

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

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

FINAL

ORDER

FOOD SUPPLEMENT PROGRAM

Anticipating Expenses, Calculating Net Income and Benefit Levels and Mass Changes

Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend Food Supplement Program policies in the Division of Social Services Manual (DSSM) regarding *Anticipating Expenses, Calculating Net Income and Benefit Level and Mass Changes*. 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 February 2009 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 4, 2009 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Changes

The proposed changes described below amend Food Supplement Program policies in the Division of Social Services Manual (DSSM) regarding *Anticipating Expenses, Calculating Net Income and Benefit Levels, and Mass Changes*.

Statutory Authority

- 7 CFR §273.2, *Office operations and application processing*;
- 7 CFR §273.10(d)(4), *Anticipating expenses*;
- 7 CFR §273.10(e), *Calculating net income and benefit levels*; and,
- 7 CFR §273.12(e), *Mass changes*

Summary of Proposed Changes

DSSM 9064.4, 9065, **and** 9086: The Division of Social Services (DSS) is removing previously overlooked language related to the dependent care cap.

Summary of Comments Received with Agency Response

The Delaware Developmental Disabilities Council (DDDC), 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. DSS has considered each comment and responds as follows.

The DDDC, GACEC and the SCPD **endorse** the proposed regulation.

Consistent with the WorkWorld summary, Congress amended federal law last year to modify the dependent care deduction for the Food Supplement program:

(S)ection 4103 contains a provision which eliminates the cap on the deduction for dependent care expenses (previously \$175 or \$200 per month, depending on the dependent's age) and allows families eligible for the deduction to deduct the entire amount of dependent care expenses when calculating eligibility and benefit levels. This provision takes effect October 1, 2008.

Before October 1, 2008, dependent care costs were deductible up to the following maximums:

- \$200 per dependent child if the dependent child was under age 2; or
- \$175 per dependent child or incapacitated/dependent adult if the dependent was age two or older.

As noted in the preface to the proposed DSS regulation, DSS wishes to remove "previously overlooked language related to the dependent care cap." The revisions are essentially a "housekeeping" measure and repeal the references to the dependent care distinctions based on a child's age. Council supports this revision.

Agency Response: DSS thanks the Councils for their endorsement.

Findings of Fact

The Department finds that the proposed changes as set forth in the February 2009 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) as it relates to the Food Supplement Program regarding *Anticipating Expenses, Calculating Net Income and Benefit Level and Mass Changes* is adopted and shall be final effective April 10, 2009.

March 13, 2009

Rita M. Landgraf, Secretary, DHSS

DSS FINAL REGULATIONS #09-14

REVISIONS:

9064.4 Anticipating Expenses

[[7 CFR] 273.10(d)(4)]

Calculate household expenses based on the expenses a household expects to be billed for during the certification period.

Anticipation of the household expenses will be based on the most recent month's bills, unless the household is reasonably certain a change will occur. When the household is not claiming the utility standard, anticipate changes during the certification period based on last year's bills from the same period updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household. Do not average past expenses, such as utility bills for the last several months as a method of anticipating utility costs for the certification period.

At certification and recertification, the household shall report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on the information reported and verified by the household, and any anticipated changes in the household's medical expenses that can be reasonably expected to occur during the certification period. Reasonably anticipated changes are based on available information about the recipient's medical condition, public or private insurance coverage, and current verified medical expenses. The household shall not be required to file reports about its medical expenses during the certification period. If the

household voluntarily reports a change in its medical expenses, DSS shall verify the change in accordance with DSSM 9038 and act on the change in accordance with DSSM 9085.

~~If a child in the household reaches his or her second birthday during the certification period, the maximum dependent care deduction shall be adjusted to the lower deduction in accordance with this section not later than the household's next regularly scheduled recertification.~~

(Break in Continuity of Sections)

9065 Calculating Net Income and Benefit Levels

[[7 CFR] 273.10(e)]

To determine a household's net monthly income:

A. Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self employment income of a farmer will be offset in accordance with DSSM 9074.

B. Multiply the total gross monthly earned income by 20 percent and subtract the amount (or multiply the total gross monthly earned income by 80 percent) and add that to the total monthly unearned income, minus income exclusions.

C. Subtract the standard deduction, as specified in DSSM 9060(A).

D. If the household is entitled to a medical deduction as provided in DSSM 9060 (C), subtract that portion of the allowable medical costs that exceeds \$35.

E. Subtract monthly dependent care expenses paid, if any, ~~up to the maximum amount allowed for each dependent based on the age of the dependent,~~ as specified in DSSM 9060(D).

F. Subtract monthly legally obligated child support payments made to children living outside of the household.

If the household is entitled to an excess shelter deduction, compute the household's excess shelter deduction in accordance with the next paragraph (G).

G. Total the allowable shelter expenses to determine shelter costs. Subtract from total shelter costs 50 percent of the adjusted income (the household's monthly income after all the above deductions have been subtracted). The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction in sub paragraph (H) of this section.

H. Subtract from the adjusted income in sub paragraph (F) of this section the excess shelter cost up to the maximum amount allowed unless the household is entitled to the full amount of its excess shelter expenses. Households not subject to the excess shelter deduction limitation will have the full amount exceeding 50 percent of their income after other applicable deductions subtracted. The household's net monthly income has been determined.

Individual shelter and, where applicable, medical costs will be totaled and then rounded to the nearest dollar (i.e., \$.01 \$.49, round down and \$.50 \$.99 round up) before continuing on with the benefit calculation. The income conversion procedures in DSSM 9064 will also apply to medical and shelter expenses billed on a weekly or biweekly basis.

In calculating net monthly income, round down each calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents. For example, gross weekly wages would be converted to the monthly amount and then rounded to the nearest dollar prior to the computation of the earned income deduction. Cents will be rounded from this calculation before being subtracted from the earned income.

(Break in Continuity of Sections)

9086 Mass Changes

[[7 CFR] 273.12(e)]

Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to income eligibility standards and the shelter/dependent care deduction; adjustments to the maximum food stamp allotment and standard deduction; annual and seasonal adjustments to utility standards, periodic cost of living adjustments to RSDI, SSI, and other Federal benefits; periodic adjustments to TANF, RCA or GA payments; and other changes in the eligibility and benefit criteria based on legislative or regulatory changes.

See Administrative Notice:

A-15-99 October 1999 Cost of Living Adjustments

12 DE Reg. 1329 (04/01/09) (Final)