

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

FINAL

NOTICE OF WITHDRAWAL OF PROPOSED ACTION

Child Care Subsidy Program Proposed Phase-out Of Purchase Of Care Plus

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, notice is hereby given that the proposed regulation published in Volume 16, Issue 6, Number 603 of the December 1, 2012 issue of the Delaware Register of Regulations is withdrawn.

Summary of Notice of Withdrawal of a Proposed Action

On December 1, 2012, the Division of Social Services (DSS) published a notice for public information regarding a proposal to phase-out the Purchase of Care Plus (POC+) care option commencing January 1, 2013.

Effective March 1, 2013, the proposed action published in the Delaware *Register of Regulations* on December 1, 2012 (16 DE Reg. 603) is withdrawn. DSS will continue to explore options related to the Purchase of Care Plus (POC+) care option and the impact of proposed options on both recipients and providers.

DSS received approximately 7 public comments from the child care community in response to the December 1, 2012 proposed action. The written comments led to the conclusion that the proposed action should be withdrawn as written. Following are two representative examples of the type of comments that were received.

Representative Example #1

As background, this program is an option which allows providers to charge DSS clients the difference between the DSS reimbursement rate up to the provider's private fee for service rate. Historically, some providers may have limited DSS purchase of care slots since the compensation was so low the providers arguably could not sustain their businesses if they had too many POC slots. By inference, the POC+ program gave families an option, i.e., if a preferred provider had no POC slots, the family could offer the DSS subsidized compensation supplemented by a family payment. The family would still enjoy a State subsidy but have to pay a supplement resulting in the provider receiving an aggregate of its "private-pay" rate.

The purpose and rationale for the proposed phase-out is: In 2011, the provider rates were raised to sixty five percent of the market rate plus fifty cents. In addition, providers who join the Quality Rating and Improvement System known as Stars can potentially receive up to one hundred percent of the market rate. Some providers may choose the option of not participating in Stars, but will make up the difference by collecting the additional POC Plus fees through low income families. Phasing out of POC+ will encourage providers to participate in Stars and give some financial relief to our low income families.

There are pros and cons to this initiative.

The "pros" are as follows: 1) giving providers an incentive to participate in Stars quality rating program; 2) giving providers an incentive to offer more "regular" POC slots; and 3) reducing prospects for providers to negotiate payment of supplemental fees from families.

The "cons" are as follows: 1) reducing the network of providers who are willing to participate in the overall State subsidy program; 2) eliminating an option for families seeking a preferred provider with no "open" POC slots; and 3) being a disincentive for TANF clients to seek employment. For example, if DVR has a client with the opportunity to work, they will then exceed the FPL, will lose POC and have to pay out of pocket for child care services. This person will most likely not be able to attain a salary to pay for child care services and may just opt to rely totally on state benefits. Therefore, if POC+ is eliminated, the Division should adopt a program that has a buy-in option, similar to DMMA's Medicaid for Workers with Disabilities (MWD) program so there is an incentive for people to go to work, gain self-sufficiency and still keep their child care services.

We do not know how many families participate in the POC+ program, how attractive the 65% + 50 cent payments are, and how difficult it is to identify child care providers with openings. However, we do believe that the disadvantages outweigh the advantages and cannot endorse the regulation.

Representative Example #2

The POC plus system currently allows child care providers to charge the difference between what the State pays and the provider's private fee for service. I have recently been made aware that The Division of Social Services (DSS) is currently scheduled to phase out the POC plus program in 2013.

We strive to maintain our prices as low as possible while providing quality care and also pay competitive wages and treat our employees fairly. It is often extremely difficult to balance these three goals. Lower prices equates to less money for improvements and programs for the children, lower wages and fewer benefits for employees. Higher pricing places additional burden on all families, not just those already receiving State aid in the form of POC. We proudly advertise our pricing on our website at <http://www.pandaearyyed.com/rates.html> as our prices are significantly below market 75th percentile pricing. (see: 2011 Local Child Care Market Rate Study, Executive Summary Report for The Delaware Division of Social Services, June 2011).

We are strongly opposed to the elimination of the POC plus program for several reasons:

1. Elimination of POC plus will unfairly shift more of the burden to families who pay at our full rate. If necessary to increase prices in the future, even higher price increases will be required as they will be spread over fewer customers as the POC customers would not participate in the price increase. Our full paying clients supplement our lower income families already within their tuition and also through their Delaware income taxes. The economy has been very difficult and we struggle to have sufficient cash to meet our needs as many full paying families have fallen way behind in their payments. One of my families is currently \$5000 behind in their tuition. In total all my customers are in excess of \$40,000 behind in their tuitions. IN ORDER TO STAY IN BUSINESS I WOULD LIKELY HAVE TO RAISE PRICES ON MY FULL PAYING CUSTOMERS WHO ALREADY ARE STRUGGLING TO KEEP UP.
2. Our POC plus fees are kept low. They vary, but an average fee of \$20 per week is not uncommon. We also work with families on an individual basis. The loss of these fees would have to be made up with a combination of higher pricing for full paying parents, smaller pay raises for staff or fewer special events for children (field trips, guest speakers, traveling exhibits etc.)
3. In the past, changes and adjustments to the POC rates have come slowly. These changes come too slow as compared to the rapidly changing economy that every business must deal with. It's necessary to allow the business to control its pricing. The business owner is the only one who can determine what is needed to run his or her business effectively and efficiently. If necessary prices can be raised quickly to account for things like food, fuel and supply prices and changing government policies like taxes and wages.
4. Elimination of POC plus will make it more difficult for low income families to find a child care provider. Eventually providers will be forced to take full paying customers preferentially over POC customers. Reason 3 above is the biggest reason for this. It's necessary for business to be able change prices in order to meet the demands of the sometimes rapidly changing economy.
5. POC plus does not add additional cost to the State of Delaware.

I hope DSS will immediately reconsider the action to eliminate POC plus so that the quality and affordability of child care can be maintained for all families in Delaware.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2012 *Register of Regulations* should be withdrawn.

THEREFORE, IT IS ORDERED, that the proposed action regarding the Child Care Subsidy Program, *specifically, to phase-out the Purchase of Care Plus (POC+) care option* is withdrawn effective March 10, 2013.

Rita M. Landgraf, Secretary, DHSS

DSS NOTICE OF WITHDRAWAL OF PROPOSED ACTION #13-07

CHILD CARE SUBSIDY PROGRAM PHASE-OUT OF PURCHASE OF CARE PLUS

Delaware Health and Social Services (DHSS) and the Division of Social Services (DSS) is committed to keeping our partners, stakeholders and community informed of any changes in rules and regulations in the Child Care Subsidy Program.

Pursuant to 31 **Delaware Code**, Section 512, DSS is required to give public notice of any significant proposed change in its services and operations.

Public Notice is hereby given that the DSS proposes to withdraw the proposed action to phase-out the Purchase of Care Plus (POC+) care option that was to commence on January 1, 2013.

Currently, Purchase of Care Plus (POC+) is an option that allows child care providers to charge Division of Social Services (DSS) clients the difference between the DSS reimbursement rate up to the provider's private fee for service. The provider receives the DSS rate, the DSS determined child care parent fee if applicable, and any additional provider determined co-pay. This option is primarily for DSS fee-paying clients. DSS chooses not to limit childcare options for any group of individuals. DSS will allow all DSS purchase of care clients eligible for POC with no parent fee the opportunity to waive their right to receive childcare with no additional provider co-pays and choose a POC+ slot. POC+ is an option for all

DSS clients, not a requirement. If a provider does not have a regular POC slot available, the client can choose to self-arrange, enter into a POC+ arrangement or find another provider that will take the regular DSS payment.

The purpose and rationale for the withdrawal is to allow the Division of Social Services (DSS) to explore other options. DSS received written comments that led to the conclusion that the proposed option should be withdrawn as written. DSS will explore other options to eliminate or reduce POC+.

Elaine Archangelo, Director
Division of Social Services
2/18/13

16 DE Reg. 987 (03/01/13) (Final)