

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

FINAL

ORDER

**11003.7.5 Income Eligible/Education and Post-Secondary Education
Child Care Subsidy Program**

Determining High School/GED Eligibility Participation and Determining Post-Secondary Eligibility Participation

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 the Child Care Subsidy Program, specifically, *Determining High School/GED Eligibility Participation and Determining Post-Secondary Eligibility Participation*. 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 2013 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced November 30, 2013 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Determining High School/GED Eligibility Participation and Determining Post-Secondary Eligibility Participation*.

Statutory Authority

45 CFR §98.20, *A child’s eligibility for child care services*

Background

Delaware Health and Social Services (“DHSS”)/Division of Social Services (“DSS”) is designated as the lead agency with primary responsibilities for the planning and administration of child care subsidies funded with the Child Care Development Fund.

The Child Care and Development Fund (“CCDF”) Block Grant Act of 1990, as amended, 42 USC § 9858b (b)(1)(A), (the “Act”) requires the Lead Agency to “administer, directly, or through other governmental or non-governmental agencies” the funds received. The regulations at 45 CFR 98.11 provide that, in addition to retaining “overall responsibilities” for the administration of the program, the Lead Agency must also (among other things) promulgate all rules and regulations governing the overall administration of the CCDF program.

Summary of Proposed Changes

The Child Care Subsidy Program is available to eligible families while the parents/caretakers attend education programs. Amended **DSSM 11003.7.5**, ~~*Income Eligible/Education and Post-Secondary Education Determining High School/GED Eligibility*~~ and **NEW DSSM 11003.7.5**, *Determining Post-Secondary Eligibility and Participation* are proposed to clarify eligibility determinations for subsidized child care services for parents/caretakers who attend high school or GED program or post-secondary education program. The proposed rule change simplifies the language that DSS expects the course of instruction will lead to employment by removing the examples and further clarifies that parents/caretakers who already have a Bachelor’s degree or higher are not eligible for subsidized child care services.

The applicable federal citation is also added to each policy section.

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) offered the following observations and recommendations summarized below. The Division of Medicaid and Medical Assistance (DMMA) has considered each comment and responds as follows.

Earlier this year, the Councils commented on a proposed DSS regulation which addressed the types of post-secondary education that would qualify a student for enrollment in the child care subsidy program. We noted ambiguity in regulatory

provisions. In response, the Division deleted a section in anticipation of issuing a new regulation. See 16 DE Reg. 717 (January 1, 2013) (proposed); 16 DE Reg. 990 (March 1, 2013) (final)]. DSS is now issuing a new proposed regulation. The standards are brief and clarify that a caregiver with a Bachelor's degree or higher is not eligible.

GACEC and SCPD endorse the proposed regulation with one minor recommendation on punctuation, noted by GACEC as follows:

In section 11003.7.5.1, paragraph 1A, second bullet, a semi-colon should precede the word "and".

Agency Response: DSS accepts the recommendation and thanks the Councils for their endorsement.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the November 2013 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Determining High School/GED Eligibility Participation and Determining Post-Secondary Eligibility Participation* is adopted and shall be final effective January 10, 2014.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #13-56

REVISION:

~~11003.7.5 Income Eligible/Education and Post-Secondary Education~~

~~Parents/caretakers who participate in education and post secondary education can receive income eligible Child Care 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.~~

AMENDED:

11003.7.5 Determining High School/GED Eligibility and Participation

45 CFR 98.20

This policy applies to applicants and recipients seeking a high school diploma or GED.

1. DSS Requires Parents/Caretakers Meet Certain Eligibility Criterion

Parents/Caretakers who attend high school or GED program can receive Child Care for the duration of their participation.

A. If parents/caretakers are:

- Attending high school or high school equivalency and have not previously received a high school diploma or GED.
- Meeting all other financial and technical requirements. (See DSSM 11003.9- Financial Requirements and DSSM 11003-Determining Technical Eligibility for Child Care)

NEW:

11003.7.5.1 Determining Post-Secondary Eligibility and Participation

45 CFR 98.20

This policy applies to applicants and recipients who meet Child Care income eligibility requirements.

1. DSS Requires Parents/Caretakers Seeking A Degree Meet Certain Criterion.

Parents/Caretakers who are enrolled in higher education or training programs that lead to a degree or certification/ licensure can receive Child Care for the duration of the education program.

A. The parents/caretakers must be participating:

- In a DSS TANF Employment and Training (TANF E & T) Program; or
- In the DSS Food Supplement Program Employment and Training (FS E & T);] and

B. DSS expects the course of instruction will lead to employment.

C. Parents/Caretakers who already have a Bachelor's degree or higher are not eligible.

17 DE Reg. 739 (01/01/14) (Final)