

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

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

PROPOSED

PUBLIC NOTICE

1000 Responsibility for the Administration of Delaware's Assistance Programs

1001 Purpose of Delaware's Financial Assistance Program

1002 Courteous Treatment of Clients

1003 Confidentiality

1004 Records To Be Kept In Locked Files

1005 Case Record Maintenance and Retention

1006 Civil Rights and Non-Discrimination

1007 Complaint Procedures

1008 Availability of Program Manuals

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, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding Case Administration, including, *Definitions; Treating Clients with Courtesy; Keeping Client Information Confidential; Safeguarding Case Records; Compiling and Saving Case Record Contents; Guaranteeing Civil Rights and Non-Discrimination; Making Civil Rights Complaints; and, Providing Policy Information.*

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by March 31, 2013.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding Case Administration, including *Definitions; Treating Clients with Courtesy; Keeping Client Information Confidential; Safeguarding Case Records; Compiling and Saving Case Record Contents; Guaranteeing Civil Rights and Non-Discrimination; and, Providing Policy Information.*

Statutory Authority

- Title 31 of the Delaware Code, Chapter 5, §501, *General Assistance Program, Legislative intent*
- Title 31 of the Delaware Code, Chapter 11, §1101, *Confidential character of public assistance records; penalties for violations*
- Title 31 of the Delaware Code, Chapter 36, §3610, *General Assistance Program, Acquisition of information by court-appointed special advocate*
- 7 CFR §272.1(c), *Use of disclosure of information*
- 7 CFR §272.6, *Nondiscrimination compliance*
- 45 CFR Part 80, *Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964*
- 45 CFR §92.42, *Retention and access requirements for records* 45 CFR §205.50, *Safeguarding information for the financial assistance programs*
- 45 CFR §205.70, *Availability of agency program manuals* §504 of the Rehabilitation Act of 1973 Personal Responsibility and Work Reconciliation Act of 1996
- Title VI of the Civil Rights Act of 1964

Background

The Department of Health and Social Services is the agency designated by the State as responsible for Delaware's public assistance programs. Within the Department, the Division of Social Services (DSS) is responsible for administering the following programs in an accurate and timely fashion while treating clients with respect and dignity: Temporary

Assistance for Needy Families (TANF), General Assistance Program, Food Supplement Program, Refugee Resettlement Program, Child Care Subsidy Program, Emergency Assistance Program, and Employment and Training Services.

The administrative requirements presented in the Division of Social Services Manual (DSSM) sections 1000 through 1008 relate to the activities of Division staff engaged in the direct administration of the State's public assistance programs.

Summary of Proposed Changes

The purpose of this rule change is to reformat and to clarify text for ease of readability, as follows:

- *DSSM 1000 Administration* is removed and replaced with *DSSM 1000 Definitions*;
- *DSSM 1001* the purpose of Delaware's financial assistance programs is removed from the policy manual as that information is on the Division of Social Services (DSS) website;
- *DSSM 1003* and *DSSM 1003.1* are combined into *DSSM 1003*;
- *DSSM 1003.2* is expanded into *DSSM 1003.2* and *DSSM 1003.2.1*;
- *DSSM 1006.1* and *DSSM 1006.2* are combined into *DSSM 1006.1*;
- *DSSM 1006.7* is incorporated into *DSSM 1006*; and,
- *DSSM 1007.1* and *DSSM 1007.2* are incorporated into *DSSM 1007*.

Additional changes are proposed throughout the rules to update terms and remove obsolete language, to change the name of each section to more accurately reflect the content of the policy and to add the applicable federal citation to the appropriate policy section.

The proposed changes affect the following policy sections in the Division of Social Services Manual (DSSM):

- DSSM 1000, *Responsibility for the Administration of Delaware's Assistance Programs* Definitions
- DSSM 1001, *Purpose of Delaware's Financial Assistance Program* RESERVED
- DSSM 1002, *Courteous Treatment of Clients* Treating Clients With Courtesy
- DSSM 1003, *Confidentiality* Keeping Client Information Confidential
- DSSM 1003.1, *Procedures to Maintain Confidentiality* RESERVED
- DSSM 1003.2, *Information to Law Enforcement Agencies* Releasing Confidential TANF Recipient Information
- DSSM 1003.2.1, *Releasing Confidential FSP Recipient Information*
- DSSM 1003.3, *Child Abuse, Neglect and Exploitation* Reporting Child Abuse and Neglect
- DSSM 1003.4, *Court Appointed Special Advocate (CASA or guardian ad litem)* Releasing Confidential Information to Court Appointed Special Advocates
- DSSM 1003.5, *Disclosure of Information for Other Reasons* Other Reasons for Releasing Confidential Information
- DSSM 1004, *Records To Be Kept In Locked Files* Safeguarding Case Records
- DSSM 1005, *Case Record Maintenance and Retention* Compiling and Saving Case Record Contents
- DSSM 1006, *Civil Rights and Non-Discrimination* Guaranteeing Civil Rights and Non-Discrimination
- DSSM 1006.1, *Non-Discrimination and Administrative Practices* Ensuring Non-Discrimination in the Provision of Services
- DSSM 1006.2, *Administration of the Civil Rights Program* RESERVED
- DSSM 1006.3, *Civil Rights Information to Clients and Participants* Providing Civil Rights Information
- DSSM 1006.4, *Assurance of Civil Rights Program Compliance in Regional Operations* Assuring Compliance in Area Operations
- DSSM 1006.5, *Reports of Civil Rights Program* Reporting Civil Rights Program Activities
- DSSM 1006.6, *Civil Rights Program and Public Relations* Publicizing the Civil Rights Program
- DSSM 1006.7, *Staff Development and the Civil Rights Program* RESERVED
- DSSM 1007, *Complaint Procedures* Making Civil Rights Complaints
- DSSM 1007.1, *Right to File Complaint* RESERVED
- DSSM 1007.2, *Methods of Filing Complaints* RESERVED
- DSSM 1007.3, *Methods of Handling Complaints* Routing Civil Rights Complaints
- DSSM 1007.4, *Records of Complaints* Keeping Records of Civil Rights Complaints
- DSSM 1007.5, *Confidentiality of Complaints* Keeping the Identity of Complaints Confidential
- DSSM 1007.6, *Other Complaint Procedures* Making Complaints
- DSSM 1008, *Availability of Program Manuals* Providing Policy Information

DSS PROPOSED REGULATIONS #13-08

REVISIONS:

~~4000 Responsibility for the Administration of Delaware's Assistance Programs~~

~~The Department of Health and Social Services is the agency designated by the State as responsible for Delaware's public assistance programs. Within the Department, the Division of Social Services (DSS) administers these programs. The specific programs are those allowed under:~~

- ~~1. Title IV-A of the Social Security Act (the TANF Program and the Emergency Assistance Program);~~

2. Title 31 of the **Delaware Code**, Chapter 5 (the General Assistance Program);
3. Title IV of the Immigration and Nationality Act (the Refugee Resettlement Program);
4. Title 31 of the **Delaware Code**, Title XX of the Social Security Act, 7 CFR §273.7, and the CCDBG as amended by the Personal Responsibility and Work Reconciliation Act of 1996 (the Child Care Subsidy Program);
5. Title 31 of the **Delaware Code**, Chapter 9 (Food Stamp Employment and Training services); and
6. 7 U.S.C. Chapter 51 and Title 31 of the **Delaware Code**, Chapter 6 (the Food Stamp Program).

Included in this manual are technical and financial eligibility rules for the following programs:

1. Temporary Assistance for Needy Families (TANF)
2. The General Assistance Program
3. The Food Stamp Program
4. The Refugee Resettlement Program
5. The Child Care Subsidy Program
6. The Emergency Assistance Program
7. Employment and Training Services

12-DE-Reg. 453 (10/01/08)

1001 Purpose of Delaware's Financial Assistance Program

The purpose of Delaware's public financial assistance programs is to help its needy citizens in providing a standard of living that is compatible with human decency and good health and to provide opportunities for its recipients to gain skills that will enhance their ability to become financially independent.

1002 Courteous Treatment of Clients

An integral part of DSS services is courteous and caring treatment of individuals who apply for or receive assistance from Division programs. The Division's clients include persons who are economically disadvantaged as well as persons who are coping with physical, emotional, and psychological problems. They deserve treatment that is polite, helpful, and respectful of the dignity of each individual.

1003 Confidentiality

[7 CFR §272.1(e); 45 CFR §205.50]

Federal and State laws provide that public assistance information and records may be used only for purposes directly connected with the administration of public assistance programs. Thus, all information gathered regarding individuals for public assistance purposes is considered confidential and will be safeguarded by DSS.

By safeguarding public assistance information, DSS protects its clients from being identified as a special group based on financial needs and protects their right to privacy.

See Administrative Notice:

A-14-98 Subpoenas for Public Assistance Records

12-DE-Reg. 453 (10/01/08)

1003.1 Procedures to Maintain Confidentiality

Except as stated in DSSM 1003.2, 1003.3, and 1003.4, the Division will not release any information regarding a particular individual without the individual's written consent.

General information regarding expenditures, numbers of clients served, and other statistical information is a matter of public record and may be made available to any interested party.

1003.2 Information to Law Enforcement Agencies

For TANF Cash Assistance Programs:

Each DSS Regional Operations Manager has the authority to disclose the address of a recipient to Federal, State or local law enforcement officer at the officer's request if the officer furnishes the agency with the name of the recipient and notifies the agency that the recipient:

- is fleeing to avoid prosecution; or
- is a fleeing felon (or in the case of New Jersey is fleeing from conviction of a high misdemeanor); or
- is violating a condition of probation or parole; or

- has information that is necessary for the officer to conduct his or her official duties and;
- the location or apprehension of the recipient is within such official duties.

For Food Stamps:

DSS will disclose information about food stamp applicants or recipients to law enforcement agencies only when the agency provides a written request and it is for the purpose of investigating an alleged violation of the Food Stamp Act or regulation.

The written request shall include:

- the identity of the individual requesting the information,
- the individual's authority to request the information,
- the violation being investigated, and
- the identity of the person on whom the information is requested.

DSS shall also make available to law enforcement officers, on official duty, the address, social security number, and a photograph (if available) of a food stamp recipient if the officer furnishes the recipient's name and informs DSS that the individual is fleeing to avoid prosecution, custody or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.

DSS will also provide information regarding a household member who has information about another household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole. The information will be provided as long as the law enforcement officer has provided a written request.

If the law enforcement officer has provided documentation, not just the written request, that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, DSS shall terminate the member's participation.

DSS will only disclose the information that is necessary to comply with a specific written request of a law enforcement agency.

9 DE Reg. 1077 (01/01/06)

1003.3 Child Abuse, Neglect and Exploitation

DSS workers are required to report to the Division of Family Services in situations where it believes a home is unsuitable because of neglect, abuse, or exploitation of a child.

1003.4 Court Appointed Special Advocate (CASA or guardian ad litem)

A Court Appointed Special Advocate (CASA) is given permission to inspect and/or copy any records relating to the child and his or her family/guardian without their consent. The CASA has the authority to interview all parties having significant information relating to the child.

If information is released under the procedures applying to CASA, pertinent details of the reasons for the release shall be documented and written notification of this release shall be sent to the last known address of the individual to whom the record refers.

12 DE Reg. 1095 (02/01/09)

1003.5 Disclosure of Information for Other Reasons

DSS has the authority to disclose information concerning applicants and recipients provided it pertains to:

1. An investigation, prosecution, or criminal or civil proceeding conducted in connection with public assistance programs.
2. The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. The agency must assure DSS that such information will remain confidential and will be used only to pursue services for the individual. Other means-tested programs include the Supplemental Security Income Program, School Lunch and Breakfast Program, the Energy Assistance Program, and the Low Income Housing Program. Other agencies (such as Family and Children Services of Delaware, Inc., Catholic Social Services, Legal Aid, etc.) must provide written permission from the recipient before public assistance information may be released.

Other governmental agencies may obtain lists of recipients from DSS if the information will be used to perform services for DSS, and the agency can assure DSS that the lists will remain confidential.

1004 Records To Be Kept In Locked Files

Locked files are provided for all case records and the records will be kept in these files except when they are being used. Records must be returned to the files before the office closes.

When records are removed from the files, an out card will be placed in the files notated with the record's case name and the initials of the individual who removed the record. All transfers of records will also be recorded on out cards. Records sent to another office may be sent in the custody of a Division employee or by Department messenger mail.

1005 Case Record Maintenance and Retention

Case records will contain important facts regarding applicants for and recipients of DSS and DMMA services, the dates that applications for benefits are filed and the dates eligibility decisions are reached, the facts essential to determining initial and continuing eligibility for financial assistance, medical assistance, food stamps or other services, the basis for terminating assistance or services, and information regarding overpayments and claims.

The Division of Management (DMS) of the Department of Health and Social Services, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for federal funds are in accord with applicable Federal requirements.

The Division of Social Services and the Division of Medicaid and Medical Assistance will maintain case records for its State and/or federally funded programs for a period of five (5) years subject to the following qualifications:

- a) The five year retention period starts from the date of termination of cash assistance benefits.
- b) The records will be retained beyond the five (5) year period if the Division has been notified of a pending audit.
- c) Records of non-expendable property which was acquired with Federal grant funds shall be retained by the State Office for five (5) years after final disposition of such property.
- d) Any papers (forms or correspondence) in an active record which are more than four (4) calendar years old may be destroyed on site with the permission of the unit supervisor who has possession of the record. In destroying such papers, care should be taken not to destroy records of permanent value such as birth certificates, deeds, trusts, contracts, or other records of value. The following are examples of forms which may be destroyed on site:

Cash Assistance and Food Stamp budget sheets; Bank forms or statements; Wage forms or stubs; Shelter statements, bills, or receipts; Duplicate forms, letters, etc. **Note: Information needed to substantiate outstanding overpayments cannot be destroyed.**

Cases that are under investigation by the Department of Justice (DOJ) or that have outstanding overpayments will be retained beyond the three year period and will remain intact until the investigation and subsequent legal action is complete or the overpayment is filed. Case files that have been referred to DOJ for prosecution are so indicated with a file copy of the Criminal Justice Report.

9-DE-Reg-1001 (12/01/05)

1006 Civil Rights and Non-Discrimination

In accordance with Title VI of the Civil Rights Acts of 1964, Section 504 of the Rehabilitation Act of 1973, and all pertinent requirements of the regulations of the U.S. Department of Health and Human Services (45CFR Part 80), DSS programs will include a Civil Rights Program that ensures that no individual will be denied any DSS services or excluded from any DSS program on the grounds of race, color, national origin, age, sex, disability, political belief, religion, or any other form of discrimination.

Specifically the Division of Social Services will not directly or through a contractual or other kind of arrangement on the grounds of race, color, national origin, age, sex, disability, political belief or religion:

- 1) Deny any person a DSS service;
- 2) Subject any person to segregation or separate treatment in any matter related to his/her receipt of services;
- 3) Restrict any person's employment of privileges enjoyed by others receiving DSS services; and
- 4) Treat any person differently from others in determining if that person satisfies any condition of eligibility that all persons must meet in order to qualify for services.

This applies to all intake and application procedures, caseload assignments, the determination of eligibility, the amount and kind of services made available, and in the use of all DSS physical facilities.

Included in the requirements of the Civil Rights Program are the activities of:

- 1) Temporary Assistance for Needy Families;
- 2) Medical Assistance;
- 3) General Assistance;
- 4) The Food Stamp Program;
- 5) Services to Families and Children;
- 6) Emergency Assistance Services;
- 7) Employment and Training/Work For Your Welfare Services;
- 8) Refugee Resettlement Program services include Refugee Cash Assistance (RCA).

~~1006.1 Non-Discrimination and Administrative Practices~~

~~The Division will not directly, or through contractual or other arrangements employ methods of administration which subject any person to discrimination because of race, color, disability, national origin, age, sex, political belief or religion. This applies particularly to the following:~~

- ~~1) Type of services to be provided under any program;~~
- ~~2) The class of person to who or the situation in which DSS services will be provided; and~~
- ~~3) The class of person to be given an opportunity to participate in any DSS program.~~

~~1006.2 Administration of the Civil Rights Program~~

~~The Director has responsibility for ensuring that the civil rights of all individuals in contact with the Division of Social Services are observed. Acting through administrative staff, the Director will coordinate the Division's Civil Rights Program and assure compliance with the requirements of the program by all Division of Social Services' staff and all other persons or organizations that perform services for the Division of Social Services.~~

~~An important part of the administration of the Civil Rights Program is the assurance that all aspects of the program are understood and implemented by DSS staff members and by all other persons and organizations that provide services for DSS. It is also essential that all applicants for and recipients of DSS services be freely informed of their rights of protection from discrimination and their rights of complaint in any case of discrimination.~~

~~1006.3 Civil Rights Information to Clients and Participants~~

~~We will give all applicants a copy of Form 113, Information on Fair Hearings and Civil Rights on the applicant's right to send a letter of complaint to the Director or to the Federal Department of Health and Human Services or to file an appeal and ask for a Fair Hearing in any situation when he believes he has been a victim of discrimination on the grounds of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation. If a person wants to make a civil rights complaint our staff will provide the person with our online civil rights complaint form.~~

~~The Division will publicize the Food Stamp Program complaint procedures and will ensure that all offices involved in administering the program and serving the public display the non-discrimination poster provided by FNS. In addition, the Division will ensure that participants and other low income households have access to information regarding non-discrimination statutes and policies within ten (10) days of the date of a request. Each individual who expresses an interest in filing a discrimination complaint shall be advised of the methods of filing complaints as stated in DSSM-1007.~~

~~11 DE Reg. 325 (09/01/07)~~

~~1006.4 Assurance of Civil Rights Program Compliance in Regional Operations~~

~~The Civil Rights Coordinator is responsible for ensuring that employees of the Division, both at the professional and clerical level who are directly in contact with applicants and recipients carry out the requirements of the Civil Rights Program under the supervision of the appropriate Operations Administrator. He will also maintain complete records of all complaints that are made and/or appeals and fair hearings that are requested on the grounds of discrimination.~~

~~As part of staff development and in the course of regular work activities, staff members will be instructed to be alert to instances of discrimination on account of race, color, disability, national origin, age, sex, political belief, or religion on the part of any individual, or organization from which the Division purchases any service, or to which the Division makes referrals for any kind of service. If any such instance of discrimination is discovered, the worker will send a full report to the Director via his supervisor and the Civil Rights Coordinator.~~

~~Individual vendors of any service purchased by the Division will be notified that all services must be provided without discrimination on account race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation, and that payment will not be made unless such services are provided without discrimination.~~

~~11 DE Reg. 325 (09/01/07)~~

~~1006.5 Reports of Civil Rights Program~~

~~The Civil Rights Coordinator will prepare and submit required reports on all aspects of the Civil Rights Program, including complaints of discrimination received, appeals to the Division or to the Department of Health and Human Services, verification of discrimination, action taken and the results. Correspondence between the Division and agencies, or any communications on Civil Rights issues will be made available upon request. In addition, access to records and facilities will be provided to representatives of the Department of Health and Human Services as requested, for purposes of verifying compliance with the Civil Rights Act and Department of Health and Human Services Regulations. Reports will also be submitted to the Food and Nutrition Service (FNS) for each discrimination complaint processed at the State level which arises from the operation of the Food Stamp Program in Delaware. The report shall contain as much of the following~~

information as is available to the Division: the name, address, and telephone number of the person alleging discrimination; the reason for the alleged discrimination; the nature and date of the incident or action that led the person to allege discrimination; and the names and addresses of persons who may have knowledge of the discriminatory act(s). The report must be sent to FNS within 90 days of the date DSS receives the complaint.

11 DE Reg. 325 (09/01/07)

1006.6 Civil Rights Program and Public Relations

The general public, including citizens interested in public welfare and civil rights, will be informed of the Civil Rights Program of the Division. The DSS Civil Rights policy is available on the State website at www.dhss.delaware.gov/dss.

Organizations interested in learning more about the Civil Rights Program of the Division will be furnished speakers from the administrative staff of the Department on request to the Director.

Posters will be displayed in all offices of the Division notifying all persons that assistance and services are provided by the Division to all eligible persons without regard to race, color, national origin, sex, religious creed, disability, political beliefs, or retaliation.

11 DE Reg. 325 (09/01/07)

13 DE Reg. 407 (09/01/09)

1006.7 Staff Development and the Civil Rights Program

The Division of Social Services Staff Development and Training Program will emphasize the role of the Civil Rights Program in all services provided to clients especially as it relates to the rights and privileges of each individual.

Both in its presentation of the legal and technical aspects of agency policy and procedures and in its analysis of case work attitudes and techniques, the Staff Development and Training Program will be administered at all times in such a way that emphasis is placed on the basic fact that all applicants and recipients, and all persons receiving any care or services from or through the Division, shall not be subject to discrimination of any kind on the grounds of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation.

11 DE Reg. 325 (09/01/07)

1007 Complaint Procedures

Any person applying for or receiving any DSS services who believes he/she has been the victim of discrimination on account of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation may file a complaint directly or with the assistance of an individual, group, or agency representing the complainant, in accordance with the procedure outlined below.

11 DE Reg. 325 (09/01/07)

1007.1 Right to File Complaint

The right to file a complaint alleging discrimination on account of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation applies to the following:

- a) All applicants for and recipients of cash assistance.
- b) All applicants for and recipients of food stamps.
- c) All applicants or recipients who are participating in demonstration projects.
- d) All persons applying for or receiving any service furnished by or through the Division.
- e) Any individual, group, organization, or agency acting on their own account or on behalf of any person receiving any service of the Division.

11 DE Reg. 325 (09/01/07)

1007.2 Methods of Filing Complaints

1) The complainant may write a letter addressed to the Director, Division of Social Services or may use the Division's online Civil Rights / Discrimination Complaint Form 840. The letter or complaint form will describe fully the kind of discrimination alleged, when and where such discrimination took place, and any pertinent facts and circumstances in connection with the alleged discrimination. The letter will be signed by the person making the complaint. A complaint regarding the Food Stamp Program may be initiated verbally. However, the complaint must eventually be reduced to writing for recordkeeping purposes.

2) The complainant may write a letter addressed to the Federal Department of Health and Human Services in Washington, DC or in the Region III office in Philadelphia, giving all facts and circumstances of the discrimination complained of, as stated in (1) above.

3) Individuals who believe they have been subject to discrimination in any aspect of the Food Stamp Program may file a verbal or written complaint with the Secretary or the Administrator, Food and Nutrition Service (FNS), Washington, DC 20250 and/or with the Division as stated in (1) above. Complaints will contain the following information: The name, address, and telephone number of the person alleging discrimination; the name and location of the office or organization accused of the discriminatory practice and the nature of the incident or acts which resulted in the allegation; the date(s) on which the incident occurred; the names of persons who have knowledge of the alleged discriminatory acts, and the basis of complaint (e.g., race, color, etc.).

4) The complainant may file an appeal and ask for a fair hearing in accordance with the established policies and procedures of the Division on appeals and fair hearing.

5) The complaint must be filed within 180 days of the alleged discriminatory act.

11 DE Reg. 325 (09/01/07)

1007.3 Methods of Handling Complaints

The Civil Rights Coordinator will study and evaluate all complaints alleging discrimination on account of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation.

If the complaint is over the operation of the Delaware Food Stamp Program, the Civil Rights Coordinator will provide the complaint to the Regional Office of the United States Department of Agriculture.

If the complaint is over the operation of the Medicaid program, the Civil Rights Coordinator will provide the complaint to the Secretary of the Department of Health and Human Services.

For all other DSS complaints, the Civil Rights Coordinator will provide the complaint to the Division of Social Services Director.

11 DE Reg. 325 (09/01/07)

1007.4 Records of Complaints

We will maintain records of complaints on grounds of discrimination based on color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation. The records will show the action taken on the complaint, any investigation conducted, the findings and any subsequent action.

11 DE Reg. 325 (09/01/07)

1007.5 Confidentiality of Complaints

We will safeguard the identity of the complainant except to the extent necessary to carry out the above complaint procedures.

11 DE Reg. 325 (09/01/07)

1007.6 Other Complaint Procedures

Applicants and participants, may file complaints, other than complaints based on discriminatory practices or complaints that may be pursued through a fair hearing, by filing a complaint, in writing, within thirty (30) days of the alleged action or inaction, with the Division of Social Services Customer Relations Manager, Lewis Building. The thirty day time limit begins on the date the complainant becomes aware, or should have become aware, of the agency action and may be extended by the Customer Relations Manager for good cause such as, but not limited to, complaints about office hours, office locations or discourteous treatment, or situations which may involve overtime. The Customer Relations Manager will review the complaint, take appropriate action and respond to the complainant on the disposition of the complaint.

11 DE Reg. 325 (09/01/07)

1008 Availability of Program Manuals

Policy manuals and other policy information issued by the Division of Social Services that includes rules and regulations governing eligibility, the need for and the amount of assistance granted by Division of Social Services, recipients' rights and responsibilities, and all services offered by DSS will be maintained in the State Office and at each regional office. This information will be available for inspection upon request during regular hours of agency operation.

A current copy of such material will be made available without charge to Public Libraries and to individuals or other agencies who request the material, are accessible to the recipient population they serve, and agree to accept responsibility for filing all amendments and changes forwarded by the Division.

1000 DEFINITIONS

The following words and terms, when used in this regulation, will have the following meaning unless the context clearly

indicates otherwise.

<u>Civil rights</u>	<u>A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury. Examples of civil rights are freedom of speech, press, assembly, the right to vote, freedom from involuntary servitude, and the right to equality in public places.</u>
<u>Civil Rights Coordinator</u>	<u>A Division of Social Services staff person who ensures that employees of the Division, who have direct contact with applicants and recipients, carry out the requirements of the Civil Rights Program. The Coordinator also maintains complete records of all complaints that are made and/or appeals and fair hearings that are requested on the grounds of discrimination.</u>
<u>Discrimination</u>	<u>The unlawful and intentional act of unfair treatment of a person based on race, ethnicity, sex (gender), religion, national origin, physical or mental disability, and age.</u>
<u>Guardian ad litem</u>	<u>An individual appointed by the courts to represent the best interests of a minor child.</u>
<u>Law enforcement officer</u>	<u>Any official who has the authority to arrest individuals. Officials with arrest powers include police officers, constables, and in Delaware, parole and probation officers.</u>
<u>Limited English proficient</u>	<u>Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English may be limited English proficient.</u>
<u>Means tested programs</u>	<u>Programs that provide cash, benefits or services to people who meet a test of need based on income and assets</u>

1001 RESERVED

1002 TREATING CLIENTS WITH COURTESY

31 Delaware Code §501

This policy applies to all Division of Social Services (DSS) and Division of Medicaid and Medical Assistance (DMMA) staff when providing services to individuals seeking or receiving services from the Division of Social Services.

DSS and DMMA staff will treat clients in a manner that is polite, helpful, and respectful of the dignity of each individual.

1003 KEEPING CLIENT INFORMATION CONFIDENTIAL

7 CFR 272.1(c); 45 CFR 205.50, 31 Del Code §1101

This policy applies to all DSS and DMMA staff who have access to public assistance information and records.

1. Staff Safeguards Public Assistance Information

Public assistance information and records may be used only for purposes directly connected with the administration of public assistance programs. All information gathered about individuals or families for public assistance purposes is considered confidential and will be safeguarded by DSS and DMMA.

The Divisions will not release any information regarding an individual without the individual's written consent.

Exceptions:

1. DSS may give the address of a cash assistance recipient to a law enforcement agency in certain situations. See DSSM 1003.2.
2. DSS may give information about food benefit applicants and recipients to a law enforcement agency in certain situations. See DSSM 1003.2.1.
3. General information about expenditures, numbers of clients served, and other statistical information is a matter of public record and is available to any interested party.

1003.1 RESERVED

1003.2 RELEASING CONFIDENTIAL TANF RECIPIENT INFORMATION

45 CFR 205.50 (a)(1)(v), PRWORA, 31 Del. Code §1101

This policy applies whenever a law enforcement agency requests confidential information about a TANF cash assistance recipient. Only the address of the recipient may be released.

1. Law Enforcement Officer Must Request Confidential Information

The address of a TANF recipient may be released to a law enforcement officer if the officer requests the information. The officer must tell the agency that the individual:

- A. Is fleeing to avoid prosecution
- B. Is a fleeing felon (or in the case of New Jersey is fleeing from conviction of a high misdemeanor)
- C. Is violating a condition of probation or parole or
- D. Has information that is necessary for the officer to conduct his or her official duties

2. Operations Administrator Releases Information

Only the Operations Administrator (OA) has the authority to release the address of a TANF cash assistance recipient to a law enforcement officer. The OA may delegate this authority to a designee.

1003.2.1 RELEASING CONFIDENTIAL FSP CLIENT INFORMATION

7 CFR 272.1(c)(1); PRWORA, 31 Del. Code §1101

This policy applies whenever a law enforcement agency makes a written request for confidential information about a food benefit applicant or recipient.

1. Only the Information Necessary to Comply With a Specific Written Request May Be Released

2. Operations Administrators May Release Information

Only the Operations Administrator (OA) has the authority to release information about a Food Supplement Program (FSP) applicant or recipient household to a law enforcement officer. The OA may delegate this authority to a designee.

3. Requests Must Meet Specific Criteria

The request must be in writing and include:

- A. The identity of the individual requesting the information.
- B. The individual's authority to request the information.
- C. The violation being investigated.
- D. The identity of the person on whom the information is requested.

4. Restrictions Apply to Information Released

DSS can release the following about a food benefit household member

- A. Address
- B. Social security number
- C. Photograph, if available
- D. Household member information that is useful and necessary in apprehending or investigating another household member who has fled to avoid felony prosecution or custody, or who has violated a condition of probation or parole.

5. DSS Will Terminate the Food Benefits on Proof of Legal Violations

If the law enforcement officer provides verification that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, DSS will terminate the member's participation.

1003.3 REPORTING CHILD ABUSE AND NEGLECT

45 CFR 205.50 (a)(1)(i)(G)

This policy applies to all DSS and DMMA staff. It applies any time a DSS or DMMA worker suspects a home is unsuitable because of abuse, neglect, or exploitation of a child.

The worker will make a report to the Division of Family Services whenever the worker suspects a home is unsuitable due to abuse, neglect, or exploitation of a child.

1003.4 RELEASING CONFIDENTIAL INFORMATION TO COURT APPOINTED SPECIAL ADVOCATES

31 Delaware Code §3610

This policy applies any time a Court Appointed Special Advocate (or guardian *ad litem*) requests information about a child and his family or guardian and provides pertinent details of the reasons for the release of information.

DSS and DMMA staff will permit a Court Appointed Special Advocate (or guardian *ad litem*) to review and/or copy any records relating to the child and his or her family or guardian. (The CASA does not have to have the consent of the child or the child's family.)

Any time information is released, staff will:

- A. Document pertinent details of the reasons for the release of information.
- B. Send written notification of this release to the last known address of the individual to whom the record refers.

1003.5 OTHER REASONS FOR RELEASING CONFIDENTIAL INFORMATION

45 CFR 205.50(a)(1)(i)(B) and (C); 7 CFR 272.1(c)

This policy applies any time persons or groups other than law enforcement or Court Appointed Special Advocates make a request for confidential information. It also applies if the information is being released for reasons other than reporting suspected abuse, neglect or exploitation of a child. This policy applies to DSS and DMMA staff.

1. Staff Release Information Needed in Connection with Public Assistance Programs

Staff may release public assistance program information if needed for any of the following reasons:

- A. Investigations
- B. Prosecutions
- C. Criminal proceedings
- D. Civil proceedings

2. Staff Release Information Needed to Administer Federal Means Tested Programs

Staff may release information if it is needed for the administration of any federal or federally assisted program.

The program must provide assistance (in cash or in kind) or services directly to individuals on the basis of need.

Staff must assure that the information will remain confidential and will be used only to pursue services for the individual. Other means-tested programs include the

- A. Supplemental Security Income Program
- B. School Lunch and Breakfast Program
- C. Energy Assistance Program
- D. Low Income Housing Program

3. Staff May Release Information to Other Agencies

Staff will release information to other agencies only with written permission of the recipient. Examples of other agencies are Children & Families First, Catholic Social Services, Legal Aid, etc.

4. Staff Release Information to Other Governmental Agencies

Lists of recipients may be released to other governmental agencies if the information will be used to perform services for DSS or DMMA and the agency can assure that the information will remain confidential.

1004 SAFEGUARDING CASE RECORDS

45 CFR 205.50(a)(3)(ii)

This policy applies to all DSS and DMMA case records.

Case records are kept in locked file cabinets except when the files are in use. The records must be returned to the files before the office closes for the day.

Records sent to another office may be sent in the custody of a Division employee or by Department messenger mail.

1005 COMPILING AND SAVING CASE RECORD CONTENTS

45 CFR 92.42

This policy applies to all DSS and DMMA case records except medical records.

1. Staff Collect Pertinent Case Information

Case records will contain all information necessary to determine eligibility or ineligibility for benefits or amount of benefits. Records will contain:

- A. The date of application
- B. Date and basis of the eligibility decision
- C. Facts essential to determining initial and continuing eligibility
- D. The basis for terminating or reducing assistance or services
- E. Information regarding overpayments and claims
- F. A copy of the Criminal Justice Report if the case was referred to the Department of Justice for prosecution.

2. Division of Management Services Maintains Fiscal Records

The Division of Management (DMS) maintains an accounting system and supporting fiscal records adequate to assure that claims for federal funds are in accord with applicable federal requirements.

3. Staff Save Case Records

Case records are kept for five years as follows:

- A. Public Assistance records are kept for five years from the date of termination.
- B. Records related to a pending audit are kept beyond the five years.
- C. Records of non-expendable property which was purchased with federal grant funds are kept for five years after final disposition of the property.
- D. Cases that are under investigation by the Department of Justice (DOJ) or that have outstanding overpayments will be retained beyond the three-year period and will remain intact until the investigation and subsequent legal action is complete or the overpayment is filed

4. Staff Save Information About Uncollected Overpayments and DOJ Cases

Staff must never destroy information needed to substantiate outstanding overpayments.

Cases with outstanding overpayments are kept intact until the overpayment is filed.

Cases under investigation by the Department of Justice (DOJ) are kept intact until the investigation and subsequent legal action is complete.

5. Staff Purge Case Records

Any papers (forms or correspondence) in an active record which are more than four calendar years old may be destroyed on site with the permission of the unit supervisor who has possession of the record.

Exception: Do not destroy records of permanent value, e.g., birth certificates, deeds, trusts, contracts, or other records of value.

1006 GUARANTEEING CIVIL RIGHTS AND NON-DISCRIMINATION

Title VI of the Civil Rights Acts of 1964, §504 of the Rehabilitation Act of 1973, 45 CFR Part 80; 7 CFR 272.6(a)

This policy applies to any person who inquires about, applies for or receives **any** services from DSS or DMMA. It includes the use of all DSS or DMMA physical facilities. For this policy, the terms DSS or DMMA include all other persons or organizations that perform services for either Division.

1. Division Director Ensures Rights are Upheld

The DSS or DMMA Director, acting through administrative staff, coordinates the Division's Civil Rights Program. The Director ensures all staff comply with the requirements of the program.

The Director ensures that all aspects of the program are understood and implemented by staff members.

The Director ensures that all individuals asking about, applying for or receiving DSS or DMMA services are freely informed of their rights of protection against discrimination and their right to complain in any case of discrimination.

2. Staff Development and Training Unit Emphasizes Civil Rights

The Staff Development and Training Unit emphasizes the role of the Civil Rights Program in all services provided to individuals, especially as it relates to the rights and privileges of each individual.

The Staff Development and Training Program emphasizes that all applicants and recipients, and all persons receiving any care or services from or through the Division, will not be subject to discrimination of any kind on the grounds of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation.

3. Staff Protect Civil Rights

DSS and DMMA staff protect the civil rights of persons asking about, applying for or receiving any Division service.

4. Staff Do Not Discriminate

Staff do not discriminate against any person on the grounds of race, color, national origin, age, sex, disability, political belief, religion, or any other form of discrimination.

DSS and DMMA do not directly or indirectly (through contracts or other arrangements) on the grounds of race, color, national origin, age, sex, disability, political belief or religion:

- A. Deny any person a DSS or DMMA service.
- B. Subject any person to segregation or separate treatment in any matter related to his or her receipt of services.
- C. Restrict any person's use of privileges enjoyed by others receiving Division services.
- D. Treat any person differently from others in determining if that person satisfies any condition of eligibility that all persons must meet in order to qualify for services.

1006.1 ENSURING NON-DISCRIMINATION IN THE PROVISION OF SERVICES

Title VI of the Civil Rights Acts of 1964, §504 of the Rehabilitation Act of 1973, 45 CFR Part 80; 7 CFR 272.6(a)

This policy applies when any person inquires about, applies for or receives services from DSS or DMMA or a person or organization under contract with DSS or DMMA.

1. All Classes of People May Participate in any DSS or DMMA Program

2. DSS and DMMA Do Not Discriminate

Neither the Division nor its contractors will not discriminate against any person because of race, color, national origin, sex, religious creed, age, disability, or political beliefs.

DSS and DMMA will not discriminate:

- A. In the type of services provided.
- B. Against any class of people.
- C. Regardless of the class of people to which services will be provided.
- D. Regardless of the situation in which services will be provided.

1006.2 RESERVED

1006.3 PROVIDING CIVIL RIGHTS INFORMATION

Title VI of the Civil Rights Acts of 1964, Section 504 of the Rehabilitation Act of 1973, 45 CFR Part 80 7 CFR 272.6(b)

This policy applies to any individual who seeks or receives services or information from the Division of Social Services (DSS) or the Division of Medicaid and Medical Assistance (DMMA).

1. Staff Provide Information on Non-Discrimination

Staff will provide information about non-discrimination statutes and policies within ten days of request. (The information can be found at DSSM 1006.6 and DSSM 1006.1.)

Staff will advise individuals how to file a discrimination complaint (as per DSSM 1007) if they wish to file one.

Staff will provide individuals with our online civil rights complaint form if the individual wishes to make a civil rights complaint.

2. Staff Provide Information on Fair Hearings and Civil Rights

Staff will give all applicants a copy of Form 113, Information on Fair Hearings and Civil Rights.

3. DSS and DMMA Publicize the FSP Complaint Procedures

All offices will display the non-discrimination poster provided by FNS. The Division will also publicize the FSP complaint procedures.

1006.4 ASSURING COMPLIANCE IN AREA OPERATIONS

Title VI of the Civil Rights Acts of 1964

This policy applies to all DSS and DMMA staff and vendors/contractors any time a service is provided to an applicant or recipient.

1. Management Assures Compliance by Staff and Vendor/Contractors

Staff are instructed by Management, during training and the normal course of work activity, to be alert to instances of discrimination.

Vendors and contractors are notified in their contract that all services provided on behalf of DSS must be provided without discrimination on account of race, color, national origin, sex, religious creed, age, disability, or political beliefs. They are also notified that payment will not be made unless such services are provided without discrimination.

2. Staff Report Discrimination

If staff notice any instances of discrimination, staff will make a full written report to the Director via his or her Supervisor and the Civil Rights Coordinator.

3. Civil Rights Coordinator Maintains Records of Complaints

The Civil Rights Coordinator maintains complete records of all complaints that are made on the grounds of discrimination. He also maintains complete records of all appeals and fair hearings that are requested on the grounds of discrimination.

1006.5 REPORTING CIVIL RIGHTS PROGRAM ACTIVITIES

45 CFR Part 80; 7 CFR 272.6(a)

This policy applies any time a person, group, or agency makes a complaint alleging a civil rights violation.

1. Civil Rights Coordinator Reports on Civil Rights Activities

The Civil Rights Coordinator will prepare and submit required reports on all aspects of the Civil Rights Program, including:

- A. Complaints of discrimination received
- B. Appeals to the Division
- C. Appeals to the Department of Health and Human Services
- D. Verification of discrimination
- E. Action taken and the results

2. Reports of FSP Complaints are Sent to FNS

All complaints of discrimination in the Food Supplement Program processed at the State level must be sent to FNS within 90 days of the date DSS receives the complaint.

The report must contain the following information if available to the Division:

- A. Name, address, and telephone number of the person alleging discrimination.
- B. Reason for the alleged discrimination.
- C. Nature and date of the incident or action that led the person to allege discrimination.
- D. Names and addresses of persons who may have knowledge of the discriminatory act(s).

3. Civil Rights Information is Made Available Upon Request

Upon request, the Civil Rights Coordinator provides:

- A. Correspondence between DSS and other agencies.
- B. Communications on Civil Rights issues.
- C. Access to records and facilities (to representatives of the Department of Health and Human Services) for purposes of verifying compliance with the Civil Rights Act and Department of Health and Human Services Regulations.

1006.6 PUBLICIZING THE CIVIL RIGHTS PROGRAM

This policy applies when publicizing information about DSS' Civil Rights Program.

DSS Informs the Public of the Civil Rights Program

The DSS Civil Rights policy is available on the State website at www.dhss.delaware.gov/dss. The agency also displays posters in all its offices notifying all persons that assistance and services are provided to all eligible persons without regard to race, color, national origin, sex, religious creed, disability, political beliefs, or retaliation.

The Director will provide speakers from the administrative staff of the Department to any organization interested in learning more about the Civil Rights Program.

1006.7 RESERVED

1007 MAKING CIVIL RIGHTS COMPLAINTS

45 CFR 80.7, 7 CFR 272.6

This policy applies to any person, group or agency inquiring about, applying for or receiving any DSS or DMMA provided service who believes he or she has been the victim of discrimination based on of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation.

1. Complaints Must be Written

Persons must submit the complaint in writing within 180 days of the alleged discriminatory act. They may also file an appeal and ask for a fair hearing if not satisfied with a decision of the Division. See DSSM 5000.

2. Complaints Contain Specific Information

<u>Exception: Complaints involving the Food Supplement Program are also accepted verbally. However, the complaint must be reduced to writing for record keeping purposes.</u>

A. Cash, Medical, and Child Care Assistance Complaints must describe:

Complaints must describe:

1. The kind of discrimination alleged (e.g., race, color, etc.)
 2. When and where the discrimination took place
 3. Any important facts and circumstances connected with the alleged discrimination
- The complaint must be signed by the person making the complaint.

B. Food Benefit Assistance Complaints

Complaints must contain:

1. The name, address, and telephone number of the person alleging discrimination.
2. The name and location of the office or organization accused of the discriminatory practice.
3. The nature of the incident or acts which resulted in the allegation.
4. The date(s) of the incident.
5. The names of persons who have knowledge of the alleged discriminatory acts.
6. The type of alleged discrimination (e.g., race, color, etc.).

1007.1 RESERVED

1007.2 RESERVED

1007.3 ROUTING CIVIL RIGHTS COMPLAINTS

This policy applies any time a complaint is filed against DSS alleging discrimination on account of race, color, national origin, sex, religious creed, age, disability, or political beliefs.

1. Civil Rights Coordinator Routes Complaints

The Civil Rights Coordinator will study and evaluate all complaints alleging discrimination and route them to the appropriate official.

When a complaint is received the Coordinator will forward:

- A. Food Supplement complaints to the Regional Office of the United States Department of Agriculture.
- B. Medicaid complaints to the Secretary of the Department of Health and Human Services.
- C. All other DSS complaints to the Division Director.

1007.4 KEEPING RECORDS OF CIVIL RIGHTS COMPLAINTS

This policy applies to all complaints of discrimination based on color, national origin, sex, religious creed, age, disability, or political beliefs.

The Civil Rights Coordinator keeps records of all civil rights complaints received by DSS. Records of civil rights complaints will show:

- A. Action(s) taken on the complaint.
- B. Any investigation conducted.
- C. Findings.
- D. Any subsequent action.

1007.5 KEEPING THE IDENTITY OF COMPLAINANTS CONFIDENTIAL

7 CFR 272.1(c); 45 CFR 205.50

This policy applies to any individual or group who files a complaint with the Division of Social Services or the Division of Medicaid and Medical Assistance.

1. Staff Will Safeguard the Identity of any Person Making a Complaint.

Exception: The identity of a complainant may be disclosed if necessary to take care of the complaint.

1007.6 MAKING COMPLAINTS

This policy applies to any person, group or agency applying for or receiving any DSS or DMMA service who wishes to file a complaint. It does not apply to complaints based on discriminatory practices or complaints that may be pursued through a fair hearing.

1. Applicants and Recipients May File Complaints

A. Complaints must be in writing and filed within 30 days of the alleged action or inaction.

B. Complaints must be filed with the Customer Relations Manager.

C. The 30 day time limit may be extended by the Customer Relations Manager for good cause.

2. Customer Relations Manager Processes Complaints

The Customer Relations Manager will review the complaint, take appropriate action, and respond to the complainant on the disposition of the complaint.

1008 PROVIDING POLICY INFORMATION

45 CFR 205.70

This policy applies to all policy manuals and other policy information issued by the Division of Social Services (DSS) or the Division of Medicaid and Medical Assistance (DMMA).

1. Policy Information is Available for Inspection

Policy information includes:

A. Rules and regulations governing eligibility.

B. The need for and the amount of assistance granted by DSS or DMMA.

C. Recipients' rights and responsibilities.

D. All services offered by DSS or DMMA.

A current copy of the policy manuals and other policy material is kept at the State Office and at each local office. The policy information is available for inspection upon request during regular hours of agency operation.

2. State Office Provides Copies of Policy Information

A current copy of the policy manuals and other policy material is available without charge to Public Libraries and to individuals or other agencies who request the material if they:

A. Are accessible to the recipient population they serve.

B. Accept responsibility for filing all amendments and changes forwarded by the Division.

3. Staff Make Copies of Policy Information for Fair Hearings

A. Fair Hearings:

If requested, staff will make copies of specific policy material for an applicant, recipient, or his representative to determine whether a fair hearing should be requested or to prepare for a fair hearing. There is no cost for these copies.

B. Other Reasons:

If requested, staff will make copies of the policy manual and other policy material for any individual who requests such material. The individual is charged by the page for the copies at the current Division established rate for photo copies.