

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** 11006.5.1

FINAL

ORDER

Child Care Subsidy Program, DSSM 11006.5.1, Terminating Providers

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 *Terminating Providers*. 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 1, 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

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Terminating Providers*.

Statutory Authority

- 45 CFR §98.40, *Compliance with applicable State and local regulatory requirements*
- 11 Delaware Code, Ch 85, *State Bureau of Identification*

Summary of Proposed Change

DSSM 11006.5.1, *Terminating Providers*: The purpose of the rule change is to revise language and to correct the number of training hours required by relative care providers. Specifically, the Division of Social Services (DSS) changes the phrase 'convicted of fraud against DHSS' to 'commits fraud against DHSS' as a reason for provider termination. DSS also changes the number of mandatory training hours for relative care from 45 hours to 47 hours to reflect the additional hours needed for the First Aid and CPR classes.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

No public comments were received.

FINDINGS OF FACT:

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

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Child Care Subsidy Program policies regarding *Terminating Providers* is adopted and shall be final effective June 10, 2011.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #11-33

REVISION:

11006.5.1 Terminating Providers

45 CFR 98.40, 11 **Del.C.**, Ch. 85

This policy applies to all providers, including self-arranged clients.

DSS May Terminate Providers with Just Cause

1. The Division of Social Services may terminate any provider or self-arranged client from the Child Care Subsidy Program (Purchase of Care) if she or he:

- A. Has a suspended, closed or terminated Office of Child Care Licensing (OCCL) license.
- B. ~~Is convicted of committing~~ Commits fraud against DHSS.
- C. Charges fees not allowed by the Child Care Contract, Division policy, or a Division approved waiver; has failed to reimburse those fees and/or has repeated offenses in this area.
- D. Charges Purchase of Care Plus fees when she or he is not a DSS authorized POC Plus provider.
- E. Does not keep accurate records per the DSS Child Care Contract; has had repeated offenses, has been counseled and has failed to meet the requirements of a corrective action plan agreed upon with the Child Care Monitor.
- F. Does not keep an open bank account to receive direct deposit payments from the Child Care Subsidy Program. Direct deposit is mandatory for all DSS child care subsidy providers effective May 1, 2008.

2. In addition to the items mentioned above, the Division of Social Services may terminate any relative care provider from the Child Care Subsidy Program (Purchase of Care) if she or he:

- A. Does not complete the ~~45~~ 47 hours of mandatory health and safety training hours within 18 months of becoming a relative or non-relative care provider as outlined in the initial orientation session.
- B. Has an unsuitable criminal history or a member of the provider's household has an unsuitable criminal history. DSS uses Office of Child Care Licensing (OCCL) guidelines and Title 11, Chapter 85 of the **Delaware Code** to determine unsuitable criminal history.

13 DE Reg. 1211 (03/01/10)

15 DE Reg. 223 (08/01/11) (Final)