

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

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

**PROPOSED**

**PUBLIC NOTICE**

**Child Care Subsidy Program**

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 Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Cooperating with Child Support*.

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 May 31, 2011.

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 PROPOSED CHANGE**

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Cooperating with Child Support*.

**Statutory Authority**

45 CFR §98.20, *A child's eligibility for child care services*

**Summary of Proposed Change**

**DSSM 11003.4, *Cooperating with Child Support***: The purpose of this change is to clarify and consolidate all child support sections. There are several policy sections devoted to child support. Consolidating various sections will make the policy more concise and promote better understanding and improve readability of child support rules.

**DSS PROPOSED REGULATION #11-11**

**REVISIONS:**

**11003.4 Cooperating with Child Support**

45 CFR 98.20

~~As part of the Child Care eligibility process, all applicants cooperate with the Division of Child Support Enforcement to receive spousal support for themselves and child support for the dependent children in their care. As part of this process, applicants and recipients must cooperate, unless a good faith effort is established, in:~~

- ~~1. Identifying and locating absent parents;~~
- ~~2. Establishing paternity for dependent children born out of wedlock; and~~
- ~~3. Establishing support payments and/or other properties for the dependent child.~~

~~The Division of Child Support Enforcement (DCSE) is the single State agency that is empowered to:~~

- ~~1. Establish paternity of and secure support for children born out of wedlock;~~
- ~~2. Secure support from parents who have abandoned or deserted their children; and~~
- ~~3. Enter cooperative arrangements with appropriate courts and law enforcement officials in order to establish support.~~

~~Before approving a Child Care case, DSS will refer applicants to the DCSE to begin the process of securing support payments. While assistance is received, any spousal Failure of a parent/caretaker to cooperate with and provide information to the DCSE will result in a Child Care case closure until compliance. Purchase of Care applicants who do not cooperate with or provide requested information to DCSE, will have their Child Care case closed until they cooperate.~~

~~The requirement to cooperate with DCSE covers all Child Care applicants.~~

~~The child support payments are considered income for the purpose of determining financial eligibility and parent fees for~~

#### Child Care cases.

All applicants and recipients must be referred to the Division of Child Support Enforcement (DCSE) as a condition of eligibility for child care services.

Do not delay approval of child care services (if otherwise eligible) while waiting for a response from DCSE. The Division of Social Services will presume cooperation until notified otherwise by DCSE.

Failure of a parent/caretaker to cooperate with and provide information to the DCSE will result in the case being sanctioned. This means the child care case will close until the applicant or recipient has complied with all DCSE requirements.

**9 DE Reg. 572 (10/01/05)**

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.1 Cooperation Responsibilities RESERVED**

~~Clients must cooperate with the Division of Child Support Enforcement (DCSE) as a condition of eligibility. All families are required to provide sufficient information to permit Delaware to obtain child support on behalf of the family. Exceptions can be made when the caretaker demonstrates that pursuit of child support would create a danger to the caretaker or the child(ren). It is the responsibility of the client to provide documentation to verify this.~~

~~In order to identify and locate absent parents, establish paternity, and obtain support payments and/or other property, applicants or recipients of Child Care services are required to participate in the following activities, if relevant:~~

~~To appear at an office of DSS or the Division of Child Support Enforcement to provide verbal or written information or documentary evidence known to or possessed by the applicant or recipient;~~

~~To appear as a witness at judicial or other hearings or proceedings;~~

~~To provide information or to attest to the lack of information under penalty of perjury.~~

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.2 Penalties Sanctions for Child Support Non Cooperation**

45 CFR 98.20

~~Failure of a parent/caretaker to cooperate with and provide information to the DCSE will result in a Child Care case closure until compliance. Purchase of Care applicants who do not cooperate with or provide requested information to DCSE, will have their Child Care case closed until they cooperate. Applicants and recipients who do not cooperate with or provide requested information to the Division of Child Support Enforcement (DCSE) will have their child care case closed until DCSE determines they have cooperated.~~

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.3 Curing Child Support Penalties Sanctions**

45 CFR 98.20

~~To cure the child support sanction, the caretaker will provide sufficient information to permit Delaware to pursue child support collections on behalf of needy children. Once DCSE notifies DSS of cooperation or good faith effort, DSS will remove the sanction.~~

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.4 Good Faith Determination**

45 CFR 98.20

~~It is the responsibility of the Division of Child Support Enforcement (DCSE) to determine if there is an acceptable reason for refusing to cooperate. When this is determined to exist, the applicant may participate in the Child Care program and will not be required to cooperate in support collection activities. All determinations of good faith effort are the responsibility of the Division of Child Support Enforcement (DCSE). Applicants and recipients for whom DCSE has made a good faith determination may receive child care services without cooperating fully with DCSE.~~

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.5 Enforcement Without the Caretaker's Cooperation RESERVED**

~~When an acceptable reason for non-cooperation exists, DCSE must decide whether or not child support enforcement activities can proceed without risk to the child or caretaker if the enforcement activities do not include cooperation. DSS will ask the applicant if he/she believes that enforcement activities can proceed and will relay that information to DCSE.~~

~~If a DCSE recommendation is to proceed with enforcement activities, DSS will notify the applicant and give the applicant the opportunity to withdraw the application or close the case before enforcement activities begin.~~

**10 DE Reg. 1007 (12/01/06)**

#### **11003.4.6 Fair Hearings**

45 CFR 205.10

Applicants and recipients have the right to request a fair hearing if they disagree with any DSS decision. See DSSM section 5000. DCSE will schedule and conduct fair hearings on issues of non-cooperation and parents good faith efforts to establish paternity and secure child support.

**10 DE Reg. 1007 (12/01/06)**

**14 DE Reg. 1203 (05/01/11)**