

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

ORDER

FINAL

DSSM 3003 and 3031

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 Delaware’s Temporary Assistance for Needy Families Welfare Reform Program. 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 November 2004 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by November 30, 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

1. DSSM 3003 Non-Time Limited Program – Children’s Program

- In accordance with the Trademark Agreement, replaced previous program name with Delaware’s Temporary Assistance for Needy Families Welfare Reform Program, where applicable.
- Adds language that states if a family is placed in the TANF Children’s Program because the parent or caretaker is caring for a disabled family member, DSS will obtain a statement or have the DSS Medical Certification form completed by a medical professional to verify that the person is needed in the home to care for the disabled family member.

~~2. DSSM 3031 Work for Your Welfare~~

~~Adds language that states to be exempt from Workfare, TANF recipients who are employed need to be earning at least the equivalent of minimum wage at twenty hours per week.]~~

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) provided the following observations summarized below:

First, the proposed regulations amend the name of the program.

Agency Response: DSS is mandated by the trademark agreement to change the name of the program from Delaware’s A Better Chance Program. DSS chose to just call it the Temporary Assistance for Needy Families Program since that is the name of the Federal legislation.

Second, although TANF eligibility is generally time-limited, there are exceptions. One exception is the necessity of a parent to care for a child or adult with disability in the home. See §3003, 1st bullet. DSS proposes to require a statement or completed form from a medical professional verifying that “the person is needed in the home to care for the disabled family member.” We believe it would be preferable to amend the references to read “medical or licensed mental health professional” to permit licensed clinical psychologist or licensed clinical social worker to provide the verification. Alternately, a sentence could be added at the end to read as follows: For purposes of this paragraph, the term “medical profession” shall include a licensed mental health professional (e.g., psychologist; LCSW).” The latter amendment would be more consistent with use of a “Medical Certification Form”. In the context of mental illness or

mental retardation, such non-medical professionals may be the primary expert on the child or family member's impairment.

Agency Response: The sentence has been amended to include licensed behavioral health professional.

In addition, references to "disabled family member" in the proposed amendment do not reflect "people-first" language. Unfortunately, similar terminology is used in §3003, 1st bullet, which is not earmarked for amendment. For a variety of reasons, revision of the new sentence may not be preferred at this time. The substance of the regulation does not restrict eligibility.

Agency Response: It is the intent of DSS to use written and oral language that reflects the individuality and dignity of the persons we serve. The current language is consistent with the rest of the manual. In the near future, DSS will look into making wholesale changes in its policy manuals to reflect people first language.

Third, DSS adds a sentence intended to clarify the extent of expected employment for TANF recipients in the Work for Your Welfare program. Unfortunately, the added sentence is not grammatically correct and is difficult to understand. Perhaps a phrase or provision was inadvertently omitted. We recommend that the sentence be revised to ensure clarity of intent.

Agency Response: DSS is postponing changes to DSSM 3031 to allow for consistency with required changes to Work for Your Welfare hours. Your comments will be considered.

Findings Of Fact:

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

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual regarding Delaware's Temporary Assistance for Needy Families Welfare Reform Program is adopted and shall be final effective January 10, 2005.

Vincent P. Meconi, Secretary, DHSS
12.15.2004, Date of Signature

DSS ORDER REGULATION #04-30

3003 Non-Time Limited Program - Children's Program

DELAWARE'S ~~A BETTER CHANCE~~ TEMPORARY ASSISTANCE FOR NEEDY FAMILIES WELFARE REFORM PROGRAM creates a non-time-limited program for certain families, referred to as the Children's Program. Families with the following status will receive benefits in the Children's Program:

- Families that the agency has determined are unemployable and unable to achieve self-sufficiency, either because a parent is too physically or mentally disabled to work in an unsubsidized work setting or because the parent is needed in the home to care for a child or another adult disabled to that extent; or
- Families headed by a non-needy, non-parent caretaker; or
- Families where the agency has determined that the adult caretaker is temporarily unemployable. Based on medical information, DSS will set the duration of the unemployability. The caretaker has the responsibility to request an extension and provide proof of continuing unemployability. Otherwise, DSS will consider the caretaker employable and transfer the family to the time-limited program.
- Families in which the adult files a claim or has a claim being adjudicated for SSI or disability insurance under OASDI. (In this case, the family must sign an agreement to repay cash benefits received under the Children's Program from the proceeds of the first SSI/DI check received. However, the Division will require this only as long as the SSI/DI benefit includes retroactive payments for a period when the family received benefits under the Children's Program. The amount repaid will not exceed the amount of the

retroactive SSI/DI benefit.)

In cases for which the family is placed in the Children's program because the parent (or other caretaker relative) is caring for a disabled family member, DSS will obtain a statement from a medical [or licensed behavioral health] professional or have the DSS Medical Certification form completed by a medical professional to verify that the person is needed in the home to care for the disabled family member.

CONTRACT OF MUTUAL RESPONSIBILITY requirements and sanctions for non-compliance apply to families in the Children's Program.

3031 Work For Your Welfare

All two-parent households, who are without employment, must enter a Work For Your Welfare activity to qualify for benefits. Single adult recipients, who reach their 22nd month of benefit and are without employment, and all eligible applicants on or after 01/01/2000, must enter a Work For Your Welfare activity to qualify for benefits. ~~[Additionally, all TANF recipients who are employed must earn at least the equivalent of minimum wage at twenty hours per week will be considered mandatory for Work for Your Welfare.]~~ Work for Your Welfare is defined as a work experience program in which participants work to earn their benefits. In addition, DSS requires each participant to complete 10 hours of job search activity per week. The failure to complete job search as required will result in a progressive 1/3 sanction. For two parent households, one parent must participate in the work for your welfare program in order to earn benefits. The second parent, unless exempt, must also participate in required employment related activities as defined by DSS and the DSS contractor.

Currently DSS operates the work for your welfare program under contract with a work for your welfare services provider. The provider assumes responsibility for the assessment, placement and monitoring of all work for your welfare participants in unsalaried work assignments. The work assignments are with public or nonprofit organizations. In return for their services, participants earn the amount of the benefit they are eligible to receive.

Work for your welfare is not preferable to participants obtaining unsubsidized employment. Though the work for your welfare assignment should be a safe assignment, it should not be more attractive than unsubsidized employment.

DSS is to ensure that no participants placed in work for welfare activities displace regular paid employees of any of the organizations providing the placements.

Since placements are not voluntary, DSS expects participants to accept assignments unless the assignment represents an unreasonable health and safety risk (e.g., the participant has a health condition, which would be aggravated by the assignment).

Participants cannot appeal their assignments to work for your welfare work sites[.]

8 DE Reg. 1024 (01/01/05)