

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 11002.9

FINAL

ORDER

Child Care Subsidy Program: 11002.9 Definitions and Explanation of Terms

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 *Definition and Explanation of Terms*. 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 June 2011 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by June 30, 2011 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

As a reminder, the proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Definition and Explanation of Terms*.

Statutory Authority

45 CFR §98.40, *Compliance with applicable State and local regulatory requirements*

Summary of Proposed Change

DSSM 11002.9, *Definition and Explanation of Terms*: The purpose of the rule change is to clarify 'In-Home' Care and to update the Division of Social Services Manual with long-standing policy. Specifically, language is added to clarify that in-home care refers to one household's children. The intent is to better protect the health and safety of the children in this type of unlicensed care.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following observation summarized below. DSS has considered the comment and responds as follows.

The amendment clarifies that in-home care is limited to children residing in the household, ostensibly to obviate circumvention of day care licensing standards. The proposed regulation was published as **14 DE Reg. 1304** in the June 1, 2011 issue of the *Register of Regulations*.

SCPD and GACEC endorse the proposed regulation.

Agency Response: DSS thanks the Councils for their endorsement.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2011 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Child Care Subsidy Program policies regarding *Definition and Explanation of Terms* is adopted and shall be final effective August 10, 2011.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #11-32

REVISIONS:

11002.9 Definitions and Explanation of Terms

The following words and terms, when used in the context of these policies will, unless clearly indicated otherwise, have

the following meanings.

A. TANF - Temporary Assistance for Needy Families, a program established by Title IV-A of the Social Security Act and authorized by Title 31 of the **Delaware Code** to provide benefits to needy children who are deprived of parental support and care. While on TANF, families are eligible for child care only as long as they are working or participating in a TANF Employment and Training activity (Categories 11 and 12).

B. Authorization - Form 618d is the parents/caretakers authority to receive subsidized child care services and is the provider's authority to provide subsidized child care services to eligible parents/caretakers. The authorization informs providers how much care a parent is authorized to receive, what DSS will pay the provider, and what parents/caretakers must pay as part of their fee.

C. Caregiver/Provider - The person(s), other than the parent/caretaker, whom DSS approves to provide child care services or the approved place where care is provided.

D. Caretaker - The adult responsible for the primary support and guardianship of the child. As used here, this adult is someone other than the child's parent who acts in place of the parent. If a caretaker is unrelated to the child and has not been awarded custody by Family Court or guardianship, the caretaker is referred to the Division of Family Services to make a determination to either approve the non-relative placement or remove the child.

E. CCDBG - Child Care and Development Block Grant. 45 CFR Parts 98 and 99 created by the Omnibus Budget Reconciliation Act of 1990 to provide federal funds without State match to:

1. provide child care to low income families,
2. enhance the quality and increase the supply of child care,
3. provide parents the ability to choose their provider, and
4. increase the availability of early childhood programs and before and after school services.

Under the Division's DCIS II Child Care Sub system, CCDBG is part of Categories 31 and 41.

F. CFR - Code of Federal Regulations. These are the rules the Federal Government writes to implement federal legislation. Once written and approved, they have the force of law.

G. CCMIS - Child Care Management Information System, the name used to describe the Division's payment system for child care.

H. Child - A person under the age of 13, or children 13 through 18 years of age if they are physically or mentally incapable of caring for themselves or in need of protective services.

I. Child Care Category - The DCIS II Child Care Sub system code for the child care funding source. Case Managers choose category codes based on the parents/caretaker's technical eligibility for service. The codes are:

- 11 – Participants receiving TANF and not working, but participating in TANF E&T;
- 12 – Participants receiving TANF and working;
- 21 --Participants receiving Food Benefits who are mandatory or voluntary participants in E&T and not receiving TANF;

31 - SSBG, CCDBG, and State funds: Income eligible participants. Participants who receive FS and are not E&T mandatory or voluntary;

41 – A participant who is a qualified alien or U.S. citizen is coded as a category 41 when his or her eligibility allows a non U.S. citizen or nonqualified alien to receive child care services. (Example: One child is a citizen and one is not. The citizen child is a 41.)

51 – A participant is coded category 51 when s/ he is not a U.S. citizen or legal alien but receives Child Care services due to a family member in category 41.

J. Child Care Certificate - A form issued to a parent/caretaker which allows a parent/caretaker to choose a child care provider who does not have a contract with DSS. A certificate is not an authorization for child care, but a parent who wishes to select a non-contracted provider of their choice cannot get care unless the provider completes one.

K. Child Care Parent Fee - The amount the parent/ caretaker must pay toward the cost of child care. The fee is based on the income of the parent(s) and children, or the child if the child lives with a caretaker, family size and a percentage of the cost of care based on type of care requested.

L. Child Care Services - Those activities that assist eligible families in the arrangement of child care for their children.

M. Child Care Centers - A place where licensed or license-exempt child care is provided on a regular basis for periods of less than 24 hours a day to 12 or more children, who are unattended by a parent or guardian.

N. Child Care Type - Refers to the setting or place where child care is provided. The four types of care are:

1. Center based (under DCIS II Child Care Sub system Site #17 or 18),
2. Large Family Home (under DCIS II Child Care Sub system Site #16),
3. Family Home (under DCIS II Child Care Sub system Site #15), and
4. In-Home (under DCIS II Child Care Sub system Site #19).

O. DCIS II - Delaware Client Information System, the automated client information system for the Department of Health and Social Services.

P. Educational Program - A program of instruction to achieve:

1. a basic literacy level of 8.9;
2. instruction in English as a second language;

3. a GED, Adult Basic Education (ABE), or High School Diploma;
4. completion of approved special training or certificate courses; or
5. a post-secondary degree where the degree is part of an approved DSS Employment and Training program.

The above definition excludes the pursuit of a graduate degree or second four-year college degree. A second associate's degree may be attained if it leads to a bachelor's degree. The completion of a second associate's degree can be authorized only if it has a significant chance of leading to employment.

Q. Employment - Either part-time or full time work for which the parent/caretaker receives wages equal to the federal minimum wage or an equivalent. It also includes periods of up to three months of continued child care services when parents/caretakers lose one job and need to search for another, or when one job ends and another job has yet to start.

R. Family Size - The total number of persons whose needs and income are considered together. This will always include the parent(s) (natural, legal, adoptive, step, and unmarried partners with a child in common) and all their dependent children under 18 living in the home.

S. Family Child Care Home - A private residence other than the child's residence, where licensed care is provided for one to six children who are not related to the caregiver.

T. TANF Child Care - The name of the child care program for TANF recipients who work or who are participating in a TANF Employment and Training program. Under the DCIS II Child Care Sub system, this is Category 11 and 12.

U. Food Benefit Employment and Training - The program by which certain unemployed mandatory and/ or voluntary Food Benefit recipients participate in activities to gain skills or receive training to obtain regular, paid employment. Persons can receive child care if they need care to participate. This is referred to as Food Benefit Employment & Training (FS E&T). Under the Division's DCIS II Child Care Sub system, this is Category 21.

V. In-Home Care - Care provided for a child in the child's own home by either a relative or non-relative, other than the parent/caretaker, where such care is exempt from licensing requirements. Care is limited to the child(ren) residing in the household. It also refers to situations where care is provided by a relative in the relative's own home. This care is also exempt from licensing requirements- and is also limited to the children of one household.

W. Income - Any type of money payment that is of gain or benefit to a family. Examples of income include wages, social security pensions, public assistance payments, child support, etc.

X. Income Eligible - A family is financially eligible to receive child care services based on the family's gross income. It also refers to child care programs under Category 31.

AA-Y **Income Limit** - The maximum amount of gross income a family can receive to remain financially eligible for child care services. Current income limit is 200 percent of the federal poverty level.

AB-Z **Job Training/Training** - A program which either establishes or enhances a person's job skills. Such training either leads to employment or allows a person to maintain employment already obtained. Such training includes, but is not limited to: Food Benefit Employment & Training (FB E&T) contracted programs, WIA sponsored training programs, recognized school vocational programs, and on-the-job training programs.

AC-AA **Large Family Child Care Home** - A private residence other than the child's residence, where licensed care is provided for more than six but less than twelve children who are not related to the caregiver.

AD-BB **Legal Care** - Care which is either licensed or exempt from licensing requirements.

AE-CC **Parent** - The child's natural mother, natural legal father, adoptive mother or father, or step-parent.

AF-DD **Parental Choice** - The right of parents/caretakers to choose from a broad range of child care providers, the type and location of child care.

AG-EE **Protective Services** - The supervision/ placement of a child by the Division of Family Services in order to monitor and prevent situations of abuse or neglect.

AH-FF **Physical or Mental Incapacity** - A dysfunctional condition which disrupts the child's normal development patterns during which the child cannot function without special care and supervision. Such condition must be verified by either a doctor or other professional with the competence to do so.

AI-GG **Reimbursement Rates** - The maximum dollar amount the State will pay for child care services.

AJ-HH **Relative** - Grandparents, aunts, uncles, brothers, sisters, cousins, and any other relative as defined by TANF policy, as they are related to the child.

AK-II **Residing With** - Living in the home of the parent or caretaker.

AL-JJ **SSBG** - Social Services Block Grant. Under the DCIS II Child Care Sub system, this is Category 31 child care.

AM-KK **Seamless Services** - To the extent permitted by applicable laws, a family is able to retain the same provider regardless of the source of funding, and providers are able to provide services to children regardless of the basis for the family's eligibility for assistance or the source of payment.

AN-LL **Self-Arranged Care** - Child care which either parents or caretakers arrange on their own between themselves and providers. In this instance, the parents/caretakers choose to use a child care certificate, but the provider does not accept the State reimbursement rate for child care services. DSS limits payment for self-arranged care to its regular provider rates. Parents/caretakers, in addition to any parent fee they pay, must also pay the difference between DSS' reimbursement rates and the providers' charge.

AO-MM **Self-Initiated** - Clients who enter an education or training program on their own. The education or training program must be comparable to a Food Benefit Employment & Training (FB E&T) - TANF education or training component.

Self-initiated clients must receive child care services if there is a child care need.

~~AP~~NN Special Needs Child - A child under 19 years of age whose physical, emotional, or developmental needs require special care. Both the need and care must be verified by a doctor or other professional with the authority to do so.

~~AQ~~OO Special Needs Parent/Caretaker - An adult, who because of a special need, is unable on his/her own to care for children. The need must be verified by a doctor or other professional with the competence to do so.

~~AR~~PP Technical Eligibility - Parents/caretakers meet requirements, other than financial, to receive child care services based on need and category.

~~AS~~QQ Verification - Written or oral documentation, demonstrating either need for service or sources of income.

~~AT~~RR Purchase of Care Plus (POC+) – Care option that allows providers to charge most DSS clients the difference between the DSS reimbursement rate up to the provider's private fee for service. The provider receives DSS rate, the DSS determined child care parent fee if applicable, and any additional provider-determined co-pay.

~~AU~~SS Work Force Investment Act (WIA) - Federal Legislation that consolidates Employment and Training programs and funding streams. This legislation embodies the One Stop Employment and Training Service system under DOL.

8 DE Reg. 1154 (02/1/05)

9 DE Reg. 572 (10/01/05)

10 DE Reg. 564 (09/01/06)

11 DE Reg. 1488 (05/01/08)

13 DE Reg. 1088 (02/01/10)

15 DE Reg. 222 (08/01/11) (Final)