

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

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

FINAL

ORDER

Nature Of The Proceedings

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to amend the Case Processing Procedures policy in the Division of Social Services Manual (DSSM) regarding redeterminations: certification periods. 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 December 2004 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2004 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary Of Proposed Changes

The purpose of this rule amendment is to simplify the application and eligibility review process for DSS benefits. DSS is aligning program rules of the Cash Assistance Programs with the Food Stamp Program. The Food Stamp Program has mandated regulations on case reviews. DSS plans to adopt rules to align the eligibility review processes for Temporary Assistance for Needy Families (TANF) and General Assistance (GA) so both programs have the same rules.

DSS plans to amend the rules in DSSM 2001 to update program language and reorganize and renumber program requirements for the eligibility review process for cash assistance programs. TANF and GA cases will close at the end of a certification period if the case is not reviewed. The certification period will be adjusted to any existing open cash assistance or Food Stamps already in the case. After written notification, the recipient is responsible for making an appointment with DSS for a case review.

Summary Of Comments Received With Agency Response And Explanation Of Change(S)

The Delaware Developmental Disabilities Council (DDDC) and the State Council for Persons with Disabilities (SCPD) provided the following observations summarized below.

DDDC and SCPD believe there are several positive features to the revised regulations. First, the eligibility periods for GA have been either 3 or 6 months. The new regulations will have a uniform 6 month eligibility period. Second, the eligibility periods for cash assistance and Food Stamps will be adjusted to ensure the same due date for redeterminations. This will reduce paperwork and burden on beneficiaries. Third, mail-in applications with a telephone interview for TANF beneficiaries are authorized.

The DDDC and the SCPD have the following recommendations:

First, it is not entirely clear if a mail-in application and telephone interview are options for GA recipients. Section 2001.1, second paragraph appears to generally authorize mail-in applications and telephone interviews. However, proposed 2001.1.1 appears to focus solely on TANF recipients.

Agency Response: DSSM 2001.1 does state that a new application must be completed. It further states that the person must appear for an interview or use a mail-in with telephone interview process. This applies to all cash assistance programs. Special emphasis was given in DSSM 2001.1.1 to TANF recipients because the program requires work or work activity participation for continued benefits to those who are able to engage in those activities.

Second, the superseded regulations contemplate DSS scheduling of an interview and DSS assistance if a client has difficulty in obtaining documentation supporting continued eligibility. The new regulations omit such references. It would be preferable to include an acknowledgement that DSS will send notice of a pending expiration along with reapplication materials at least 30 days prior to the expiration date. It would also be preferable to include an

assistance provision similar to that in the superseded regulation: “When the client says s/he cannot get a requested document, the worker will assist the client in obtaining an acceptable verification to establish continuing eligibility.”

Agency Response: The following provision was inadvertently omitted and will be included in the final order regulation: “When the client says s/he cannot get a requested document, the worker will assist the client in obtaining an acceptable verification to establish continuing eligibility”.

Third, the italicized sentence of Section 2001.1, First Paragraph, provides no flexibility or discretion based on “good cause”. In contrast, the superseded regulation provided examples of “good reason” for missing an interview. The following substitute would establish the general rule while still allowing DSS some discretion: In the absence of compelling good cause or extenuating circumstances, benefits will not continue beyond the end of an application period without a new determination of eligibility.

Alternately, DSS could also consider the following variation: In the absence of good cause (e.g. unforeseen hospitalization; notice sent to incorrect address), benefits will not continue beyond the end of an application period without a new determination of eligibility.

Agency Response: Under no circumstance will benefits continue beyond the end of an eligibility period without a new determination of eligibility. This provision is consistent with the Food Stamp program. Recipients will receive a notice approximately 45 days prior to the end of the review period. The Delaware Client Information System (DCIS) will close these cases as the review period is due. As long as an application is received prior to the end of the review period, benefits can be reopened in the event of a good cause situation that prevents the review from being completed timely. DCIS will generate a notice of review and send a mini application to be completed so benefits may be continued. However, for TANF recipients, there are other requirements that must also be met that cannot be mailed at the same time. Those families will need to contact the Division of Social Services to complete the review process.

Findings Of Fact:

The Department finds that the proposed changes as set forth in the December 2004 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Case Processing Procedures policy in the Division of Social Services Manual (DSSM) is adopted and shall be final effective February 10, 2005.

Vincent P. Meconi, Secretary, DHSS, 1.13.2005

DSS FINAL ORDER REGULATION #05-03 Sections 2001.1 and 2001.1.1

2001 Redeterminations

~~In order for cash assistance to continue, the eligibility of all recipients must be reviewed any time a change is reported. In addition, regular periodic redeterminations of eligibility are also required.~~

A redetermination is a re-evaluation of a recipient's continued eligibility for assistance. In a redetermination, all eligibility factors are re-examined to ensure that the recipient continues to meet categorical eligibility requirements.

When a redetermination is due, the recipient is required to complete a new DSS application form (Form 100) and appear for a scheduled interview. A redetermination is complete when all eligibility factors are examined and a decision regarding continued eligibility is reached.

The assistance case of a recipient who fails without a good reason to appear for a scheduled redetermination interview will be closed. Examples of good reason for missing a redetermination appointment are:

- Illness of the payee or another family member requiring the presence of the payee;
- Court required appearance;
- Household emergency;
- Inclement weather which prevents travel;
- Appointment letter sent to the wrong address.

The recipient will be sent a notice of advance action produced by DCIS at least ten (10) days prior to the effective date of the termination. This notice cannot be mailed until the recipient has missed the appointment.

EXAMPLE: A client is scheduled for a redetermination appointment on March 22nd. The client missed the redetermination appointment. The worker closes the assistance case for failure to keep a redetermination appointment. The earliest the notice can be sent is March 23rd, so the closing is effective April 30th.

The assistance case of a recipient who fails to provide requested information necessary to establish continued eligibility will be closed. Recipients must be notified via Form 105 of all information necessary to establish continuing eligibility and allowed ten (10) days to return the information. When the client says s/he cannot get a requested document, the worker will assist the client in obtaining an acceptable verification to establish continuing eligibility.

The recipient will be sent a notice of advance action produced by DCIS at least ten (10) days prior to the effective date of the termination. This notice cannot be mailed until the recipient has missed the deadline for returning the requested information.

EXAMPLE: On March 1st a client has a redetermination interview. On March 1st the worker gives the client a Form 105 requesting verification of the bank account and gives March 11th as the deadline date. The client does not return the verification by March 11th. The worker closes the case for failure to provide requested information. The earliest the notice can be sent is March 12th so the closing is effective March 31st.

EXAMPLE: On March 1st a client has a redetermination interview. On March 12th the worker realizes the client did not verify a bank account. The worker sends the client a Form 105 requesting verification of the bank account and gives March 22nd as the deadline date. The client does not return the verification by March 22nd. The worker closes the case for failure to provide requested information. The earliest the notice can be sent is March 23rd so the closing is effective April 30th.

Any recipient whose assistance benefits are reduced or terminated as a result of a redetermination will be sent written notice of the change at least ten (10) days prior to the effective date of the reduction or termination.

A redetermination is a process by which eligibility factors are periodically reviewed to determine if the assistance group remains eligible for benefits.

2001.1 Required Periodic Redeterminations

The minimum requirement for regular periodic redeterminations on all cases receiving cash assistance is as follows:

1. Every six (6) months for TANF and GA cases where eligibility is based on unemployability
2. Every three (3) months for GA families
3. ~~For GA cases with 12th grade high school students, the redetermination date is scheduled in the month prior to the month of graduation.~~

2001.1 Redetermination: Eligibility Review Periods

Eligibility periods means the period of time within which a family shall be eligible to receive benefits. At the expiration of each eligibility period cash assistance benefits end. Further eligibility will be established based upon a newly completed application, an interview and verification of information. Under no circumstance will benefits continue beyond the end of an eligibility period without a new determination of eligibility. The first month of the eligibility period will be the first month for which the household is eligible to participate.

A redetermination is due when the eligibility period is expiring. The recipient is required to complete a new DSS application form and either appear for an interview in person or have a mail-in application with a telephone interview. A redetermination is complete when all eligibility factors are examined and a decision regarding eligibility is reached. **[When the client says she cannot get a requested document, the worker will assist the client in obtaining an acceptable verification to establish continuing eligibility.]** At that point, a new review period is given for eligible families.

The eligibility review periods for cash assistance cases will normally be set at 6 months. But if there is also Food Stamps to review, the cash assistance eligibility period will be adjusted to come due at the same time as the Food Stamp review so that the family does not experience any undue hardship in the review process. That means, the cash assistance redetermination will be due at the same time as the open Food Stamp case because the eligibility period for the cash assistance case will be adjusted to the same date as the open Food Stamps certification period.

If there was no previously open Food Stamp case but there was an open cash assistance group, the eligibility period of the new cash assistance group would have been adjusted to come due at the same time as the existing cash assistance group.

Therefore, the eligibility review period will be at 6 months or when the Food Stamps assistance groups are due for review but no later than 11 months.

2001.1.1

Interviews.

Delaware's Temporary Assistance for Needy Families Program emphasizes work and work-related activity. Mandating face-to-face interviews might undermine that goal. Therefore, use mail-in applications, with a telephone interview, as an option to encourage recipients to continue employment and training activities or continue working. For Non-Needy Non-Parent Caretakers using mail-in applications with a telephone interview is also permitted since DSS does not count the income and resources of these caretakers. A Contract of Mutual Responsibility is still required to be reviewed and updated.

Redeterminations of eligibility are performed in the regional office.

2001.1.2

Redetermination Notices

Families that have filed an application by the fifteenth (15th) day of the last month of their eligibility period must be provided with either a notice of eligibility or a notice of denial by the end of the current eligibility period. The end of the eligibility period means that a redetermination interview is due.

A system-generated notice is issued even if the assistance group's benefit level increases or does not change.

If a family received a notice of expiration of when the eligibility period was ending indicating that a redetermination was due, and timely reapplied for cash assistance, they are to be sent another notice no later than 30 days after the review date. This second notice will indicate whether the family was eligible for benefits or denied benefits based on the information provided for the redetermination.

8 DE Reg 1150 (2/1/05)