

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

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

FINAL

PUBLIC NOTICE

DSSM: 11000 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 regarding *Definition and Explanation of Terms, Income Eligible/Loss of Employment or Job Transition, Income Eligible/Training, Explanation of Certificates and Loss of Need Transition*. 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 December 2009 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2009 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) to increase the period of extended child care for the purpose of job search from one month to **three** months.

Statutory Authority

- 45 CFR Part 98, *Child Care and Development Fund*
- 45 CFR §98.20, *A child's eligibility for child care services*

Summary of Proposed Changes

1) **DSSM 11002.9**, *Definition and Explanation of Terms*, **DSSM 11003.7.3**, *Income Eligible/Loss of Employment or Job Transition*, **DSSM 11003.7.4**, *Income Eligible/Training*; and, **DSSM 11004.12.1**, *Loss of Need Transition* are being amended as the child care extension for job search has increased from one month to **three** months for child care recipients who:

- lost a job and need to look for another job;
- have a gap in employment because of a transition between jobs;
- ended an education/training program and need to look for work; or,
- have a break in an education/training program.

Definitions are being revised throughout to coincide with the amended policy. Additionally, other revisions are made to clarify existing definitions.

2) **DSSM 11004.4.1**, *Explanation of Certificates*, is being amended to correct a misnomer in the policy. Group homes, as used in child care policy, are actually large family homes. All instances of group home, erroneously used in lieu of large family home, are being removed from the child care policy.

Also, the term "Food Stamp" has been replaced with "Food Benefit" throughout, as appropriate.

Summary of Comments Received with Agency Response and Explanation of Changes

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.

First, the most significant amendment is to increase the period of extended child care for the purpose of job search from one month to three months. Both Councils endorse this amendment.

Agency Response: The Division of Social Services wishes to thank you for your endorsement of the amendment to increase the period of extended care for job search from one month to three months.

Second, §11002.9AC is amended as follows:

~~Large Family Child Care Home - A place where licensed care is provided for more than six but less than twelve children. A private residence other than the child's residence, where child care services are provided by a caregiver for fewer than 24 hours per day per child.~~

DSS may wish to consider whether the first sentence should be retained. Without it, there is considerable overlap with the definition of "Family Child Care Home" in §11002.9S. For example, a family child care home with one to six children would qualify under each definition.

Agency Response: The Division of Social Services agrees with your recommendation to retain the first sentence in DSSM 11002.9 AC. We are amending the policy as follows, including removing the 24 hour criteria to make it consistent with the definition of a family child care home.

~~AC. Large Family Child Care Home - A place where licensed care is provided for more than six but less than twelve children. A private residence other than the child's residence, where [child care services are licensed care is] provided [by a caregiver for fewer than 24 hours per day per child for more than six but less than twelve children who are not related to the caregiver].~~

Third, there is an anomaly in the regulation insofar as a family child care home (§11002.9S) can provide care in excess of twenty-four hours if necessitated by the parent's work. However, a large family child care home (§11002.9AC) does not have this option. It is difficult to identify a logical rationale for the distinction. DSS may wish to adopt the same authorization for both types of homes.

Agency Response: The Division of Social Services appreciates your comment. Thank you for pointing out the inconsistency in the two definitions. This was an oversight on our part. We have revised the definition as follows:

~~S. Family Child Care Home - A place 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. [In some instances, care may be provided in excess of 24 hours if warranted due to the nature of the parents/caretakers work.]~~

Findings of Fact:

The Department finds that the proposed changes as set forth in the December 2009 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Child Care Subsidy Program policies regarding *Definition and Explanation of Terms, Income Eligible/Loss of Employment or Job Transition, Income Eligible/Training, Explanation of Certificates and Loss of Need Transition* are adopted and shall be final effective February 10, 2010.

Rita M. Landgraf, Secretary, DHSS

**DSS FINAL ORDER #10-07
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 ~~Stamps~~ 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. ~~Group~~ 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 ~~associates~~ associate's degree may be attained if it leads to a ~~bachelors~~ 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 ~~one month~~ 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 ~~place~~ 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. **[In some instances, care may be provided in excess of 24 hours if warranted due to the nature of the parents/caretakers work.]**
- 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 ~~Stamp~~ Benefit Employment and Training - The program by which certain unemployed mandatory and/ or voluntary Food ~~Stamp~~ 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 ~~Stamp~~ 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. 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.

- 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. 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. 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 ~~Stamp~~ Benefit Employment & Training (~~FS~~ FB E&T) contracted programs, WIA sponsored training programs, recognized school vocational programs, and on-the-job training programs.
- AC. Large Family Child Care Home - ~~A place where licensed care is provided for more than six but less than twelve children. A private residence other than the child's residence, where~~ **[child care services are licensed care is] provided [by a caregiver for fewer than 24 hours per day per child for more than six but less than twelve children who are not related to the caregiver].**
- AD. Legal Care - Care which is either licensed or exempt from licensing requirements.
- AE. Parent - The child's natural mother, natural legal father, adoptive mother or father, or step-parent.
- AF. 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. 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. 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. Reimbursement Rates - The maximum dollar amount the State will pay for child care services.
- AJ. Relative - Grandparents, aunts, uncles, brothers, sisters, cousins, and any other relative as defined by TANF policy, as they are related to the child.
- AK. Residing With - Living in the home of the parent or caretaker.
- AL. SSBG - Social Services Block Grant. Under the DCIS II Child Care Sub system, this is Category 31 child care.
- AM. 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. 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. Self-Initiated - Clients who enter an education or training program on their own. The education or training program must be comparable to a Food ~~Stamp~~ Benefit Employment & Training (~~FS~~ FB E&T) - TANF education or training component. Self-initiated clients must receive child care services if there is a child care need.
- AP. 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 ~~competence~~ authority to do so.
- AQ. 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~~ authority to do so.
- AR. Technical Eligibility - Parents/caretakers meet requirements, other than financial, to receive child care services based on need and category.

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

(Break in Continuity of Sections)

11003.7.3 Income Eligible/Loss of Employment or Job Transition

Parent/caretakers who lose employment or who have a gap in employment because of a transition between jobs, can continue service for up to ~~one month~~ three months. Child care services will cease if employment does not begin again after this time.

11003.7.4 Income Eligible/Training

Parent/caretakers who participate in a DSS Food Stamp Benefit 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 Benefit Employment & Training (FB E&T) Employability Development Plan; 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~~ three months to allow for breaks between training programs or to allow for an employment search upon completion of training.

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

(Break in Continuity of Sections)

11004.4.1 Explanation of Certificates

Use the following as a guide to explain the child care certificate package.

- A. Parents/caretakers can use this package to select a child care provider of their choice. However, they must select care that is legal. Legal care is care that is licensed or that is exempt from licensing requirements.
- B. Licensed Care: In Delaware, all family child care homes, ~~group homes~~, and child care centers must have a license to operate. Do not allow a parent to select an unlicensed family, ~~group~~, or center child care provider.
- C. License-exempt Care: The following provider types are exempt from licensing requirements in Delaware:
 1. persons who come into the child's own home to care for the parent/caretaker's child,
 2. relatives who provide care in their home for the parent/caretaker's child;
 3. public or private school care,
 4. preschools and kindergarten care, and
 5. before and after school care programs.

Though the above provider types are exempt from licensing requirements, they are still required to meet certain health and safety standards. These standards are:

1. maintaining documentation of the child's immunization record,
 2. safe and clean building premises,
 3. providers and those 18 and older who live in the home where care is being provided must not have any record of child abuse or neglect (do not allow persons to provide care where there is a known record of abuse or neglect), and
 4. relatives who provide care cannot be part of the welfare grant.
- D. Once parents/caretakers know the appropriate provider to select, they also need to know how DSS will pay for the care provided. DSS has established rates above which it will not pay (see Appendix II for current reimbursement rates).
- Parents/caretakers will need to know these rates and whether or not the provider is willing to accept them. If the provider is willing, the certificate will act just like a DSS contract and DSS will pay the provider directly less any child care fee. If the provider is not willing, the parent/caretaker will self-arrange care with the individual provider.
- If the provider contracted purchase of care slots are full, the provider may offer the parent/caretaker the option of receiving service as a purchase of care plus client. The provider then receives the regular DSS subsidy from the Division, the DSS determined parent fee and any additional fee determined by the provider from the parent/caretaker.
- If the provider is not willing to accept purchase of care plus, the parent/caretaker will self-arrange care with the individual provider. The parent/caretaker will pay the provider and submit an original receipt to DSS for reimbursement. The parent/caretaker, however, will only receive reimbursement up to the DSS statewide limit.
- E. The provider will need to complete and return the original copy of the actual child care certificate before Case Managers can authorize care. Relative and non-relative providers will also complete and return the Child Abuse/ Neglect History Clearance Form or forms for all members 18 and older living in the home. If this form is not returned, discontinue care. Other exempt providers will need to keep a completed child/abuse and criminal history declaration statement on file for each child care staff member.
- F. Service will not be delayed because of an incomplete child abuse clearance check, but remind parents/caretakers that DSS will not pay for care if, after authorization, the check should reveal a history of abuse or neglect.
- G. Allow parents/caretakers one month to use a certificate. If the certificate is not used within that time, it no longer remains valid and the parents/caretakers will need to obtain a new certificate if they still wish to receive service.
- H. The original copy of the child care certificate is completed and returned by the provider. The certificate package provides instructions for completion. The provider should keep a copy.
- I. The client has 60 days from confirmation of eligibility to provide the DSS Case Manager with the name of his/her provider. If the client fails to provide this information his/her case will close.

8 DE Reg. 1153 (2/1/05)

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

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

(Break in Continuity of Sections)

11004.12.1 Loss of Need Transition Continuing Child Care after Loss of Need

45 CFR 98.20

~~If parent/caretakers should lose their need for service, child care authorization should generally end. However, under certain circumstances, continue to authorize service for up to one month for parent/caretakers who:~~

Under certain circumstances, DSS will continue child care for up to three months after parents/caretakers lose their need for service. DSS will continue to authorize service for up to three months for parents/caretakers who:

- A. lose employment and who need to search for new employment,
- B. experience a gap in employment because of a transition between jobs,
- C. end an education/training program and need to search for employment, or
- D. experience a break in an education/training program.