

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

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

ORDER

Child Care Subsidy 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 child care subsidy program as it relates to the determination of the child care parent fee and fee waiving situations. 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 January 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 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 Changes

DSSM 11004.7 – Determination of the Child Care Parent Fee and Fee Waiving Situations

- In accordance with the Trademark Agreement, replaced previous program name with Delaware’s Temporary Assistance for Needy Families Welfare Reform Program, where applicable.
- Renumbered and revised the conditions under which child care fees will be waived; and, included examples.
- Added one more condition: waive the parent fee of teen parent attending high school.

Summary Of Comments Received With Agency Response

The Governor's Advisory Council for Exceptional Citizens (GACEC), the Delaware Developmental Disabilities Council (DDDC), and the State Council for Persons with Disabilities (SCPD) offered the following summarized comments.

Most of the proposed changes would not affect persons with disabilities. The most significant change for persons with disabilities is in the context of “special needs” children. The current standard authorizes waiver of all childcare fees for “families where the need for service is based on the special needs of the child or caretaker. The proposed version narrows this authorization to “families where the need for service is solely based on the special needs of the child or caretaker/parent.” The problem with this approach is that it presumes that the need for child care can be neatly categorized into a single justification. Life is rarely so “neat”. At a minimum, we recommend that the word “primarily” be substituted for the word “solely”. This would provide guidance to the DSS intake worker while still allowing some limited discretion.

DSS provides two illustrations of this standard. The first example could easily be misconstrued to mean that waiver of the childcare fee for a special needs child will never be justified if the childcare facilitates the parent’s employment. In the example, the employment could very well be prompted by the special needs of the child. We ask that the following substitute example be considered:

EXAMPLE: A family consisting of a working mother and two children applies for Purchase of Care. One child has ADD/HD and mom needs childcare because she is working. The parent fee for the child with ADD/HD would not be waived unless employment is directly linked to the special needs of the child (e.g. special school tuition; tutoring).

Agency Response: The Division of Social Services has considered the recommendation and respectfully chooses to retain the word “solely. The word “solely” was specifically chosen to emphasize and clarify that waiving a parent fee based on “special needs” can only happen when the need for child care is based on the identified “special need” of the individual who needs the child care.

Findings Of Fact

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

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the policies for the Child Care Subsidy Program is adopted and shall be final effective March 10, 2005.

Vincent P. Meconi, Secretary, DHSS, 2/15/05

**DSS FINAL ORDER REGULATION #05-10
REVISIONS:**

11004.7 Determination of The Child Care Parent Fee and Fee Waiving Situations

Under regulations, eligible families are required to contribute to the cost of child care services based upon their ability to pay. Families contribute to the cost of care by paying a DSS child care parent fee. DSS, however, provides child care services to certain families at no cost. ~~Part of the process, therefore, of determining fees includes not only the decision of how much parent/caretakers should pay for the cost of care, but also which families should receive services at no cost.~~ Part of the process after determining the client's financial eligibility and need for child care would be determining the parent fee and which families should have their parent fee waived.

All child care fees will be waived if the family meets one of the ~~four (4)~~ six (6) conditions below.

1. ~~For all families in Category 31 active with the Division of Family Services (DFS) including foster care families.~~

2. ~~For all families in Delaware's Temporary Assistance For Needy Families Program (TANF) in Categories 11 and 12. General Assistance (GA) families, and caretakers in Category 31 caring for children who receive TANF or GA assistance where the adult requesting the child care is not the child's natural or adoptive parent (for example, grandparents, aunts, uncles, etc.).~~

3. ~~When paying the fee creates an excessive financial burden (as defined below). Excessive financial burden is defined as situations where the family's disposable income, after deductions listed below, result in the family having income below 75% of the federal poverty level. Deductions are limited to:~~

- ~~• rent, mortgage, lot rent;~~
- ~~• any mandatory expense required by the landlord or mortgage holder (e.g., homeowners insurance, property taxes, school taxes);~~
- ~~• actual utility expenses (e.g., electric, gas, water, sewer);~~
- ~~• unreimbursed medical costs: Before considering these medical costs as deductions, families not already receiving Medicaid or on the Delaware Healthy Children Program (DHCP), must first apply for either Medicaid or the DHCP. Any unreimbursed medical costs not covered by Medicaid or the DHCP will be considered as a deduction to determine the family's income for excessive financial burden.~~

4. ~~Families where the need for service is based on the special needs of the child or the caretaker.~~

1. Families active with and referred by the Division of Family Services (DFS) including foster care families.

2. Families in Delaware's TANF Program in Categories 11 and 12, and General Assistance (GA) families.

3. Families where the need for service is solely based on the special needs of the child or the caretaker/parent. Families must first be financially eligible for Child Care Services. (See policy section 11003.7)

EXAMPLE: A family consisting of a working mother and two children applies for Purchase of Care. One child has ADD/HD and mom needs child care because she is working. The parent fee for the child with ADD/HD would not be waived due to special needs. The need for care is based on her employment not the special need.

EXAMPLE: A family consisting of a working father, stay at home mother and two children applies for POC. They are income eligible and the mom states she needs childcare because her one child is developmentally delayed and needs increased socialization. If this is verified by a professional on the Special Needs form ~~611~~, they may receive child care for that child based on the special need and the parent fee for that child will be waived. (Note, the only need for child care is due to the child's special need, Mom is at home so there would not otherwise be a need for

POC.)

4. Caretakers in Category 31 caring for a child/children who receive TANF or GA assistance where the adult requesting the child care is not the child's natural or adoptive parent (for example, grandparents, aunts, uncles, etc.).

5. When paying the fee creates an excessive financial burden. Excessive financial burden is defined as a situation where the family's disposable income prior to the deductions or after the deductions, result in the family having income below 75% of the federal poverty level. Deductions are limited to:

- rent, mortgage, lot rent;
- any mandatory expenses required by the landlord or mortgage holder (e.g., homeowners insurance, property taxes, school taxes);
- actual current monthly utility expenses (e.g., electric, gas, trash, water and sewer). Late fee's and past due amounts are not included.
- telephone expenses are capped at the same rate as the FS standard deduction for telephone bills;
- un-reimbursed medical costs (Before considering these medical costs as deductions, families not already receiving Medicaid or on the Delaware Healthy Children Program (DHCP) must first apply for either Medicaid or the DHCP. The DHCP premiums are included in the un-reimbursed medical cost deductions. Any un-reimbursed medical costs not covered by Medicaid or the DHCP will be considered as a deduction to determine the family's income for excessive financial burden.)

EXAMPLE:

A family of three has gross monthly income of \$1,417.00. The parent fee for this family would be 23% of the cost of care. The rent payment for this family is \$550/month. Utility expenses are \$20 for phone and \$65 for electric.

<u>Total income per month equals:</u>	<u>\$1,417.00</u>
<u>Total expenses are:</u>	<u>\$ 635.00</u>
<u>After deductions:</u>	<u>\$ 782.00</u>

\$782.00 is less than \$954.00, 75% of the federal poverty level for a family of 3, so this family can have the parent fee waived.

EXAMPLE:

A family of four has a gross monthly income of \$2,203.00. The parent fee for this family would be 44% of the cost of care. The rent payment for this family is \$600/month. Utility expenses are \$20 for phone and \$165 for electric.

<u>Total income per month equals:</u>	<u>\$2,203.00</u>
<u>Total expenses are:</u>	<u>\$ 785.00</u>
<u>After deductions:</u>	<u>\$1,418.00</u>

\$1,418.00 is more than \$1,150.00, 75% of the federal poverty level for a family of 4, so this family will not have the parent fee waived.

6. Teen parents 18 years old or younger attending high school or a high school equivalent.

All requests to waive the fee must be documented in the case file and be approved by the unit supervisor. ~~Requests to waive the fee for Division of Social Service (DSS) employees (seasonal, merit system) or temporary employees working for DSS must be approved by the Operations Administrator, as well as the unit supervisor.~~

As is the case with income, a person who acts as a child's caretaker, as defined in Section 11002.9, pays a child care fee based only upon income attributable to the child, unless the family meets one of the waived fee conditions above.

8 DE Reg. 1310 (3/1/05)