

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

**FINAL**

**DSSM 20330.9 Long Term Care Program**

**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 Long Term Care Program. The proposal gives direction on counting gifts to minors under Uniform Gifts to Minors Act (UGMA) for the eligibility process. 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 April 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2005 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**

**Citation**

- SSA Program Operations Manual - SI 01120.205
- DSSM 20330.9 - Adds a new rule that addresses Uniform Gifts to Minors Act (UGMA) and how this resource counts towards the eligibility process. The rule clarifies when UGMA assets are counted or excluded as a resource.

**Summary of Comments Received with Agency Response**

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following summarized endorsement:

- DSS notes that the UGMA permits an individual to make an irrevocable gift of property to a minor. DSS treats the asset and earnings based on the asset as non-income to the minor until actual disbursement to the minor. Moreover, when the minor reaches the age of majority, the property becomes a countable asset. We endorse the proposed regulation.

*Agency Response: DSS thanks you for your endorsement.*

*Additional comments were received from Roger Waters, DSS Hearing Officer. His suggested changes are intended to make the language of the rules simpler, easier to understand and, to clarify that Delaware has adopted the Uniform Gifts to Minors Act. As a result of the suggestions, DSS made non-substantive grammatical and clarifying language changes throughout the regulation indicated by [bracketed bold type].*

**Findings of Fact**

The Department finds that the proposed changes as set forth in the April 2005 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation relating to the Uniform Gifts to Minors Act under the Long Term Care Program is adopted and shall be final effective June 10, 2005.

Vincent P. Meconi, Secretary, Department of Health and Social Services (DHSS)

May 13, 2005

**DSS FINAL ORDER REGULATIONS #05-26**

**NEW:**

### DSSM 20330.9 Uniform Gifts to Minors Act

~~Most States~~ Delaware has] have adopted the Uniform Gifts to Minors Act (UGMA) which permits making gifts to minors that are free of tax burdens. The UGMA is sometimes called the Uniform Transfers to Minors Act (UTMA).

Under [Delaware] UGMA [law ~~legislation~~:

- An individual [may] make~~s~~ an irrevocable gift of money or other property to a minor[. **If such a gift is made, then;**
- The gift, plus any earnings it generates, is under the control of a custodian until the child reaches the age of majority established by State law;
- The custodian has discretion to provide to the minor or spend for the minor's support, maintenance, benefit or education as much of the assets as he/she deems equitable; and
- The child automatically receives control of the assets upon [reaching the] age of majority (~~through~~ his/her 18<sup>th</sup> birthday). At this time, the UGMA property becomes a countable asset [for the purpose of program eligibility].

UGMA property including any additions or earnings is not income to the minor. However, any disbursements from the UGMA account to the minor will be considered income to the minor.

### Verification

~~Verify~~ DSS will verify] all allegations of existence of a UGMA gift by obtaining a copy of the document of ownership (e.g., deed, certificate of deposit, savings account, etc.) or other written document from the issuing source. If there is no document designating a UGMA gift, then the asset ~~is~~ will be] considered a countable resource.

**8 DE Reg. 1711 (6/01/05)**