

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Chapter 5, Section 512
(16 **Del.C.**, Ch. 5, §512)

FINAL

Child Care Subsidy Program

ORDER

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 Review and Determination. 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 April 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2010 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) regarding Review/Determination.

Statutory Authority

45 CFR §98.1, *Goals and purposes*

Summary of Proposed Change

DSSM 11004.11, *Review/Determination*: This manual revision implements new policy regarding child care eligibility requirements. The Division of Social Services (DSS) intends to adopt rules: 1) to extend the six month review period to a twelve month review period; and, 2) to add language referencing the return of the interim report. Child care assistance cases will remain open continuously for twelve months and a child care/food benefit case will close if the parent/caretaker fails to complete a review or return the six month interim report. These revisions promote the well-being of children by providing consistency of care. Additional changes are proposed to reformat and reorganize original text to simplify language and improve readability.

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 observation and recommendation summarized below. DSS has considered the comment and responds as follows.

The GACEC and the SCPD has reviewed the Division of Social Services proposal to revise its standards related to eligibility reviews and redeterminations for its child care subsidy program. We would like to share the following observation.

The Councils have only one recommended amendment. The regulation being deleted contained the following requirement: "Do not allow an authorization to end without first ensuring the parents/caretakers were given timely and adequate notice." This concept is absent from the proposed regulation. It should be reinstated. Otherwise, the regulation literally directs workers to automatically "close the child care case" based on any of several occurrences (e.g. child moves; parent does not cooperate; parent fails to submit six month report). Advance notice would be required by 16 **DE Admin. Code** Part 5000, §5301.

Agency Response: After review, DSS agrees the sentence should remain. The deleted requirement has been reinstated.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the February 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Child Care Subsidy Program policies regarding Review/Determination is adopted and shall be final effective June 10, 2010.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #10-28

REVISION:

11004.11 Review/Determination

45 CFR 98.1

~~Authorizations remain effective for the entire authorization period as long as parents/caretakers continue to meet the requirements for service (such as the parent/caretaker remains a Food Stamp Employment & Training (FS E&T) participant, keeps employment, remains income eligible, etc.). At least once every six months and just prior to the end of each authorization period, review/redetermine the circumstances of each parent/caretaker to see if child care services can continue.~~

~~It will not always be necessary to schedule parents/caretakers for a face-to-face interview or to repeat the application process. As long as parents/caretakers provide some proof that they remain employed, a Food Stamp or TANF Employment & Training (FS E&T) participant or, remain an employed TANF recipient, and verify income or special needs and remain income eligible, they remain eligible for child care services. However, at least once per year, schedule parents/caretakers for a face-to-face interview.~~

~~If parents/caretakers fail to show for a recertification interview or fail to provide necessary documentation, close the Child Care case. If the parents/ caretakers provide good cause for their failure to act, and the case has not closed, continue service. If the case has closed complete the redetermination and backdate to the first day of the month the authorization would have begun.~~

~~Good cause can be anything believed to be reasonable, but generally includes things such as:~~

- ~~1. illness;~~
- ~~2. court required appearance;~~
- ~~3. a household emergency (fire, heating problem, family crisis, etc.);~~
- ~~4. lack of transportation; or~~
- ~~5. bad weather.~~

~~Do not allow an authorization to end or close a case without first ensuring the parents/caretakers were given timely and adequate notice.~~

~~Parents/caretakers whose child care case closes because of their failure to keep a redetermination interview or provide verification of need and income may request a fair hearing.~~

~~In the event the agency errs in not completing a redetermination before a parent/caretaker's current authorization expires (such as change of Case Manager causes no redetermination letter to go out), still do a redetermination authorization, backdated to the first day of the month the new authorization would have begun had the agency not erred.~~

~~Parents/caretakers whose child care cases close because they failed to keep a redetermination or provide verification, can reapply for service. However, if DSS is in a "wait list" situation, these parents/caretakers will be subject to DSS' priority service order (see Section 11004.3.1).~~

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

All childcare applicants and recipients are continuously eligible for child care services for twelve months. This means that the applicants and recipients remain eligible for child care services unless:

- A. The child moves out of or is removed from the parent's/caretaker's home, or
- B. The child moves out of state, or
- C. The child is deceased, or
- D. The parent/caretaker does not cooperate with child support requirements

In the event of any of the above, close the child care case.

Additionally, the child care parent fee will **not** change during the authorization unless the parent/caretaker in a single parent home loses his or her job or one or both parents in a two parent home loses his or her job. (See DSSM 11004.12.1 Continuing Child Care after Loss of Need.)

Complete a review/redetermination of the circumstances of each parent/caretaker at least once every twelve months and just prior to the end of each authorization period.

Close the child care case if parents/caretakers fail to complete a review or return the six month interim report. Only child care/food benefit cases will receive an interim report. If the parents/caretakers provide good cause for their failure to complete or return the report, the case should be processed.

Good cause can be anything believed to be reasonable, but generally includes things such as:

1. illness;
2. court required appearance;
3. a household emergency (fire, heating problem, family crisis, etc.);
4. lack of transportation; or
5. bad weather.

Parents/caretakers whose child care cases close because they failed to complete a redetermination or provide verification, can reapply for service. However, if DSS is in a "wait list" situation, these parents/caretakers will be subject to DSS' priority service order (see Section 11004.3.1).

[Do not allow an authorization to end or close a case without first ensuring the parents/caretakers were given timely and adequate notice.]