 Written acknowledgment that the consumer or the consumer's representative has been fully informed of the consumer's rights;

5.5.1.8 Consumer satisfaction survey results.

5.5.1.9 Signed disclosure form required by Regulation 5.1.3; and

5.5.1.10 Case closure documents.

5.5.2 Direct care worker activity logs shall contain the following information:

5.5.2.1 Date(s) on which service(s) are provided;

5.5.2.2 Hour(s) of service(s) provided;

5.5.2.3 Type(s) of services provided; and

5.5.2.4 Observations/problems/comments, as necessary.

5.5.3 Activity logs shall be signed and dated on the day that the service is rendered.

5.5.4 Copies of all activity logs shall be maintained at the residence of the consumer.

5.5.5 Original activity log notes must be incorporated into the consumer's record located at the Agency no less often than monthly.

5.5.6 All agency records shall be available for review by authorized representatives of the Department and to legally authorized persons; otherwise consumer records shall be held confidential. The consent of the consumer or his representative if the consumer is incapable of making decisions shall be obtained before any personal information is released from his records as authorized by these regulations or Delaware law.

5.5.7 The personal assistance services agency records shall be retained in a retrievable form until destroyed.

5.5.7.1 Records of adults (18 years of age and older) shall be retained for a minimum of six (6) years after the last date of service before being destroyed.

5.5.7.2 Records of minors (less than 18 years of age) shall be retained for a minimum of six (6) years after the consumer reaches eighteen (18) years of age.

5.5.7.3 All records must be disposed of by shredding, burning, or other similar protective measure in order to preserve the consumers' rights of confidentiality.

5.5.7.4 Documentation of record destruction must be maintained by the personal assistance services agency.

5.5.8 Records shall be protected from loss, damage and unauthorized use.

5.5.9 All notes and reports in the consumer's record shall be legibly written in ink (or typewritten), dated and signed by the recording person with his full name and title.

5.5.10 The personal assistance services agency must develop acceptable policies for

# PROPOSED REGULATIONS

authentication of any computerized records.

5.5.11 The agency must have written policies regarding the use and removal of records and the conditions for release of information.

5.5.12 Report of Major Adverse Incidents

5.5.12.1 The personal assistance services agency must report all major adverse incidents involving a consumer to the Department within forty-eight (48) hours in addition to other reporting requirements required by law.

5.5.12.2 A major adverse incident includes but is not limited to:

5.5.12.2.1 Suspected abuse, neglect, mistreatment, financial exploitation, solicitation or harassment:

5.5.12.2.2 An accident that causes injury to a consumer; and

5.5.12.2.3 The unexpected death of a consumer.

5.5.12.3 Major adverse incidents must be investigated by the Agency.

5.5.12.3.1 A complete report will be forwarded to the Department within thirty (30) calendar days of occurrence or of the date that the Agency first became aware of the incident.

5.6 Case Closure

5.6.1 The consumer or the consumer's representative shall be informed of and participate in planning for case closure.

5.6.2 The personal assistance services agency shall develop a written plan of case closure which includes a summary of services provided and outlines the services needed by the consumer upon case closure.

5.6.3 When an Agency decides to close a case against that consumer's wishes, a minimum of two (2) weeks notice will be provided to permit the consumer to obtain an alternate service provider. Exceptions to the two (2) week notice provision would include:

5.6.3.1 The closure of a case when service goals have been met;

5.6.3.2 The closure of a case when service needs undergo a change which necessitates transfer to a higher level of care;

5.6.3.3 The closure of a case when there is documented non-compliance with the service plan or the admission agreement (including, but not limited to, non-payment of justified charges); or

5.6.3.4 The closure of a case when activities or circumstances in the home jeopardize the welfare and safety of the personal assistance services agency direct care worker.

## 6.0 Consumer Rights

6.1 The personal assistance services agency shall establish and implement policies and procedures regarding the rights of consumers.

6.2 The personal assistance services agency must provide the consumer with a written notice of the consumer's rights during the initial home visit or before initiation of services.

6.3 Each consumer shall have the right to:

6.3.1 Be treated with courtesy, consideration, respect and dignity;

6.3.2 Be encouraged and supported in maintaining one's independence to the extent that conditions and circumstances permit and to be involved in a program of services designed to promote personal independence;

6.3.3 Self-determination and choice, including the opportunity to participate in developing one's service plan;

6.3.4 Privacy and confidentiality;

6.3.5 Be protected from abuse, neglect, mistreatment, financial exploitation, solicitation and harassment;

6.3.6 Voice grievances without discrimination or reprisal;

6.3.7 Be fully informed, as evidenced by the consumer's written acknowledgment of these rights, of all regulations regarding consumer conduct and responsibilities;

6.3.8 Be fully informed, at the time of admission into the program, of services and activities available and related charges, including the disclosure required by Regulation 5.1.3; and

6.3.9 Be served by individuals who are competent to perform their duties.

## 7.0 Insurance and Bonding

7.1 The personal assistance services agency shall have appropriate insurance coverage in force to compensate consumers for injuries and losses resulting from services provided by the agency.

7.2 The following types and minimum amounts of coverage shall be in force at all times:

7.2.1 General liability insurance covering personal property damages, bodily injury, libel and slander:

7.2.1.1 \$1 million comprehensive general liability per occurrence; and

7.2.1.2 \$500,000 single limit coverage.

7.3 Performance bond of \$50,000 for those agencies utilizing only contractors as direct care workers.

## 8.0 Severability

8.1 In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

---

### DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

### PUBLIC NOTICE

#### Cash Assistance and Food Stamp Programs 3024 Citizens and Aliens, and 9007.1 Citizenship and Alien Status

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the eligibility of children born outside of the United States under the cash assistance and food stamp programs.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

### SUMMARY OF PROPOSED CHANGES

#### Statutory Authority

- INA Sec. 301 [8 U.S.C. §1401], Nationals and Citizens of United States at Birth
- 7 CFR §273.4, Citizenship and Alien Status
- 45 CFR §233.50, Citizenship and Alienage

#### Summary of Proposed Changes

DSSM 3024, Citizens and Aliens and DSSM 9007.1, Citizenship and Alien Status: DSS is making these changes to correct Cash Assistance and Food Stamp policies regarding the eligibility of children born outside of the United States (U.S.). Current policy states that a child born to one U.S. parent is a citizen which is not entirely correct. There are other conditions that must be met to allow a child born outside of the United States to automatically become a U.S. citizen.

DSS proposes several other structural and grammatical changes within this rulemaking.

**DSS PROPOSED REGULATION #07- 09  
REVISION:**

**3024 Citizens and Aliens**  
[233.50]

Only U.S. citizens and qualified aliens, as defined in section 431 of PRWORA, are eligible to receive cash assistance benefits.

Citizens are those persons born in the 50 states and the District of Columbia, Puerto Rico, Guam, U.S. Virgin Islands, and Northern Mariana Islands. Children born outside of the United States are citizens if ~~both parents are citizens-~~ they meet one of the following conditions:

- both parents are citizens of the United States and one parent has had a residence in the United States, or one of its outlying possessions, prior to the birth of the child; or
- one parent is a citizen of the United States who has been physically present in the United States, or one of its outlying possessions, for a continuous period of one year prior to the birth of the child, and the other parent is a national, but not a citizen of the United States; or
- one parent is a citizen of the United States who has been physically present in the United States, or one of its outlying possessions, for a continuous period of one year at any time prior to the birth of the child.

Qualified aliens who entered the United States prior to August 22, 1996 are treated as if they were United States citizens. Qualified aliens are defined as aliens who are:

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under section 208 of the INA;
3. A refugee admitted to the United States under section 207 of the INA;
4. An alien paroled into the United States under section 212(d)(5) of the INA for a period of at least 1 year;
5. An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under section 241(b)(3) of the INA;
6. An alien granted conditional entry under section 203(a)(7) of the INA as in effect prior to April 1, 1980;
7. An alien who is a Cuban or Haitian entrant; or
8. An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C. 1641(c).

Qualified aliens admitted on or after August 22, 1996, are barred from receiving cash benefits for five (5) years, except for certain excepted groups described below who are not subject to the bar. The following excepted groups of aliens are exempt from the 5-year ban on benefits:

1. Qualified aliens lawfully residing in the State who are honorably discharged veterans and who fulfill minimum active-duty service requirements, or who are on non-training active duty in the U.S. Armed Forces, or who are the spouse, unmarried dependent child, or unremarried surviving spouse of such a veteran or active-duty personnel, provided that, in the latter case, the marriage satisfied the requirements of 38 U.S.C. §1304;
2. Refugees, for a period of five years after the date they entered the U.S. as refugees;
3. Asylees, for a period of five years after obtaining such status;
4. Aliens whose deportation of removal has been withheld, for a period of five years after obtaining such status;
5. Cuban/Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, for a period of five years after they obtain such status; and
6. Amerasian immigrants from Vietnam, admitted to the U.S. pursuant to section 84 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, for a period of five years after their admission.
7. Individuals who are eligible due to being lawfully admitted for permanent residence (LPR) who can be credited with 40 quarters of work;
8. Victims of Severe Trafficking per Public Law 106-386 Trafficking Victims Protection Act of 2000:

Severe forms of trafficking is defined as,

- sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induct to perform such an act has not attained 18 years of age; or
- the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Adult victims of severe trafficking will be certified by the U. S. Department of Health and Human Services (HHS) and will receive a certification letter. Children, those under 18 years of age, who are victims of severe trafficking do not need to be certified but will receive a letter stating that the child is a victim of a severe form of trafficking. These victims of trafficking are treated like refugees. Victims of trafficking do not have to hold a certain immigration status, but they need to be certified by HHS in order to be eligible for cash assistance; and

9. An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C. 1641(c).

Documentation:

1. Lawful permanent resident status is verified by:
  - INS Form I-551; or
  - Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94.
2. Refugee status is verified by:
  - INS Form I-94 annotated with stamp showing admission under section 207 of the INS;
  - INS Form I-688B (Employment Authorization Card) annotated "274a12(a)(3);
  - INS Form I-766 (Employment Authorization Document) annotated "A3"; or
  - INS Form I-571 (Refugee travel Document).
3. Asylee status is verified by:
  - INS Form I-94 annotated with stamp showing grant of asylum under § 208 of the INA;
  - INS Form I-688B (Employment Authorization Card) annotated "274a12(a)(5);
  - INS Form I-766 (Employment Authorization Document annotated "A5";
  - Grant letter from the Asylum Office of INS; or
  - Order from an immigration judge granting asylum.
4. The status of an alien whose deportation is withheld is verified by:
  - INS Form I-688B (Employment Authorization Card) annotated "274a12(a)(10);
  - INS Form I-766 (Employment Authorization Document) annotated "A10"; or
  - Order from an immigration judge showing deportation withheld under §243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under §241(b)(3) of the INA.
5. Cuban/Haitian entrant status is verified by:
  - INS Form I-551 (Alien Registration Receipt Card) with the code CU6, CU7, or CH6;
  - An unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7;
  - INS Form I-94 with stamp showing parole as "Cuban/Haitian Entrant" (Status Pending);
  - INS Form I-94 showing parole into the United States on or after October 10, 1980; and
  - Cuban or Haitian passport, identity card, birth certificate, or other reasonable evidence of Cuban or Haitian nationality
6. Amerasian immigrant status is verified by:
  - INS Form I-551 with the code AM6, AM7, or AM8; or
  - Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code AM1, AM2, or AM3.
7. The 40 qualifying quarters of work is determined under Title II of the Social Security Act. This includes the quarters of work not covered by Title II of the Social Security Act. Quarters of work not covered by Title II of the Social Security Act is based on the sum of the following:
  - quarters the alien worked;
  - quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and
  - quarters credited from the work of a spouse of an alien during their marriage if they are still married or the spouse is deceased.

NOTE: A spouse cannot get credit for quarters of coverage of a spouse when the couple divorces before determination of eligibility is made. If a determination of eligibility has been made based on the quarters of coverage of a spouse, and the couple later divorces, the alien's eligibility continues until the next recertification. At that time, eligibility is determined without crediting the alien with the former spouse's quarters of coverage. (Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested benefits does not count as a qualifying quarter. A parent's or spouse's quarter is not creditable if the parent or spouse received any Federal means-tested benefits or actually received food stamps in that quarter. If an alien earns the 40th quarter of coverage before applying for food stamps or any other Federal means-tested benefit in that same quarter, all that quarter toward the 40 qualifying quarters total.);

8. When a victim of a severe form of trafficking applies for benefits, DSS will follow normal procedures for refugees except DSS will:

- Accept the original certification letter or letter for children in place of INS documentation. Victims of severe forms of trafficking are not required to provide any documentation regarding immigrant status. (DO NOT SEND FOR SAVE VERIFICATION.)
- Call the trafficking verification line at (202) 401-5510 to confirm the validity of the certification letter or similar letter for children and to notify the Office of Refugee Resettlement (ORR) of the benefits for which the individual has applied.
- Note the "entry date" for the refugee benefit purposes. The individual's "entry date" for refugee benefits purposes is the certification date, which appears in the body of the certification letter or letter for children.
- Issue benefits to the same extent as a refugee, provided the victim of a severe form of trafficking meets other program eligibility criteria like income limits.
- Recertification letters will be used to confirm that the individual continues to meet the certification requirements. These letters will have the same "entry date" as the original certification letters. The regular recertification periods will apply to these individuals in the same manner that they apply to refugees; and
- Victims of trafficking are issued T visas by US Immigration and Citizenship Services.
- The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 expanded eligibility to include the minor children, spouses, and in some cases the parents and siblings of victims of severe trafficking. Under TVPRA, eligible relatives of trafficking victims are entitled to visas designated as T-2, T-3, T-4 or T-5 (known as Derivative T Visas) and are eligible like the direct victims of severe trafficking.
- If an alien is awarded a T visa and was under the age of 21 years on the date the T visa application was filed, the Derivative T Visas are available to the alien's spouse, children, unmarried siblings under 18 years of age, and parents.
- If an alien is awarded a T visa and was age of 21 years or older on the date the T visa application was filed, the Derivative T Visas are available to the alien's spouse and children.

9. For aliens who (or whose child or parent) is claiming that they have been battered or subjected to extreme cruelty in the United States and otherwise meets the requirements of 8 U.S.C. 1641(c) call the Program and Policy Development Unit (PPDU) to determine if the documentation provided is satisfactory.

Aliens admitted as temporary residents are not eligible for public assistance benefits. Included are visitors, tourists, diplomats, and students.

Citizenship and alien status are verified at the time of application.

**8 DE Reg. 1712 (06/01/05)**

*(Break in Continuity of Sections)*

**9007.1 Citizens and Qualified Aliens**

[273.4]

The following residents of the United States are eligible to participate in the Food Stamp Program without limitations based on their citizenship/alienage status:

1. Persons born in the 50 states and the District of Columbia, Puerto Rico, Guam, Virgin Islands, and the Northern Mariana Islands. Children born outside the United States are citizens if ~~at least one of the parents is a citizen;~~ they meet one of the following conditions:

- both parents are citizens of the United States and one parent has had a residence in the United States, or one of its outlying possessions, prior to the birth of the child; or
- one parent is a citizen of the United States who has been physically present in the United States, or one of its outlying possessions, for a continuous period of one year prior to the birth of the child, and the other parent is a national, but not a citizen of the United States; or
- one parent is a citizen of the United States who has been physically present in the United States, or one of its outlying possessions, for a continuous period of one year at any time prior to the birth of the child.

2 Naturalized citizens or a United States non-citizen national (person born in an outlying possession of the United States, like American Samoa or Sawin's Island, or whose parents are U.S. non-citizen nationals;

3. Individuals who are:

A. An American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) apply;

B. A member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;

C. Lawfully residing in the U.S. and was a member of the Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975;

(i) The spouse or surviving spouse of such Hmong or Highland Laotian who is deceased, or

(ii) An unmarried dependent child of such Hmong or highland Laotian who is under the age of 18 or if a full-time student under the age of 22 of such a deceased Hmong or Highland Laotian provided that the child was dependent upon him or her at the time of his or her death; or an unmarried disabled child age 18 or older if the child was disabled and dependent prior to the child's 18th birthday.

4. Individuals who are eligible indefinitely due to being:

A.A lawfully admitted for permanent residence (LPR) who can be credited with 40 quarters of work as determined under Title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act, based on the sum of : quarters the alien worked; quarters credited for the work of a parent the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of an alien during their marriage if they are still married or the spouse is deceased. A spouse cannot get credit for quarters of coverage of a spouse when the couple divorces before a determination of eligibility is made. If a determination of eligibility has been made based on the quarters of coverage of a spouse, and the couple later divorces, the alien's eligibility continues until the next recertification. At that time, eligibility is determined without crediting the alien with the former spouses quarters of coverage. (Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested benefits does not count as a qualifying quarter. A parent's or spouse's quarter is not creditable if the parent or spouse received any Federal means-tested benefits or actually received food stamps in that quarter. If an alien earns the 40th quarter of coverage before applying for food stamps or any other Federal means-tested benefit in that same quarter, all that quarter toward the 40 qualifying quarters total.);

B. lawfully living in the U. S. for five (5) years as a qualified alien beginning on the date of entry:

Qualified aliens include lawfully admitted residents (holders of green cards), those granted asylum, refugees, victims of a severe form of trafficking, those paroled in the United States under section 212(d)(5)

of the INA for at least one year, those whose deportation is being withheld, those granted conditional entry under section 501(e) of the Refugee Education Assistance Act of 1980, Cuban or Haitian entrants, and under certain circumstances, a battered spouse, battered child or parent or child or battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA.

- C. lawfully in US and is now under 18 years of age;
- D. lawfully in US and is receiving disability or blind (payments listed under DSSM 9013.1)
- E. lawfully in US and 65 or older on 8/22/96 (born on or before 8/22/31).
- F. An alien with one of the following military connections:

(i) A veteran who was honorably discharged for reasons other than alien status who fulfills the minimum active-duty service requirements of 38 U.S.C. 5303A(d), including an individual who died in active military, naval or air service;

(ii) A veteran includes an individual who served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts, as described in 389 U.S.C. 107;

(iii) An individual on active duty in the Armed Forces of the U.S. other than for training; or

(iv) The spouse and unmarried dependent children (legally adopted or biological) of a person described above in (i) through (iii), including spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. An unmarried child for the purposes of this section is: a child who is under the age of 18 or, if a full-time student, under the age of 22; such unmarried dependent child of a deceased veteran was dependent upon the veteran at the time of the veteran's death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18th birthday.

5. The following aliens with a seven-year (7) time limit:

- ~~{A.}~~ refugees admitted under section 207 of the Act;
- ~~{B.}~~ asylees admitted and granted asylum under section 208 of the Act;
- ~~{C.}~~ aliens whose deportation or removal has been withheld under section 241(b)(3) and 243

(h) of the INA.

- ~~{D.}~~ Cuban and Haitians admitted under section 501(e) of the Refugee Education Act of 1980;

and

- ~~{E.}~~ Amerasians admitted under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998.

The seven-year (7) time limit begins from the date they obtained their alien status, (was granted asylum, was admitted as a refugee, from the date the deportation or removal was withheld).

~~{F.}~~ Immigrants who are victims of severe trafficking in persons per Public Law 106-386 Trafficking Victims Protection Act of 2000. Severe forms of trafficking in persons is defined as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Victims of trafficking are issued T visas by US Immigration and Citizenship Services.

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 expanded eligibility to include the minor children, spouses, and in some cases the parents and siblings of victims of severe trafficking. Under TVPRA, eligible relatives of trafficking victims are entitled to visas designated as T-2, T-3, T-4 or T-5 (known as Derivative T Visas) and are eligible for food stamps like the direct victims of severe trafficking.

If an alien is awarded a T visa and was under the age of 21 years on the date the T visa application was filed, the Derivative T Visas are available to the alien's spouse, children, unmarried siblings under 18 years of age, and parents.

If an alien is awarded a T visa and was age of 21 years or older on the date the T visa application was filed, the Derivative T Visas are available to the alien's spouse and children.

Adult victims of severe trafficking will be certified by the U. S. Department of Health and Human Services (HHS) and will receive a certification letter. Children, those under 18 years of age, who are victims of severe trafficking do not need to be certified but will receive a letter stating that the child is a victim of a severe form of trafficking. These victims of trafficking, and eligible relatives awarded Derivative T Visas, are treated like refugees



---

for food stamp purposes. Victims of trafficking do not have to hold a certain immigration status, but they need to be certified by HHS in order to receive food stamps.

When a direct victim of a severe form of trafficking applies for benefits, DSS will follow normal procedures for refugees except DSS will:

1. Accept the original certification letter for child in place of INS documentation. Victims of severe forms of trafficking are not required to provide any documentation regarding immigrant status. (DO NOT CALL SAVE.)

2. Call the trafficking verification line at (202) 401-5510 to confirm the validity of the certification letter or similar letter for children and to notify the Offices of Refugee Resettlement (ORR) of the benefits for which the individual has applied.

3. Note the "entry date" for refugee benefit purposes. The individual's "entry date" for refugee benefit purposes is the certification date, which appears in the body of the certification letter or letter for children.

4. Issue benefits to the same extent as a refugee, provided the victim of a severe form of trafficking meets other program eligibility criteria like income limits.

5. Re-certification letters will be used to confirm that the individual continues to meet the certification requirements. These letters will have the same "entry date" as the original certification letters. The regular recertification periods will apply to these individuals in the same manner that they apply to refugees.

6. The seven-year (7) time limit begins from the date they obtained their alien status, (was granted asylum, was admitted as a refugee, from the date the deportation or removal was withheld).

7. An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of the abuse, an alien whose child has been battered or subjected to battery or cruelty, or an alien child whose parent has been battered.

When an eligible relative of a direct victim of severe trafficking applies for benefits:

1. Accept the nonimmigrant T-2, T-3, T-4 or T-5 Derivative Visa and follow the normal procedures for providing services and benefits to refugees.

2. Call the toll-free trafficking verification lines at 1 (866) 401-5510 to notify ORR of the benefits for which the individual has applied. (NOTE: the DHS Systematic Alien Verification for Entitlements (SAVE) system does not contain information about victims of a severe form of trafficking or nonimmigrant alien family members. DO NOT CONTACT SAVE—C concerning victims of trafficking or their nonimmigrant alien family members.)

3. Issue benefits to the same extent as a refugee provided the Derivative T Visa holder meets other program eligibility criteria like income.

4. For an individual who is already present in the United States on the date the Derivative T Visa is issued, the date of entry for food stamp purposes is the Notice Date on the I797, Notice of Action of Approval of that individual's Derivative T Visas.

5. For an individual who enters the United States on the basis of a Derivative T Visa, the date of entry for food stamp purposes is the date of entry stamped on that individual's passport or I-94 Arrival Record.

**8 DE Reg. 1712 (6/1/05)**

### **9007.2 Income and Resources**

The income and resources of an ineligible alien will be handled as outlined in DSSM 9076 .

### **9007.3 Reporting Illegal Aliens**

DSS ~~Program Implementation~~ Policy and Program Unit (PPDU) will inform the local INS office whenever eligibility personnel knows for sure that any member of a household is ineligible to receive food stamps because the member is present in the United States in violation of the Immigration and Nationality Act.

Caution must be exercised to ensure that the determination is not made merely on the alien's inability or unwillingness to provide documentation of alien status. When a person indicates inability or unwillingness to provide documentation of alien status, staff shall not continue efforts to obtain the documentation. That person shall be classified as an ineligible alien. Staff will obtain only the documents necessary to provide information on the income and resources of the ineligible alien to be made available to the remaining members of the household.

This regulation does not permit the reporting of aliens to INS on mere suspicion of prejudice. Firm evidence that a household is illegally in the U.S. would be required. Two examples of circumstances when an alien would be reported to INS are:

- INS documents presented by the household during the application process are determined to be forged.
- A former order of deportation is presented by the household during the application or recertification process.

If a determination is made that a household, or household member, is in fact an illegal alien present in the United States in violation of the immigration laws, staff will report the determination to the supervisor. The supervisor will send a written report to the Food Stamp Policy Administrator who will decide whether the evidence is enough to make a report to INS.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at: <http://www.state.de.us/research/AdminCode/title16/5000/index.shtml#TopOfPage>**

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

### PUBLIC NOTICE

#### Child Care Subsidy Program 5302 Exceptions and 5307 Dismissal of Requests

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend child care subsidy program policies in the Division of Social Services Manual (DSSM).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

### SUMMARY OF PROPOSED CHANGES

#### Statutory Authority

- The Child Care and Development Block Grant (part of Categories 31 and 41) as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996; and,
- Title XX of the Social Security Act and the Omnibus Budget Reconciliation Act (OBRA) of 1981 establishes child care under the Social Services Block Grant (part of Categories 31 and 41).

#### Summary of Proposed Changes

1) DSSM 5302, *Exceptions: TANF, GA, Medicaid, EA*: is revised to clarify when adequate notice will be sent. This revision also updates an obsolete policy citation.

2) DSSM 5307, *Dismissal of Requests*: is revised to clarify that Fair Hearing rules apply to the Child Care program as well as other DSS programs.

#### DSS PROPOSED REGULATION #07- 08

#### REVISION:

#### 5302 Exceptions: TANF, GA, Medicaid, EA Child Care

The agency may dispense with timely notice but will send adequate notice not later than the date of action

when:

- 1) The agency has factual information confirming the death of the recipient or of the TANF payee when there is no relative available to serve as the new payee.
- 2) The recipient provides a clear written statement that assistance is no longer desired.
- 3) The recipient provides information which requires termination or reduction of assistance and the recipient has indicated in writing that (s)he understands that the action is a consequence of supplying the information.
- 4) The recipient has been admitted or committed to an institution (See §3010.9).
- 5) The recipient has been placed in skilled nursing care, intermediate care, or long term hospitalization.
- 6) The appellant's whereabouts are unknown and agency mail directed to him/her has been returned by the post office indicating no known forwarding address. If his/her whereabouts become known during the payment period, the client's check will be made available.
- 7) The recipient's case has been accepted for assistance in another state or for another category of assistance including SSI, and, that fact has been established by the Department.
- 8) When a child is no longer in the home, including when a A child is removed from a home as a result of a judicial determination or voluntarily placed in foster care by his/her legal guardian.
- 9) A change in the level of medical care is prescribed by the recipient's physician.
- 10) The recipient files a timely completed monthly report; notices to reduce or terminate assistance must be mailed to arrive no later than the resulting payment or in lieu of the payment.
- 11) The recipient files a completed monthly report that is not timely (i.e., is not received by the DCIS processing deadline); the recipient must be notified promptly of any reduction in or termination of the amount of assistance.
- 12) In the Emergency Assistance Program, a special allowance has been granted for a specific period of time and the allowance has terminated or expired and the individual has been notified in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period.

***(Break in Continuity of Sections)***

**5307 Dismissal of Requests**

The hearing officer of the Division shall dismiss or deny a request for a Fair Hearing:

- 1) Where it has been withdrawn by the appellant in writing; or
  - 2) Where the sole issue is one of State or federal law requiring automatic benefit adjustments for classes of TANF, GA, Child Care or Medicaid/Medical Assistance recipients (unless the reason for an individual appeal is incorrect grant computation); or
  - 3) Where the appellant has abandoned his/her request by failing without good cause, to appear by him/herself or by an authorized representative at a scheduled hearing.
    - a) Good cause for failure to appear at a hearing may include, but is not limited to the following:
      1. Death in the family;
      2. Personal injury or illness;
      3. Sudden and unexpected emergencies;
      4. Failure to receive the hearing notice
  - 4) The request is not received within the specified 90 day time period.
- The hearing officer will notify both the appellant and the agency if a request for a hearing is dismissed.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at: <http://www.state.de.us/research/AdminCode/title16/5000/index.shtml#TopOfPage>**

# PROPOSED REGULATIONS

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

### PUBLIC NOTICE

#### Food Stamp Program

#### 9082 Reduction in Public Assistance Benefits, and 9092 Simplified Food Stamp Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding the reduction of public assistance benefits and simplified food stamp program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

### SUMMARY OF PROPOSED CHANGES

#### Statutory Authority

- 7 CFR §§273.11(k), Comparable Disqualifications and 273.25, Simplified Food Stamp Program

#### Summary of Proposed Changes

DSSM 9082, *Reduction of Public Assistance Benefits* and DSSM 9092, *Simplified Food Stamp Program*: DSS is making these changes to support the new TANF rules regarding Employment & Training (E & T) hours of participation and not increasing food stamps when a TANF family is sanctioned for not completing the required hours.

#### DSS PROPOSED REGULATION #07- 06

#### REVISION:

#### 9082 Reduction of Public Assistance Benefits

[273.11(j)]

Do not increase food stamp benefits when a household's benefits received under another means-tested Federal, State or local welfare or public assistance program (such as but not limited to TANF, RCA or GA) or have been decreased (reduced, suspended or terminated) due to failure to perform an action required under the assistance program or for fraud. Under no circumstances can the food stamp benefits be allowed to increase.

Actions not considered a failure to perform for this rule include:

- Reaching a time limit for time-limited benefits;
- Having a child that is not eligible because of family cap;
- Failing to reapply or complete the application process for continued assistance under another program;
- Failing to perform an action that the individual is unable to perform; or
- Failing to comply with a purely procedural requirement.

A procedural requirement which would not cause a sanction is a step that an individual must take to continue to receive benefits in the assistance program such as providing verification of circumstances.

A substantive requirement, which would cause a sanction, is a behavioral requirement in the assistance program designed to improve the well-being of the recipient family, such as participating in job search activities.

The following conditions apply:

1. The rule applies to individuals who fail to perform a required action while receiving assistance.
2. The rule does not apply to individuals who fail to perform a required action at the time the individual initially applies for assistance.
3. The rule applies to individuals who fail to perform a required action during an application for continued benefits as long as there is no break in participation.
4. The individual must be certified for food stamps at the time of the failure to perform a required action for this rule to apply.
5. Assistance benefits shall be considered reduced if they are decreased, suspended, or terminated.
6. If the means-tested assistance program fails to verify an individual's failure to perform a required action, this rule will not apply and DSS will not be held responsible as long as DSS made a good faith effort to get the information.
7. DSS, not the individual, is responsible for obtaining information about sanctions from other programs and changes in those sanctions.
8. The rule applies for the duration of the reduction in the assistance and cannot continue beyond the sanction of the assistance program.
9. ~~When a TANF case closes, the food stamp sanction will be removed because the family is no longer eligible for assistance~~ When a TANF case closes, the food stamp sanction will remain in place for one year or until the individual no longer is considered a mandatory Employment and Training participant.
10. DSS must restore lost benefits if it is later discovered that the reduction in the public assistance was not appropriate.

*(Break in Continuity of Sections)*

## 9092 Simplified Food Stamp Program - ~~Workfare~~ Work For Your Welfare

DSS was approved by Food and Nutrition Service, under the United States Department of Agriculture, to operate a Simplified Food Stamp Program (SFSP). The SFSP permits a state to substitute certain TANF and RCA rules and procedures for food stamp rules. Delaware's SFSP component is the ~~w~~Work f~~or y~~our w~~elfare~~ Workfare program rules.

Households in which all members, or one or more members, receive TANF or RCA may participate in the SFSP. Non-Public Assistance (NPA) households will not participate in the SFSP.

The SFSP will follow all the regular food stamp rules for determining eligibility and certifying households. Under the SFSP, the changes in the food stamps rules that will affect ~~Workfare~~ Work for Your Welfare TANF or RCA households who receive food stamps are:

- replacing food stamp ~~Workfare~~ Work for Your Welfare program requirements and penalties, and
- replacing food stamp work exemptions with TANF or RCA exemptions.

The ~~two~~ three TANF or RCA work exemptions are:

- a) A single, custodial parent caring for a child under ~~43 weeks~~ 12 months of age; or
- b) An individual determined unemployable by a health care professional ~~or~~
- c) A parent caring for a disabled family member in the home who does not attend school full time.

The SFSP allows Delaware to require individuals single, custodial parents who are receiving TANF or RCA and caring for children age ~~43 weeks~~ 12 months and older to participate in ~~Workfare~~ Work for Your Welfare. The SFSP also allows Delaware to use the food stamp allotment along with the TANF or RCA grant to determine the number of hours of ~~Workfare~~ Work for Your Welfare participation.

## **DELAWARE'S ~~WORKFARE~~ WORK FOR YOUR WELFARE PROGRAM** **~~WORK FOR YOUR WELFARE (WORKFARE) PROGRAM~~**

Work for Your Welfare ~~(Workfare)~~ is defined as a work experience program in which participants work to earn their benefits. Those in ~~Workfare~~ Work for Your Welfare must participate for a predetermined number of hours each week and ~~complete 10 hours of job search activities per week.~~

# PROPOSED REGULATIONS

Required Hours of Workfare Participation:

One-parent households will be required to work the maximum participation hours of 30 hours per week.

Two-parent households will be required to work the maximum participation hours of 35 hours per week. If the household receives subsidized childcare assistance, the maximum participation hours increase to 55 hours per week.

Determine the ~~Workfare~~-required hours of work experience participation:

1. The pre-sanctioned TANF grant is divided by the current minimum wage, and the result is rounded down.

- ~~The result is subtracted from the appropriate required monthly maximum participate hours (for example, 25 hours per week would be  $25 \times 4.33 = 108$ ).~~
- ~~The remainder is multiplied by the current minimum to determine the portion of the food stamp allotment, which can be used when imposing a Workfare reduction.~~

2. The food stamp allotment is divided by the current state minimum wage, and the result is rounded down.

3. The two results (#1 and #2), added together, are the maximum monthly number of hours for which the family/household is required to participate in work experience. The family/household may have to participate in other activities to the maximum hours of participation.

4. The monthly number of hours (#3) is divided by 4.33 to get a weekly number of hours, rounded down.

5. Compare the weekly number of hours (#4) to the maximum required for a one or two-parent household. Use the lesser number for the weekly number of hours.

6. The weekly number of hours (#5) is divided by 5 to get the daily participation requirement, rounded down. (This step is needed to give the Contractor and Client an idea of how to schedule the work on a daily basis to assure that the Client is able to meet the required ~~Workfare~~ work experience hours of participation.)

7. Consult the yearly table for the number of days the participant is required to do ~~Workfare~~. Multiply that number by the daily participation rate (#6) to determine the monthly required participation rate.

Workfare Reduction Work For Your Welfare

For every hour that a participant fails to work, the TANF check will first be reduced by the current minimum wage. If the TANF grant reduces to zero, any remaining ~~Workfare~~ reduction amount will be used to reduce the food stamp allotment up to the portion used to meet the required hours of participation.

If the participant does not meet the required number of work experience hours, the penalty will be the closure of the entire TANF case for a minimum of one month and a mandatory four consecutive weeks of participation.

Determination of the ~~Workfare~~ reduction amount:

Subtract the actual hours of participation for a month from the required hours for the same month.

Any amount greater than zero is multiplied by the current minimum wage, resulting in the ~~Workfare~~ reduction amount.

Subtract the exact ~~Workfare~~ reduction amount (#2) from the TANF grant amount and round down.

Subtract any 1/3 E& T/school attendance sanctions from amount in #3 before subtracting any \$68 or \$50 sanctions.

If the subtraction of the ~~Workfare~~ reduction amount reduces the TANF benefit to zero and there is a remaining ~~Workfare~~ reduction amount, this amount will be subtracted from the food stamp allotment. Only the portion of the food stamp allotment used to determine the participation hours can be subtracted from the food stamp allotment. (If there is a \$100 ~~Workfare~~ reduction amount left over after the grant reduced to zero, but only \$75 of the allotment was used to determine the hours of participation, only \$75 can be subtracted from the allotment.)

Job Search Activities/Failure to Complete

Individuals in ~~Workfare~~ must complete 10 hours of job search activities each week. The failure to complete job search activities will result in a progressive 1/3 grant reduction sanction. For food stamps, if the individual who fails to complete job search activities is caring for a child under the age of six, no sanction will be applied to the household. The pre-sanctioned grant amount will be used in the food stamp calculation to prevent an increase in the food stamps. (Riverside Rule.)

If the individual who fails to complete job search activities is not caring for a child under six years of age, DSS will apply the appropriate food stamp sanction.

The appropriate food stamp sanctions are:

- If the individual who failed to complete job search activities is the head of household, the whole food stamp household is sanctioned for the appropriate 1 month, 3 months, or six months period, or until compliance whichever is later.
- If the individual is not the head of household, the individual is removed from the food stamp case for the appropriate 1 month, 3 months, or six months period, or until compliance whichever is later.

## SUMMARY OF THE SIMPLIFIED FOOD STAMP PROGRAM:

- The simplified food stamp program lowers the age at which a child exempts a single custodial parent from work requirements in ~~Workfare to under 13 weeks~~ Work for Your Welfare to under 12 months.
- If the participant does not meet the required number of work experience hours, the penalty will be the closure of the entire TANF case for a minimum of one month and a mandatory four consecutive weeks of participation.
- When a TANF case closes, the food stamp sanction will remain in place for one year or until the individual no longer is considered a mandatory Employment and Training participant.  
~~Household will work a pre-determined number of hours in order to receive their TANF benefit.  
Hours not worked will result in a reduction in the potential benefits they could have received.  
Failure to complete job search activities will result in a food stamp sanction for those households where the youngest child is 6 years of age or older.  
Food stamps are calculated using the pre-sanctioned grant amount before applying any Workfare reduction amount or appropriate sanction. (Riverside rule)  
Workfare reductions are applied before reductions for any sanctions.  
When the TANF grant reduces to zero and a Workfare reduction amount remains, the remainder, or a portion of the remainder, is subtracted from the food stamp allotment. Only the portion of the food stamp allotment that was needed to meet the required hours of participation can be subtracted.~~

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at: <http://www.state.de.us/research/AdminCode/title16/5000/index.shtml#TopOfPage>**

---

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

### PUBLIC NOTICE

#### Food Stamp Employment and Training Program 10007.3 Supportive Services Reimbursements

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual (DSSM) regarding the Food Stamp Employment and Training Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

## SUMMARY OF PROPOSAL

### Statutory Authority

- Farm Security and Rural Investment Act of 2002, *Food Stamp Program: Employment and Training Program Provisions, §4121*
- 7 CFR Part 272, *Requirements for Participating State Agencies*
- 7 CFR Part 273, *Certification of Eligible Households*

### Summary of Proposed Changes

DSSM 10007.3, Supportive Services Reimbursements: The purpose of these changes to existing policy is due to final regulations regarding participant reimbursements. See 71 FR 33381 (Federal Register, Volume 71, and Page 33381). The Food and Nutrition Services Employment and Training (FNS E & T) policy unit has specified that services to obtain and keep employment are not an allowable reimbursement.

## 10000 Food Stamp Employment and Training (FSE&T)

### *(Break in Continuity of Sections)*

### 10007.3 Supportive Services Reimbursements

All Supportive Services reimbursements/payments must be actual costs that are necessary for Employment and Training participation ~~or obtaining employment~~. They must be verified and documented. Services to obtain and keep employment are not an allowable reimbursement.

Supportive Services reimbursements /payments can be provided under the following categories;

#### A. Fees

~~These services can include licenses such as Commercial Drivers License and Nurses licenses, testing for employment or education (this includes GED test fees), or other fees directly related to training or employment.~~

Monetary Limit of Service / Expense: Verified actual cost up to \$200.00 per individual, per month as determined by need.

#### B. Clothing

~~These services can include clothes that are appropriate for interviewing or the first few days of employment.~~

~~Monetary Limit of Service / Expense: Verified actual cost up to \$150.00 per individual. This is a one time only service.~~

#### C. Accessories for Work or Training

These services can include purchase of safety equipment, uniforms, shoes, or tools required to participate in training ~~or work~~. The need in some cases can be verified by Office of Safety and Health Administration (OSHA) regulations.

Monetary Limit of Service / Expense: Verified actual cost up to \$150.00 per individual, per month as determined by need.

#### D. Physical Exam

This service can be authorized when a participant is required to undergo a physical exam to participate in training ~~or accept employment~~ and such exam is not available through a public health facility or covered by Medicaid.

Monetary Limit of Service / Expense: Verified actual cost up to \$100.00 per individual, per month as determined by need.

#### E. Dental Services

~~This service is only necessary when a participant's dental condition poses a significant barrier to employment.~~

~~Monetary Limit of Service / Expense: Verified actual cost up to \$400.00 per individual, per month as determined by need.~~

#### F. Eye exams and eyeglasses

When the assessment indicates the participant's vision is impaired, or when the individual needs glasses to continue in a component ~~or job~~. This does not include contact lenses unless they are medically necessary.



---

Monetary Limit of Service / Expense: Verified actual cost up to \$200.00 per individual, per month as determined by need.

8 DE Reg. 1618 (5/01/05)

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at: <http://www.state.de.us/research/AdminCode/title16/5000/index.shtml#TopOfPage>**

---

## DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 and 3403 (18 Del.C. §§314 & 3403)  
18 DE Admin. Code 1407

### PUBLIC NOTICE

#### 1407 Supplemental Health Insurance Coverage For Children Of Insureds

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of proposed Department of Insurance **Regulation 1407** relating to **Supplemental Health Insurance Coverage for Children of Insureds**. The docket number for this proposed regulation is 365.

The Department of Insurance proposes to promulgate Regulation 1407 as a result of the enactment of House Bill 466 last year to provide regulatory guidelines for insurers with respect to the rate and form filings that will be necessary to comply with the new statutory provisions. The **Delaware Code** authority for the change is 18 **Del.C.** §§310, 311, 3354, and 3570. The text can also be viewed at the Delaware Insurance Commissioner's website at [www.delawareinsurance.gov](http://www.delawareinsurance.gov) under the link for "Proposed Regulations."

The Department of Insurance will hold a public hearing on the proposed changes on Tuesday, April 3, 2007 at 10:00 a.m. in the Consumer Services hearing room, 841 Silver Lake Blvd., Dover, DE 19904. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Monday April 2, 2007 by delivering said comments to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or emailed to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

#### 1407 Supplemental Health Insurance Coverage for Children of Insureds

##### 1.0 Authority

1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 Del.C. §§310, 311, 3354, and 3570 and promulgated in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Chapter 101.

##### 2.0 Scope

2.1 This regulation applies to all Carriers, as defined below.

##### 3.0 Definitions

"Carrier" means any entity that provides health insurance in this State. For the purposes of this section, carrier includes an insurance company, health service corporation, managed care organization, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

"Covered person" means a person who claims to be entitled to receive benefits from a carrier.

"Dependent" means a covered person's child by blood or by law who:

- a. is less than 24 years of age;
- b. is unmarried;
- c. has no dependents of his or her own;
- d. is a resident of Delaware or is enrolled as a full-time student at an accredited public or private institution of higher education; and
- e. is not actually provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, or church plan, or entitled to benefits under 42 U.S.C. §1395 et. seq.

#### **4.0 Submission of Rate Plans**

4.1 No later than 30 days following the effective date of this regulation, each Carrier shall submit the following to the Commissioner:

4.1.1 Certified notice that within 60 days following the effective date of this regulation, the carrier will be in compliance with all terms of 18 Del.C. §§3354 and 3570.

4.1.2 A rate filing containing proposed premiums for dependent coverage consistent with 18 Del.C. §§3354(g), 3354(h), 3570(g) and 3570(h).

4.2 Where possible, rate filings made consistent with this regulation shall be made in the format and on the forms required of the carriers' other filings made pursuant to Title 18, Chapter 25 of the Delaware Code.

4.3 Rate filings required by this regulation shall demonstrate that the premium charged pursuant to 18 Del.C. §§3354 and 3570 does not exceed 102% of the applicable portion of the premium previously paid for that dependent's coverage under the contract prior to the termination of coverage at the specific age provided in the contract.

4.4 Compliance with Section 4.3 of this Regulation shall be demonstrated by:

4.4.1 Establishing the portion of existing carrier costs directly attributable to inclusion of persons whose coverage would have been terminated due to age but for implementation of 18 Del.C. §§3354 and 3570.

4.4.2 Generating a rate schedule that assesses premiums no greater than 102% of the costs generated by Section 4.4.1.

4.4.3 Fixed costs which would be incurred by the carrier regardless of inclusion of persons whose coverage would have been terminated due to age but for implementation of 18 Del.C. §§3354 and 3570 shall not be included in the carrier costs established under Section 4.4.1, and the rate filings made pursuant to Sections 4.2 and 4.3 shall affirmatively state that such fixed costs have not been included.

4.4.4 Carriers may submit rate filings pursuant to Sections 4.2 and 4.3 that produce premiums substantially similar to those that would be generated by compliance with Sections 4.4.1 through 4.4.3.

4.4.5 The Department interprets 18 Del.C. §§3354 and 3570 to permit and require it to review rate filings made pursuant to this Regulation to ensure that they are not excessive. The effective filing date provisions of 18 Del.C. §2506 apply to a carrier's conditional right to charge premiums upon the filing of a rate request.

4.4.6 The carrier shall be required to submit the notices, or any amendments thereto, required by 18 Del. C. §§3354(j) and 3570(j) to the Department for form approval prior to their use.

#### **5.0 Effective Date**

5.1 This Regulation shall become effective May 11, 2007.

---

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 6010, (7 Del. C. §6010)

#### Public Notice

SAN# 2007-02

**1. Title Of The Regulations:**

Tidal Finfish Regulations

**2. Brief Synopsis of the Subject, Substance and Issues:**

The Summer Flounder Fishery Management Plan (FMP) details the annual process that the Atlantic States Marine Fisheries Commission's Summer Flounder Fishery Management Board, the Mid-Atlantic Fisheries Management Council and the National Marine Fisheries Service are to use for establishing conservation equivalency for the recreational summer flounder fishery. These agencies agreed that the states would implement conservationally equivalent measures rather than a coastwide management program for summer flounder in 2007. Delaware is obligated to cap the summer flounder recreational harvest at 76,608 fish for 2007. The harvest cap has been adjusted downward 34 percent from the previous year's level of 116,000 fish because of slower than projected rebuilding in the stock. Although Delaware and all the coastal states in the management regime must adjust their harvest cap downward, estimates of Delaware's 2006 harvest indicated that landings of summer flounder were below the harvest cap imposed for 2006. As such, it is anticipated that management measurers for summer flounder in 2007 will need to achieve a 29.3 percent harvest reduction from the estimated harvest in 2006. Savings associated with landings below the 2006 harvest cap justified the lowered reduction target for Delaware in 2007. Conversely, if Delaware had exceeded the harvest cap in 2006 then the reduction target for 2007 would have been higher than the overall target 34 percent reduction. It is proposed that a suite of management options will be developed that take into consideration measurers that have been successfully employed in the past to achieve reductions in harvest while attempting to meet the needs of the fishing public. These options will include potential minimum size limits ranging between 17 and 18 inches in combination with various creel limits that can range from 1 to 4 fish per day and also incorporate seasonal closures. Ten management options for Delaware will be reviewed by the ASMFC Summer Flounder Technical Committee to determine if the correct data sets and analyses were used to project landings under the various options. Once the technical review is completed, those options that were approved will be presented at a public hearing in order to receive input from the fishing community on the various options.

**3. Possible Terms Of The Agency Action**

Delaware is required to comply with specific Fishery Management Plans approved by the Atlantic States Marine Fisheries Commission. Failure to do so could result in complete closure of a specific fishery in Delaware

**4. Statutory Basis Or Legal Authority To Act:**

7 Del.C. §903, (e)(2)(a)

**5. Other Regulations That May Be Affected By The Proposal:**

None

**6. Notice Of Public Comment:**

Individuals may present their comments or request additional information by contacting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, (302) 739-9914. A public hearing on these proposed amendments will be held on March 29, 2007 at 7:30 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, April 2, 2007.

7. **Prepared By:**  
Richard Cole, (302) 739-4782, January 24, 2007

**3511 Summer Flounder Size Limits; Possession Limits; (Formerly Tidal Finfish Reg. 4)**

(Penalty Section 7 **Del.C.** §936(b)(2))

**1.0** It shall be unlawful for any recreational fisherman to have in possession more than ~~four (4)~~ summer flounder at or between the place where said summer flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging. (Note: creel limit to be determined in combination with seasonal closure and size limit.)

**2.0** It shall be unlawful for any person, other than qualified persons as set forth in section 4.0 of this regulation, to possess any summer flounder that measure less than seventeen (17) inches between the tip of the snout and the furthest tip of the tail. (Note: creel limit to be determined in combination with seasonal closure and size limit.)

**7 DE Reg. 1575 (5/1/04)**

**3.0** It shall be unlawful for any person while on board a vessel, to have in possession any part of a summer flounder that measures less than seventeen (17) inches between said part's two most distant points unless said person also has in possession the head, backbone and tail intact from which said part was removed. (Note: creel limit to be determined in combination with seasonal closure and size limit.)

**4.0** Notwithstanding the size limits and possession limits in this regulation, a person may possess a summer flounder that measures no less than fourteen (14) inches between the tip of the snout and the furthest tip of the tail and a quantity of summer flounder in excess of the possession limit set forth in this regulation, provided said person has one of the following:

4.1 A valid bill-of-sale or receipt indicating the date said summer flounder were received, the amount of said summer flounder received and the name, address and signature of the person who had landed said summer flounder;

4.2 A receipt from a licensed or permitted fish dealer who obtained said summer flounder; or

4.3 A bill of lading while transporting fresh or frozen summer flounder.

4.4 A valid commercial food fishing license and a food fishing equipment permit for gill nets.

**5.0** It shall be unlawful for any commercial finfisherman to sell, trade and or barter or attempt to sell, trade and or barter any summer flounder or part thereof that is landed in this State by said commercial fisherman after a date when the de minimis amount of commercial landings of summer flounder is determined to have been landed in this State by the Department. The de minimis amount of summer flounder shall be 0.1% of the coast wide commercial quota as set forth in the Summer Flounder Fishery Management Plan approved by the Atlantic States Marine Fisheries Commission.

**6.0** It shall be unlawful for any vessel to land more than 200 pounds of summer flounder in any one day in this State.

**7.0** It shall be unlawful for any person, who has been issued a commercial food fishing license and fishes for summer flounder with any food fishing equipment other than a gill net, to have in possession more than ~~four (4)~~ summer flounder at or between the place where said summer flounder were caught and said person's personal abode or temporary or transient place of lodging. (Note: creel limit to be determined in combination with seasonal closure and size limit.)

**1 DE Reg 1767 (5/1/98)**

**2 DE Reg 1900 (4/1/99)**

**3 DE Reg 1088 (2/1/00)**

**4 DE Reg 1552 (3/1/01)**

**5 DE Reg 462 (8/1/01)**

**5 DE Reg. 2142 (5/1/02)**

**6 DE Reg. 1358 (4/1/03)**

7 DE Reg. 1575 (5/1/04)  
8 DE Reg. 1488 (4/1/05)  
9 DE Reg. 1759 (5/1/06)

**Table 1: Note: Proposed options for seasonal closures associated with creel limits and minimum size limits to restrict the recreational summer flounder harvest in Delaware during 2007**

<u>Opening Option</u>	<u>Final Day</u>	<u>Number of Day</u>	<u>Bag Open Days</u>	<u>Minimum Limit</u>	<u>Size</u>
<u>1</u>	<u>08-Jun</u>	<u>31-Dec</u>	<u>207</u>	<u>1</u>	<u>17"</u>
<u>2</u>	<u>01-Jan</u>	<u>30-Aug</u>	<u>242</u>	<u>1</u>	<u>17"</u>
<u>3</u>	<u>01-Jan</u>	<u>31-Dec</u>	<u>365</u>	<u>1</u>	<u>17.5"</u>
<u>4</u>	<u>01-Jan</u>	<u>31-Dec</u>	<u>248</u>	<u>2</u>	<u>17.5"</u>
<u>5</u>	<u>01-Jan</u>	<u>05-Sep</u>	<u>248</u>	<u>2</u>	<u>17.5"</u>
<u>6</u>	<u>05-Jun</u>	<u>31-Dec</u>	<u>210</u>	<u>3</u>	<u>17.5"</u>
<u>7</u>	<u>01-Jan</u>	<u>02-Sep</u>	<u>245</u>	<u>3</u>	<u>17.5"</u>
<u>8</u>	<u>08-Jun</u>	<u>31-Dec</u>	<u>207</u>	<u>4</u>	<u>17.5"</u>
<u>9</u>	<u>01-Jan</u>	<u>30-Aug</u>	<u>242</u>	<u>4</u>	<u>17.5"</u>
<u>10</u>	<u>01-Jan</u>	<u>31-Dec</u>	<u>365</u>	<u>4</u>	<u>18"</u>

---

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**1400 Board of Electrical Examiners**

Statutory Authority: 24 Del.C. §1406(a)(1); 24 DE Admin. Code 1400

**PUBLIC NOTICE**

The Delaware Board of Electrical Examiners, in accordance with 29 Del.C. Chapter 101 and 24 Del.C. §1406(a)(1), proposes amendments to its regulation 7.0 relating to licensure renewal. Specifically, the amendments to 7.0 Expiration and Renewal would require licensees to provide the name of their insurer and their policy number when they attest to maintenance of their required liability insurance during the renewal process. The amendments would also require licensees to provide course names and approval numbers when they attest to completion of their required continuing education during the renewal process. Minor grammatical, typographic, or stylistic changes may also be included.

A public hearing is scheduled for Wednesday, April 4, 2007 at 8:30 a.m. in the second floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Board will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be submitted to the Board care of Judy Letterman at the above address. The final date to submit written comments shall be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact Judy Letterman at the above address or by calling (302) 744-4504.

The Board will consider promulgating the proposed regulations immediately following the public hearing.

**1400 Board of Electrical Examiners**

*(Break in Continuity of Sections)*

**7.0 Expiration and Renewal**

7.1 The biennial licenses granted by the Board shall automatically terminate on June 30th of each even numbered year or on such other date as is specified by the Division of Professional Regulation.

7.2 Renewal. It is the responsibility of the licensee to file a renewal application with the Board. The failure of the Board to notify a licensee of his expiration date does not in any way relieve that responsibility. Renewal may be accomplished online at [www.dpr.delaware.gov](http://www.dpr.delaware.gov).

7.2.1 Renewal applications will be randomly audited by the Board to ensure their accuracy. Licensees selected for random audit will be notified of that selection within ~~sixty (60)~~ days after the renewal deadline. Licensees must then submit verification of their receipt of the notification of audit within ~~ten (10)~~ days.

7.2.2 As a condition of renewal, ~~each~~ applicants must attest to completion of continuing education (CE) as required by Regulation 8.0 and list all CE course names and approval numbers. Applicants must also attest to maintenance of the liability insurance required by Regulation 6.0 and indicate the name of their insurer and their policy number. Attestation may be completed electronically if renewal is accomplished online. Alternatively, paper renewal documents containing the CE and insurance attestations may be submitted. Licensees selected for random audit will be required to supplement their attestations with documentation of CE attendance and maintenance of insurance coverage.

7.3 A license is expired when a licensee has failed to either complete the requirements for renewal or obtain permission for inactive status. A licensee may activate an expired license within one year of the date the renewal application was due by meeting all requirements and paying an additional fee set by the Division of Professional Regulation.

7.4 A licensee with a valid license may request in writing to be placed on inactive status. An inactive status can be effective for up to two years and renewed biennially by application to the Division upon proof of 10 hours of continuing education. Said license may be reactivated by the Board upon written request, proof of insurance, and payment of a prorated fee to be computed by the Division of Professional Regulation.

7.5 A licensee is not authorized to work as a licensed electrician in this State during the period of inactive status.

7.6 An individual whose license has expired for more than one year must reapply as a new applicant. Any prior training and experience can be used to satisfy the requirements under 24 **Del.C.** §1408(a). However, the applicant must take the examination required by §1408(5) and achieve a passing score unless he or she previously passed an approved licensure test that covered the National Electric Code that is the standard in Delaware at the time of the new application.

4 DE Reg. 1788 (05/01/01)

9 DE Reg. 260 (08/01/05)

10 DE Reg. 1329 (02/01/07)

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Board of Electrical Examiners is available at:**<http://www.state.de.us/research/AdminCode/title24/1400%20Board%20of%20Electrical%20Examiners.shtml#TopOfPage>

**DIVISION OF PROFESSIONAL REGULATION**  
**2100 Board of Examiners in Optometry**  
 Statutory Authority: 24 **Del.C.** §2104(a)(1); 24 **DE Admin. Code** 2100

### PUBLIC NOTICE

The Delaware Board of Examiners in Optometry, in accordance with 24 **Del.C.** §2104(a)(1), has proposed changes to Rule 10 of its rules and regulations to allow for online renewal of licenses and online attestation of completion of continuing education units. The proposed changes also revise and clarify the audit process and revise the continuing education ("CE") deadline to correspond with the license renewal deadline, so that CE's must be completed before June 30 of any odd numbered year, the same date that licenses are renewed.

A public hearing will be held on April 19, 2007 at 4:15p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners in Optometry, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons

wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

## 2100 Board of Examiners in Optometry

### *(Break in Continuity of Sections)*

#### 10.0 Continuing Education Requirements

~~10.1 All persons licensed to practice Optometry in the State of Delaware shall be required to acquire 12 hours of continuing education every two years. All therapeutic licensed optometrists shall be required to acquire an additional 12 hours of therapeutics and management of ocular disease and keep their CPR certification for both children and adults current. No practice management courses will be accepted.~~

~~10.2 These continuing optometric education requirements are necessary for licensure every two years.~~

~~10.3 Licensees will be required to comply before May 1 of odd numbered years.~~

~~10.4 It shall be the responsibility of the candidate for relicensure to submit to the appropriate State of Delaware agency evidence of his/her compliance with these requirements. The appropriate state agency shall notify the candidate at least 30 days in advance of the need to renew his/her license, and shall request that the candidate submit evidence of compliance with the continuing education requirements stated herein, along with other fees and documents required. Failure to be notified by such agency shall not relieve licensee from this obligation.~~

~~10.5 Self-Reported Study~~

~~10.5.1 Non-therapeutic Of the 12 hours biennial requirement for non-therapeutic licensees, a maximum of 2 hours may be fulfilled by self-reported study.~~

~~10.5.2 Therapeutic Of the 24 hours biennial requirement for therapeutic licensees, a maximum of 4 hours may be fulfilled by self-reported study.~~

~~10.5.3 Self-reported study may include:~~

~~10.5.3.1 Reading of Optometric journals~~

~~10.5.3.2 Optometric tape journals~~

~~10.5.3.3 Optometric audiovisual material~~

~~10.5.3.4 Other materials given prior approval by the Board.~~

~~Proof of completion from the sponsoring agency is required for credit.~~

~~10.6 Any new licensee shall be required to complete continuing education equivalent to one hour for each month between the date of licensure and the biennial renewal date. The first twelve (12) hours of pro-rated continuing education must be in the treatment and management of ocular disease.~~

~~10.7 Continuing Education courses given by the following organizations will receive credit. Meetings of (Scientific Session Portion Only)~~

~~10.7.1 American Optometric Association~~

~~10.7.2 Delaware Optometric Association~~

~~10.7.3 American Academy of Optometry~~

~~10.7.4 Recognized state regional or national optometric societies~~

~~10.7.5 Schools and colleges of Optometry~~

~~10.7.6 Meetings of other organizations as may be approved by the Board.~~

~~10.7.7 COPE approved courses (with the exception of Practice Management courses)~~

~~10.8 Failure to Comply. When the State Board of Examiners in Optometry deems someone to be deficient in continuing education requirements, the license will be revoked. In the event that any optometrist licensed in this State fails to meet continuing education requirements, his or her license shall be revoked, except when proven hardship makes compliance impossible. The Board shall reinstate such license upon presentation of satisfactory evidence of successful completion of continuing education requirements and upon payment of all fees due.~~

~~10.9 Licensure-Renewal~~

~~10.9.1 All licenses are renewed biennially (every 2 years). A licensee may have his/her license renewed by submitting a renewal application to the Board by the renewal date and upon payment of the renewal~~

~~fee prescribed by the Division of Professional Regulation along with evidence of completion of continuing education requirements. The failure of the Board to give, or the failure of the licensee to receive, notice of the expiration date of a license shall not prevent the license from becoming invalid after its expiration date.~~

~~10.9.2 Any licensee who fails to renew his/her license by the renewal date may still renew his/her license during the one (1) year period immediately following the renewal date provided the licensee pay a late fee in addition to the prescribed renewal fee.~~

~~10.9.3 Any licensee who intends not to renew his/her license because he/she retired from practice or has ceased practice in the State of Delaware, shall so indicate such reason(s) on the renewal application. Failure to do so will result in the Board taking mandatory action to revoke the license.~~

#### 10.10 Exemptions

~~An exemption may be granted to any optometrist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, etc.~~

#### 10.1 Hours Required

~~10.1.1 Beginning in 2007, the required CE's shall be completed no later than June 30 of every odd-numbered year. During the 2007 transition period, CE's earned between May 1, 2007 and June 30, 2007 may be used to satisfy the CE requirement for either the licensing period ending June 30, 2007 or the licensing period ending June 30, 2009, but not both.~~

~~10.1.2 All non-therapeutically-licensed optometrists shall acquire 12 hours of continuing education (CE) during each biennial licensure period.~~

~~10.1.3 All therapeutically-licensed optometrists shall acquire 24 hours of continuing education during each biennial licensure period. Twelve of those 24 hours must be comprised of education in the areas of therapeutics and management of ocular disease. All therapeutically-licensed optometrists must also maintain current CPR certifications for both children and adults throughout the licensure period.~~

~~10.1.4 Any new licensee shall be required to complete continuing education equivalent to one hour for each month between the date of licensure and the biennial renewal date. The first twelve (12) hours of pro-rated continuing education must be in the treatment and management of ocular disease.~~

~~10.1.5 Hardship Exemption. The Board has the power to waive any part of the CE requirement. Exemptions to the CE requirement may be granted due to prolonged illness or other incapacity. Application for exemption shall be made in writing to the Board by the applicant for renewal and must be received by the Board prior to the end of the license renewal period.~~

#### 10.2 Content of Mandatory Continuing Education (CE)

~~10.2.1 No practice management courses will be accepted as satisfying the continuing education requirement.~~

#### 10.2.2 COPE-Approved Self-Reported Study

~~10.2.2.1 Non-therapeutically certified licensees - Of the 12 hour biennial requirement for non-therapeutically certified licensees, a maximum of 2 hours may be fulfilled by self-reported study.~~

~~10.2.2.2 Therapeutically certified licensees - Of the 24 hour biennial requirement for therapeutically certified licensees, a maximum of 4 hours may be fulfilled by self-reported study.~~

#### 10.2.2.3 Self-reported study may include:

~~10.2.2.3.1 Reading of Optometric journals~~

~~10.2.2.3.2 Optometric tape journals~~

~~10.2.2.3.3 Optometric audiovisual material~~

~~10.2.2.3.4 Other materials given prior approval by the Board.~~

~~10.2.2.3.5 Proof of completion from the sponsoring agency is required for~~

~~credit.~~

~~10.2.3 Continuing Education courses given by the following organizations will receive credit. CE credit will be given for the scientific session portion only of any meetings of these organizations:~~

~~10.2.3.1 American Optometric Association~~

~~10.2.3.2 Delaware Optometric Association~~

~~10.2.3.3 American Academy of Optometry~~



- 10.2.3.4 Recognized state regional or national optometric societies
- 10.2.3.5 Schools and colleges of Optometry
- 10.2.3.6 Meetings of other organizations as may be approved by the Board.
- 10.2.3.7 COPE-approved courses (with the exception of Practice Management

courses)

10.3 Failure to Comply with Continuing Education Requirements. Licensees who fail to comply with the required continuing education requirements by the end of the biennial licensing period may be referred for possible disciplinary action pursuant to Section 2113.

10.4 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Rule 10.0.

10.4.1 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.

10.4.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 10.5.

10.5 Random audits will be performed by the Board to ensure compliance with the CE requirements.

10.5.1 The Board will notify licensees within sixty (60) days after June 30 that they have been selected for audit.

10.5.2 Licensees selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.

10.5.3 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Section 10.0, which may include, but is not limited to, the following information:

10.5.3.1 Proof of attendance. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance:

10.5.3.2 Date of CE course;

10.5.3.3 Instructor of CE course;

10.5.3.4 Sponsor of CE course;

10.5.3.5 Title of CE course; and

10.5.3.6 Number of hours of CE course; and

10.5.3.7 Report obtained from the Optometric Education (OE) tracker maintained

by ARBO.

10.6 Licensees must maintain all proof of continuing education for at least two licensure periods.

10.7 Licensure--Renewal

10.7.1 The biennial licensure period expires on June 30 of every odd-numbered year. A licensee may have his/her license renewed by submitting a renewal application to the Board by the renewal date and upon payment of the renewal fee prescribed by the Division of Professional Regulation along with an attestation of completion of the continuing education requirements.

10.7.2 Any licensee who fails to renew his/her license by the renewal date may reactivate his/her license during the one (1) year period immediately following the license expiration date provided the licensee pays a late fee in addition to the prescribed renewal fee, submits an application on an appropriate form to the Board and provides proof that he/she completed the required continuing education.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Board of Examiners in Optometry is available at:<http://www.state.de.us/research/AdminCode/title24/2100%20Board%20of%20Examiners%20in%20Optometry.shtml#TopOfPage>**

# PROPOSED REGULATIONS

## DIVISION OF PROFESSIONAL REGULATION

### 3800 Committee on Dietetics/Nutrition

Statutory Authority: 24 **Del.C.** §3805(a)(1); 24 **DE Admin. Code** 3800

#### PUBLIC NOTICE

The Delaware Committee of Dietetics/Nutrition, in accordance with 24 **Del.C.** §3805(a)(1) has proposed changes to Rules 2.0 and 3.0 of its rules and regulations to allow for online renewal of certification and online attestation of completion of the required continuing professional education (CPE). The changes also revise the Committee's audit process to provide for post-renewal audits for compliance with the CPE requirements. Finally, the proposed changes revise the two-year certification period to end on May 31 of odd-numbered years, beginning with the October 1, 2007 certification period.

A public hearing will be held on April 18, 2007, at 2:45 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Committee of Dietetics/Nutrition, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Committee at the above address. The final date to receive written comments will be at the public hearing.

The Committee will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

### 3800 Committee on Dietetics/Nutrition

#### 1.0 Qualifications of Applicants

1.1 An equivalent course of study [24 **Del.C.** §3806(l)] must include 3 semester credits with content in biochemistry, 3 semester credits with content in human physiology, and 12 semester credits of courses with major content in human nutrition and/or dietetics including 3 semester credits in nutrition and disease or diet therapy.

1.2 Foreign Degrees: An agency authorized to validate foreign academic degrees equivalent to the Baccalaureate or Master's Degree conferred by a regionally accredited college or University in the U.S. includes the following:

International Consultants of Delaware, Inc., (109 Barksdale Professional Center, Newark, DE 19711)

Credentials Evaluation Services, Inc., (P.O. Box 66940, Los Angeles, CA 90066)

World Education Services, Inc., (P.O. Box 745, Old Chelsea Station, New York, NY 10011)

Education Credential Evaluators, Inc., (P.O. Box 92970, Milwaukee, WI 53202-0970)

Josef Silny & Associates, International Education Consultants, (P.O. Box 248233 Coral Gables, FL

33124)

#### 1.3 Examination

1.3.1 The cost of the examination is borne by the applicant.

1.3.2 Satisfactory completion of the registration examination established by the Committee. [24 **Del.C.** §3806(a)(2)].

1.3.2.1 The passing score established by the Commission on Dietetic Registration.

1.3.3 Another national examination may be approved by the Committee. The Committee shall use the following criteria:

1.3.3.1 It shall be a national validated examination, the primary objective of which is to measure minimum professional competency in dietetics and/or nutrition. In order to take the examination, the candidate is required to have a minimum of a baccalaureate degree and collegiate level coursework in nutrition conferred by a regionally accredited college or university in the U.S.

1.3.3.2 The approval of the Director of Professional Regulation is also required if another examination is adopted.

1.4 Proof of professional practice experience of 900 hours [24 **Del.C.** §3806(a)(3)] may be:

1.4.1 a program ADA-approved or ADA-accredited by the Commission on Dietetic Registration of The American Dietetic Association currently called

- 1.4.1.1 an accredited dietetic internship
- 1.4.1.2 an approved professional practice program
- 1.4.1.3 an accredited coordinated program

OR

1.4.2 at least 900 hours of supervised participation in nutrition services. The scope of activities may include observation, but must include direct client/patient involvement. The 900 hours must be concurrent to and/or following completion of the academic requirements for certification and need not be a paid experience. The following will define the equivalent professional practice experience and verification necessary:

1.4.2.1 Each supervisor shall have administrative responsibility for the area of the professional practice experience OR provide a letter from the area's administrator showing approval for him/her to officially function as a supervisor of the applicant's experience for the purposes of this chapter.

1.4.2.2 The supervisor shall have access to relevant patient/client records in the site of the professional practice experience. In order to guide the applicant and to have a basis for evaluation, the supervisor shall review performance by periodic observation, either directly or by some recording of the nutrition services.

1.4.2.3 If there is more than one supervisor and/or facility for different parts of the experience, information and verification of each part is required.

1.4.2.4 The applicant shall provide to the Committee for each supervisor/facility practice experience and name of the area within the facility where the professional practice experience occurred.

1.4.2.4.1 the name and address of the facility providing the professional practice experience and name of the area within the facility where the professional practice experience occurred.

1.4.2.4.2 name, address, phone and title of the official supervisor who is supervising the qualifying experience for purpose of obtaining the certification. The supervisor for the purpose of certification may be different than the administrative supervisor of the unit in the facility.

1.4.2.4.3 a summary of the nature of nutrition services performed, along with dates and hours spent performing them.

1.4.2.4.4 evidence that the supervisor was either a registered dietitian, a licensed dietitian or a certified dietitian/nutritionist or a certified nutrition specialist in Delaware or any other state at the time of supervision; or the supervisor was a licensed physician with expertise in human nutrition. A copy of the current license, certification, or registration must be provided.

1.4.2.4.5 the applicant will send the description of the qualifying experience noted above to the professional practice experience supervisor for verification.

1.4.2.4.6 Each supervisor must review the evidence provided by the applicant and verify that the information is true including

1.4.2.4.6.1 that the applicant participated in nutrition services under his/her supervision, indicating the total number of hours.

1.4.2.4.6.2 that the applicant performed the nutrition services at a satisfactory level and followed the Code of Ethics in the course of this qualifying experience.

OR

1.4.3 Documented work experience: If you are applying under 24 **Del.C.** §3806(A)(3)b, the requirements for documentation are the same as Equivalent Professional Practice Experience, except that the number of hours is different.

1.5 Graduate Degrees: "Persons presenting evidence of a Master's degree or Doctorate degree" as specified in 24 **Del.C.** §3806(d) "shall provide evidence that the degree is in nutrition, nutrition education, nutrition science or a major closely related to human nutrition. "The major closely related to human nutrition" shall include either as part of the degree or in courses taken in addition to the degree a minimum of 3 semester credits with content in biochemistry, 3 semester credits with content in human physiology, and 12 semester credits of courses with major content in human nutrition and/or dietetics including 3 semester credits in nutrition and disease or diet therapy. All qualifying degrees and courses shall be from a college or university accredited through regional accrediting agency recognized by the U.S. Department of Education at the time the degree was earned or when courses were taken.

# PROPOSED REGULATIONS

## 2.0 Continuing Professional Education

2.1 "Continuing professional education" (CPE) as specified in Dietetics/Nutrition Certification Act, 24 Del.C. §3808, must meet the content requirements of The American Dietetic Association for CPE credit. One hour of CPE credit shall be given for each hour of CPE activity.

2.1.1 ~~For To renew his or her certification~~ a CDN ~~to renew a certification, documentation of must obtain~~ thirty (30) hours of CPE ~~over the during each two year certification period. immediately preceding application are required for renewal.~~

2.1.1.1 CPE requirements shall be prorated for new CDNs as follows: If the new CDN has been certified less than 1 year, CPE is not required for renewal, if the new CDN has been certified for more than 1 year but less than 2 years, half of the 30 CPE hours (15 hours) are required. If certified for 2 or more years, the full 30 hours of CPE is required.

2.1.1.2 2.1.1.3 Extensions of time: An extension of time to complete CPE requirements will be granted to any CDN who can demonstrate to the Committee an acceptable cause. The CDN must petition the Committee for an extension. Should the Committee deny the request, the CDN must complete the requirements to maintain certification. Examples of circumstances for which the Committee may grant extensions of time include, but are not limited to, prolonged illness or extended absence from the country.

2.1.2 ~~The Committee will randomly audit a sample of renewal applicants requesting documentation to verify that:~~

2.1.2.1 ~~the CDN is responsible for obtaining and providing original documentation of CPE activities for purposes of possible audit of renewal application.~~

2.1.2.2 ~~each activity was approved by the Commission on Dietetic Registration (CDR) of the ADA. Currently, CDR and/or the sponsoring organization of the activity is/are the source of documentation that is usually most relevant. CDR will evaluate and approve CPE activities that have not been prior approved, and will provide this service for both RDs and non-RDs.~~

2.1.2.3 ~~the applicant attended/participated in said activity which can be documented by a certificate of attendance, cancelled check, receipt for registration fee or other documentation approved by the Committee.~~

2.1.3 2.3.4 ~~The CPE activities must be performed within the two year period prior to renewal of certification. If an activity overlaps two renewal periods, the date of completion of the activity determines the date in which the activity can be reported.~~

2.1.4 2.3.5 ~~The current document published by CDR/ADA, describing CPE guidelines for registered dietitians shall be used as a guide to interpret requirements of CDR/ADA for CPE.~~

2.1.5 2.3.6 ~~The Committee will accept the decisions of CDR for appropriateness of CPE activities and reserves the right to approve or disapprove any other activity deemed appropriate for CPE, using current CDR/ADA standards as criteria.~~

2.1.6 2.3.7 ~~The Committee may establish maximum hours allowed for any type of activity in the two-year period.~~

2.1.6.1 2.3.7.1 ~~A maximum of 15 CPE hours shall be allowed for selfstudy programs.~~

2.1.6.2 2.3.7.2 ~~A maximum of 6 CPE hours shall be allowed for exhibits.~~

2.1.6.3 2.3.7.3 ~~A maximum of 10 CPE hours shall be allowed for poster presentations.~~

## 3.0 Renewal of Certification

3.1 ~~Beginning on October 1, 2007,~~ CDN certification shall expire biennially on ~~(date to be determined)~~ and may be renewed upon submission of ~~(1) renewal form and fee and (2) CPE reporting form (CERF) May 31 of odd-numbered years.~~

**\*Please Note:** As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Committee on Dietetics/Nutrition is available at: <http://www.state.de.us/research/AdminCode/title24/3800%20Committee%20on%20Dietetics%20Nutrition.shtml#TopOfPage>

---

## DEPARTMENT OF TRANSPORTATION

Statutory Authority: 17 Delaware Code Section 507; Chapters 1 and 5  
(17 Del.C. §507, Chps. 1 and 5)

### PUBLIC NOTICE

#### Utilities Manual Regulations

##### Background

The Delaware Department of Transportation through its Transportation Solutions - Utilities Section has developed revised regulations for the installation, adjustment, and maintenance of utility lines and appurtenances within the rights-of-way of Delaware's highways. These regulations define the requirements which apply to utility accommodation along or within the rights-of-way of State-controlled highways, and State-maintained streets and roads within suburban developments or within the incorporated limits of a municipality.

The Utilities Manual revises and updates the DelDOT Utilities Design Manual, effective in October 1995.

#### Public Comment Period and Notice of Public Hearing

The Departments will take written comments on the Regulations from 1, 2007 through , 2007. Any requests for copies of the Utilities Manual, or any questions or comments regarding this document should be directed to:

Francis Hahn, Utilities Engineer  
Delaware Department of Transportation  
PO Box 778  
Dover, DE 19903  
(302) 760-2269 (telephone) (302) 739-8282 (fax)  
fran.hahn@state.de.us

**\*Please Note:** Due to the size of the proposed regulation, it is not being published here. A PDF version is available at the website listed below:

[www.state.de.us/research/register/march2007/proposed/dotutilities.pdf](http://www.state.de.us/research/register/march2007/proposed/dotutilities.pdf)  
(Adobe Acrobat Reader required)

---

## EXECUTIVE DEPARTMENT

### DELAWARE ECONOMIC DEVELOPMENT OFFICE

Statutory Authority: 29 Delaware Code, Ch. 11, Subch. III (29 Del.C., Ch. 11, Subch. III)

### PUBLIC NOTICE

In compliance with the Delaware Statutory Authority, Chapter 312 of the **Delaware Code**) the Delaware Economic Development Office (Delaware Tourism Office) is proposing to amend the requirements of the two tourism grant programs (Direct and Matching) which are distributed to non-profit tourism related organizations annually to help increase the visibility of Delaware's tourism assets and destinations

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations may attend a public hearing to be held at the Delaware Economic Development Offices Large Conference Room, on Tuesday, March 20 at 11:30 a.m. Public comment must be submit to Tim Morgan, Director of Tourism, Delaware Economic Development Office, 99 Kings Highway, Dover, Delaware 19901 or fax to (302) 739-2028 no later than March 30, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon

the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

## 1151 Matching Grants Program

### 1.0 Program Description

1.1 The purpose of the program is to attract visitors to Delaware and to bring in overnight business to Delaware. The goal of the Matching Grants Program is to increase the visibility of Delaware's tourism product. Only notforprofit entities are able to submit matching grants proposals. However, for profit businesses are allowed to participate in partnership programs submitted by notforprofits. All packaging programs must include at least one ~~hotel~~ property in order to promote overnight business to Delaware. All projects must tie in to the ~~State Marketing Plan~~.

1.2 The total amount available for matching grants is designated by the Delaware General Assembly in the operating budget. It is expected that there will be a number of Matching Grants Programs awarded. Four or more properties working together on a package will be able to receive a match of 2-to-1 instead of 1-to-1.

1.3 To be eligible, the applicant organization must have a marketing plan with a clear vision as to how to attract out-of-state visitors.

1.4 The grants are to be used for the marketing of tourism organizations, products, programs or areas.

1.5 Use of Matching Grants:

1.5.1 It is expected that the Matching Grant funds will be used to market the petitioning tourism organization or partnership of organizations to attract new visitors to the state of Delaware

1.5.2 The same organization may apply for more than one Matching Grant

1.5.3~~5~~ The purpose is to attract visitors to Delaware and to bring in overnight business.

Therefore, advertising applicants must show a plan to advertise out of state.

**6 DE Reg. 688 (11/1/02)**

### 2.0 Matching Funds:

2.1 Matching funds are required. The organization's matching fund commitment is part of the application. The organization's matching fund commitment must be met for full payment of the grant. No other state grant funds may be used for the organization's match.

### 3.0 Award Determination:

3.1 It is expected that the organizations receiving awards will be selected by a panel composed of employees or members of the following:

3.1.1 Delaware Tourism Office

3.1.2 Governor's Tourism Advisory Board

3.1.3 House Tourism Committee

**6 DE Reg. 688 (11/1/02)**

### 4.0 Criteria:

4.1 Organizations must demonstrate that their vision supports the Delaware ~~tourism~~ Awards will be based on the organization's ability to communicate a vision that the panel believes is possible and has the potential to increase tourism. There will be no attempt to balance the awards geographically, politically, or categorically

### 5.0 Award Process

5.1 All complete applications that are received by the deadline will be forwarded to the awards panel for rating. The applications receiving the highest average rating will be scheduled to make an oral presentation to the panel. The awards will be announced a week later.

5.2 Grant Award Payments:

5.2.1 The payments will be paid upon proof of completion of the project and submission of invoices supporting the ~~funds expenditures~~. To receive final payment, all organizations will need to complete all project completion requirements.

## 6.0 Eligibility

- 6.1 Not-for-profit tourism related businesses and organizations .
- 6.2 ~~Submitting organizations must submit proof of not for profit status .~~
- 6.3 For-profit tourism businesses may be part of programs submitted for grant programs; however, they must be a partner of a not-for-profit applicant organization and may not submit the application.
- 6.4 Only in-state tourism entities may apply.
- 6.5 The applicant organization's main product or program must be intended to attract new visitors and overnight business .
- 6.6 Partnerships between four or more tourism entities are encouraged. Partnerships will receive a 2-to-1 dollar match instead of a 1-to-1 dollar match.

### 6 DE Reg. 688 (11/1/02)

## 7.0 Application Requirements

- 7.1 Incomplete applications will not be considered (see application for required attachments).
- 7.2 .
- 7.3 More than one application may be submitted per organization~~7.34~~All completed applications must be received at the Delaware Tourism Office at 99 Kings Highway, Dover, DE 19901. Applications will not be accepted after the deadline or at any other location. Applications may not be submitted electronically, via fax or email.
- 7.45 It is the responsibility of the applicant to ensure that the application is complete and received prior to deadline.
- 7.56 If the creation of a package is a proposal for a Matching Grants Program grant the package must include an accommodation.
- 7.67 ~~All invoices must be received at the Delaware Tourism Office, 99 Kings Highway, Dover DE 19901~~

### 6 DE Reg. 688 (11/1/02)

## 8.0 Matching Funds

- 8.1 All funds must be raised and collected prior to payment of the award.
- 8.2 No other state grant funds may be used for the organization's match.
- 8.3 Staff salaries, volunteer labor and in kind donations do not qualify as a match.

## 9.0 Grant Awards

9.1 Awards will be granted based on the merit of the program being submitted. The purpose of the Matching Grants Program is to attract new visitors and overnight business to Delaware. The goal of the Matching Grants Program is to increase the visibility of Delaware's tourism product. Four or more properties working together including at least one ~~hotel~~ ], through a package will be able to receive a match of 2-to-1 instead of 1-to-1. Only not-for-profit entities are able to submit matching funds proposals. However, for-profit businesses are allowed to participate in partnership programs submitted by not-for-profit organizations. All package programs must include at least one ~~hotel~~ ] property in order to promote overnight business to Delaware. All projects must tie in to the ~~State Marketing Plan~~ Delaware Tourism Office's Strategic Plan for the tourism industry. There will be no attempt to balance the awards geographically, politically, or categorically.

## 10.0 Payments

- 10.1 Final payments may be requested after all project completion requirements have been met and proper documentation is submitted.
- 10.2 All invoices must be sent to the Delaware Tourism Office.

## 11.0 Use of Funds

- 11.1 Funds may not be used for:
  - 11.1.1 General operating expenses including staff salaries.
  - 11.1.2 Administrative expenses, including any commissions, fees or other expenses for administration of the project.

- 11.1.3 Food and beverages
- 11.1.4 Equipment purchase and rental
- 11.1.5 Business directories
- 11.1.6 Postage and office supplies
- 11.1.7 Meeting expenses

11.1.8~~10~~ Anything contrary to state law.

11.1.9~~11~~ Other restrictions on the use of the funds may be added at the time of the award

based on the project definition.

## 12.0 Project Completion Requirements

12.1 At a minimum the following must be submitted for final payment:

12.1.1 Completed project ~~report~~

12.1.2

12.1.2~~3~~ Invoices must be submitted

12.1.4 Cancelled checks

12.1.3~~5~~ Marketing plan Distribution plan for project

12.1.4~~6~~ The Delaware Tourism Office's name, brand logo and must be used as well as

~~Delaware Tourism Office name, phone number and website address must appear on all created collateral~~

12.2 Other project completion requirements may be added at the time of the award based on project definition.

**6 DE Reg. 688 (11/1/02)**

## 13.0 Applicant Information

13.1 Applicants shall fill out the Matching Grants Program Applicant Information Sheet as prescribed by the Delaware Tourism Office. The Applicant Information is available at: 99 Kings Highway, Dover, DE 19901.

## 1152 Direct Grants Program

### 1.0 Program Description

1.1 The purpose of the program is to attract visitors to Delaware and to bring in overnight business to Delaware. The goal of the Direct Grant Program is to increase the visibility of Delaware's tourism product. ~~Only not-for-profit tourism entities with a marketing budget of \$15,000 or less are eligible for Direct Grants.~~ All projects must tie in to the State Marketing Plan.

1.2 The total amount available for Direct Grants is designated by the General Assembly in the operating budget. It is expected that there will be a number of direct grant programs awarded.

1.3 To be eligible, organizations must have a marketing plan with a clear vision as to how to attract out-of-state visitors.

1.4 The grants are to be used for the marketing of Delaware tourism organizations, products, programs or areas.

1.5 Use of Direct Grants:

1.5.1 It is expected that the Direct Grant funds will be used to actively market the petitioning tourism organization or partnership of organizations to attract new overnight visitors to the state of Delaware.

1.5.2 The same organization may apply for more than one Direct **6 DE Reg. 685 (11/1/02)**

### 2.0 Award Determination:

2.1 It is expected that the organizations receiving awards will be selected by a panel composed of employees or members of the following:

2.1.1 Delaware Tourism Office

2.1.2 Governor's Tourism Advisory Board

2.1.3 House Tourism Committee

**6 DE Reg. 685 (11/1/02)**



## 3.0 Criteria:

3.1 Organizations must demonstrate that their vision supports one or more of the attract goals of the Delaware tourism industry's ~~Five-Year Strategic Plan and Marketing Plan~~. Awards will be based on the organization's ability to communicate a vision that the panel believes is possible and has the potential to increase tourism. The program must be geared toward attracting new out-of-state visitors and overnight business. Only not-for-profit tourism entities are eligible. The Delaware Tourism Office's name, support the Delaware Tourism Office Marketing Plan, DTO brand logo, and web address must appear on all created collateral. The Delaware Tourism Office will have full rights to use photography and videography produced. There will be no attempt to balance the awards geographically, politically, or categorically nor discriminate geographically, politically or categorically.

## 4.0 Award Process

4.1 All complete applications that are received by the deadline will be forwarded to the awards panel for rating. The applications receiving the highest average rating will be scheduled to make an oral presentation to the panel. Awards will be announced the following week.

### 4.2 Direct Grant Award Payments:

4.2.1 Payments will be paid upon proof of completion of the project and submission of invoices supporting the ~~funds expenditures~~ expenditure of the funds appropriated. All requirements and criteria of the program need to be met.

## 5.0 Eligibility

5.1 Not-for-profit tourism related businesses and organizations are eligible. Organizations must submit proof of 501(c)(3) or 501(c)(6) status and supply 990 IRS documentation when applying for a direct grant. Organizations cannot apply under the umbrella of another organization such as a Chamber of Commerce.

5.2 ~~Submitting organizations must submit proof of not for profit status and the organization's complete operating budget~~ Only in-state tourism entities may apply.

5.3 ~~Only in-state tourism entities may apply.~~ The same organization may apply for more than one Direct Grant, however, only one Direct Grant will be awarded per organization per year.

5.4 The organization's main product or program must fit into the ~~Industry's Five-Year Delaware Tourism Office's~~ Strategic Plan for the industry.

5.5 Organizations may not apply for a Direct Grant if grant requirements were not met in the previous fiscal year.

### 6 DE Reg. 685 (11/1/02)

## 6.0 Application Requirements

6.1 Incomplete applications will not be considered (see application for required attachments).

6.2 Submit four completed copies of each application (three-hole punch application, but do not bind).

6.23 More than one application may be submitted per organization, however, only one Direct Grant will be awarded per organization.

6.34 All completed applications must sent to the Delaware Tourism Office at 99 Kings Highway, Dover, DE 19901. Applications will not be accepted after the deadline or at any other location.

6.45 It is the responsibility of the applicant to ensure that the application is complete and received prior to deadline.

6.6 All applicants are invited to attend an Application Seminar.

## 7.0 Grant Awards

7.1 Awards will be granted based on the merit of the program being submitted. The purpose of the Direct Grant Program is to attract new visitors and overnight business to Delaware. The goal of the Direct Grant Program is to increase the visibility of Delaware's tourism product. Only not-for-profit entities with a marketing budget of \$15,000 or less are able to submit direct grant proposals. All projects must tie in to the ~~State Marketing Plan~~ Delaware Tourism Office's Strategic Plan. There will be no attempt to balance the awards geographically, politically, or categorically.

### 6 DE Reg. 685 (11/1/02)

## 8.0 Payments

8.1 Final payments may be requested after all project completion requirements have been met and proper documentation is submitted.

8.2 All invoices must be submitted to the Delaware Tourism Office.

## 9.0 Use of Funds

9.1 Funds may not be used for:

9.1.1 General operating expenses including staff salaries, overhead or personnel expenses.

9.1.2 Administrative expenses, including any commissions, fees or other expenses for administration of the project.

9.1.3 Food and beverages

9.1.4 Equipment purchase and rental

9.1.5 Business directories

9.1.6 Postage, shipping and office supplies

9.1.7 Meeting expenses

9.1.8 Website domain registration or hosting

9.1.9 Event Sponsorship

9.1.810 Anything contrary to state law.

9.1.911 Other restrictions on the use of the funds may be added at the time of the award based on the project definition.

## 10.0 Project Completion Requirements

10.1 At a minimum the following must be submitted for final payment:

10.1.1 ~~Completed project report~~

10.1.2 Completed project reports

10.1.23 Invoices must be submitted-

10.1.34 ~~Marketing plan~~ Project budget

10.1.5 Distribution plan for project

10.1.46 ~~The Delaware brand must be used as well as Delaware Tourism Office's name, brand logo, phone number and website address must appear on all created collateral.~~

10.2 Other project completion requirements may be added at the time of the award based on project definition.

**6 DE Reg. 685 (11/1/02)**

## 11.0 Applicant Information

11.1 Applicants shall fill out the Direct Grant Program Applicant Information Sheet as prescribed by the Delaware Tourism Office. The Applicant Information is available at 99 Kings Highway, Dover, DE 19901.

**5 DE Reg. 1312 (12/1/01)**

**Symbol Key**

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. **[Bracketed ~~stricken through~~]** indicates language deleted at the time the final order was issued.

**Final Regulations**

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the **Register of Regulations**. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the **Register of Regulations**, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

---

**DEPARTMENT OF AGRICULTURE  
HARNESS RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)  
3 **DE Admin. Code** 501

**ORDER****501 Harness Racing Rules and Regulations**

Pursuant to 29 **Del.C.** §10118 and 3 **Del.C.** §10005, the Delaware Harness Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on January 9, 2007, the Commission makes the following findings and conclusions:

**Summary of the Evidence**

1. The Commission posted public notice of the proposed amendments in the December 1, 2006 *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to update Rule 3 to reflect current policies, practices and procedures and to remove outdated position titles and policy.

2. The Commission received no written comments during December, 2006 or January, 2007. The Commission held a public hearing on January 9, 2007 and also received no public comment on the changes.

**Findings of Fact and Conclusions**

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.

4. In light of the lack of public comment on the rule changes as proposed, the Commission hereby adopts the rule changes as proposed. The Commission believes that these rule changes will allow the Delaware

Harness Racing Commission rules to more accurately reflect current policy and procedure.

The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on March 1, 2007.

IT IS SO ORDERED this \_\_\_\_\_ day of February, 2007.

Beth Steele, Chair

George P. Staats, Commissioner

Mary Ann Lambertson, Commissioner

Kenneth Williamson, Commissioner

**\* Please note that no changes were made to the regulation as originally proposed and published in the December 2006 issue of the *Register* at page 931 (10 DE Reg. 931). Therefore, the final regulation is not being republished. Please refer to the December 2006 issue of the *Register* or contact the Harness Racing Commission for more information.**

**A complete set of the rules and regulations for the Harness Racing Commission are available at: <http://www.state.de.us/research/AdminCode/title3/500/index.shtml#TopOfPage>**

---

### **HARNES RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)  
3 **DE Admin. Code** 501

### **ORDER**

#### **501 Harness Racing Rules and Regulations**

Pursuant to 29 **Del.C.** §10118 and 3 **Del.C.** §10005, the Delaware Harness Racing Commission (DHRC) issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on January 9, 2007, the Commission makes the following findings and conclusions:

#### **Summary of the Evidence**

1. The Commission posted public notice of the proposed amendments in the December 1, 2006 *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to update Rule 5 to add a safety vest requirement.

2. The Commission received no written comments during December, 2006 or January, 2007. The Commission held a public hearing on January 9, 2007.

3. Salvatore DiMario, Executive Director of Delaware Standardbred Owners Association ("DSOA"), voiced concerns over whether the vests would potentially do more harm than good. He stressed that there is a warning that comes with the vest that says that there is no warranty of merchantability and fitness. Mr. DiMario felt that if the company could not stand behind their own product, there was a problem. Also, Mr. DiMario stated that there are no standards or a uniformity of vests used in terms of length of vest. He stressed that he was not opposed to a rule that safety vests should be used, he just did not feel that one certain vest that was not warranted for fitness or merchantability should not be selected by the Commission. Mr. DiMario stated that more research should be done on which vest to mandate before the Commission selected one certain vest over another. He further suggested that perhaps the Commission could make policy later to mandate one certain vest, but just require any safety vest be worn for now.

4. Diane Eastburn stated that as safety vests are expensive, if vests are going to be required, the drivers should be allowed a period of time in which to purchase one. Ms. Eastburn also voiced concern stating that

she was aware that jockeys in the Delaware Thoroughbred Racing Commission were altering their safety vests in order to make them less intrusive. She felt that there needs to be a definite rule stating that the vest must be in its original condition and is not permitted to be altered in any way. If these vests are allowed to be altered, then they will not be safe anyway.

5. Charles Lockhart, vice-president of Dover Downs, stated that there is a committee meeting specifically to discuss safety vests, which has not made a final determination yet. The track itself, like most tracks in the country, requires that a safety vest be worn; however, there is not anything in place to make sure that all drivers are wearing them. He has heard of drivers without them on the track. Mr. Lockhart does not oppose a rule to mandate safety vests. He further stated that he does not believe that in today's world that you will get a manufacturer to warrant against injury or defect. Mr. Lockhart suggested that perhaps after the committee makes a final determination, then the Commission can amend the rule or adopt policy specifying which vest has to be worn.

6. Dr. Jay Baldwin, Bleeder Meds veterinarian, agreed with Mr. Lockhart that a standard for safety vests could easily be added later. He also added that it was his understanding that the DSOA had decided in favor of safety vests, which Mr. DiMario confirmed, adding that a specific vest was not approved by DSOA.

7. Robert Collison, Commission Investigator, stated that he believed that there was much data from other jurisdictions that went into selecting a specific safety vest. He stressed that every safety vest will have language that will make you think twice about using it. He analogized that if a person were to look at the language on a step ladder, he or she would never climb it. He felt that the time period in which it would take for this rule would be finalized would be plenty in order to come up with a standard. Mr. Collison confirmed that at this time there is a wide variety of vests in use with no real uniformity.

#### **Findings of Fact and Conclusions**

7. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.

8. The Commission has considered the public comments at the January 9, 2007 hearing. The Commission does not find those comments require further revisions of the proposed rules. The Commission does recognize that with the extensive research done, the fact that most, if not all other jurisdictions (at least the tracks themselves) mandate some form of safety vest, that it is in the best interest of the public that the drivers be required to wear a safety vest. The Commission feels it is smartest to err on the side of caution that the vests be used to keep drivers safe. And, as the language of the proposed rule is broad enough to allow for the Commission to later designate a specific vest be used, the Commission does not believe that it needs to delay this rule change. Currently, the Commission will require, pursuant to this rule, that any safety vest may be worn, as long as a safety vest is worn.

The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on March 1, 2007.

IT IS SO ORDERED this \_\_\_\_\_ day of February 2007.

Beth Steele, Chair

George P. Staats, Commissioner

Mary Ann Lambertson, Commissioner

Kenneth Williamson, Commissioner

**\* Please note that no changes were made to the regulation as originally proposed and published in the December 2006 issue of the *Register* at page 931 (10 DE Reg. 931). Therefore, the final regulation is not being republished. Please refer to the December 2006 issue of the *Register* or contact the Harness Racing Commission for more information.**

A complete set of the rules and regulations for the Harness Racing Commission are available at:  
<http://www.state.de.us/research/AdminCode/title3/500/index.shtml#TopOfPage>

---

# FINAL REGULATIONS

---

## HARNESS RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10005 (3 Del.C. §10005)  
3 DE Admin. Code 501

### ORDER

#### 501 Harness Racing Rules and Regulations

Pursuant to 29 Del.C. §10118 and 3 Del.C. §10005, the Delaware Harness Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on January 9, 2007, the Commission makes the following findings and conclusions:

#### Summary of the Evidence

1. The Commission posted public notice of the proposed amendments in the December 1, 2006 *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to update Rule 8 to reflect update drug testing procedures and trainer responsibilities.
2. The Commission received no written comments during December, 2006 or January, 2007. The Commission held a public hearing on January 9, 2007 and also received no public comment on the changes.

#### Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.
4. In light of the lack of public comment on the rule changes as proposed, the Commission hereby adopts the rule changes as proposed. The Commission believes that these rule changes will allow the Delaware Harness Racing Commission rules to more accurately reflect current policy and procedure.

The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on March 1, 2007.

IT IS SO ORDERED this \_\_\_\_ day of February, 2007.

Beth Steele, Chair

Mary Ann Lambertson, Commissioner

George P. Staats, Commissioner

Kenneth Williamson, Commissioner

\* Please note that no changes were made to the regulation as originally proposed and published in the December 2006 issue of the *Register* at page 931 (10 DE Reg. 931). Therefore, the final regulation is not being republished. Please refer to the December 2006 issue of the *Register* or contact the Harness Racing Commission for more information.

A complete set of the rules and regulations for the Harness Racing Commission are available at:  
<http://www.state.de.us/research/AdminCode/title3/500/index.shtml#TopOfPage>

---

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d))  
14 DE Admin. Code 101

---

## REGULATORY IMPLEMENTING ORDER

### 101 Delaware Student Testing Program

#### I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 101 Delaware Student Testing Program. For the graduating class of 2007 the amendments clarify the requirements for receiving a Distinguished Diploma including the Other Academic Indicators that may be used. For the graduating class of 2008 the amendments clarify the requirements for receiving a high school diploma including the Other Academic Indicators that may be used. These changes are found in section 6.0.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Thursday December 21, 2006, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities. The Councils suggested that Section 6.5.2.2 would benefit from a clarifying sentence as in 6.4.1.1 and also that the Department may wish to consider including some or all of the 28 options in Section 6.5.2.2 in Section 6.4.1.1 since these options have obviously been validated. The Department declined to make the changes because the "other academic indicator" issues are different for the Distinguished Diploma and for the 2008 State Test results. The Councils also requested that the word "school" be added to the phrase "during the year" in 6.5.3 in order to distinguish it from a calendar year. This has been done.

Comments were also received from the Delaware State Education Association (DSEA) concerning the number of indicators listed in 6.5.3 and if the intent of the word "educators" in 6.5.3.2 is to include teachers. In section 6.5.3 student work products and student grades are intended to be two separate indicators, a semicolon was added between the word "products" and the word "and" to make it clearer to the reader. In section 6.5.3.2 the term "educators" is fully intended to include teachers similar to section 3.3.1.

#### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 101 to clarify the requirements for receiving a Distinguished Diploma including the use of Other Academic Indicators for the graduating class of 2007. The amendments also clarify the requirements for receiving a high school diploma including the use of Other Academic Indicators for the graduating class of 2008.

#### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 101. Therefore, pursuant to 14 **Del.C.** §153, 14 **DE Admin. Code** 101 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 101 hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. Text and Citation

The text of 14 **DE Admin. Code** 101 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 101 in the *Administrative Code of Regulations* for the Department of Education.

#### V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §153 on February 15, 2007. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 15<sup>th</sup> day of February 2007.

**Department of Education**

Valerie A. Woodruff, Secretary of Education

Approved this 15th day of February 2007

**State Board of Education**

Jean W. Allen, President  
 Mary B. Graham, Esquire  
 Barbara Rutt  
 Dr. Claibourne D. Smith

Richard M. Farmer, Jr., Vice President  
 Gregory A. Hastings  
 Dennis J. Savage

**101 Delaware Student Testing Program***(Break in Continuity of Sections)***3.0 Other Indicators of Student Performance**

3.1 Local school districts and charter schools may consider other indicators of student performance relative to the state content standards pursuant to 14 **Del.C.** §153[(b)] when determining the placement of students who score at Level 1 or Level II on a mandated retake of a portion of the DSTP. Pursuant to 14 **Del.C.** §153[(e)(2)] and 153[(d)(12)], local school districts and charter schools may also consider other indicators of student performance relative to the state content standards when determining if a student may advance to the next grade level without attending summer school. The only other indicators of student performance that may be considered by a local school district or charter school are: student performance on district administered tests pursuant to 14 **Del.C.** §153[(e)(1)]; student performance on end of course assessments; student classroom work products and classroom grades supported by evidence of student work that demonstrates a student's performance pursuant to 14 **Del.C.** §153[(a)].

3.2 Any local school district or charter school planning to use other indicators of student performance shall submit the proposed indicators to the Department of Education by September 1st of each year.

3.2.1 Any such submission must include a demonstration of how an indicator of student performance aligns with and measures state content standards and the level of performance required to demonstrate performance equivalent to meeting state content standards.

3.2.2 Any proposed indicators of student performance must be approved by the Department of Education following consultation with the Student Assessment and Accountability Committee and the State Board of Education.

3.3 An academic review committee composed of educators in the student's local school district or charter school may then determine if a student has demonstrated proficient performance relative to the state content standards using evidence from the other indicators of student performance as approved by the Department of Education.

3.3.1 The academic review committee shall be composed of two classroom teachers from the student's tested grade, one classroom teacher from the grade to which the student may be promoted, one guidance counselor or other student support staff member and two school building administrators.

3.3.2 The supervisor of curriculum or instruction for the school district or charter school or his/her designee shall chair the committee.

3.3.3 Placement of students with disabilities who are eligible for special education and related services is determined by the student's IEP team.

**7 DE Reg. 325 (09/01/03)****10 DE Reg. 676 (10/01/06)***(Break in Continuity of Sections)*

**6.0 High School Diploma Index as Derived from the 10<sup>th</sup> Grade Assessments Pursuant to 14 Del.C. §152  
 State of Delaware High School Diploma Requirements**



6.1 Students who graduate from a Delaware public high school, as members of the class of 2004 ~~and beyond~~ through and including the class of 2007 shall be subject to the diploma index for a distinguished diploma as stated herein.

~~6.1.1 Beginning in 2002 for the graduating class of 2004, the Department shall calculate a diploma index based upon the student's grade 10 Delaware Student Testing Program performance levels in reading, writing, and mathematics.~~

6.1.2~~1~~ Beginning in 2005 for the graduating class of 2006, the Department shall calculate a diploma index based upon the student's grade 10 Delaware Student Testing Program performance levels in reading, writing, mathematics and the grade 11 Delaware Student Testing Program performance levels in science and social studies.

6.2 A student may choose to participate in additional scheduled administrations of the DSTP in order to improve his/her diploma index. The highest earned performance level in each content area will be used in calculating the diploma index.

6.3 The diploma index shall be calculated by multiplying the earned performance level in each content area by the assigned weight and summing the results.

~~6.3.1 Beginning with the year 2002, the assigned weights shall be .40 for reading, .40 for mathematics, and .20 for writing for the graduating class of 2004 and 2005.~~

6.3.2~~1~~ Beginning with the year 2005, the assigned weights shall be .20 for reading, .20 for mathematics, .20 for writing, .20 for science and .20 for social studies for the graduating class of 2006 and beyond.

6.4 Students who graduate as members of the class of 2006 through and including the class of 2007 shall qualify for a State of Delaware Distinguished High School diploma or a traditional State of Delaware High School diploma as follows:

6.4.1 A student shall be awarded a Distinguished State Diploma upon attainment of a diploma index greater than or equal to 4.0 and provided that the student has met ~~[all other requirements for graduation as established by the State and local districts or charter schools. all of the requirements as specified in 14 DE Admin Code 505, and shall meet any other additional criteria as determined by the local district or charter school.]~~

6.4.1.1 Beginning with the graduating class of 2006 through and including the graduating class of 2007, "Other Academic Indicators" may be substituted for specific content area DSTP scores. The Other Academic Indicators shall be:

6.4.1.1.1 SAT ~~Verbal Reasoning Test Verbal score or the SAT Reasoning Test Reading~~ score between 544 and 621 representing a Performance Level 4 on the reading portion of the diploma index;

6.4.1.1.2 SAT ~~Verbal Reasoning Test Verbal score or the SAT Reasoning Test Reading~~ score of 622 or higher representing a Performance Level 5 on the reading portion of the diploma index;

6.4.1.1.3 SAT ~~Reasoning Test~~ Mathematics score between 547 and 617 representing a Performance Level 4 the mathematics portion of the diploma index;

6.4.1.1.4 SAT ~~Reasoning Test~~ Mathematics score of 618 or higher representing a Performance Level 5 on the mathematics portion of the diploma index;

6.4.1.1.5 SAT ~~# Reasoning Test Writing score or SAT Subject Test Writing~~ score between 554 and 646 representing a Performance Level 4 on the writing portion of the diploma index;

6.4.1.1.6 SAT ~~# Reasoning Test Writing score or SAT Subject Test Writing~~ score of 647 or higher representing a Performance Level 5 on the writing portion of the diploma index;

6.4.1.1.7 Advanced Placement score of 3 representing a Performance Level 4 on the diploma index; and

6.4.1.1.8 Advanced Placement score of 4 or 5 representing a Performance Level 5 on the diploma index.

6.4.1.1.9 Advanced Placement scores may be substituted for specified content areas including, but not limited to, Advanced Placement English Literature and Composition for the reading portion of the diploma index; Advanced Placement English Language and Composition for the writing portion of the diploma index; Advanced Placement Calculus AB, BC or Statistics for the mathematics portion of the diploma index; Advanced Placement Biology, Chemistry, Environment Science, or Physics B and C for the science portion of the diploma index; and Advanced Placement Economics (macro, micro), European History, Government and

Politics Comp, Government and Politics U.S., Human Geography, Psychology, U.S. History, or World History for the social studies portion of the diploma index.

6.4.1.1.10 Other nationally administered tests which have scores that can be converted to the SAT scale may be used if the converted score is equal to or higher than the SAT cut score.

6.4.2 A student who does not qualify for a Distinguished diploma based solely on the diploma index may request the high school submit official documentation of the Other Academic Indicators to the Department.

6.4.3 A student shall be awarded a traditional State of Delaware Diploma provided the student has met all other requirements for graduation as established by the State and local districts or charter schools.

6.5 Students who graduate from a Delaware public high school, as members of the class of 2008 and beyond shall meet the following requirements for receipt of a traditional State of Delaware diploma:

6.5.1 The student shall meet all of the requirements as specified in 14 DE Admin Code 505, and shall meet any other additional criteria as determined by the local district or charter school; and

6.5.2 The student shall demonstrate proficient levels of performance relative to the State content standards in reading, writing, mathematics, science and social studies. The student may demonstrate proficient levels of performance through the calculated diploma index or Other Academic Indicators as follows:

6.5.2.1 The student shall have a diploma index of 3.0 or higher.

6.5.2.1.1 The Department shall calculate a diploma index based upon the student's grade 10 Delaware Student Testing Program performance levels in reading, writing, and mathematics and the grade 11 Delaware Student Testing Program performance levels in science and social studies.

6.5.2.1.2 The diploma index shall be calculated by multiplying the earned performance level in each content area by the assigned weight of .20 for each content area and summing the results.

6.5.2.1.3 A student with less than a 3.0 diploma index based on the 10th grade assessments in reading, writing and mathematics shall be required to retest in at least one of the content areas the student received a score below Performance Level 3. A student may choose to participate in additional scheduled administrations of the DSTP in order to improve his/her diploma index. The highest earned performance level in each content area will be used in calculating the diploma index.

6.5.2.2 The student may use Other Academic Indicators as a substitute for specific content area DSTP scores. A student shall be required to retest in any content area the student received a score below Performance Level 3 before any other academic indicator can be used as a substitute for that content area.

6.5.2.2.1 SAT Reasoning Critical Reading score between 200 and 334 representing a Performance Level 1 on the reading portion of the diploma index;

6.5.2.2.2 SAT Reasoning Critical Reading score between 335 and 430 representing a Performance Level 2 on the reading portion of the diploma index;

6.5.2.2.3 SAT Reasoning Critical Reading score between 431 and 543 representing a Performance Level 3 on the reading portion of the diploma index;

6.5.2.2.4 SAT Reasoning Critical Reading score between 544 and 621 representing a Performance Level 4 on the reading portion of the diploma index;

6.5.2.2.5 SAT Reasoning Critical Reading score between 622 and 800 representing a Performance Level 5 on the reading portion of the diploma index;

6.5.2.2.6 SAT Reasoning Test Mathematics score between 200 and 414 representing a Performance Level 1 the mathematics portion of the diploma index;

6.5.2.2.7 SAT Reasoning Test Mathematics score between 415 and 477 representing a Performance Level 2 the mathematics portion of the diploma index;

6.5.2.2.8 SAT Reasoning Test Mathematics score between 478 and 546 representing a Performance Level 3 the mathematics portion of the diploma index;

6.5.2.2.9 SAT Reasoning Test Mathematics score between 547 and 617 representing a Performance Level 4 on the mathematics portion of the diploma index;

6.5.2.2.10 SAT Reasoning Test Mathematics score between 618 and 800 representing a Performance Level 5 on the mathematics portion of the diploma index;

6.5.2.2.11 SAT Reasoning Test Writing score between 200 and 394 representing a Performance Level 1 on the writing portion of the diploma index;

6.5.2.2.12 SAT Reasoning Test Writing score between 395 and 474

representing a Performance Level 2 on the writing portion of the diploma index:

6.5.2.2.13 SAT Reasoning Test Writing score between 475 and 553

representing a Performance Level 3 on the writing portion of the diploma index:

6.5.2.2.14 SAT Reasoning Test Writing score between 554 and 646

representing a Performance Level 4 on the writing portion of the diploma index:

6.5.2.2.15 SAT Reasoning Test Writing score between 647 and 800

representing a Performance Level 5 on the writing portion of the diploma index:

6.5.2.2.16 Advanced Placement score of 3 representing a Performance

Level 4 on the diploma index; and

6.5.2.2.17 Advanced Placement score of 4 or 5 representing a Performance

Level 5 on the diploma index.

6.5.2.2.18 Advanced Placement scores may be substituted for specified

content areas including, but not limited to, Advanced Placement English Literature and Composition for the reading portion of the diploma index; Advanced Placement English Language and Composition for the writing portion of the diploma index; Advanced Placement Calculus AB, BC or Statistics for the mathematics portion of the diploma index; Advanced Placement Biology, Chemistry, Environment Science, or Physics B and C for the science portion of the diploma index; and Advanced Placement Economics (macro, micro), European History, Government and Politics Comp, Government and Politics U.S., Human Geography, Psychology, U.S. History, or World History for the social studies portion of the diploma index.

6.5.2.2.19 ACT English Plus Reading score of 25 or lower representing a

Performance Level 1 on the reading portion of the diploma index;

6.5.2.2.20 ACT English Plus Reading score between 26 and 35

representing a Performance Level 2 on the reading portion of the diploma index;

6.5.2.2.21 ACT English Plus Reading score between 36 and 47

representing a Performance Level 3 on the reading portion of the diploma index;

6.5.2.2.22 ACT English Plus Reading score between 48 and 57

representing a Performance Level 4 on the reading portion of the diploma index;

6.5.2.2.23 ACT English Plus Reading score of 58 or higher representing a

Performance Level 5 on the reading portion of the diploma index;

6.5.2.2.24 ACT Mathematics score of 17 or lower representing a

Performance Level 1 on the mathematics portion of the diploma index;

6.5.2.2.25 ACT Mathematics score of 18 and 19 representing a

Performance Level 2 on the mathematics portion of the diploma index;

6.5.2.2.26 ACT Mathematics score between 20 and 23 representing a

Performance Level 3 on the mathematics portion of the diploma index;

6.5.2.2.27 ACT Mathematics score between 24 and 27 representing a

Performance Level 4 on the mathematics portion of the diploma index; and

6.5.2.2.28 ACT Mathematics score of 28 or higher representing a

Performance Level 5 on the mathematics portion of the diploma index.

6.5.3 A student who does not demonstrate proficient performance relative to the state content standards pursuant to Sections 6.5.2.1 or 6.5.2.2 of this regulation by January 1 of the year in which he/she is scheduled to graduate; or has enrolled from another state or nonpublic school in Delaware during the [school] year in which the student is scheduled to graduate shall have the school or charter school academic review committee review additional Other Academic Indicators of student performance for purposes of satisfying 6.5.2 of this regulation. The only Other Academic Indicators of student performance that may be considered by a local school district or charter school are: student performance on district administered tests pursuant to 14 Del.C. §153[(e)(1)]; student performance on end of course assessments; student classroom work products[;]and classroom grades supported by evidence of student work that demonstrates a student's performance pursuant to 14 Del.C. §153[(a)]. The district or charter school shall make the determination of whether the student has demonstrated proficient performance relative to the state content standards pursuant to 6.5.2.1 or 6.5.2.2.

6.5.3.1 Any local school district or charter school planning to use Other Academic Indicators of student performance shall submit the other academic indicators to the Department of Education, for recording and filing purposes only, by September 1st of each year.

6.5.3.2 An academic review committee composed of educators in the student's local

school district or charter school may then determine if a student has demonstrated proficient performance relative to the state content standards using evidence from the Other Academic Indicators of student performance.

6.56 Parent, Guardian or Relative Caregiver Notification: Within 30 days of receiving student performance levels and diploma indices, school districts and charter schools shall provide written notice of the same and the consequences thereof to the student's parent, guardian or Relative Caregiver.

7 DE Reg. 51 (07/01/03)

8 DE Reg. 425 (09/01/04)

9 DE Reg. 1175 (02/01/06)

**\*Please Note:** As the rest of the sections were not amended since the proposal in the January 2007 issue, they are not being published here. Please refer to the January 2007 *Register*, page 1103 (10 DE Reg. 1103) for more information. A complete set of the rules and regulations for the Department of Education is available at: <http://www.state.de.us/research/AdminCode/title14/index.shtml#TopOfPage>

---

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d))  
14 DE Admin. Code 247

### Regulatory Implementing Order

#### 247 Delaware Post Secondary Internship Program at The Washington Center (TWC) for Internships and Academic Seminars

#### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to adopt 14 DE Admin. Code 247 as amended in order to permit by The Washington Center to set the time line for when the Financial Aid Packages from the Universities must be submitted to the Department's Student Assistance Program. The regulation is being published as a final regulation since the change does not represent a substantive change.

#### II. Findings of Facts

The Secretary finds that it is appropriate to adopt 14 DE Admin. Code 247 in order to permit The Washington Center to set the time line for when the Financial Aid Packages from the Universities must be submitted to the Department's Student Assistance Program.

#### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to adopt 14 DE Admin. Code 247. Therefore, pursuant to 14 Del.C. Ch. 34, 14 DE Admin. Code 247 attached hereto as *Exhibit "B"* is hereby adopted. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 247 hereby adopted shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. Text and Citation

The text of 14 DE Admin. Code 247 adopted hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin. Code 247 in the *Administrative Code of Regulations* for the Department of Education.

#### V. Effective Date of Order

---

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** Ch. 34 on February 9, 2007. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 9<sup>th</sup> day of January 2007.

**Department of Education**

Valerie A. Woodruff, Secretary of Education

**247 Delaware Post Secondary Internship Program at The Washington Center (TWC) for Internships and Academic Seminars**

The Washington Center (TWC) for Internships and Academic Seminars is an independent, nonprofit educational organization founded in 1975. Its mission is to utilize the resources of the nation's capitol to provide participatory learning experiences in order to enhance students' academic, civic and professional development. The Washington Center (TWC) seeks to promote future leadership for public, private and nonprofit sectors of our society. The purpose of this regulation is to define the terms and the procedures used for the operation of this internship program.

**1.0 Definitions:**

"**Department**" means the Delaware Department of Education

"**Financial Aid Package**" means the identification of all of the costs to the student to participate in the internship program and all sources of funding to meet those costs. Funding sources may include scholarships, grants, tuition waivers, loans, family contributions and contributions from the Student Intern.

"**Grant**" means funds that are applied against a student's cost of attending The Washington Center (TWC) for Internships and Academic Seminars program. These funds do not have to be reimbursed by the Student Intern.

"**Student Intern(s)**" means a matriculated student at Delaware State University or the University of Delaware who has been selected by his or her respective University to participate in The Washington Center (TWC) for Internships and Academic Seminars program and is placed in a full time internship for one semester at The Washington Center (TWC) for Internships and Academic Seminars.

"**University**" means the two universities participating in The Washington Center (TWC) for Internships and Academic Seminars program, Delaware State University and the University of Delaware.

**2.0 Division of Funds**

Funds appropriated to the Department for the Washington Center (TWC) for Internships and Academic Seminars shall be divided evenly between Delaware State University and the University of Delaware for the purpose of providing Grants to Student Interns at The Washington Center (TWC) for Internships and Academic Seminars. The maximum Grant for a Student Intern shall be a one time grant of \$5,000 per student for one semester, provided further that grant amounts per student may change based on the appropriation made by the General Assembly to fund this program.

**3.0 Each University shall be responsible for the following:**

- 3.1 Identifying a University liaison to The Washington Center (TWC) for Internships and Academic Seminars;
- 3.2 Establishing a selection process for the applicants;
- 3.3 Identifying all sources of financial aid for the Student Interns; and
- 3.4 Arranging for each Student Intern to receive between 12 and 16 credits for a successful term spent at the Washington Center (TWC) for Internships and Academic Seminars.

**4.0 Submission of Financial Aid Packages**

Each University shall submit Financial Aid Packages for up to eight (8) applicants listed in priority order to the Department's Student Assistance Program ~~by July 1 of each year~~ in accordance with timelines established by The Washington Center (TWC); provided further that the number of applicants may change based on the

appropriation made by the General Assembly to fund this program.

4.1 The Department's Student Assistance Program staff shall review the Financial Aid Packages and forward the approved Financial Aid Packages to the appropriate University for their selection of the four Student Interns. The number of Student Interns that may be selected to participate in this internship shall be based on 2.0 and 4.0 of this regulation.

4.2 If either University selects fewer than their allotted number of Student Interns for the program, the unused funds at that University shall be made available to the other University in order to provide for additional internships.

### 5.0 Annual Reports Required

The Washington Center (TWC) for Internships and Academic Seminars shall provide annual reports to the Delaware Department of Education on the Student Intern program.

**10 DE Reg. 1142 (01/01/07)**

---

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(2) (14 **Del.C.** §122(b)(2))  
14 **DE Admin. Code** 885

### REGULATORY IMPLEMENTING ORDER

#### 885 Safe Management and Disposal of Chemicals in the Delaware Public School System

#### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 885 Safe Management and Disposal of Chemicals in the Delaware Public School System in order to change sections 7.0 and 8.0 Disposal of Surplus Transportable Hazardous Chemicals and Disposal of Surplus Non Transportable Hazardous Chemicals, since no hazardous chemicals are transportable and all hazardous chemicals must be removed by a licensed waste hauler. The dates have also been changed when information on the hazardous chemicals must be reported to the Department of Education.

Notice of the proposed regulation was published in the Delaware State News on November 22, 2006, and in the News Journal on January 18, 2007 in the form hereto attached as *Exhibit "A"*. No comments were received.

#### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 885 in order to change sections 7.0 and 8.0 Disposal of Surplus Transportable Hazardous Chemicals and Disposal of Surplus Non Transportable Hazardous Chemicals, since no hazardous chemicals are transportable and all hazardous chemicals must be removed by a licensed waste hauler. The dates have also been changed when information on the hazardous chemicals must be reported to the Department of Education.

#### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 885. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 885 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 885 hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. Text and Citation

The text of 14 **DE Admin. Code** 885 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 885 in the *Administrative Code of Regulations* for the Department of Education.

#### V. Effective Date of Order

---

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 9, 2007. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 9th day of February 2007.

**Department of Education**

Valerie A. Woodruff, Secretary of Education

**885 Safe Management and Disposal of Chemicals in the Delaware Public School System**

\* Please note that no changes were made to the regulation as originally proposed and published in the December 2006 issue of the *Register* at page 952 (10 DE Reg. 952). Therefore, the final regulation is not being republished. Please refer to the December 2006 issue of the *Register* or contact the Department of Education for more information.

A complete set of the rules and regulations for the Department of Education is available at: <http://www.state.de.us/research/AdminCode/title14/index.shtml#TopOfPage>

---

**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 1001

**REGULATORY IMPLEMENTING ORDER**

**1001 Participation in Extra Curricular Activities**

**I. Summary of the Evidence and Information Submitted**

The Secretary of Education intends to amend 14 **DE Admin. Code** 1001 in order to add charter schools to the regulation and to correct the references to the Delaware Interscholastic Athletic Association (DIAA) regulations.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Thursday December 21, 2006, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities recommending that the Department not allow any disincentives for participation in extra curricular activities because students involved in extra curricular activities tend to stay in school longer. The Department prefers to allow local school districts and charter schools to set the standards for participation in extra curricular activities in all areas except interscholastic athletics.

**II. Findings of Facts**

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 1001 in order to add charter schools to the regulation and to correct the references to the Delaware Interscholastic Athletic Association (DIAA) regulations.

**III. Decision to Amend the Regulation**

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 1001. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 1001 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 1001 hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

## IV. Text and Citation

The text of 14 **DE Admin. Code** 1001 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 1001 in the *Administrative Code of Regulations* for the Department of Education.

## V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 9, 2007. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 9th day of February 2007.

### Department of Education

Valerie A. Woodruff, Secretary of Education

## 1001 Participation in Extra Curricular Activities

### 1.0 Academic Eligibility Criteria

Local school districts and charter schools shall establish their own academic eligibility criteria for participation in ~~extra-curricular activities~~ for all extra curricular activities except for interscholastic athletics. The academic eligibility criteria for interscholastic athletics is established in 14 **DE Admin. Code** 1009.42.6 DIAA Senior High School Interscholastic Athletics, and in 14 **DE Admin. Code** 1008.42.6 DIAA Junior High and Middle School Interscholastic Athletics.

Comment: In establishing and implementing academic eligibility criteria applicable to students with disabilities, districts are reminded that some flexibility may be contemplated by Federal guidelines. See 34 CFR Sec. 104.4.

1 DE Reg. 173 (8/1/97)

6 DE Reg. 279 (9/1/02)

---

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))

14 **DE Admin. Code** 360

## REPEAL OF REGULATION 360 CERTIFICATION EARLY CHILDHOOD TEACHER SPECIAL EDUCATION

### ORDER REPEALING RULES AND REGULATIONS

#### I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to repeal 14 **DE Admin. Code** §360 Certification Early Childhood Teacher Special Education. It is necessary to repeal this regulation as it has been replaced by 14 **DE Admin. Code** §1570 Standard Certificate Early Childhood Teacher Special Education Birth to Grade 2.

Notice of the proposed repeal of the regulation was published in the News Journal and the Delaware State News on December 29, 2006, in the form hereto attached as Exhibit "A". The notice invited written comments. Written comment has been received from the Governor's Advisory Council for Exceptional Citizens and the State Council For Persons With Disabilities who were both concerned about the statutory authorization granted to the



---

Department of Education and the DHSS, and the relationship to each group's ability to certify educators working with these younger children. After further review, the Professional Standards Board felt it was within their purview to promulgate certification regulations in this area.

## **II. Findings of Facts**

The Professional Standards Board and the State Board of Education find that it is appropriate to repeal the regulation as the subject has been replaced by 14 **DE Admin. Code** §1570 Standard Certificate Early Childhood Teacher Special Education Birth to Grade 2.

## **III. Decision to Repeal the Regulations**

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude the identified regulation should be repealed. Therefore, pursuant to 14 **Del.C.** §1203 and §1205(b), the regulation attached hereto as Exhibit "B" is hereby repealed.

## **IV. Text and Citation**

The text of 14 **DE Admin. Code** §360 attached hereto as Exhibit "B" is repealed, and said regulation shall be deleted from the *Administrative Code of Regulations* for the Department of Education.

## **V. Effective Date Of Order**

The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 1<sup>ST</sup> DAY OF FEBRUARY, 2007.

Harold Roberts, Chair  
Sandra Falatek  
Karen Gordon  
Barbara Grogg  
Lori Hudson  
Mary Mirabeau  
Karen Schilling Ross  
Kathleen Thomas

Edward Czerwinski  
Mary Furbush  
Richard Gregg  
Leslie Holden  
Carla Lawson  
Gretchen Pikus  
Michael Thomas  
Carol Vukelich

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:  
Valerie A. Woodruff, Secretary of Education

**IT IS SO ORDERED** THIS 15<sup>TH</sup> DAY OF FEBRUARY, 2007.

### **State Board Of Education**

Jean W. Allen, President  
Mary B. Graham, Esquire  
Barbara Rutt  
Dr. Claibourne D. Smith

Richard M. Farmer, Jr., Vice President  
Gregory A. Hastings  
Dennis J. Savage

**\* Please note that no changes were made to the regulation as originally proposed and published in the**

January 2007 issue of the *Register* at page 1114 (10 DE Reg. 1114). Therefore, the final regulation is not being republished. Please refer to the January 2007 issue of the *Register* or contact the Department of Education for more information.

A complete set of the rules and regulations for the Department of Education are available at: <http://www.state.de.us/research/AdminCode/title14/index.shtml#TopOfPage>

---

## **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

### **DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code, Ch. 5, Section 512 (31 Del.C. §512)

#### **ORDER**

#### **20330.4 Retirement Funds**

#### **Nature of the Proceedings:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Medicaid Long Term Care Program. The proposal amends a rule in the Division of used to determine eligibility for medical assistance regarding retirement funds. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the November 2006 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by November 30, 2006 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### **Summary of Proposed Change**

##### **Statutory Authority**

20 CFR §416.1202, *Deeming of Resources*

##### **Summary of Proposed Change**

The purpose of this amendment is to provide guidance on when and how to count pension plans such as IRAs for the purposes of determining eligibility for Long Term Care Medicaid. This guidance is based on (1) Social Security Policy Brief No. 2006-01, dated March 2006 and, (2) POMS SI 01330.120.

Key points of amended DSSM 20330.4 include:

- Defined Contribution Plans will be counted as a resource in the eligibility process.
- Defined Benefit Plans will be excluded as a resource until the recipient achieves a certain pre-determined age. At that point, the funds become a countable resource.
- Neither Defined Contribution nor Defined Benefit Plans owned by an ineligible spouse are a countable resource.

#### **SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES**

The Delaware Health Care Facilities Association (DHCFA), Attorney-at-Law, Jerry A. Hyman, the Governor's Advisory Council for Exceptional Citizens (GACEC) and, the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. DMMA has considered each comment and responds as follows:

**DHCFA**

First, we note that the changes being proposed to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for Medicaid do not appear to be related to the Deficit Reduction Act [DRA] of 2005, and in fact no reference is made to the DRA in the summary of the proposed change. DHCFA writes seeking confirmation that our interpretation is correct.

**Agency Response:** Your interpretation is correct. These changes are not related to the DRA.

Secondly, DHCFA would like to receive clarification on the following points [see, “*Summary of Proposed Change*”]: a) What defines a “certain pre-determined age”? What age will you use to determine this change? B) What is the definition of an “ineligible spouse”? Does this mean the “community spouse”?

**Agency Response:** The pre-determined age will be specified in each individual’s retirement contract. In §20330.4, the first sentence of the fourth paragraph has been revised for clarification. An ineligible spouse is a legally married husband or wife who is not eligible for Medicaid benefits. This definition has been added to §20330.4, par. 4.

Finally, due to the fact that the following, highlighted [Section 20330.2, paragraph 3] proposed changes by the DHSS/Division of Medicaid and Medical Assistance (DMMA) will affect hundreds of Delaware Citizens and Providers of Medicaid Services we believe that a Public Hearing should be held so that those who will be affected can be aware of the changes. At a minimum, we respectfully suggest/request that a roundtable discussion be held for all parties that submit comments and questions with the goal of avoiding future confusion, litigation, etc.

**Agency Response:** Section 20330.2 is not the subject of the proposed regulation. Section 20330 and its subsections were published for context. Changes were only made to section 20330.4. Last year, the Policy, Planning and Development Unit (PPDU) reviewed pension/retirement funds for only three (3) individuals.

**Mr. Hyman**

With respect to *Retirement Funds*, the proposed regulations at §20330.4 could be improved with the inclusion of some clarification.

First, the newly-added last paragraph refers to “an ineligible spouse, but provides no definition of that term, nor a reference to a definition elsewhere in the DMMA. If this is a reference to “the community spouse,” perhaps that language could be used, instead.

**Agency Response:** as stated above, an ineligible spouse is a legally married husband or wife who is not eligible for Medicaid benefits. The definition has been added to §20330.4, par. 4.

Second, the proposed last sentence exempts the “ineligible spouse’s” Defined Contribution Plans and Defined Benefit Plans. Presumably, based on the first sentence of §20330.4 – “Retirement funds are annuities or work-related plans ...” – a Defined Contribution Plan owned by the spouse which he or she annuitizes would also not be counted as a resource. This is certainly a reasonable interpretation of the regulation, as newly proposed. However, it conflicts with the proposed annuity regulations (specifically §§20330.4.1.B and 20330.4.1.B.3). Since these proposed annuity regulations are in violation of Delaware law, the conflict should be resolved by dropping the offending annuity regulations and retaining (with the clarification noted above) newly proposed §20330.4.

**Agency Response:** Thank you for your comment. Your input will be considered as DMMA reexamines the annuity rule.

**SCPD and GACEC**

First, in §20330.4, second paragraph, second sentence, DMMA may wish to substitute “withdrawals” for “withdraws”.

**Agency Response:** DMMA accepts and changes “withdraws” to “withdrawals”.

Second, in §20330.4, last paragraph, second sentence, the introductory word “these” should be capitalized.

**Agency Response:** This was a publication error. “These” was capitalized.

Third, in §20330.4, last paragraph, the first two sentences are not entirely accurate. They refer to “age” as the sole criteria for eligibility under a defined benefit plan. As the SSA Policy Brief notes (p. 2), eligibility under a

defined benefit plan may be subject to multiple requirements “such as being retired from firm and being the required age”. It would be preferable to amend the second sentence as follows:

These plans are not considered a countable resource until the individual *meets eligibility criteria for receipt of plan benefits (e.g. actual retirement and reaching a pre-determined age)*.

This amendment would achieve consistency with §20330.4, second paragraph, which recites as follows: “A retirement fund is not a resource if an individual must terminate employment in order to obtain any payment.” Age alone does not determine whether a defined benefit plan is a countable resource. See also attached excerpt (pp. 25-26) from The Retirement Security Project, “Protecting Low-income Families’ Savings: How Retirement Accounts Are Treated in Means-Tested Program and Steps to Remove Barriers to Retirement Saving (2005)”:

Defined benefit pension plans, as well as a particular type of defined contribution plan known as a “monetary purchase plan,” do not count as assets as long as individuals are employed by the firm that sponsors the plan because such individuals cannot access the plans and make withdrawals. (SSA does not require an individual to terminate employment in order to access a retirement plan.

**Agency Response:** §20330.4, last paragraph, has been revised.

#### Findings of Fact:

The Department finds that the proposed changes as set forth in the November 2006 Register of Regulations should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Division of Social Services Manual regarding retirement funds in determining eligibility for the Medicaid Long Term Care Program is adopted and shall be final effective March 10, 2007.

Vincent P. Meconi, Secretary, DHSS, February 15, 2007

#### DMMA FINAL ORDER REGULATION #07-12 REVISIONS:

#### 20330 Countable Resources Computation

#### *(Break in Continuity of Sections)*

#### 20330.4 Retirement Funds

Retirement funds are annuities or work-related plans for providing income when employment ends, such as pensions, individual retirement accounts (IRA), disability, Keogh plans and some profit sharing plans.

The value of a retirement fund is the amount of money that an individual can currently withdraw. Pension plans that allow ~~[withdraws withdrawals]~~ are known as Defined Contribution Plans. If there is a penalty for early withdrawal, the fund's value is the amount available after the penalty deduction. Any taxes due are not deductible in determining the fund's value. A retirement fund is not a resource if an individual must terminate employment in order to obtain any payment.

If an individual is eligible for periodic retirement benefits, the individual must apply and accept the periodic benefit. If the individual has a choice between periodic benefits and a lump sum, the individual must choose the periodic benefits.

Defined Benefit Plans are retirement funds that are not accessible until the recipient ~~[becomes a certain age-meets eligibility criteria outlined in the retirement plan contract (e.g. actual retirement and reaching a predetermined age)]~~. these plans are not considered a countable resource until the individual ~~[reaches a pre-determined age is eligible to begin receiving benefits as outlined in the retirement plan]~~. Defined Contribution Plans and Defined Benefit Plans are not considered countable resources when owned by an ineligible spouse. [An ineligible spouse is a legally married husband or wife who is not eligible for Medicaid benefits.]

---

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 **Delaware Code**, Section 512 (31 **Del.C.** §512)

### ORDER

#### 20350.4 Multiple Transfers

#### Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend the Title XIX Medicaid State Plan and existing rules in the Division of Social Services Manual (DSSM) to comply with the transfer of assets provisions mandated by the Deficit Reduction Act (DRA) of 2005 (Public Law 109-171). The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the January 2007 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 2007 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### Summary of Proposed Amendment

##### Statutory Authority

Deficit Reduction Act of 2005 (Public Law 109-171), enacted on February 8, 2006

##### Background

On February 8, 2006, the Deficit Reduction Act (DRA) of 2005 was signed into law. The DRA made changes to certain Medicaid eligibility provisions in Section 1917(c)(1)(B)(i) of Social Security Act affecting Long Term Care services and supports.

##### Summary of Proposals

The DRA contains a number of provisions necessitating changes to Delaware rules. This regulatory action incorporates the mandatory provisions as it relates to: 1) *Requirement to Impose Partial Months of Ineligibility*; and 2) *Authority for States to Accumulate Multiple Transfers into One Penalty Period*.

Revised and clarified policy changes are summarized as follows:

1) *Requirement to Impose Partial Months of Ineligibility*

Prior to enactment of the DRA, States had the option to impose penalty periods for transfers in a month that were less than the State's average monthly cost to a private patient of nursing facility services in the State, or to impose no penalty period for such "partial month" transfers. Additionally, some States elected not to impose a penalty for transfers made within a month that were under a certain threshold e.g., \$500. In States that elected to impose no penalty period for such partial month transfers, individuals were able to transfer amounts less than the average monthly cost of nursing facility services in successive months, but never incur a penalty.

To address this, section **6016(a)** of the DRA amended section 1917(c)(1)(E) of the Act, to add a new subsection (iv) that prohibits a State from rounding down or otherwise disregarding any fractional period of ineligibility. The result is that States are now required to impose penalty periods even in the case of smaller asset transfers, where the period of ineligibility would be less than a full month. In imposing penalties on such transfers, if the calculation of the penalty period produces a fractional amount, the penalty must include a partial month disqualification based upon the relationship between that fractional amount and the monthly nursing home rate used to calculate the penalty period.

2) *Authority for States to Accumulate Multiple Transfers into One Penalty Period*

While the DRA prohibits States from rounding down or disregarding fractional periods of ineligibility, it does give States the option to combine multiple transfers for less than fair market value in more than one month and impose a single period of ineligibility, rather than applying multiple penalty periods. This flexibility is the result of a new subsection (H), added to section 1917(c)(1) of the Act by section **6016(b)** of the DRA. Under subsection (H), States may treat the total, cumulative value of all uncompensated transfers made within the look-back period as a single transfer and calculate a single period of ineligibility, which would begin on the earliest date applicable under section 1917(c)(1)(D).

States must include information about whether they elect to combine multiple fractional transfers into a single transfer in their State Medicaid Plans.

The provisions of these amendments are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

### **SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE**

The Delaware Health Care Facilities Association (DHCFA) and, the State Council for Persons with Disabilities (SCPD) offered the following comments summarized below. DMMA has considered each comment and responds as follows.

#### DHCFA

With regard to the proposals outlined above, and any previous proposals or future proposals, we ask that clarification be provided on how these will impact the current "Millers Trust" provisions currently in use in Delaware. As you may know individuals who are over income have been able to create a Miller's Trust where the income that puts them over the qualifying income threshold can be deposited making them eligible to qualify for Medical Assistance for Long Term Care. We are unclear as to how the DRA will affect the Miller Trust and ask for consideration of this issue. We look forward to having an opportunity to discuss our concerns about the proposed regulations with all interested parties.

**Agency Response:** The regulations cited do not impact Miller Trusts in any way.

#### SCPD

DMMA proposes to adopt some discrete changes to its transfer of assets standard. The amendments are designed to achieve conformity with the attached Section 6016(a)(b) of the Deficit Reduction Act of 2005. Background is provided in both the "Summary of Proposals" section of the regulations and the attached analysis of DRA Section 6016(a)(b) from the National Health Law Program (NHeLP). SCPD does not have any objection to adoption of the proposed regulation based on the following analysis.

First, states are no longer allowed to "round down" or disregard fractional periods of ineligibility. The NHeLP analysis provides the following example of the effect of the DRA in this context:

For example, if an individual makes an \$11,000 transfer for less than fair market value during the look back period in a state with a \$4,000 average monthly cost of nursing facility care, the resulting quotient is 2.75. Under the old rule, some states simply "rounded down" the penalty to two months, disregarding the remaining .75 (roughly three weeks) of the quotient. However, states must now impose the fractional period of ineligibility.

Second, for ease of administration, states must combine multiple fractional transfers and treat them in a single transfer. The NHeLP analysis provides the following illustration:

Assume an individual in a state whose average monthly cost of nursing home care is \$4,000 makes a \$3,000 transfer in each of four consecutive months during the look-back period. Without combining the transfers, the state would have to impose four different penalty periods of .75 months ( $\$3,000 \div \$4,000 = .75$ ). By combining them, the state may simply impose a penalty of three months ( $\$3,000 \times 4 = \$12,000$ ;  $\$12,000 \div \$4,000 = 3$ ).

---

**Agency Response:** DMMA appreciates your comment.

## Findings of Fact:

The Department finds that the proposed changes as set forth in the January 2007 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Title XIX Medicaid State Plan and existing rules in the Division of Social Services Manual regarding the transfer of assets provisions mandated by the Deficit Reduction Act (DRA) of 2005 (Public Law 109-171) relating to the requirement to impose partial months of ineligibility and authority for States to accumulate multiple transfers into one penalty period is adopted and shall be final effective March 10, 2007.

Vincent P. Meconi, Secretary, DHSS, February 15, 2007

\* Please note that no changes were made to the regulation as originally proposed and published in the January 2007 issue of the *Register* at page 1117 (10 DE Reg. 1117). Therefore, the final regulation is not being republished. Please refer to the January 2007 issue of the *Register* or contact the Division of Medicaid and Medical Assistance for more information.

---

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

## ORDER

### Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Food Stamp Program and Temporary Assistance for Needy Families (TANF). The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10113 and its authority as prescribed by 31 Delaware Code Section 512.

### Nature of the Exempt Regulation:

#### Citations

- 29 Del.C. §10113, *Adoption of Regulations; Exemptions*
- Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193), Section 813, *Doubled Penalties for Violating Food Stamp Program Requirements*
- 7 CFR §273.16, *Disqualification for Intentional Program Violation*

#### Summary of Proposed Changes

This exempt regulation corrects a technical error at DSSM 2023.5, *Disqualification Hearings*. When DSSM 2023.2 was revised to show the new disqualification periods as a result of the PRWORA of 1996, DSSM 2023.5, inadvertently, was not revised also. To ensure rule consistency, the disqualification hearings rule for individuals found to have committed an intentional Program violation at DSSM 2023.5 is revised.

DSS is not changing existing policies or procedures.

## Findings of Fact:

The Department finds that these changes are exempt from the procedural requirements of the Administrative Procedures Act (Title 29 Chapter 101).

**THEREFORE, IT IS ORDERED**, that the proposed revision regarding disqualification for intentional

program violation for Food Stamps and TANF be adopted informally as an exempt regulation and shall become effective March 10, 2007.

Vincent P. econi, Secretary, DHSS, February 15, 2007

#### **DSS EXEMPT REGULATION #07 - 10 REVISIONS:**

##### **2023.2 Disqualification Penalties**

Individuals found to have committed intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative hearing or a disqualification consent agreement in cases referred for prosecution, will be ineligible to participate in the Program for:

1. A period of **one year** (12 months) for the first violation;
2. A period of two years (24 months) for the second violation; or for the first time found guilty of selling and purchasing controlled substances with food stamps;
3. **Permanently** for the third violation; or for the second time found guilty of selling and purchasing controlled substances with food stamps; or for the first time found guilty of selling and purchasing firearms, ammunition or explosives with food stamps, or for the first time convicted of trafficking in Food Stamp benefits valued at \$500 or more.

One or more intentional Program violation disqualifications which occurred prior to the implementation of these penalties will be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration.

If a court fails to impose a disqualification period for the intentional Program violation, impose the disqualification penalties specified in this Section unless it is contrary to the court order. Disqualify only the individual found to have committed intentional Program violation and not the entire household. The remaining household members shall agree to make restitution within 10 days of the date the written demand letter is mailed or the household's monthly allotment will be reduced. If the remaining household members agree to make restitution, but fail to do so, impose an allotment reduction on the household's monthly allotment. The remaining household members, if any, will begin restitution during the period of disqualification imposed by DSS or a court of law. All restitutions will be made in accordance with established procedures for cash repayment, allotment reduction, or EBT benefits for repayment.

#### ***(Break In Continuity of Sections)***

##### **2023.5 Disqualification Hearings**

Conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this Section.

1. Consolidation of administrative disqualification hearing with fair hearing.  
DSS may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and the fair hearing are combined, follow the timeframes for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household will lose its right to a subsequent fair hearing on the amount of the claim. However, upon household request, allow the household to waive the 30-day advance notice period required by this Section when the disqualification hearing and fair hearing are combined.

2. Disqualification hearing procedures  
At the disqualification hearing, the hearing official will advise the household member or representative that they may refuse to answer questions during the hearing.

Within 90 days of the date the household member is notified in writing that a hearing initiated by DSS has been scheduled, DSS will conduct the hearing, arrive at a decision, and notify the household member of the decision. The household member or representative is entitled to a postponement of the scheduled hearing,



provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing will not be postponed for more than a total of 30 days and DSS may limit the number of postponements to one. If the hearing is postponed, the above time limits will be extended for as many days as the hearing is postponed. Written rules of procedure for DSS disqualification hearings are available to interested parties.

3. Advance notice of hearing.

Provide written notice to the household member suspected of intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by DSS has been scheduled. The notice will be mailed certified mail-return receipt requested and will contain at a minimum:

- a. The date, time, and place of the hearing;
- b. The charge(s) against the household member;
- c. A summary of the evidence, and how and where the evidence can be examined;
- d. A warning that the decision will be based solely on information provided by the

DSS office if the household member fails to appear at the hearing;

e. A statement that the household member or representative will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

f. A warning that a determination of intentional Program violation will result in a ~~six-month~~ 12-month disqualification for the first violation, ~~12-month~~ 24-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the Division believes is applicable to the case scheduled for a hearing;

g. A listing of the household member's rights as contained in DSSM 5000;

h. A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for intentional Program violation in a civil or criminal court action, or from collecting the overissuances; and

i. If there is an individual or organization available that provides free legal representation, the notice will advise the household member of the availability of the service.

A copy of DSS' published hearing procedures will be attached to the 30-day advance notice or the advance notice will inform the household of its right to obtain a copy of the Division's published hearing procedures upon request.

4. Scheduling of hearing.

The time and place of the hearing will be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by DSS without good cause, the hearing will be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation, but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision will no longer remain valid and the Division will conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

5. Participation while awaiting a hearing.

A pending disqualification hearing will not affect the individual's or the household's right to be certified and participate in the Program. Since the Division cannot disqualify a household member for intentional Program violation until the hearing official finds that the individual has committed an intentional Program violation, determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the misstatement or action for which household member is suspected of intentional Program violation does not affect the household's current circumstances, the household would continue to receive its benefits based on the latest certification action or be recertified/redetermined based on a new application and its current circumstance. However, the household's benefits will be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. Reduce or terminate the household's benefits if DSS has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional Program violation and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the

---

Division may have facts which substantiate that a household failed to report a change in its circumstances even though DSS has not yet demonstrated that the failure to report involved an intentional act of Program violation.

6. Criteria for determining intentional Program violation.

The hearing authority will base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, or intended to commit, intentional Program violation as defined in DSSM 2023.3.

7. Decision format.

The hearing authority's decision will specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS/ACF regulation, and respond to reasoned arguments made by the household member or representative.

8. Imposition of disqualification penalties.

If the hearing authority rules that the household member has committed intentional Program violation, the household member will be disqualified in accordance with the disqualification periods specified in DSSM 2023.2 beginning with the first month which follows the date the household member receives written notification of the hearing decision. When the Chief Administrator is notified of the positive administrative hearing or prosecution actions, the Chief Administrator will notify the appropriate staff.

Effect the disqualification action per DSSM 2023 and 9076.1. Remove the ineligible member(s). Continue to count the member's income and resources to determine eligibility and benefit amount.

Individual members no longer receiving benefits at the time of the intentional program violation decision will be notified of the disqualification and the period of time they are ineligible to receive benefits.

Place the copy of the client notice inside the front cover of the case record to "flag" the disqualified participant for the duration of the sanction.

However, if the act of intentional Program violation which led to the disqualification occurred prior to notification of the disqualification periods specified in DSSM 2024.2, the household member will be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional Program violation repeated over a period of time will not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional Program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

Once a disqualification penalty has been imposed against an individual the period of disqualification will continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household will continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

9. Notification of hearing decision.

If the hearing official finds that the household member did not commit intentional Program violation, provide a written notice which informs the household member of the decision.

If the hearing official finds that the household member committed intentional Program violation, provide written notice to the household member prior to disqualification. The notice will inform the household member of the decision and the reason for the decision. In addition, the notice will inform the household member of the date disqualification will take effect. Provide written notice to the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in DSSM 9076.1. A written demand letter for restitution, as described in DSSM 7000 will also be provided.

---

---

## DEPARTMENT OF SAFETY AND HOMELAND SECURITY BOARD OF EXAMINERS OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES

Statutory Authority: 24 Delaware Code, Section 1304(b)(3) (24 **Del.C.** §1304(b)(3))  
24 **DE Admin. Code** 1300

### ORDER

#### 1300 Board of Examiners of Private Investigators and Private Security Agencies Statutory Authority: 24 **Del.C.** 1304(b)(3)

Pursuant to the Guidelines in 29 **Del.C.** Section 10118(a)(1)-(7), the Board of Examiners of Private Investigators and Private Security Agencies ("Board") hereby issues this Order. Following notice and a public hearing held on January 25, 2007 on the proposed adoption of promulgated rules and regulations 12.0 – Use of Rifle and Shotgun Holder, the Board makes the following Findings and Conclusions:

#### Summary of Evidence and Information Submitted

1. The Board did not receive written evidence or information pertaining to the proposed adoption.
2. The Board expressed its desire to adopt the rule to allow qualified security/armored car guards to be equipped to handle situations where the risk of terrorist activity is high or under genuine risk to life or to property.

#### Findings of Fact

3. The public was given notice and the opportunity to provide the Board with comments, in writing and by oral testimony, on the adoption of the rule. The written comments and oral testimony received are described in paragraph 1.
4. The Board finds that the adoption of this rule will allow qualified security/armored car guards to be equipped to handle situations where the risk of terrorist activity is high or under genuine risk to life or to property.
5. The Board finds that the adoption will have no adverse impact on the public.
6. The Board finds that the adoption is well written and describes its intent to adopt the rule to allow qualified security/armored car guards to be equipped to handle situations where the risk of terrorist activity is high or under genuine risk to life or to property.

#### Conclusion

7. The proposed rule amendment was promulgated by the Board in accord with the statutory duties and authority as set forth in 24 **Del.C.** Section 1304 et seq. and, in particular, 24 **Del.C.** Section 1304(b)(3).
8. The Board deems this adoption necessary and expedient to the full and official performance of its duties under 24 **Del.C.** Section 1304 et. seq.
9. The Board concludes that the adoption of this rule will be in the best interests of the citizens of the State of Delaware.
10. The Board therefore adopts the adoption of this rule pursuant to 24 **Del.C.** Section 1304(b)(3) and guidelines of 29 **Del.C.** Section 10118 of the Administrative Procedures Act. See, Strauss v. Silverman, Del. Supr., 399 **A.2d** 192 (1979).
11. This adopted rule replaces in its entirety any former rule or regulation heretofore promulgated by the Board.
12. The effective date of this Order shall be **March 11, 2007**.
13. Attached hereto and incorporated herein this order is the adopted rule marked as exhibit A and executed simultaneously by the Board on the **25<sup>th</sup> day of January, 2007**.

Colonel Thomas F. MacLeish, Chairman

APPROVED AS TO FORM:

Ralph K. Durstein, III, Esquire  
Deputy Attorney General

January 25, 2007

1300 Board of Examiners of Private Investigators and Private Security Agencies

*(Break in Continuity of Sections)*

**12.0 Use of Rifle and Shotgun**

12.1 Whereas there exists a need for private security officers in the State of Delaware to be equipped to handle situations where the risk of terrorist activity is high, or at special events where there is a high risk of violent activity or attack, the following rules are established to regulate the use of rifles and shotguns by security services contractors in the State.

12.2 The Governor of the State of Delaware, or designee, or the Superintendent of State Police, or designee, may authorize specified security services contractors to deploy guards with rifles and/or shotguns, as appropriate to the defense of critical infrastructure facilities, or private business facilities and operations reasonably believed to be at risk of violent activity or attack likely to result in injury or significant damage to or loss of property. The situations where such protection would be required would include, but not be limited to:

12.2.1 An increase in the threat level from the Department of Homeland Security to "Orange", or higher;

12.2.2 Special circumstances where additional protection would be deemed appropriate, including but not limited to:

12.2.2.1 Credible threats to local facilities or operations;

12.2.2.2 Response to natural disasters;

12.2.2.3 Response to biological or chemical threats;

12.2.2.4 Civil unrest.

12.2.3 Any situation where additional trained responders are required to assist in the protection of life and property in the State of Delaware;

12.2.4 An armored car company or agency, as defined by 24 Del.C. §1302(1), dealing with a credible threat or genuine risk to life or to property.

12.3 Guards who would be deployed and authorized to use such additional weaponry would be required to:

12.3.1 Be trained by certified firearms instructors pursuant to State of Delaware standards;

12.3.2 Be required to re-qualify with the weapons on a three times per year basis;

12.3.3 Maintain a handgun firearms license through the State;

12.3.4 Be listed by name on a roster of authorized individuals; and

12.3.5 Maintain employment in good standing with their security services contractor employer at all times for inclusion on the list.

12.4 Guards using such firearms would be required to maintain strict compliance with the provisions of 24 Del.C. §1321.

12.5 Rifles deemed appropriate for use in the State would be .30 caliber weapons, .223 caliber weapons, 9mm rifle type weapons, and other weapons approved by the Superintendent, or designee, as need and technology dictate. Shotguns would be of the 12 gauge law enforcement/military style weapons. All firearms would be subject to the approval of the Superintendent or designee.

---

STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER

**EXECUTIVE ORDER**  
**NUMBER NINETY-FIVE**

**RE: ORDERING A COST, BENEFIT, AND POLICY ANALYSIS OF THE IMPLEMENTATION OF TOLL FACILITY BONDING FOR THE COMPLETION OF A TOLLED HIGHWAY FOR US ROUTE 301 BY THE DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, on June 1, 2005, Executive Order No. 69 was adopted, establishing a Transportation Development and Funding Options Committee; and

**WHEREAS**, on November 30, 2005, the Transportation Development and Funding and Options Committee delivered a series of recommendations to improve forecasting, financial reporting, and generation of revenues for the State's Transportation Trust Fund ("TTF"); and

**WHEREAS**, on January 9, 2006, Executive Order No. 78 was adopted, directing the implementation of financial management measures for the Department Of Transportation and the TTF; and

**WHEREAS**, given the difficult resource demands that continue to challenge the Department of Transportation's ability to complete its capital transportation projects, the Committee's additional recommendation to consider new forms of capital financing for transportation projects deserves additional analysis of potential costs, benefits, and policy implications; and

**WHEREAS**, toll facility revenue bonds are a type of municipal bond used to build a public projects such as a bridge, tunnel or expressway. The principal and interest repayments are supplied by revenues from tolls paid by users of the public project; and

**WHEREAS**, 2 Del.C. §1403(6) authorizes the creation of a toll highway facility for United States 301 from the Maryland line to collect toll portions of Route 1,

**NOW, THEREFORE, I, RUTH ANN MINNER**, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order the following:

1. The Director of the Office of Management and Budget and the Secretary of the Department of Transportation shall meet and confer to consider the costs, benefits, and policy implications of the use of dedicated state toll facility revenue bonds to finance a project authorized by the General Assembly for the expansion and realignment of U.S. Route 301, from its entry point into Delaware from Maryland to its eventual interchange with State Route 1.

2. In completing this task, the Director and the Secretary may work in conjunction with members of the General Assembly, as well as the Controller General or his designee, and may also obtain a study of the proposed toll facility project by one or more qualified independent consultants.

3. The analysis to be performed pursuant to this Order shall also include assessment of the need for legislation to accomplish this objective. The results of this analysis shall be submitted to the Office of the Governor no later than December 1, 2007.

Approved: January 25, 2007

Ruth Ann Minner, Governor

ATTEST:

Harriet Smith Windsor, Secretary of State

**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER****EXECUTIVE ORDER  
NUMBER NINETY-SIX**

**RE: REALLOCATION OF STATE PRIVATE ACTIVITY BOND VOLUME CAP FOR CALENDAR YEAR 2006 AND INITIAL SUBALLOCATION OF STATE PRIVATE ACTIVITY BOND VOLUME CAP FOR CALENDAR YEAR 2007**

**WHEREAS**, pursuant to 29 **Del.C.** §5091, the State's private activity bond volume cap ("Volume Cap") for 2006 under §103 of the Internal Revenue Code of 1986 (the "Code") has been allocated among various state and local government issuers; and

**WHEREAS**, pursuant to Executive Order Number Eighty, \$123,310,000 of the Volume Cap for 2006 which had been allocated to the State of Delaware was further sub-allocated between the Delaware Economic Development Authority and the Delaware State Housing Authority; and

**WHEREAS**, the allocation of Volume Cap in Executive Order Number Eighty is subject to modification by further Executive Order; and

**WHEREAS**, the State's Volume Cap for 2006 and 2007 is allocated among the various State and local government issuers by 29 **Del.C.** §5091 (a); and

**WHEREAS**, Kent County has reassigned \$24,660,000 of its unallocated Volume Cap for 2006 to the State of Delaware; and

**WHEREAS**, Sussex County has reassigned \$24,660,000 of its unallocated Volume Cap for 2006 to the State of Delaware; and

**WHEREAS**, the City of Wilmington has reassigned \$30,825,000 of its unallocated Volume Cap for 2006 to the State of Delaware; and

**WHEREAS**, the Delaware Economic Development Authority has \$61,655,000 of unused Volume Cap for 2006, previously allocated by Executive Order Eighty; and

**WHEREAS**, pursuant to 29 **Del.C.** §5091 (b), the State's \$128,115,000 Volume Cap for 2007 is to be sub-allocated by the Governor between the Delaware State Housing Authority and the Delaware Economic Development Authority; and

**WHEREAS**, the Secretary of Finance recommends (i) that the \$80,145,000 unallocated Volume Cap for 2006 reassigned to the State of Delaware by other issuers be sub-allocated to the Delaware State Housing Authority for carry forward for use in future years; and (ii) that the \$61,655,000 of unallocated Volume Cap reassigned by the Delaware Economic Development Authority be sub-allocated to the Delaware State Housing Authority for carry forward for use in future years; and (iii) that the State's Volume Cap for 2007 of \$128,115,000 be allocated equally between the Delaware State Housing Authority and the Delaware Economic Development Authority; and

**WHEREAS**, the Chairperson of the Delaware Economic Development Authority and the Chairperson of the Delaware State Housing Authority concur in the recommendations of the Secretary of Finance,

**NOW, THEREFORE, I, Ruth Ann Minner**, by the authority vested in me as Governor of the State of Delaware, do hereby declare and order as follows:

1. The \$80,145,000 of unallocated Volume Cap for 2006 that has been reassigned by Kent County, Sussex County and the City of Wilmington to the State of Delaware is hereby sub-allocated to the Delaware State Housing Authority for carry forward use, in addition to the \$61,655,000 previously sub-allocated to the Delaware State Housing Authority for 2006 under Executive Order Eighty. Additionally, the \$61,655,000 of Volume Cap for 2006 previously allocated to the Delaware Economic Development Authority is allocated to the Delaware State Housing Authority, providing the Delaware State Housing Authority with a total carry forward amount of \$203,455,000.

2. The \$128,115,000 allocation to the State of Delaware of the 2007 Volume Cap is hereby sub-allocated: \$64,057,500 to the Delaware State Housing Authority and \$64,057,500 to the Delaware Economic Development Authority.

3. The aforesaid sub-allocations have been made with due regard to actions taken by other persons in reliance upon previous sub-allocations to bond issuers.

Approved: February 1, 2007

Ruth Ann Minner, Governor

ATTEST:

Harriet Smith Windsor, Secretary of State

# GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Advisory Council to the Division of Substance Abuse and Mental Health	John M. Akester, Ph.D	01/01/2010
Advisory Council to the Division of Developmental Disabilities Services	Ms. Ernestine C. Brittingham	01/08/2010
Advisory Council on Planning Coordination	Mr. Randy Marvel	01/15/2010
Authority on Radiation Protection	Noureddine Melikechi, Ph.D.	01/15/2010
Board of Architects	Mr. C. Terry Jackson, II	01/15/2010
Board of Cosmetology and Barbering	Ms. Kathryn M. Lord Mr. Mark A. Rubio	01/08/2010 01/11/2008
Board of Dental Examiners	David R. Deakyne, DDS Mr. John M. Kirby Ms. Danna M. Levy Neil G. McAneny, DDS David Williams, D.M.D	01/15/2010  01/08/2010 01/15/2010 01/08/2010
Board of Directors of the Delaware Institute of Medical Education and Research	Michael A. Alexander, M.D.	01/15/2010
Board of Funeral Services	Mr. Charles P. Arcaro, Jr. Mr. Harry Fletcher, Jr.	01/08/2010 01/08/2010
Board of Trustees of the Delaware Institute for Veterinary Medical Education	John T. Gooss, V.M.D. Erin Vicari, VMD	01/08/2010 01/08/2010
Child Death, Near Death and Stillbirth Review Commission	Ms. Marie E. Renzi	01/08/2010
Child Placement Review Board Executive Committee	Ms. Eleanor M. Kiesel	01/15/2010
Child Placement Review Board-Kent	Ms. Judith L. Johnson-Shupe Ms. Linda K. Paradee	01/08/2010 01/08/2010
Child Placement Review Board-New Castle	Ms. Rita A. Anderson Ms. Tanya Bell-Hynson Ms. Lenora Bennefield Ms. Nancy J. D'Orazio Ms. Susan A. Fuller	01/08/2010 01/08/2010 01/08/2010 01/08/2010 01/08/2010



---

# GOVERNOR'S APPOINTMENTS

1451

---

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Child Placement Review Board-New Castle	Mr. Robert G. Hamilton	01/08/2010
	Ms. Elaine R. Markell	01/08/2010
	Ms. Lillian C. McGowan	01/08/2010
	Ms. Quenna C. Neal	01/08/2010
	Ms. Angelia F. Simpson	01/08/2010
	Ms. Barbara P. Williams	01/08/2010
Child Placement Review Board-Sussex	Mr. David Dagenais	01/08/2010
	Ms. Tiffany B. Derrickson	01/08/2010
	Ms. Sandra S. Lord	01/08/2010
	Ms. Bonita J. Maull	01/08/2010
	Ms. Judith E. Mellen	01/08/2010
City of Newark, Deputy Alderman	Mr. Malcolm S. Cobin	01/22/2007
Committee on Disposition of Unmarked Human Burials	Ms. Karen Rosenberg	01/15/2008
Council on Development Finance	The Honorable James L. Hutchison	01/25/2010
Council on Libraries	Ms. Barbara Scoglietti	01/08/2010
	Ms. Laura E. Singleton	01/08/2010
Delaware Bicycle Council	Mr. Walter J. Bryan	01/08/2010
	Mr. Thomas C. Felice	01/08/2010
	Sergeant George A. Heberling	01/08/2010
	Ms. Laura L. Madara	01/08/2010
	Mr. Douglas R. Mills	01/08/2010
	Ms. Lisa M. Moore	01/08/2010
Delaware Board of Examiners of Nursing Home Administrators	Ms. Maria Q. Simoes	01/08/2010
	Ms. Frances B. Wimbush	01/08/2010
Delaware Commission for Women	Ms. Rochellda R. Adderley	01/08/2010
	Ms. Belinda J. Criddell	01/08/2010
	Ms. Paula Q. King	01/07/2008
	Ms. Holly L. Malone	01/08/2010
	Ms. Mary E. Sherlock	01/07/2008
Delaware Harness Racing Commission	Ms. Beverly H. Steele	04/22/2013
Delaware Humanities Council	Mr. Jeffrey R. Gudzone	01/08/2010
	Ms. Priscilla W. Siegel	01/08/2010
Delaware Interscholastic Athletic Association	Mr. Robert D. Reed	01/23/2010

---

# GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Delaware Real Estate Commission	Mr. Gilbert H. Emory	01/25/2010
	Mr. G. Steve Montague	01/15/2010
Delaware Solid Waste Authority	Mr. William J. DiMondi	01/25/2010
Delaware Technical and Community College Board of Trustees, Trustee	Ms. Mary M. Dudek	01/11/2010
	Mr. Craig T. Eliassen	01/11/2010
	Mr. Norman D. Griffiths	01/11/2010
Delaware Technology Park	Catherine Bonuccelli, M.D.	Pleasure of the Governor
Developmental Disabilities Council	Linda D. Barnett, Ph.D.	01/15/2013
	Ms. Bethel Chang	01/15/2013
	Ms. Karen E. Gallagher	01/15/2013
	Mr. Brian Hartman	01/15/2013
	Mr. Larry D. Henderson	01/15/2013
	Ms. Pamela A. Harris	01/15/2013
	Ms. Sue E. Powell	01/15/2013
	Ms. Laura G. Simmons	01/15/2013
	Ms. Helen C. Skinner	01/15/2013
Ms. Jamie L. Wolfe	01/15/2013	
Dover Housing Authority	Ms. Kathleen T. Williams	01/15/2013
Dover/Kent County Metropolitan Planning Organization Council	Ms. Elizabeth Y. Olsen	Pleasure of the Governor
Governor's Commission on Community and Volunteer Service	Robert N. Arm, DMD	01/08/2010
	Mr. Erik J. Schramn	01/08/2010
Governor's Council on Agriculture	Ms. Cheryl Epps	01/15/2010
	Mr. Dale J. Ockels	01/15/2010
	Mr. Richard G. Papen	01/15/2010
	Mr. Richard L. Sapp	01/15/2010
Governor's Council on Lifestyles and Fitness	Michael J. Axe, M.D.	01/10/2009
	Mr. Thomas E. Hall	01/10/2009
	Ms. Lynn Snyder-Mackler	01/10/2009
Governor's Energy Advisory Council	Mr. Raymond Long	01/15/2010
	Mr. Gary Patterson	01/15/2010
Healthy Mother and Infant Consortium	Ms. Laura L. Rossi	Pleasure of the Governor

---

# GOVERNOR'S APPOINTMENTS

1453

---

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Health Advisory Council	Ms. Donna G. Bunting	Pleasure of the Governor
Interagency Coordinating Council	Ms. Elizabeth G. Anderson Mr. Glyne A. Williams	04/12/2008 01/08/2010
Judicial Nominating Commission	Mr. Ben Castle	01/15/2010
Juvenile Justice Advisory Group	Ms. Odette M. Fuentes-Lopez Mr. Anthony W. Mangini, Jr. Mr. Charles S. Marshall, V	Pleasure of the Governor Pleasure of the Governor Pleasure of the Governor
Kent County, Justice of the Peace	The Honorable Pamela A. Darling	01/24/2013
Magistrate Screening Committee	Ms. Kathleen J. Hostetter	Pleasure of the Governor
New Castle County, Justice of the Peace	The Honorable Cheryl S. Stallmann Ms. Beatrice A. Freel Mr. James R Hanby, Sr. The Honorable Deborah A. McNesby	01/22/2013 01/28/2011 01/29/2011 01/25/2013
Organ and Tissue Donor Awareness Board	Har Ming Lau, M.D.	01/08/2010
Recycling Public Advisory Council	Mr. Pasquale S. Canzano Mr. Steven J. Masterson Ms. Patricia Todd	01/15/2010 01/15/2010 01/15/2010
State Banking Commissioner	The Honorable Robert A. Glen	01/30/2011
State Board of Accountancy	Ms. Sharron M. Cirillo	01/15/2010
State Board of Clinical Social Work Examiners	Mr. Phillip T. Thompson	01/08/2010
State Board of Examiners of Psychologists	Ms. Lisa C. Gardner	01/08/2010
State Board of Veterinary Medicine	Craig L. Metzner DVM	01/08/2010
State Employee Benefits Advisory Council	Ms. Barbara E. Summers	01/15/2010
State Emergency Response Commission	Mr. Fred M. Bowen	01/08/2009

---

**GOVERNOR'S APPOINTMENTS**

---

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
State Examining Board of Physical Therapists and Athletic Trainers	Mr. William F. Holland, Jr.	04/19/2007
State Public Integrity Commission	Mr. Wayne R. Stultz, Jr.	01/16/2010
State Rehabilitation Council	Ms. Charlotte W. Herbert Ms. Melinda F. Rittenhouse	01/08/2010 01/08/2010
Statewide Independent Living Council	Mr. Griff Campbell Ms. Elisha P. Jenkins Ms. Daniese McMullin-Powell	01/05/2010 01/05/2010 01/08/2010
Sussex County Vocational-Technical School Board of Education	Mr. Patrick J. Cooper	01/15/2014

---

## DEPARTMENT OF INSURANCE

### Captive Insurance Bulletin No. 1

**TO: All Captive Insurance Companies Reinsuring Life Insurance Policies in Delaware**

**RE: Annual/quarterly Filing Requirements**

**DATE: February 7, 2007**

This bulletin is issued pursuant to 18 **Del.C.** §6907 which provides that the Commissioner shall, by rule, propose the forms in which captive insurance companies shall report.

Beginning with the 2006 Annual Statement, captive insurance companies domiciled in Delaware that reinsure life insurance policies as part of a securitization transaction shall file quarterly and annual statements on a statutory accounting principles (SAP) basis using forms approved by the National Association of Insurance Commissioners for life insurers.

This bulletin shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

Matthew Denn, Insurance Commissioner

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF AIR AND WASTE MANAGEMENT Site Investigation and Restoration Branch

#### Policy Concerning the Default Background Concentration of Arsenic and Revision to the Remediation Standards Guidance

February 2007

Prepared By: Christina Wirtz

DNREC Division of Air and Waste Management  
391 Lukens Drive, New Castle, DE 19720

E-Mail: [Christina.Wirtz@state.de.us](mailto:Christina.Wirtz@state.de.us)

Phone: (302) 395-2515

#### Summary

The Department of Natural Resources and Environmental Control (DNREC) staff, after working with other state agency staff and reviewing extensive comments, have established 11 parts per million (ppm) as a default background standard for Delaware. This follows a significant public participation process to solicit and obtain public input before finalizing the arsenic default background standard. The Policy Concerning the Default Background Concentration of Arsenic and Revision to the Remediation Standards Guidance (Default Background Arsenic Policy), dated February 2007, has been prepared in response to Governor Ruth Ann Minner's June 9, 2005 directive to DNREC Secretary John A. Hughes to "review...and propose appropriate standards and policies" for arsenic in soil, focusing on ensuring the health and safety of Delawareans, and to solicit public input on the draft arsenic standard prior to adoption.

The DNREC Division of Air and Waste Management staff has prepared "Arsenic Risk Management Plan" and "The Response to Comments" documents, in collaboration with the Division of Water Resources (DWR), the

Division of Public Health (DPH), and the Department of Agriculture (DDA) as part of DNREC's response to Governor Minner's directive.

The basis for establishing a default background level of 11 ppm is the need to reduce public exposure to arsenic as low as possible while taking into account naturally occurring Arsenic. For carcinogens like arsenic, Delaware law mandates that standards be set at levels associated with an incremental lifetime cancer risk increase of one in one hundred thousand (1/100,000 or  $1 \times 10^{-5}$ ) or, in cases where background concentrations exceed the concentration associated with the risk level, at the background concentration. These cleanup standards are established by regulation.

The Default Background Arsenic Policy and other associated arsenic documents may be inspected at the Department's offices located below:

DNREC  
R & R Building - DAWM  
89 Kings Highway  
Dover, DE 19901  
Division of Air and Waste Management  
Contact: Tracy Sargent (302) 739-9400

DNREC - New Castle Office  
391 Lukens Drive  
New Castle, DE 19720  
Front Lobby  
Contact: Receptionist (302) 395-2600

DNREC - Grantham Lane Office  
715 Grantham Lane  
New Castle, DE 19720  
Front Lobby  
Contact: Receptionist (302) 323-4542

The Default Background Arsenic Policy and related arsenic documents may also be viewed at the Division of Air and Waste Management's arsenic website at: <http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/SIRB/Arsenic/>. For additional information, or appointments to review the Default Background Arsenic Policy, please contact Christina Wirtz, at DNREC's Field Office located at 391 Lukens Drive, New Castle, DE 19720, or e-mail to [Christina.Wirtz@state.de.us](mailto:Christina.Wirtz@state.de.us).

### **Policy and Procedures**

Subject: Policy concerning the default background concentration of arsenic and revision to the **Remediation Standards Guidance**  
Issued: February 2007

The Department of Natural Resources and Environmental Control-Division of Air and Waste Management adopts this policy to modify the **Remediation Standards Guidance under the Delaware Hazardous Substance Cleanup Act 1999 (RSG)** with respect to the default background concentration of arsenic.

### **Purpose**

The purpose of this policy is to align the state's default background concentrations, to be used in some cases as a cleanup standard for contaminated soil, based on the results of technical review and analysis conducted by DNREC since 2005, in coordination with other Delaware state agencies and other state, federal and international scientific analysis. In June 2005, Gov. Minner directed DNREC to "review...and propose appropriate

standards and policies” for arsenic in soil. In June 2005, DNREC released the *Proposed Arsenic Risk Management Plan* which included technical background information on arsenic and summarized policy options. That document also established an *interim default background concentration* for arsenic in soil of 11 milligrams per kilogram (mg/kg). DNREC then conducted public meetings on the proposal and collected numerous written and verbal comments. This policy is the outcome of that public review process.

This policy provides the revised technical guidance to DNREC’s staff for conducting cleanups and establishing acceptable risk levels under the **Regulations Governing Hazardous Substance Cleanup** [Section 9.4 *Soil Cleanup Levels*]. These HSCA regulations provide the overall requirements for ensuring protection of public health and the environment. In the case of arsenic, however, the technical guidance is particularly important because it is among a number of naturally-occurring mineral for which average background soil concentrations exceed the soil concentrations associated with the acceptable cumulative lifetime incremental risk established in HSCA regulations of 10E-5 (one-in-one hundred thousand).

The revised default background concentration of 11 mg/kg for arsenic in soil necessitates a revision to approved statistical tests for demonstrating attainment with cleanup goals or background concentrations described in the **RSG** Section 6.2.

## Policy

1. The **RSG** Attachment 3 “Delaware Default Background Remediation Standards” shall be revised. The new default background remediation standard for arsenic in soil shall be 11 mg/kg.
2. The same attachment contains a column heading, *Typical Delaware Soil Concentration*, with the note that “The range of soil background values from representative sites in Delaware are provided for information only and are not default background standards. This information can be used to evaluate whether the development of site-specific background standards is appropriate or useful.” Based on the review of state-wide background studies during the Arsenic Management Plan process, the listing for arsenic is updated to 11 mg/kg.
3. The “75/10/2 Rule” described in Section 6.2 of the **RSG** is no longer valid for screening arsenic in soil against the default background concentration. It remains acceptable for other inorganic chemicals.

This policy will be distributed to relevant DNREC staff and approved HSCA consultants and will appear on the DNREC-SIRB web page. The changes will appear in any new revision of the **Remediation Standards Guidance**.

DNREC will review the Default Background Remediation Standards including the information for arsenic at regular intervals not exceeding five years.

Approved by: \_\_\_\_\_  
James D. Werner, Director  
Division of Air and Waste Management

Date: \_\_\_\_\_

Original signed by Jim Werner on 2/2/07

SFJ:vdc  
SFJ06024  
AD003 I A 3

**DELAWARE DEFAULT BACKGROUND REMEDIATION STANDARDS**  
(REVISION TO ATTCHMENT 3, REMEDIATION STANDARDS GUIDANCE)  
Revised February 2007

Default Background Standard
-----------------------------

## GENERAL NOTICES

Contaminant	CAS	Ground Water (a)	Soil (b)	Surface Water (c)	Sediment (d)	Typical Delaware Soil Concentrations (h)
		µg/L	mg/kg	µg/L	mg/kg	mg/kg
Aluminum	7429905	200	7800(e)	200	7800	4,800-12,000
Antimony	7440360	6	<0.5	6	<0.5	<0.5
Arsenic	7440382	1	11	1	0.4	11(i)
Barium	7440393	4(f)	82	4(f)	20	40-80
Beryllium	7440417	0.7	10(e)	0.7	0.5	0.6-1.0
Cadmium	7440439	1(f)	3	1(f)	1(g)	1-3
Chromium(III)	16065831	100	0.4	100	81	5-30
Cobalt	7440484	23	20	23	20	4-13
Copper	7440484	12(f)	50	12(f)	34(g)	15-40
Iron	7439896	300	2300(e)	300	2300	3,000-22,000
Lead	7439921	15	41	15	47(g)	30-100
Manganese	7439965	50	180(e)	50	180	60-350
Mercury	7439976	0.4	0.0005	0.4	0.2(g)	0.1-0.3
Nickel	7440020	100	30	100	21	5-15
Selenium	7782492	20(f)	0.2	20(f)	0.2	0.1-0.5
Silver	7440224	0.4(f)	2	0.4(f)	1	1-2
Thallium	7440280	2	1	2	1	1
Tin	7440315	73(f)	12	73(f)	12	3-12
Vanadium	7440622	19(f)	2(e)	19(f)	2	15-40
Zinc	7440666	110(f)	8(e)	110(f)	150	60-90

Organic Compounds (all)	Lowest Available Practical Quantitation Limit (PQL)
----------------------------	---

\* - USERS ARE ENCOURAGED TO DEVELOP SITE-SPECIFIC BACKGROUND STANDARDS TO ADDRESS SITE-SPECIFIC CONSIDERATIONS WHERE THE DEFAULT STANDARD MAY NOT BE APPLICABLE OR APPROPRIATE

\* - NOTE THAT ALL OF THE DEFAULT VALUES ARE EXPECTED TO BE UPDATED IN THE FUTURE TO BE MORE STATISTICALLY REPRESENTATIVE OF DELAWARE CONDITIONS

- (a) Ground-water values are a combination of ground-water URS and surface water URS, whichever are more stringent.
- (b) Soil values are upper value of the concentration range detected in background samples collected statewide. Note that these soil values are expected to be updated to be more statistically representative of Delaware conditions in the future.
- (c) Surface water values are a combination of ground-water URS and surface water URS, whichever are more stringent (dissolved data).
- (d) Sediment values are a combination of the default background soil criteria and sediment URS, whichever are more stringent.
- (e) Value presented is the most stringent soil URS value because the upper value of the concentration range



---

(as described in item (b)) exceeds the unrestricted soil URS or the environment URS.

(f) Value presented is the surface water URS

(g) Value presented is the sediment URS

(h) The range of soil background values from representative sites in Delaware are provided for information only and are not default background standards. This information can be used to evaluate if the development of site-specific background standards is appropriate or useful.

(i) Value is the 95% UCL of the mean of a state-wide background data set

- All soil and sediment values are dry weight basis

- All ground-water values are either total (water supply source) or dissolved (monitoring well) concentrations, depending on the application.

**DELAWARE RIVER BASIN COMMISSION****NOTICE OF PROPOSED RULE MAKING AND PUBLIC HEARING****Proposed Amendments to the Comprehensive Plan and Water Code Relating to a Flexible Flow Management Plan for Operation of the New York City Delaware Basin Reservoirs**

**Summary:** The Delaware River Basin Commission (Commission) will hold a public hearing and accept written comment on a proposal to amend the agency's Comprehensive Plan and Water Code to establish a Flexible Flow Management Program (FFMP) for the New York City Delaware Basin Reservoirs ("City Delaware Reservoirs") for multiple objectives, including, among others, (a) water supply and drought mitigation; (b) management of the reservoir tailwater fisheries and other habitat needs, and (c) spill mitigation. The current reservoir releases program, which was established by Resolution No. 2004-3 in April of 2004, will expire on May 31, 2007. The current spill mitigation program, established by Resolution No. 2006-18, also will expire on May 31, 2007. The Commission also will accept comment on alternative reservoir management strategies that may be adopted in the event that consensus on the proposed FFMP is not reached. The alternative reservoir releases options to be considered are (1) extending the current reservoir releases program or (2) reinstating a previous drought operating plan. Either option would be considered in combination with a seasonal spill mitigation program or an annual spill mitigation program for the three reservoirs. The releases program adopted in the event consensus is not reached on the FFMP would continue in effect until any expiration date contained in the program adopted or unless and until replaced by another program that has been approved by the Commission following a notice and comment rulemaking process. In accordance with Section 3.3 of the Delaware River Basin Compact, any program affecting the diversions, compensating releases, rights, conditions, and obligations of the 1954 Supreme Court Decree in the matter of *New Jersey v. New York*, 347 U.S. 995, 74 S. Ct. 842 requires the unanimous consent of the decree parties, which include the states of Delaware, New Jersey and New York, the Commonwealth of Pennsylvania, and the City of New York.

**Dates:** Two public hearings on the proposal will be conducted at 2:30 p.m. and 6:30 p.m. respectively on Tuesday, March 27, 2007 at the Lake Wallenpaupack Environmental Learning Center in Hawley, Pa. Written comments will be accepted through April 6, 2007. To allow sufficient time for consideration by the Commission, comments must be received, not merely postmarked, by that date. In addition, three informational meetings will be held on the proposal. The first will take place during the morning conference session of the Commission's regularly scheduled meeting on Wednesday, February 28, 2007 at the DRBC office building in West Trenton, N.J. The second will take place during a meeting of the Commission's Regulated Flow Advisory Committee (RFAC), which will take place at 10:00 a.m. on Tuesday, March 6, 2007 at the Commission's office building in West Trenton, N.J. The third informational meeting will take place at 1:00 p.m. on Tuesday, March 27, 2007, immediately prior to the first public hearing on the proposal, scheduled for that date at the Lake Wallenpaupack Environmental Learning Center in Hawley, Pa.

**Addresses.** Directions to the Commission's office building, located at 25 State Police Drive in West Trenton, N.J., are available on the DRBC website at [www.drbc.net](http://www.drbc.net). Please do not rely upon MapQuest or other Internet mapping services for directions to the DRBC, as they do not provide accurate directions to this location. Directions to the Lake Wallenpaupack Environmental Learning Center are available at <http://www.pplweb.com/lake+wallenpaupack/contacts+and+directions/get+directions.htm> and also will be posted on the DRBC website, [www.drbc.net](http://www.drbc.net), by February 20, 2007. Written comments must include the name, address and affiliation of the commenter. Comments may be submitted by email to [paula.schmitt@drbc.state.nj.us](mailto:paula.schmitt@drbc.state.nj.us); by U.S. Mail to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, N.J. 08628-0360; and by fax to Attn: Commission Secretary at 609-883-9522. In all cases, the subject line, "Comment on Flexible Flow Management Plan for City Delaware Reservoirs" should be included.

**Further Information, Contacts:** The text of the proposed FFMP in its entirety will be posted on the website of the Delaware River Basin Commission, [www.drbc.net](http://www.drbc.net), on Tuesday, February 20, 2007 and will remain posted through May 10, 2007. Please contact Pamela M. Bush, Esquire, Commission Secretary and Asst. General Counsel at 609-883-9500 ext. 203 with questions about the proposed rule change or the rulemaking process.

---

## DEPARTMENT OF AGRICULTURE HARNESS RACING COMMISSION PUBLIC NOTICE

The Delaware Harness Racing Commission (DHRC), pursuant to 3 **Del.C.** §10005, proposes to change DHRC Rule 3. The Commission will hold a public hearing on the proposed rule changes on April 10, 2007. Written comments should be sent to Hugh J. Gallagher, Administrator of Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901.

The proposed changes are for the purpose of updating the rules to reflect current policies, practices and procedures. For example, Rule 3.4 updates the responsibilities of the Paddock Judge.

---

## DEPARTMENT OF EDUCATION

The Department of Education will hold its monthly meeting on Thursday, March 15, 2007 at 9:00 a.m. in the Townsend Building, Dover, Delaware.

---

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY Public Hearing Notice CHILDREN WITH DISABILITIES

The Secretary of Education seeks the approval of the State Board of Education to repeal its existing special education regulation (14 **DE Admin.** Code 925 Children with Disabilities) and adopt the following new special education regulations:

14 **DE Admin. Code** 922 Children with Disabilities, Subpart A, Purposes and Definitions

14 **DE Admin. Code** 923 Children with Disabilities, Subpart B, General Duties and Eligibility of Agencies

14 **DE Admin. Code** 924 Children with Disabilities, Subpart C, Local Educational Agency Eligibility

14 **DE Admin. Code** 925 Children with Disabilities, Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs

14 **DE Admin. Code** 926 Children with Disabilities, Subpart E, Procedural Safeguards for Parents and Children

14 **DE Admin. Code** 927, Children with Disabilities, Subpart F, Monitoring, Enforcement and Confidentiality of Information

14 **DE Admin. Code** 928 Children with Disabilities, Subpart G, Use and Administration of Funds, Subpart H Reserved

14 **DE Admin. Code** 929 Children with Disabilities, Subpart I, Special Programs and Unique Educational Alternatives

On December 3, 2004, President Bush signed into law the Individuals With Disabilities Education Improvement Act of 2004 ("IDEA 2004"). Most of IDEA 2004 became effective in July 2005. On August 14, 2006, the U.S. Department of Education issued its final regulations implementing IDEA 2004, and on October 13, 2006, the new federal regulations became effective.

The current regulations of the Delaware Department of Education ("DDOE") relating to the identification, evaluation, program, and placement of children with disabilities are codified in 14 **DE Admin. Code** 925, and can be found in the DDOE's *Administrative Manual for Special Education Services* ("AMSES"). AMSES may be retrieved from the Department's website at <http://www.doe.state.de.us>.

This public notice addresses the repeal of existing regulation 14 **DE Admin. Code** 925 and the new special education regulations proposed by the DDOE in response to IDEA 2004 and the federal regulations implementing IDEA 2004.

---

(1) The proposed regulations adopt most of the federal "Part B" special education regulations, and align the DDOE regulations with the federal special education regulations implementing IDEA 2004.

(2) The proposed regulations also merge most of the DDOE and federal regulations for easier use and reference.

(3) The proposed regulations reorder and re-number the DDOE's current regulations relating to the identification, evaluation, program, and placement of children with disabilities.

(4) Most existing DDOE regulations codified in 14 **DE Admin. Code** 925 have been repeated in the proposed regulations, however, some existing DDOE and State requirements have been revised for clarity, substantively revised to align with the federal regulations, and/or or eliminated in entirety to align with the federal regulations.

(5) The proposed regulations impact numerous subject areas relating to the education of children with disabilities codified in 14 **DE Admin. Code** 925, including, but not limited to, state and local funding, the identification, evaluation and reevaluation of children with disabilities, response to intervention, individualized education programs, educational placements, school discipline, monitoring and enforcement, procedural safeguards, and statewide and district assessments.

The DDOE will hold public hearings to receive and hear comments from the public on the proposed regulations at the following dates, times, and locations:

**Kent County:**

Tuesday, March 20, 2007, 6:00 p.m. to 8:00 p.m.  
Dover High School  
One Pat Lynn Drive  
Dover, DE 19904 in the school auditorium

Interpreters will be provided at this Public Hearing for Deaf and Hard of Hearing and Spanish speaking persons.

**New Castle County:**

Tuesday, March 27, 2007, 6:00 p.m. to 8:00 p.m.  
Kirk Middle School  
140 Brennen Drive, Newark, DE 19713 in the school auditorium

Interpreters will be provided at this Public Hearing for Deaf and Hard of Hearing persons.

Wednesday, March 28, 2007, 6:00 p.m. to 8:00 p.m.  
P.S. DuPont Elementary School  
701 West 34<sup>th</sup> Street  
Wilmington, DE 19802 in the school auditorium

Interpreters will be provided at this Public Hearing for Spanish speaking persons.

**Sussex County:**

Tuesday, April 3, 2007, 6:00 p.m. to 8:00 p.m.  
Seaford Senior High School  
399 North Market Street  
Seaford, DE 19973 in the school auditorium

Interpreters will be provided at this Public Hearing for Spanish speaking persons.

Thursday, April 5, 2007, 6:00 p.m. to 8:00 p.m.  
Cape Henlopen High School  
1250 Kings Highway  
Lewes, DE 19958 in the school auditorium

Interpreters will be provided at this Public Hearing for Deaf and Hard of Hearing persons.

The DDOE will also accept written public comment on the proposed regulations. Persons wishing to present their views regarding the proposed regulations may do so in writing by the close of business on Monday, April 30, 2007. Written comments should be submitted to:

Martha Toomey  
Director of the Exceptional Children and Early Childhood Education Group  
Department of Education  
401 Federal Street, Suite 2  
Dover, Delaware 19901

The proposed regulations are available online at <http://www.state.de.us/research/register/march2007/proposed/index.shtml>. The proposed regulations are also available at many public libraries throughout the State and by contacting Ms. Louann Vari at the above address, or by email at: [lvari@doe.k12.de.us](mailto:lvari@doe.k12.de.us).

---

## DEPARTMENT OF FINANCE STATE LOTTERY OFFICE PUBLIC NOTICE

### 450 Video Lottery Regulations

The Delaware State Lottery Office in accordance with 29 **Del.C.** §4805 is proposing to amend to its rules and regulations to eliminate the requirement for non-key employees and non-video operations employees to file completed License Application Forms, to change the licensing procedure to allow for temporary licenses and to change the amount of time a person licensed under the Video Lottery Regulations (or a person who has submitted an application to become licensed) has to report any new criminal charges from seven days to three. The proposed changes amend existing Video Lottery Regulations 6.30, 6.34(4), 14.1.1, 14.3 and 14.4 and 14.11 and 14.13.

A public hearing will be held at 10:00 am on April 2, 2007, at the Lottery Office, 1575 McKee Road, Suite 102, Dover, Delaware 19904 where members of the public can offer comments. Any person wishing to submit written comments may forward these to the Lottery Office at the above address. The final date to receive written comments will be at the public hearing.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of an office staff analysis and consideration of the comments and written materials presented by the public.

---

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE PUBLIC NOTICE

### Long Term Care Medicaid DSSM 20320.7 Substantial Home Equity

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan and establish new rules in the Division of Social Services Manual (DSSM) to comply with the transfer of assets provisions mandated by the Deficit Reduction Act (DRA) of 2005 (Public Law 109-171).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other

written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to 302-255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

**DIVISION OF PUBLIC HEALTH**  
**PUBLIC NOTICE**

**4469 Personal Assistance Services Agencies**

The Department Health and Social Services is proposing regulations which establish standards for regulation of the operation of Personal Assistance Services Agencies. The regulations for Personal Assistance Services Agencies apply to any program that provides personal care services to consumers primarily in their place of residence (excluding residents of hospitals and nursing facilities). Personal assistance services include individual assistance with/or supervision of activities of daily living, companion services and/or homemaker services. These services do not require the judgment and skills of a licensed nurse or other professional.

The Health Systems Protection Section, under the Division of Public Health, Department of Health and Social Services (DHSS), will hold a public hearing to discuss the proposed Delaware Regulations for Personal Assistance Services Agencies. The regulations for Personal Assistance Services Agencies apply to any program that provides personal care services to consumers primarily in their place of residence (excluding residents of hospitals and nursing facilities). Personal assistance services include individual assistance with/or supervision of activities of daily living, companion services and/or homemaker services. These services do not require the judgment and skills of a licensed nurse or other professional. Specific exclusions from licensure are included in the regulations.

The public hearing will be held on March 27, 2007 at 10:00 a.m. in the Felton-Farmington Room, located in the Delaware Department of Transportation Building, 800 Bay Road, Dover, Delaware.

Copies of the proposed regulations are available for review in the March 1, 2007, edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Office of Health Facilities Licensing and Certification at (302) 995-8521.

Anyone wishing to present his or her oral comments at this hearing should contact Mr. David Walton at (302) 744-4700 by March 26, 2007. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by March 31, 2007 to:

David Walton, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Fax 302-739-6659

---

**DIVISION OF SOCIAL SERVICES**  
**PUBLIC NOTICE**

**3024 Citizens and Aliens, and 9007.1 Citizenship and Alien Status**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the eligibility of children born outside of the United States under the cash assistance and food stamp programs.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

## **DIVISION OF SOCIAL SERVICES**

### **PUBLIC NOTICE**

#### **5302 Exceptions, and 5307 Dismissal of Requests**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend child care subsidy program policies in the Division of Social Services Manual (DSSM).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

## **DIVISION OF SOCIAL SERVICES**

### **PUBLIC NOTICE**

#### **9028 Reduction in Public Assistance Benefits, and 9092 Simplified Food Stamp Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding the reduction of public assistance benefits and simplified food stamp program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

## **DIVISION OF SOCIAL SERVICES**

### **PUBLIC NOTICE**

#### **10007.3 Supportive Services Reimbursements**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services

---



Manual (DSSM) regarding the Food Stamp Employment and Training Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by March 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

## **DEPARTMENT OF INSURANCE**

### **PUBLIC NOTICE**

#### **1407 Supplemental Health Insurance Coverage For Children Of Insureds**

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of proposed Department of Insurance **Regulation 1407** relating to **Supplemental Health Insurance Coverage for Children of Insureds**. The docket number for this proposed regulation is 365.

The Department of Insurance proposes to promulgate Regulation 1407 as a result of the enactment of House Bill 466 last year to provide regulatory guidelines for insurers with respect to the rate and form filings that will be necessary to comply with the new statutory provisions. The **Delaware Code** authority for the change is 18 **Del.C.** §§ 310, 311, 3354, and 3570. The text can also be viewed at the Delaware Insurance Commissioner's website at [www.delawareinsurance.gov](http://www.delawareinsurance.gov) under the link for "Proposed Regulations."

The Department of Insurance will hold a public hearing on the proposed changes on Tuesday, April 3, 2007 at 10:00 a.m. in the Consumer Services hearing room, 841 Silver Lake Blvd., Dover, DE 19904. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Monday April 2, 2007 by delivering said comments to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or emailed to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

---

## **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

### **DIVISION OF FISH AND WILDLIFE**

#### **Notice Of Public Comment**

#### **Tidal Finfish Regulations**

The Summer Flounder Fishery Management Plan (FMP) details the annual process that the Atlantic States Marine Fisheries Commission's Summer Flounder Fishery Management Board, the Mid-Atlantic Fisheries Management Council and the National Marine Fisheries Service are to use for establishing conservation equivalency for the recreational summer flounder fishery. These agencies agreed that the states would implement conservationally equivalent measures rather than a coastwide management program for summer flounder in 2007. Delaware is obligated to cap the summer flounder recreational harvest at 76,608 fish for 2007. The harvest cap has been adjusted downward 34 percent from the previous year's level of 116,000 fish because of slower than projected rebuilding in the stock. Although Delaware and all the coastal states in the management regime must adjust their harvest cap downward, estimates of Delaware's 2006 harvest indicated that landings of summer flounder were below the harvest cap imposed for 2006. As such, it is anticipated that management measures for summer flounder in 2007 will need to achieve a 29.3 percent harvest reduction from the estimated harvest in 2006. Savings associated with landings below the 2006 harvest cap justified the lowered reduction target for Delaware in 2007. Conversely, if Delaware had exceeded the harvest cap in 2006 then the reduction target for 2007 would have been higher than the overall target 34 percent reduction. It is proposed that a suite of management options will be

---



developed that take into consideration measurers that have been successfully employed in the past to achieve reductions in harvest while attempting to meet the needs of the fishing public. These options will include potential minimum size limits ranging between 17 and 18 inches in combination with various creel limits that can range from 1 to 4 fish per day and also incorporate seasonal closures. Ten management options for Delaware will be reviewed by the ASMFC Summer Flounder Technical Committee to determine if the correct data sets and analyses were used to project landings under the various options. Once the technical review is completed, those options that were approved will be presented at a public hearing in order to receive input from the fishing community on the various options.

Individuals may present their comments or request additional information by contacting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, (302) 739-9914. A public hearing on these proposed amendments will be held on March 29, 2007 at 7:30 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, April 2, 2007.

---

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**700 Board of Chiropractic**  
**NOTICE OF RESCHEDULED PUBLIC HEARING**

The Delaware Board of Chiropractic, in accordance with 29 **Del.C.** Chapter 101 and 24 **Del.C.** §706(a)(1), proposes changes to its **Regulation 3.0** affecting the certification in a chiropractic specialty. Specifically, the amendments specify two nationally recognized certification bodies whose requirements for practitioner specialization are acceptable to the Board.

Pursuant to 29 **Del.C.** §10115, notice of the public hearing and a copy of the proposed regulatory changes was published in the Delaware *Register of Regulations*, Volume 10, Issue 7, at page 1126 on January 1, 2007. However, notice was not published in two (2) Delaware newspapers of general circulation, as required by 29 **Del.C.** §10115, so the public hearing could not be conducted on February 15, 2007 as originally scheduled. The public hearing has, therefore, been rescheduled for March 15, 2007.

A public hearing is scheduled for Thursday, March 15, 2007 at 8:30 a.m. in the second floor Conference Room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Board will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be submitted to the Board care of Sandra Wagner at the above address. The final date to submit written comments will be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact Sandra Wagner at the above address or by calling (302) 744-4532.

The Board will consider promulgating the proposed regulations immediately following the public hearing.

---

**DIVISION OF PROFESSIONAL REGULATION**  
**1400 Board of Electrical Examiners**  
**NOTICE OF PUBLIC HEARING**

The Delaware Board of Electrical Examiners, in accordance with 29 **Del.C.** Chapter 101 and 24 **Del.C.** §1406(a)(1), proposes amendments to its regulation 7.0 relating to licensure renewal. Specifically, the amendments to 7.0 Expiration and Renewal would require licensees to provide the name of their insurer and their policy number when they attest to maintenance of their required liability insurance during the renewal process. The amendments would also require licensees to provide course names and approval numbers when they attest to completion of their required continuing education during the renewal process. Minor grammatical, typographic, or stylistic changes may also be included.

A public hearing is scheduled for Wednesday, April 4, 2007 at 8:30 a.m. in the second floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Board will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be

submitted to the Board care of Judy Letterman at the above address. The final date to submit written comments shall be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact Judy Letterman at the above address or by calling (302) 744-4504.

The Board will consider promulgating the proposed regulations immediately following the public hearing.

---

**DIVISION OF PROFESSIONAL REGULATION**  
**1400 Board of Pharmacy**  
**NOTICE OF RESCHEDULED PUBLIC HEARING**

The Delaware Board of Pharmacy, in accordance with 29 **Del.C.** Chapter 101 and 24 **Del.C.** §2509, proposes changes to its **Regulation 8.0** affecting the licensure requirements for wholesale distributors and the amendment to **9.0 Hospital Pharmacy** removes provisions relating to hospitals served by off-site pharmacies.

Pursuant to 29 **Del.C.** §10115, notice of the public hearing and a copy of the proposed regulatory changes was published in the Delaware *Register of Regulations*, Volume 10, Issue 6, at page 972 on December 1, 2006. However, notice was not published in two (2) Delaware newspapers of general circulation, as required by 29 **Del.C.** §10115, so the public hearing could not be conducted on January 17, 2007 as originally scheduled. The public hearing has, therefore, been rescheduled for March 21, 2007.

A public hearing is scheduled for Wednesday, March 21, 2007 at 9:30 a.m. in the second floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Board will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be submitted to the Board care of Mariah Krass at the above address. The final date to submit written comments will be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact Mariah Krass at the above address or by calling (302) 744-4526.

The Board will consider promulgating the proposed regulations immediately following the public hearing. The Board will consider promulgating the proposed regulations immediately following the public hearing.

---

**DIVISION OF PROFESSIONAL REGULATION**  
**1900 Board of Nursing**  
**NOTICE OF RESCHEDULED PUBLIC HEARING**

The Delaware Board of Nursing in accordance with 24 **Del.C.** §1906(1) has proposed changes to its rules and regulations related to Regulation 15.0 "Offenses Substantially Related to the Practice of Nursing." The Board has re-evaluated the list of offenses in Regulation 15.0 as the result of statutory changes to 24 **Del.C.** §§1910 and 1914 which require more than 5 years to have elapsed since the applicant for licensure has discharged all imposed sentences with regard to the offenses in Regulation 15.0. The Board is proposing to delete a number of the offenses and/or to limit the consideration of certain offenses to felony convictions.

A public hearing will be held on March 14, 2007 at 9:00 a.m. Conference Room A, 861 Silver Lake Boulevard, Dover DE 19904 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Nursing, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

---

---

**DIVISION OF PROFESSIONAL REGULATION**  
**3500 Board of Examiners of Psychologists**  
**NOTICE OF RESCHEDULED PUBLIC HEARING**

The Delaware Board of Examiners of Psychologists in accordance with 24 **Del.C.** §2604(a)(1) has proposed changes to its rules and regulations to allow for online renewal of licenses and online attestation of completion of continuing education hours. The proposed changes also provide for a post-renewal audit, so that licensees have the full two-year period to obtain required continuing education. Under the proposed rules, licensees may earn continuing education through the July 31 deadline. In addition, the proposed rules specify the number of continuing education credits required for newly-licensed individuals. The proposed rules also clarify the information that must be submitted to the Board to obtain licensure. Finally, the proposed revisions implement the recent changes to the reciprocity provisions of the Board's statute, 24 **Del.C.** §3511. These changes allow professionals that have passed the required examination and have been licensed in another state for at least two continuous years to satisfy the requirements of licensure in Delaware by submitting information showing that they hold a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB), or are currently credentialed by the National Register of Health Service Providers in Psychology.

A public hearing will be held on April 2, 2007 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners of Psychologists, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

---

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF TRANSPORTATION SOLUTIONS**

**PUBLIC COMMENT PERIOD AND NOTICE OF PUBLIC HEARING**

The Delaware Department of Transportation through its Transportation Solutions - Utilities Section has developed revised regulations for the installation, adjustment, and maintenance of utility lines and appurtenances within the rights-of-way of Delaware's highways. These regulations define the requirements which apply to utility accommodation along or within the rights-of-way of State-controlled highways, and State-maintained streets and roads within suburban developments or within the incorporated limits of a municipality.

The Utilities Manual revises and updates the DelDOT Utilities Design Manual, effective in October 1995.

The Departments will take written comments on the Regulations from March 1, 2007 through March 31, 2007. Any requests for copies of the Utilities Manual, or any questions or comments regarding this document should be directed to:

Francis Hahn, Utilities Engineer  
Delaware Department of Transportation  
PO Box 778  
Dover, DE 19903  
(302) 760-2269 (telephone)  
(302) 739-8282 (fax)  
francis.hahn@state.de.us

**EXECUTIVE DEPARTMENT**  
**DELAWARE ECONOMIC DEVELOPMENT OFFICE**  
**PUBLIC NOTICE**

In compliance with the Delaware Statutory Authority, Chapter 312 of the **Delaware Code**) the Delaware Economic Development Office (Delaware Tourism Office) is proposing to amend the requirements of the two tourism grant programs (Direct and Matching) which are distributed to non-profit tourism related organizations annually to help increase the visibility of Delaware's tourism assets and destinations

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations may attend a public hearing to be held at the Delaware Economic Development Offices Large Conference Room, on Tuesday, March 20 at 11:30 a.m. Public comment must be submit to Tim Morgan, Director of Tourism, Delaware Economic Development Office, 99 Kings Highway, Dover, Delaware 19901 or fax to (302) 739-2028 no later than March 30, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---



Governor Ruth Ann Minner

hy  
ews  
es  
Gallery  
ocations

ES  
and  
ssions

al Museum of the  
Corps  
are Registry

ATION

ve Orders  
ive Agenda  
Principles  
es

ures  
orce Reports

me of  
re's Governor  
urn

# Governor Ruth Ann Minner

## Photos

MORE



January 18, 2007 - During her State of the State address, Governor Minner recognized students enrolled in Delaware's SEED scholarship program.

## In the News

MORE

### - Gov. Minner Unveils New Health and Wellness Program for State Employees

Tuesday, Feb. 27, 2007 - Governor Ruth Ann Minner and the State Employment Benefits Committee today officially launched DelaWELL, a voluntary state employee health and wellness initiative.

### - Gov. Minner Appoints William G. Bush IV as Her New Legal Counsel

Tuesday, Feb. 20, 2007 - Governor Ruth Ann Minner announced today that she has appointed William G. "Bill" Bush IV of Dover to serve as her legal counsel.

### - Gov. Ruth Ann Minner Issues Statement on Daimler Chrysler Announcement

Wednesday, Feb. 14, 2007 - Governor Ruth Ann Minner issued the following statement today in response to DaimlerChrysler's decision to idle its plant in Newark in 2009.

### - Delaware State Government Offices in New Castle County Closed Due to Inclement Weather

Wednesday, Feb. 14, 2007 - Governor Ruth Ann Minner announced this morning that Delaware state government offices in New Castle County will remain closed today as a result of icy roadways in the northern portion of the state. This closure also applies to non-essential state government employees who live in New Castle County but work in Kent or Sussex counties.

### - Gov. Ruth Ann Minner to Host "Open Door After 4" In Georgetown on Feb. 15

Monday, Feb. 5, 2007 - Governor Ruth Ann Minner will host her next "Open Door After 4" session on Thursday, Feb. 15, at the Court of Chancery on the Circle in Georgetown. Interested residents can sign up for a five-minute, one-on-one chat with the Governor.

## Biography

MORE

Ruth Ann Minner's election as Delaware's first woman governor is the latest milestone in a remarkable journey—a testament to hard work and determination and a true Delaware story.



## Initiatives

MORE



- SEED Program
- SEED Photo Gallery
- Fight Against Cancer
- Livable Delaware
- Economic Development
- Open Space

## Subscribe

- Governor's RSS
- Other State RSS Feeds



## Governor's Blog

Visit the Governor's blog to read more about her positions on a variety of issues.

Last Updated: Tuesday, 19-Sep-

[site map](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)