

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PROPOSED

DSSM 20330.9 Medicaid Long Term Care Program

PUBLIC NOTICE

Long Term Care 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 the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. The proposal gives direction on counting gifts to minors under the Uniform Gifts to Minors Act (UGMA) for the eligibility process.

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 Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2005.

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 Change

Citation

- SSA Program Operations Manual - SI 01120.205
- DSSM 20330.9 - Adds a new rule that addresses Uniform Gifts to Minors Act (UGMA) and how this resource counts towards the eligibility process. The rule clarifies when UGMA assets are counted or excluded as a resource.

DSS PROPOSED REGULATION #05-14

NEW:

DSSM 20330.9 Uniform Gifts to Minors Act

Most States have adopted the Uniform Gifts to Minors Act (UGMA) which permits making gifts to minors that are free of tax burdens. The UGMA is sometimes called the Uniform Transfers to Minors Act (UTMA).

Under UGMA legislation:

- An individual makes an irrevocable gift of money or other property to a minor
- The gift, plus any earnings it generates, is under the control of a custodian until the child reaches the age of majority established by State law;
- The custodian has discretion to provide to the minor or spend for the minor's support, maintenance, benefit or education as much of the assets as he/she deems equitable; and
- The child automatically receives control of the assets upon age of majority (through his/her 18th birthday). At this time, the UGMA property becomes a countable asset.

UGMA property including any additions or earnings is not income to the minor. However, any disbursements from the UGMA account to the minor will be considered income to the minor.

Verification

Verify all allegations of existence of a UGMA gift by obtaining a copy of the document of ownership (e.g., deed, certificate of deposit, savings account, etc.) or other written document from the issuing source. If there is no document designating a UGMA gift, then the asset is considered a countable resource.

8 DE Reg. 1411 (4/1/05)