

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 11003

FINAL

ORDER

Child Care Subsidy Program: Determining Technical Eligibility for Child Care

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Determining Technical Eligibility for Child Care Assistance*. 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 May 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced May 31, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Determining Technical Eligibility for Child Care Assistance*.

Statutory Authority

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

Background

Delaware Health and Social Services (“DHSS”)/Division of Social Services (“DSS”) is designated as the lead agency with primary responsibilities for the planning and administration of child care subsidies funded with the Child Care Development Fund.

The Child Care and Development Fund (“CCDF”) Block Grant Act of 1990, as amended, 42 USC § 9858b (b)(1)(A), (the “Act”) requires the Lead Agency to “administer, directly, or through other governmental or non-governmental agencies” the funds received. The regulations at 45 CFR 98.11 provide that, in addition to retaining “overall responsibilities” for the administration of the program, the Lead Agency must also (among other things) promulgate all rules and regulations governing the overall administration of the CCDF program.

Summary of Proposed Changes

DSSM 11003, *Determining Technical Eligibility for Child Care Assistance*, is amended to clarify eligibility for subsidized child care services. In order to qualify for child care services, the family must need care for certain reasons. The following reasons are being added to the list of reasons: teen parents enrolled in or attending middle school or high school or parent/ caretakers enrolled in and participating in a General Education Diploma (GED) program.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGE(S)

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. The Division of Social Services (DSS) has considered each comment and responds as follows.

GACEC and SCPD

Specifically, the Division proposes some discrete changes to the eligibility standards for persons seeking subsidized child care assistance funded by the federal Child Care Development Fund. The proposed regulation expands eligibility to cover parents/caretakers who need services based on the following: 1) enrolled and attending middle school or high school; or 2) enrolled and participating in a General Education Diploma (GED) program. The proposed regulation was published as 17 DE Reg. 1038 in the May 1, 2014 issue of the *Register of Regulations*. We endorse the proposed

regulation subject to consideration of the following amendments.

First, the entire regulation would benefit from addition of punctuation.

Agency Response: Punctuation added.

Second, the reference to GED program merits revision. Consistent with the attached 17 DE Reg. 724 (January 1, 2014), the Delaware Department of Education has recently expanded the scope of tests equivalent to the traditional GED. The DOE now uses the term "secondary credential assessment". Therefore, DSS may wish to adopt the following reference in Section 1.A.9: "Enrolled and participating in a General Education Diploma (GED) program or similar secondary credential assessment approved by the Delaware Department of Education."

Agency Response: DSSM 11003, Section 1.A.9 is amended with the suggested reference.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the May 2014 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Determining Technical Eligibility for Child Care Services* is adopted and shall be final effective August 10, 2014.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #14-26

REVISION:

11003 Determining Technical Eligibility for Child Care Assistance

45 CFR 98.20

PRWORA 401 and 402

This policy applies to applicants for and recipients of child care assistance.

1. Parents/Caretakers Must Meet Certain Eligibility Criteria

To be technically eligible parents/caretakers must have a need that requires them to be out of the home or reasonably unavailable to provide supervision (e.g., a medical condition, needing rest because of working a third shift, etc.).

A. Parents/Caretakers must be **[a]** Delaware resident**[s.]**

B. Parents/Caretakers who need services ~~to~~ must meet one of the following:

1. Accept or keep a job**[;]**

2. Participate in a DSS Employment and Training **[(E & T)]** program**[;]**

3. Participate in the Transitional Work Program **[(TWP);]**

4. Participate in job search**[;]**

5. Have a break in education/training**[;]**

6. Prevent child abuse or neglect as referred by ~~DFS~~ Division of Family Services (DFS)**[;]**

7. Provide care for the children) when the parents/caretakers have a special need**[;]**

8. Enrolled and attending middle school or high school**[;]**

9. Enrolled and participating in a General Education Diploma (GED) program [or similar secondary credential assessment approved by the Delaware Department of Education].

2. Children Must Meet Certain Criteria

Children may be eligible if they:

A. Live in the home and are under the age of 13**[;]**

B. Live in the home and are age 13 to 18 and are physically or mentally incapable of caring for themselves**[;]**

C. Are active with and referred by the Division of Family Services **[(DFS).]**

3. Non-Citizens May Qualify for Child Care Assistance

Non-citizens may qualify if:

A. At least one U.S. citizen or legal alien lives in the household**[.]**

B. Both parents/caretakers meet technical and financial eligibility criteria.

C. The following aliens qualify for a period of five (5) years from the date of:

1. Obtaining status as a refugee**[;]** or

2. Obtaining status as an asylee**[;]** or

3. Their deportation is being withheld**[.]**

- D. They are aliens admitted as permanent residents who have worked 40 forty (40) qualifying quarters[.]
- E. They, their spouses or unmarried dependent children are honorably discharged veterans or on active military duty.

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

10 DE Reg. 1007 (12/01/06)

15 DE Reg. 47 (07/01/12)

16 DE Reg. 319 (09/01/12)

18 DE Reg. 148 (08/01/14) (Final)