

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

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

PROPOSED

PUBLIC NOTICE

DSSM: 3033 Interim Assistance Reimbursement

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding Delaware's Cash Assistance Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by January 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSED CHANGE

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding Delaware's Cash Assistance Program. The proposed change adds new policy language to the Technical Eligibility for Cash Assistance section. Specifically, the proposed rule requires clients to participate in the Interim Assistance Reimbursement process that allows Delaware to be reimbursed for cash assistance benefits paid to cash assistance recipients while their approval for SSI benefits was pending.

Statutory Authority

- Social Security Act, Section 1631(g), *Reimbursement to States for Interim Assistance Payments*
- 20 CFR §§416.1901 - 416.1922, *Interim Assistance Provisions*
- P. L. 94 365, *The authority to repay the State for interim assistance is made permanent*
- P.L. 100-203, *Extends interim assistance reimbursement to situations in which payments are made by States or political subdivisions to persons whose SSI payments were suspended or terminated and who subsequently are found to be eligible for such benefits. Also clarifies that the payment from which the interim assistance reimbursement is paid must be the first payment of benefits relating to the interim period.*

Background

Section 1631(g) of the Social Security Act provides that a state may enter into an agreement with the Social Security Administration (SSA) to have the SSA transmit an individual's Interim Assistance Reimbursement (IAR) payment directly to the state as reimbursement for interim assistance to a Supplemental Security Income (SSI) applicant while a decision upon his/her SSI application is pending. Delaware has an Interim Assistance Reimbursement agreement with the Social Security Administration.

Summary of Proposed New Rule

DSSM 3033, Interim Assistance Reimbursement - Requirements for Receipt of Cash Assistance by SSI Applicants: Interim Assistance Reimbursement (IAR) is the process used by the Social Security Administration to reimburse a State for the basic assistance provided by a State to an individual while either the individual's application for SSI was pending or during the period in which an individual's SSI benefits were suspended. A portion of the individual's SSI payments are sent to the State as reimbursement if: (1) the State has an agreement

with SSA to participate in IAR, (2) the individual has given SSA written authorization to have his/her SSI payment sent to the State as reimbursement, and (3) the individual is found eligible for SSI benefits or has had his/her benefits reinstated for the same period of suspense. Effective January 1, 2010, the proposed rule requires non-federally funded cash recipients to assign SSI benefits to the State for the purpose of reimbursing the State for assistance paid to the client while SSI eligibility determination was pending.

DSS PROPOSED REGULATION #09-47

NEW:

3033 Interim Assistance Reimbursement

3033.1 Requirements for Receipt of Cash Assistance by SSI Applicants

This policy applies to non-federally funded cash assistance recipients who have applied or intend to apply for SSI benefits.

1. Cash assistance applicants and recipients who are also SSI applicants are required to assign a portion of the SSI benefits they receive to the Division of Social Services to reimburse DSS for cash assistance received by the SSI applicant.

Delaware has an Interim Assistance Reimbursement (IAR) agreement with the Social Security Administration (SSA). This agreement allows Delaware's Division of Social Services (DSS) to receive reimbursement for the cash assistance provided to SSI applicants while their SSI eligibility decision was pending. The money reimbursed to the State is taken from the SSI applicant's initial and retroactive SSI benefits.

2. To be eligible for cash assistance, SSI applicants must authorize reimbursement through the IAR agreement for cash assistance received while SSI eligibility determination is pending.
3. A cash recipient is considered an SSI applicant if one or more of the following conditions exists:
 - A. The cash recipient has applied for SSI and is waiting for an eligibility decision.
 - B. The cash recipient has applied for reinstatement of SSI benefits and is waiting for a decision.
 - C. The cash recipient has received a request from DSS or another state agency to apply for SSI benefits.
 - D. The cash recipient has reported they intend to apply for SSI benefits or reinstatement of SSI benefits.
4. SSI applicants assign their SSI benefits to DSS by completing and signing a DSS approved IAR authorization form.

A cash recipient is required to complete an IAR authorization form when:

- A. The client reports he or she intends to apply for SSI.
- B. The client has made an application or reapplication for SSI benefits.
- C. Documentation is provided from a health care provider that indicates the client is unable to work and the disability is expected to exceed 6 months in duration.
- D. The client has applied or intends to apply to have SSI benefits reinstated after suspension or termination.
- E. The IAR authorization form on file is more than 30 days old and the client has not applied for SSI.
- F. The client is required to apply for SSI by DSS or another State agency.

13 DE Reg. 894 (01/01/10) (Prop.)