

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

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

FINAL

DSSM: 11003.7.8, Special Needs

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to provide information of public interest with respect to the Child Care Subsidy Program regarding *Families with Transitional Work Program Needs*. The Department's proceedings 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 public comment pursuant to 29 Delaware Code Section 10115 in the February 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 2, 2010 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

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Families with Transitional Work Program Needs*.

Statutory Authority

45 CFR §98.20, *A child's eligibility for child care services*

Summary of Proposed Change

DSSM 11003.7.8, Special Needs: This policy is revised to add Transitional Work Program Childcare guidelines.

Summary of Comments Received with Agency Response and Explanation Of Changes

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 observation and recommendation summarized below. DSS has considered each comment and responds as follows.

The Delaware Developmental Disabilities Council (DDDC), the Governor's Advisory Council for Exceptional Citizens (GACEC) and, the State Council for Persons with Disabilities (SCPD) have reviewed the Department of Health and Social Services/Division of Social Services' (DSSs) proposal to revise its Child Care Subsidy Program regulation to authorize participation by families referred by the Transitional Work Program (TWP). Such families are deemed to have met the otherwise applicable "need criteria" and are not required to provide medical certification of a child's or parent's special needs. Applicants would be required to have income below 200% of the FPL. The proposed regulation was published as 13 **DE Reg.** 1049 in the February 1, 2010 issue of the *Register of Regulations*.

Since the regulation expands eligibility for child care for persons with special needs, the DDDC, the GACEC and, the SCPD endorse the proposed regulation subject to one recommendation. DSS may wish to consider inserting "gross" between the words "have" and "household" in Par. 2 of the new section. Compare 16 **DE Admin. Code** 11003.6.

Agency Response: DSS agrees with your recommendation to insert the word "gross" between the words "have" and "household" in paragraph 2 of the new section. DSSM 11003.7.8 has been amended to reflect the change.

Findings of Fact

The Department finds that the proposed changes as set forth in the February 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Child Care Subsidy Program policies regarding *Families with Transitional Work Program Needs* is adopted and shall be final effective April 10, 2010.

Rita M. Landgraf, Secretary, DHSS

**DSS FINAL ORDER REGULATION #10-18
REVISION:**

11003.7.8 Special Needs
45 CFR 98.20

Eligibility

Families requesting Special Needs Child Care must be technically and financially eligible.

EXCEPTION: DFS referrals do not have to meet financial criteria.

If the parent/caretaker meets the need criteria as listed in 11003.8, the family will not be eligible for Special Needs Child Care unless the child under age 13 requires care that cannot be provided in a regular day care.

To be eligible for Special Needs care the parent/caretaker or child must meet the definition of need as explained below.

Children with Special Needs:

A child that is 13 through 18 years of age may be eligible for Special Needs Child Care if the child's physical, medical or emotional condition is such that he is unable to care for himself. Children under age 13 may qualify for Special Needs Child Care if they have a need that cannot be met in a regular daycare setting. Children 13 years of age and older are only eligible for Special Needs Childcare.

Documentation of the condition may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so.

Adults with Special Needs:

A parent/caretaker may be eligible for Special Needs Child Care services if the parent has a condition which makes the parent/caretaker unable to care for his/her child.

Documentation of the condition may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so.

Families with Protective Child Care Needs

Children referred by the Division of Family Services (DFS) may be eligible for Special Needs Child Care.

A child that is active with and referred by DFS for child care:

1. is considered to have met the need criteria;
2. does not have to meet the financial criteria;
3. may receive child care regardless of citizenship status.

Families with Transitional Work Program Needs:

Children referred by the Transitional Work Program (TWP) may be eligible for Special Needs Child Care.

A parent/caretaker that is active with and referred by TWP for child care:

1. is considered to have met the need criteria;
2. must have **[gross]** household income at or below 200% FPL;
3. is not required to provide a Medical Certification Form or a Special Needs Form.

DSS staff will authorize childcare for 5 days part time with extended care. Please refer to policy section 11004.9 Authorizing Service. Authorize care for additional time if the parent's/caretaker's activities with TWP require more than part time care.

13 DE Reg. 1339 (04/01/10)