

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Ch. 5, Section 512 (31 **Del.C.** §512)

FINAL

ORDER

Child Care Subsidy Program

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. 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 September 2006 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 2, 2006 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Statutory Basis

- The Child Care and Development Block Grant (part of Categories 31 and 41) as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996;
- Title XX of the Social Security Act and the Omnibus Budget Reconciliation Act (OBRA) of 1981 establishes child care under the Social Services Block Grant (part of Categories 31 and 41); and,
- 45 CFR, Part 98, Subpart C, *Eligibility for Services*.

Summary of Provisions

DSS is proposing to amend several sections in the Division of Social Services Manual (DSSM) to clarify and update existing Child Care Subsidy Program policy. This regulatory action contains new, updated, revised and clarified policy as summarized below:

1) DSSM 2013.1: This change adds the Child Care Subsidy Program to the list of assistance programs that the Income and Eligibility Verification System (IVES) supports. This change is necessary due to the integration of the child care sub-system into the DCIS II system.

2) DSSM 11002.2, 11002.7, 11003, 11003.7.4, 11003.7.5, 11003.7.6, 11003.8: Existing policy includes education and training as an acceptable need for receiving Income Eligible Child Care. This policy was inconsistently applied due to lack of clarity. The need for Income Eligible Child Care for education and training purposes, other than GED preparation, must be part of a DSS Employment and Training program.

3) DSSM 11003.4, 11003.4.1, 11003.4.2, 11003.4.3, 11003.4.4, 11003.4.5, 11003.4.6, 11003.4.7 (all new) and 11004.2.1: The purpose of the new policy is to apply cooperation requirements with Child Support Enforcement (DCSE) consistently across all DSS programs. Currently all Temporary Assistance for Needy Families (TANF) cases and combined TANF, Food Stamp and Child Care cases are required to cooperate with the DCSE when the family has an absent parent. This new policy now requires all Child Care Subsidy cases to cooperate with the DCSE, when there is an absent parent.

4) DSSM 11003.7.8, 11004.3.1, 11004.7: The purpose of this change is to reduce the inconsistency and streamline the application of the parent fee determination system. DSS is reducing the number of allowable situations that automatically waive the assessment of a parent fee. The automatic waiving of parent fees for individuals that are referred by the Division of Services to Children, Youth and Their Families (DSCYF) is inconsistent with current federal regulations. These regulations require the waiving of parent fees to be determined on a case-by-case basis.

These changes provide consistency with DSS programs and underscore the Division's mission of self-sufficiency.

Summary of Comments Received with Agency Response and Explanation of Changes

Further analysis by Division staff resulted in the following changes in the final order regulation text indicated by **[bracketed bold type]**.

The proposed rule at §11003.4.6 describes hearing rights that individuals may have “if they disagree with any DSS or DCSE decision made in regard to the child support assignment, non-cooperation, or good cause claim issues. DCSE will handle the fair hearing requests on issues of non-cooperation and good cause claim [sic].”

In the context of child support enforcement activities, the term “good faith” was substituted for “good cause” in the final days of the now repealed Aid to Families with Dependent Children Program.

No one determines “good cause” any longer and DCSE is the agency that makes a determination about a parent’s “good faith” effort to establish paternity and secure child support.

The use of the term “good cause” in this rulemaking is, therefore, without support elsewhere and is inadvisable.

In addition, the last sentence of the rule is not as descriptive as it needs to be to qualify as a rule. How will DCSE “handle” fair hearing requests? Will DCSE schedule and conduct non-cooperation hearings and issue hearing decisions? If DCSE will conduct the hearings, the rule needs to say this.

Agency Response: Section 11003.4 and various subsections have been revised to clarify that DCSE will be conducting Fair Hearings and by adding a reference to the current Fair Hearing policy section.

The Delaware Developmental Disabilities Council (DDDC); the Governor’s Advisory Council for Exception Citizens (GACEC); the State Council for Physical Disabilities (SCPD); and, the Division of Vocational Rehabilitation (DVR) offered the following concerns, observations and recommendations summarized below. DSS has considered each comment and responds as follows.

DDC, GACEC, SCPD

First, the current regulations authorize eligibility in the child subsidy program if needed for the parent(s) “to attend school or participate in a training program which leads to employment”. DSS is now limiting this authorization to person participating in “a DSS Employment and Training program”. See Summary of Provisions, Par (2); Section 11002.2B; Section 11003A3 and 4; Section 11003.7.4; and Section 11003.7.5. In this context, we have the following concerns and recommendations:

A. Although the Summary, Par 2, at 10 DE Reg. 448, recites that GED preparation not linked to a DSS Employment and Training Program may justify child subsidy program participation, this concept is absent from the actual regulations.

Agency Response: GED preparation is not absent from the regulation. Please see DSSM 11003.7.5, item A.

B. Although Section 11004.7 contemplates “teen parents attending high school or a high school equivalent” participating in the child subsidy program, such attendance would no longer count under the revised standards limiting “countable” school attendance to DSS Employment and Training programs.

Agency Response: DSS fully supports teen parents attending high school or a high school equivalent to complete their high school education. The Child Care Subsidy Program is a support program for both the TANF and Food Stamp E & T programs. School can be counted towards TANF participation but not as a core activity.

C. There is some inconsistency in the regulations since some provisions (e.g. Sections 11003.7.4, 11003.7.5, and 11003.8) only “count” two DSS training programs (Food Stamp and TANF-related) while other regulations (Section 11002.2) “count” and DSS employment and training program. It would be preferable to be consistent and adopt the broader standard. Even if the Food Stamp and TANF programs are the primary training programs, there may currently or prospectively be other training programs which should be “counted”.

Agency Response: DSS has only two Employment and Training Programs, Food Stamp and TANF.

These programs will contain many activities or components that may change over time. Child Care services can be provided for participation in any activity or component under these two programs and only these two programs.

D. In a similar context, it would be highly preferable to also “count” participation in vocational activities consistent with a DVR individual employment plan (“IPE”) or pursuant to an assigned SSA Ticket to Work. These are government programs designed to promote employment of persons with disabilities. Without access to the child subsidy program, participants will face unnecessary barriers to participation in these government-sponsored work incentive programs. We recommend that DSS consult DVR for perspective.

Agency Response: DSS supports participation with the Department of Labor (DOL), the Division of Vocational Rehabilitation (DVR) and the Division of Employment and Training (DOL E & T). Currently, all TANF Employment and Training programs are contracted through the DOL E&T Division. If applicable, these contractors will refer TANF clients to DVR for assistance and Child Care services will be available as they currently are to all TANF E&T participants.

Second, Section 11003.4.6 recites that “DCSE will handle the fair hearing requests on issues of non-cooperation and good cause claim”. Although the DCSE is part of DHSS, DSS regulations technically cannot bind the DCSE. If not already secured, it would be preferable to have an MOU or similar explicit commitment from the DCSE to accept this role and responsibility.

Agency Response: As previously stated, section 11003.4 and various subsections have been revised to clarify that DCSE will be conducting Fair Hearings and by adding a reference to the current Fair Hearing policy section.

Third, DSS is eliminating the following basis for eligibility in Section 11004.7:

3. Families where the need for services is solely based on the special needs of the child or the caretaker parent.

This could have a major impact on parents with disabilities and children with disabilities. The existing provision is consistent with other regulations which authorize eligibility for parents with disabilities and children with disabilities. See Section 11003, first sentence, and Pars A and B; Section 11003.4.7, Par, 2b); Section 11003.7.8; and Section 11003.8.

Agency Response: Regarding your statement that DSS is eliminating eligibility to families where the need for service is based on special needs and Section 11004.7. is referenced. Please see section 11004.7. This section does not deal with eligibility; it defines the *Determination of the Child Care Parent Fee and Fee Waiving Situations*.

DVR

DVR has also reviewed the letter sent to you by the State Council for Persons with Physical Disabilities (SCPD) and we would like to share our concerns with the proposed regulation and its impact on individuals with disabilities involved with Vocational Rehabilitation Services.

First, DVR frequently has consumers, both adults and teenagers, involved with GED programs who require child care subsidies so we are concerned that although the Summary, Par 2, at 10 DE Reg. 448 recites, that GED preparation not linked to a DSS Employment and Training Program may justify child care subsidy program participation, this concept is absent from actual regulations and Section 11004.7 contemplates “teen parents attending high school or high school equivalent” participating in the child subsidy program, such attendance would no longer count under the revised standards limiting “countable” school attendance to DSS Employment and Training programs. Plus in a similar context, it would be highly preferable to also “count” participation in vocational activities consistent with a DVR individual employment plan (“IPE”) or pursuant to an assigned SSA Ticket to Work. These are government programs designed to promote employment of persons with disabilities. Without access to the child subsidy program, participants will face unnecessary barriers to participation in these government-sponsored work incentive programs.

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Agency Response: DSS appreciates the comments submitted by the Division of Vocational Rehabilitation (DVR). DVR's comments echo the concerns and recommendations previously cited. Please see the agency responses above.

Findings of Fact

The Department finds that the proposed changes as set forth in the September 2006 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Child Care Subsidy Program is adopted and shall be final effective December 10, 2006.

Nov. 14, 2006
Date of Signature

Vincent P. Meconi, Secretary, DHSS

DSS FINAL ORDER REGULATION #06-49

REVISIONS:

2013 Verification

In general all categorical eligibility factors must be verified before assistance can be authorized unless policy specific to that factor indicates that verification can be delayed.

When a redetermination is due, the recipient must complete a new DSS application form (Form 100). A redetermination is complete when all eligibility factors are examined and a decision regarding continuing eligibility is reached.

Close the assistance case of a recipient who fails, without good cause, to complete the redetermination review. Likewise, close the assistance case of a recipient who fails, without good cause, to provide requested information necessary to establish continued eligibility.

As part of the verification process for continuing eligibility, the person will provide verification that s/he has carried out the elements of the individual Contract of Mutual Responsibility. The penalties for non-cooperation in developing the Contract and/or following through with the required components of the Contract are also detailed.

Refer to DSSM 2001 for specific information regarding timeframes for returning verifications and noticing requirements.

Recipients are required to verify changes in circumstance within ten (10) days of the report of the change.

2013.1 Income and Eligibility Verification Systems (IEVS)

The purpose of the Income and Eligibility Verification Systems is to obtain and verify income information relevant to determining eligibility and benefit amounts in the TANF, FS, Child Care, and Medicaid programs through a series of computer matches and on line interfaces. In IEVS, the Division will obtain:

- Unearned income data from the Internal Revenue Service (IRS).
- RSDI, SSI, pension, self employment earnings, wage data and verification of Social Security Numbers from the Social Security Administration (SSA).

- Wage data and UC data from the Delaware Department of Labor (DOL).
- Licensed motor vehicle ownership data from the Delaware Division of Motor Vehicles (DMV). The address reported to DMV of each person holding a Delaware driver's license is also available through this system.

Information obtained through IEVS will enable the Division to:

- Identify unreported or discrepant income information.
- Discourage new applicants from attempting to receive benefits to which they are not entitled.

Except for IRS information, IEVS data is stored in DCIS and can be viewed by accessing the system (see the DCIS User Guide for instructions). IRS information is not stored in DCIS. It is available in hard copy only and is safeguarded according to IRS regulations.

(Break in Continuity of Sections)

11002 Administration

This section discusses the following administrative policies:

- A. Purpose of Delaware's Child Care Subsidy Program,
- B. Goals,
- C. Services Provided,
- D. Persons Eligible,
- E. Responsibility for the Administration of Delaware's Child Care Subsidy Program,
- F. Legal Authority,
- G. Other Administrative Policies,
- H. Seamless Services, and
- I. Definitions and Explanation of Terms.

11002.1 Purpose Of Delaware's Child Care Subsidy Program

The purpose of Delaware's Child Care Subsidy Program is to provide support to Delaware families who need care and who need otherwise cannot pay for all or part of the cost of care.

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

11002.2 Goals

The goal of the Child Care Subsidy Program is to supplement the care and protection that children receive from their parents. This supplemental care is necessary when parents/caretakers must be apart from their children during a portion of a 24-hour day because:

- A. the children's parents/caretakers work,
- B. the children's parents/caretakers must participate in a DSS Employment and Training program and attend school or participate in a training program which leads to employment,
- C. the children or parents have a special need requiring either one of them to be out of the home, or
- D. the children need to be protected from neglect and/or abuse.

Child care provided under these circumstances enables families:

- A. to achieve and maintain independence;
- B. to provide care, protection, health, supervision, social experience and learning opportunities which are essential to a child's growth and development; and
- C. to maintain the bonds of family unity.

(Break in Continuity of Sections)

11002.7 Other Administrative Policies

~~Child Care~~ Case Managers are to view Child Care Policy as an extension of the DSS Policy Manual. It is part of the whole. Therefore, policies on Administration and Fair Hearings contained in DSSM 1000 and DSSM 5000 equally apply to the Child Care Subsidy Program and the Case Managers who administer it.

Specifically, Case Managers ~~in the Child Care Subsidy Program~~ must be familiar with the following corresponding policies on Administration:

- 1002 - Courteous Treatment of Clients
- 1003 and 1003.1 to .4 - Confidentiality
- 1004 - Records to be Kept in Locked Files
- 1005 and 1005.1 - Case Record Maintenance and Retention
- 1006 and 1006.1 to .7 - Civil Rights and Non-Discrimination
- 1007 and 1007.1 to .6 - Complaint Procedures
- 1008 - Availability of Program Manuals
- 1009 - Procedures for Serving Non-English Speaking Hispanic Clients
- 1010 - Procedures for Serving Hearing Impaired Clients

In addition, ~~Child Care~~ Case Managers must be familiar with the entire section of DSSM 5000, Fair Hearing ~~Procedure Manual~~ Practices and Procedures.

(Break in Continuity of Sections)

11003 Eligibility Requirements

DSS provides child care services to eligible Delaware families with a child(ren) who resides in the home and who is under the age of 13, or children 13 to under 19 who are physically or mentally incapable of caring for themselves or are active with the Division of Family Services.

Under Title IV, Sections 401 and 402 of the Personal Responsibility and Work Opportunity Act of 1996, the Division is prohibited from using CCDBG and SSBG funds to pay for child care services for most persons who are not U.S. citizens. At State option, the Division may choose to use State only funds to pay for child care services for such persons. Certain aliens are exempt from this restriction for a period of five (5) years from the date of obtaining status as either a refugee, asylee, or one whose deportation is being withheld. In addition, aliens admitted for permanent residence who have worked forty (40) qualifying quarters and aliens and their spouses or unmarried dependent children who are either honorably discharged veterans or on active military duty are exempt from this restriction.

The Division will provide Child Care services for eligible families where there is at least one U.S. citizen or legal alien in the family. If one member of the family is a U.S. citizen or legal alien and they meet both technical and financial eligibility criteria Child Care Services can be provided. The Division will evaluate non-U.S. citizen cases on an individual basis.

Non-US citizens referred to the Child Care subsidy program through the Division of Family Services, due to a protective need, are eligible to receive services regardless of their citizenship status.

A family needs service when parents/ caretakers are required to be out of the home, or are reasonably unavailable (may be in the home but cannot provide supervision, such as a parent works a third shift, is in the home, but needs to rest), and no one else is available to provide supervision.

- A. Parents/caretakers need service to:
 - 1. accept employment,
 - 2. keep employment,
 - 3. participate in a training component, as part of one of the DSS Employment and Training

programs, leading to employment,

4. participate in an education component, as part of one of the DSS Employment and Training programs.

5. work and the other parent/caretaker or adult household member is chronically ill or incapacitated,

6. have someone care for the children because of a parent/caretaker special need.

B. A child(ren) needs service to:

1. provide for a special need (physical or emotional disabilities, behavior problems, or developmental delays, etc.);

2. provide protective supervision in order to prevent abuse or neglect.

In addition to having an eligible child and a child care need, certain DSS eChild eCare programs require parents/ caretakers to meet income limits. Under certain other eChild eCare programs, DSS guarantees child care. These financial requirements along with other technical requirements help determine the parent/caretaker's child care category. Categories relate to the funding sources used by DSS to pay for eChild eCare services. The following sections discuss the technical requirements for child care services based on category and need.

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

(Break in Continuity of Sections)

11003.4 ~~Reserved~~ Child Support

As part of the Child Care eligibility process, all applicants must ~~[assign to the State of Delaware their rights cooperate with the Division of child Support Enforcement]~~ to receive spousal support for themselves and child support for the dependent children in their care. As part of this process, applicants and recipients must cooperate, unless ~~[good cause a good faith effort]~~ is established, in:

1. Identifying and locating absent parents;
2. Establishing paternity for dependent children born out of wedlock; and
3. Establishing support payments and/or other properties for the dependent child.

The Division of Child Support Enforcement (DCSE) is the single State agency that is empowered to:

1. Establish paternity of and secure support for children born out of wedlock;
2. Secure support from parents who have abandoned or deserted their children; and
3. Enter cooperative arrangements with appropriate courts and law enforcement officials in order to establish support.

Before approving a Child Care case, DSS will refer applicants to the DCSE to begin the process of securing support payments. While assistance is received, any spousal or child support payments made on behalf of a recipient will be paid to DCSE. Once support has been established DCSE will send checks to the Child Care applicant/recipient.

The ~~[assignment of support rights]~~ requirement to cooperate with DBSE] covers all Child Care applicants.

The child support payments are considered income for the purpose of determining financial eligibility and parent fees for Child Care cases.

11003.4.1 Cooperation Responsibilities

Clients must cooperate with the Division of Child Support Enforcement (DCSE) as a condition of eligibility. All families are required to provide sufficient information to permit Delaware to obtain child support on behalf of the family. Exceptions can be made when the caretaker demonstrates that pursuit of child support would create a danger to the caretaker or the child(ren). It is the responsibility of the client to provide documentation to verify ~~[good cause this]~~.

In order to identify and locate absent parents, establish paternity, and obtain support payments and/or other property, applicants or recipients of Child Care services are required to participate in the following activities, if relevant:

1. To appear at an office of DSS or the Division of Child Support Enforcement to provide verbal or written information or documentary evidence known to or possessed by the applicant or recipient;
2. To appear as a witness at judicial or other hearings or proceedings;
3. To provide information or to attest to the lack of information under penalty of perjury.

11003.4.2 Penalties for Child Support Non Cooperation

Failure of a parent/caretaker~~[without good cause]~~ to cooperate with and provide information to the DCSE will result in a Child Care case closure until compliance. Purchase of Care applicants who do not cooperate with or provide requested information to DCSE, will have their Child Care case closed until they cooperate.

11003.4.3 Curing Child Support Penalties

To cure the child support sanction, the caretaker will provide sufficient information to permit Delaware to pursue child support collections on behalf of needy children.

11003.4.4 Good ~~[Cause Faith]~~ Determination

It is the responsibility of the Division of Child Support Enforcement (DCSE) to determine if ~~[good cause there is an acceptable reason]~~ for refusing to cooperate. ~~[exists]~~ When ~~[good cause this]~~ is determined to exist, the applicant may participate in the Child Care program and will not be required to cooperate in support collection activities.

11003.4.5 Enforcement Without the Caretaker's Cooperation

When ~~[good cause an acceptable reason]~~ for non-cooperation exists, DCSE must decide whether or not child support enforcement activities can proceed without risk to the child or caretaker if the enforcement activities do not include cooperation. DSS will ask the applicant if he/she believes that enforcement activities can proceed and will relay that information to DCSE.

If a DCSE recommendation is to proceed with enforcement activities, DSS will notify the applicant and give the applicant the opportunity to withdraw the application or close the case before enforcement activities begin.

11003.4.6 Fair Hearings

Applicants and recipients have the right to request a fair hearing if they disagree with any DSS ~~[decision. See DSSM section 5000. or DCSE decision made in regard to the child support assignment, non cooperation, or good cause claim issues.]~~ DCSE will ~~[handle the fair hearing requests]~~ schedule and conduct fair hearings] on issues of non-cooperation and ~~[good cause claim]~~ parents good faith efforts to establish paternity and secure child support].

11003.4.7 Child Support Enforcement Procedures

1. At the eligibility interview, the DSS worker will explain~~[as outlined on Form 200 and Form 204, the automatic assignment of support rights,]~~ the client's responsibilities in relation to securing support and the circumstances that ~~[constitute good cause are acceptable]~~ for refusal to cooperate. The applicant and worker will sign ~~[Form 200 and]~~ Form 204. A copy of ~~[each form Form 204]~~ will be given to the applicant.
2. At the time of application, if applicants have at least the minimum information required for child support case initiation ~~[and do not claim good cause]~~, DSS staff should initiate the child support case via the

computer. DSS assumes cooperation unless otherwise notified by DCSE.

An interview with the DCSE is waived in the following cases:

- a) Child Care cases where there are no children with absent parents;
- b) Child Care cases where deprivation is based on incapacity;
- c) Child Care cases in which ~~[good cause has been determined to exist. Good cause is determined by DCSE]~~ an acceptable reason for non-cooperation has been determined by DBSE];
- d) Child Care reapplications where the caretaker has previously cooperated with the Division, and the absent parents involved in the case are the same individuals that were involved when the case was previously open.

3. When the DCSE indicates that the caretaker has been uncooperative, the Child Care case is closed.

4. ~~[If good cause is claimed, the client is asked to provide evidence to verify the claim]~~ The client is responsible for proving necessary verifications] to DCSE.

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

(Break in Continuity of Sections)

11003.7.4 Income Eligible/Training

Parent/caretakers who participate in a ~~training program~~ DSS Food Stamp or TANF Employment and Training program can continue receiving child care services for the duration of their participation as long as:

- A. the training was part of a TANF or Food Stamp Employability Development Plan; or ~~and~~
- B. there is a reasonable expectation that the training course will lead to a job within a foreseeable time frame (6 to 18 months), such as persons participating in apprenticeship programs, on-the-job training programs, or vocational skill programs.

Child care services can continue for up to one month to allow for breaks between training programs or to allow for an employment search upon completion of training.

11003.7.5 Income Eligible/Education and Post-Secondary Education

Parents/caretakers who participate in education and post-secondary education can receive income eligible ~~e~~Child eCare for the duration of their participation as long as:

- A. their participation will lead to completion of high school, a high school equivalent or a GED; or
- B. their participation in post-secondary education was part of a DSS TANF Employment and Training program; or
- C. their participation in post-secondary education began while participating in the DSS Food Stamp Employment and Training (FS E and T) program; and
- D. there is a reasonable expectation that the course of instruction will lead to a job within a foreseeable time frame, such as nursing students, medical technology students, secretarial or business students.

DSS will not authorize child care services for parents/caretakers who already have one four year college degree or are in a graduate program.

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

11003.7.6 Income Eligible/Protective Child Care

DSS will provide child care services for children who need to receive or who receive protective services from the Division of Family Services exclusive of other child care needs. DSS will also give service priority to protective children, meaning DSS will provide an exemption to protective children during a waiting list period. However, by agreement with the Division of Family Services, this exemption will only exist for a limited number of protective children. Currently the limitation is 280 children, but is subject to change based on available funding and forecasted

need. (~~An Interagency Agreement exists between the Department of Services For Children, Youth and Their Families, Division of Family Services, and the Department of Health and Social Services, Division of Social Services.~~)

11003.7.7 Income Waiver

DSS will waive the 200 percent income eligibility limitation for families when the child is receiving or needs to receive protective services. The need for care in this instance is coordinated with the Division of Family Services and is part of a range of services being provided to and/or required of the parent to help ensure the protection of the child.

11003.7.8 Special Needs Children

The designation of special needs impacts both eligibility and parent fees.

See section 11004.7 to determine eligibility for waiving the parent fee.

Eligibility

A family can be eligible for Child Care for a child that is between ages 13 and under 19 if the child has a special need that requires child care. This would mean the child is unable to care for himself physically or emotionally, or Division of Family Services (DFS) has referred the child for care due to a protective need.

Families with special needs children or adults must meet the need for services and income eligibility.

EXAMPLE: A financially eligible family with two working parents requests child care for their 14 year old child with Downs Syndrome. The 14 year old is incapable of caring for himself due to the Downs Syndrome. They would be eligible for Child Care due to the special needs of the child.

The special need of a child or an adult that directly results in the need for child care can in itself be the need for care when determining eligibility as long as they meet financial eligibility.

EXAMPLE: A financially eligible family of four with a working Father and a stay at home Mother requests child care for their 12 month old child with a developmental delay. In this case if it is verified that the child needs child care services to assist in increasing the development of the child, they would be eligible.

EXAMPLE: A financially eligible family of four with a working Father and a stay at home Mother requests child care for their two children ages 2 and 4. The mother was involved in a car accident and is unable to get out of bed. The special need of this mother would be the need for care.

All special needs for both the child and adult must be verified by using the Special Needs form.

~~Parent fees can be waived only in accordance with section 11004.7.~~

Special circumstances within a family may be considered on a case by case basis when determining the need for child care. These cases must be approved by the Child Care Administrator.

EXAMPLE: Two older grandparents have custody of their 4 yr old grandchild. The grandmother is unable to care for the child due to health reasons and the grandfather would like to look for work. There is no need for care since the grandfather is in the home. The circumstances of this four year old could qualify the grandparents for special needs child care. In this case still try to get a special needs form filled out that would address the 4 yr olds need to be in a day care setting with other children to enhance the child's social and emotional development.

Division of Family Services

DFS cases meet the need for service due to the DFS referral. DFS cases do not need to meet financial eligibility. DFS cases that are non citizens and do not meet our citizenship criteria are eligible for services due to the DFS referral. DCIS II Child Care Sub system would place these cases in Category 51.

Parent fees may be waived for DFS cases on a case by case basis, with supervisory approval.

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

11003.8 Necessity of Child Care

For parent/caretakers to receive child care services, DSS will need to consider whether child care is necessary. Child care will be considered necessary when:

- A. the child is not in school during the hours of the parent/caretaker's employment; or
- B. the child is not in school during the hours of the parent/caretaker's participation in a training or education component of a DSS Food Stamp or TANF Employment and Training program; or
- C. ~~in all cases of two parent households, both parents must have a need for child care in order for DSS to provide child care services, for example~~ **both** parents in a two parent household have a need for child care. For example:

- 1. in two parent households both parents work; or
- 2. one works and the other has another need (such as education or training), is incapacitated (a parent who needs to participate in in-patient rehabilitation is included in the meaning of incapacitated) or is unavailable (such as one parent works the late shift and needs to sleep during the day while the other parent works); or
- D. there is no other ~~legally~~ responsible and capable adult in the household (such as another family member).

DSS will make an exception in the last case if the other adult household member is incapacitated, the child is at risk of abuse, or the age or disposition of the other adult makes it unlikely to expect him/her to provide care (such as grandparents are not required to provide care if they are not inclined to do so on their own).

(Break in Continuity of Sections)

11004.2.1 Conducting the Interview

The interview will include:

- A. an evaluation of parents/caretakers need for child care services (see Section 11003);
- B. a determination of financial eligibility as needed;
- C. an assessment of the family's child care needs as well as the needs of the child(ren) to be placed in care;
- ~~D.~~ D. an explanation of the Child Support Cooperation requirement;
- ~~E.~~ E. an explanation of the available types of child care; the choices parents/caretakers have regarding these provider types; the various provider requirements regarding licensure, possible co-pays, health, and safety, including record of immunization; and required child abuse and criminal history checks;
- ~~F.~~ F. an explanation of DSS payment rates and parent fee scale, including a discussion of how fees are assessed, where fees are to be paid, what happens if the fee is not paid, and how parents/caretakers are to keep DSS informed of changes that affect fees;
- ~~G.~~ G. an explanation of parents/ caretakers rights and responsibilities;
- ~~H.~~ H. completion of the Application for Child Care Assistance, and as applicable completion of the Child Care Authorization and the Child Care Payment Agreement form; and
- ~~I.~~ I. verification of appropriate information establishing need and income.

The entire process, from the time when parents/caretakers make an informal request for child care to the time when a decision is finally made, should take no longer than one month.

Parents/caretakers who fail to keep their initial appointment for an interview are given the opportunity to reschedule.

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

(Break in Continuity of Sections)

11004.3 Review and Verification of Eligibility Requirements

As part of the formal application process, use the parents/caretakers interview to review and verify eligibility requirements. This interview will always include an evaluation of the parents/caretakers need for child care and, as appropriate, a determination of financial eligibility. Section 11003, Eligibility Requirements, provides guidance for this review.

When a parent/caretaker makes a contact to inquire about child care, ask the following questions of the parent/caretaker to determine and verify need (these questions follow the eligibility requirements noted in Section 11003 and match DCIS II Child Care Sub system need codes.

- A. Is the parent/caretaker employed or in need of child care to accept employment? (Category 12 for TANF employed or Category 31 if not on TANF) The caretaker must be part of the TANF grant to be a Category 12.
- B. Is the parent a TANF Employment and Training participant and needs care to participate in a TANF Employment and Training activity? (Category 11)
- C. Is the parent/caretaker a Food Stamp Employment & Training (FS E&T) participant? (This is Category 21.)
- D. Is the parent/caretaker a self-initiated participant (TANF, a mandatory or voluntary Food Stamp Employment & Training (FS E&T)? (This is Category 21.)
- E. Is the parent/caretaker in and regularly attending a training program or going to school? (Category 31)
- F. Is a special needs child or parent/caretaker in the household? (Category 31)
- G. Is there a protective referral from Family Services? (Category 31)
- H. If the parent/caretaker meets a Category 13 or 31 need, is the family income equal to or below 200 percent of the federal poverty level?

Use the appropriate documents identified in Section 11004.2 to verify the need for service. However, verification will not delay authorization of service in the event documentation is not immediately available. Authorize service while allowing parents/caretakers ten days to provide the appropriate verification. If the client is applying for services the system will automatically determine eligibility for Presumptive Child Care. The system will generate the appropriate notices, request the information and end date the authorization. If the client does not meet presumptive requirements and fails to provide requested information the system will close the case and give appropriate notice. (For more detail on Presumptive Child Care see section 11004.8)

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

11004.3.1 Service Priorities

In addition to the eligibility questions in Section 11004.3, determine if the applicant meets a priority for service. If the applicant has a need, but is not a service priority, services may be delayed. Delay services by placing non-service priority applicants on a waiting list while authorizing service for those who are a priority. The following families qualify for priority service:

- A. TANF recipients who are Workfare mandatory and not working (Category 11);
- B. TANF recipients who are working; (Category 12);
- C. Individuals receiving FS who are mandatory E&T participants; (Category 21);
- D. Families in Category 31 with the following need for service:
 - 1. teen parents who attend high school or ABE or GED programs,

2. special needs parent/caretaker or child, and
 3. homeless families as defined in Section 11003.7.2;
 4. families who meet the ~~75%~~ 40% of FPL criteria in Section 11004.7
- E. protective children as referred by Family Services up to the number agreed upon between DSS and Family Services.

Parents/caretakers in the above circumstances will continue to receive child care services as long as they meet the service need and they continue to meet program requirements, e.g., they continue in Food Stamp Employment & Training (FS E&T).

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

(Break in Continuity of Sections)

11004.7 Determination Of The Child Care Parent Fee and Fee Waiving Situations

Under regulations, eligible families are required to contribute to the cost of child care services based upon their ability to pay. Families contribute to the cost of care by paying a DSS child care parent fee. DSS, however, provides child care services to certain families at no cost. Part of the process after determining the client's financial eligibility and need for child care would be determining the parent fee and which families should have their parent fee waived.

All ~~child~~ care fees ~~will~~ may be waived if the family meets one of the ~~six (6)~~ five (5) conditions below.

1. On a case by case basis, Families active with and referred by the Division of Family Services (DFS) including foster care families. This requires supervisory approval.
2. Families in Delaware's TANF Program in Categories 11 and 12, and General Assistance (GA) families.
3. ~~Families where the need for service is solely based on the special needs of the child or the caretaker/parent. Families must first be financially eligible for Child Care Services. (See policy section 11003.7)~~
EXAMPLE: A family consisting of a working mother and two children applies for Purchase of Care. One child has ADD/HD and mom needs child care because she is working. The parent fee for the child with ADD/HD would not be waived due to special needs. The need for care is based on her employment not the special need.

~~EXAMPLE: A family consisting of a working father, stay at home mother and two children applies for POC. They are income eligible and the mom states she needs childcare because her one child is developmentally delayed and needs increased socialization. If this is verified by a professional on the Special Needs form 611, they may receive child care for that child based on the special need and the parent fee for that child will be waived. (Note, the only need for child care is due to the child's special need, Mom is at home so there would not otherwise be a need for POC.)~~

~~4.3.~~ Caretakers in Category 31 caring for a child/ children who receive TANF or GA assistance where the adult requesting the child care is not the child's natural or adoptive parent (for example, grandparents, aunts, uncles, etc.).

~~5.4.~~ When paying the fee creates an excessive financial burden. Excessive financial burden is defined as a situation where the family's disposable income prior to the deductions or after the deductions, result in the family having income below ~~75%~~ 40% of the federal poverty level. Deductions are limited to:

- rent, mortgage, lot rent;
- any mandatory expenses required by the landlord or mortgage holder (e.g., homeowners insurance, property taxes, school taxes);
- actual current monthly utility expenses (e.g., electric, gas, trash, water and sewer). Late fee's and past due amounts are not included.
- telephone expenses are capped at the same rate as the FS standard deduction for telephone bills;
- un-reimbursed medical costs (Before considering these medical costs as deductions, families not already receiving Medicaid or on the Delaware Healthy Children Program (DHCP) must first apply for either Medicaid or the DHCP. The DHCP premiums are included in the un-reimbursed medical cost deductions. Any un-reimbursed medical costs not covered by Medicaid or the DHCP will be considered as a deduction to determine the family's

income for excessive financial burden.)

EXAMPLE:

A family of three has gross monthly income of ~~\$1,417.00~~ \$1,300.00. The parent fee for this family would be ~~23%~~ 16% of the cost of care. The rent payment for this family is ~~\$550~~ \$600/ month. Utility expenses are \$20 for phone and ~~\$65~~ \$165 for electric.

Total income per month equals:	\$1,417.00 <u>\$1,300.00</u>
Total expenses are:	\$ 635.00 <u>\$785.00</u>
After deductions:	\$ 782.00 <u>\$515.00</u>

~~\$782.00~~ \$515.00 is less than ~~\$954.00~~ \$553.00, ~~75%~~ 40% of the federal poverty level for a family of 3, so this family can have the parent fee waived.

EXAMPLE:

A family of four has a gross monthly income of \$2,203.00. The parent fee for this family would be 44% of the cost of care. The rent payment for this family is \$600/ month. Utility expenses are \$20 for phone and \$165 for electric.

Total income per month equals:	\$2,203.00
Total expenses are:	\$785.00
After deductions:	\$1,418.00

\$1,418.00 is more than ~~\$1,150.00~~ \$666.00, ~~75%~~ 40% of the federal poverty level for a family of 4, so this family will not have the parent fee waived.

~~6-5.~~ Teen parents 18 years old or younger attending high school or a high school equivalent.

All requests to waive the fee must be documented in the case file and be approved by the unit supervisor.

As is the case with income, a person who acts as a child's caretaker, as defined in Section 11002.9, pays a child care fee based only upon income attributable to the child, unless the family meets one of the waived fee conditions above.

8 DE Reg. 1310 (3/1/05)

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