

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 3008

FINAL

ORDER

TANF Family Cap

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding the TANF Family Cap, specifically, to provide additional financial assistance to applicable TANF recipients. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the March 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after May 1, 2023 the Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) section 3008.2 regarding the TANF Family Cap.

Statutory Authority

45 CFR 260

Background

Delaware previously imposed a "family cap" on recipients of Temporary Assistance for Needy Families (TANF) to reduce out-of-wedlock pregnancies among recipients. Under the family cap rule, a household will receive no additional TANF cash benefits if the household size increases due to the birth of a child that occurs more than ten months after the date of application for TANF, with some exceptions. This means that some households receive less in TANF cash benefits than they would have in the absence of Delaware's family cap policy.

Current research has found the family cap rule has the potential to drive children and families deeper into poverty with little evidence that the rule affects the birthrate for TANF recipients. Family cap rules are also likelier to increase financial hardship for children and families of color.

Delaware is proposing to repeal the family cap policy to help reduce childhood poverty and support families as they work toward achieving financial stability. As a result of this policy amendment, children who were previously family capped will receive monthly TANF benefits which will increase their family's benefit amount. This change will provide additional financial assistance to approximately 155 Delaware families.

Purpose

The purpose of this proposed regulation is to change the Delaware Social Services Manual (DSSM) 3008.2 to provide additional financial assistance to applicable TANF recipients.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on March 31, 2023.

Fiscal Impact Statement

	Federal Fiscal Year 2023	Federal Fiscal Year 2024
Federal funds	\$ 0	\$ 0
General (State) funds	\$ 201,000	\$ 205,020

Summary of Comments Received with Agency Response and Explanation of Changes

The following summarized comments were received:

Comment: There were 6 endorsements of the regulation.

Agency Response: DSS thanks you for your support.

DSS is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- State Council for Persons with Disabilities (SCPD)
- Governor's Advisory Council for Exceptional Citizens (GACEC)
- COMMUNITY LEGAL AID SOCIETY, INC. ("CLASI")
- Delaware Coalition Against Domestic Violence
- Delaware NOW
- American Civil Liberties Union Foundation Delaware (ACLU of Delaware)

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the March 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 3008.2 regarding TANF Family Cap, specifically, to provide additional financial assistance to applicable TANF recipients, is adopted and shall be final effective May 11, 2023.

4/12/2023

Date of Signature

Molly Magarik, Secretary, DHSS

3008 Eligibility of Certain Minors

~~3008.2 Family Cap~~

~~Required Individuals:~~

~~No additional TANF cash benefits will be issued due to the birth of a child, if the birth occurs more than ten (10) calendar months after:~~

- ~~• the date of application for TANF; or~~
- ~~• for active cases, the date of the first redetermination after October 1, 1995.~~

~~While no additional TANF cash benefits will be issued for the child(ren), the child(ren) will be considered a TANF recipient for all other purposes, including Medicaid coverage, Welfare Reform child care, other supportive services and food stamp benefits.~~

~~NOTE: Children born prior to the periods identified above who return or enter the household are not included in this restriction.~~

~~Exceptions~~

~~The family cap restrictions will not apply in the following cases:~~

- ~~• to an additional child conceived as a result of incest or sexual assault; or~~
- ~~• to a child who does not reside with his or her parent; or~~
- ~~• to a child that was conceived in a month the assistance unit (i.e., the entire family) was not receiving TANF. This does not apply in cases that close due to being sanctioned.~~

~~Determining financial eligibility and grant amounts for an assistance unit which contains child(ren) affected by the family cap provision.~~

~~The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources is/are included when determining the assistance unit's income and resources. The child(ren) is/are not included when determining the payment standard for the assistance unit.~~

~~See 3022 Ineligibility Due to Family Cap~~

26 DE Reg. 964 (05/01/23) (Final)