

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

FINAL

ORDER

Child Care Subsidy Program; Prioritizing Service Needs

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, specifically, *Prioritizing Service Needs*. 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 July 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced July 30, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Prioritizing Service Needs*.

Statutory Authority

45 CFR §98.20, *A child's eligibility for child care services*
45 CFR §98.44, *Priority for child care services*

Background

Delaware Health and Social Services ("DHSS")/Division of Social Services ("DSS") is designated as the lead agency with primary responsibilities for the planning and administration of child care subsidies funded with the Child Care Development Fund.

The Child Care and Development Fund ("CCDF") Block Grant Act of 1990, as amended, 42 USC § 9858b (b)(1)(A), (the "Act") requires the Lead Agency to "administer, directly, or through other governmental or non-governmental agencies" the funds received. The regulations at 45 CFR 98.11 provide that, in addition to retaining "overall responsibilities" for the administration of the program, the Lead Agency must also (among other things) promulgate all rules and regulations governing the overall administration of the CCDF program.

Summary of Proposed Changes

DSSM 11004.3.1, ~~*Service Priorities*~~ *Prioritizing Service Needs*, is amended and updated to clarify priority for subsidized child care services to include teen parents enrolled in or attending middle school or high school and parent/caretakers enrolled in and participating in a General Education Diploma (GED) program.

Additionally, the following changes are made:

- the section title is changed to more accurately reflect the content of the policy;
- the applicable federal citations are added to the policy section;
- the outdated term (acronym) "Food Stamp (FS)" is removed and replaced with the current term (acronym) "Food Supplement Program (FSP)";
- the term "Family Services" is removed and replaced with the more precise term "Division of Family Services"; and,
- this section is relettered and renumbered to accommodate the new format.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGE(S)

The Governor's Advisory Council for Exceptional Citizens (GACEC) and, the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. The Division of Social Services (DSS) has considered each comment and responds as follows.

GACEC and SCPD

First, DSS indicates that it is replacing the acronym "FS" (Food Stamp) with the acronym "FSP" (Food Supplement Program) in the new regulation. However, the latter acronym does not appear in the regulatory text.

Agency Response: DSS will add the acronym "FSP" which was unintentionally omitted. This has been corrected to state: "Individuals receiving Food Supplement Program (FSP) who are mandatory E&T participants (Category 21);"

Second, DSS recites that it is adding a priority of "teen parents enrolled in or attending middle school or high school and parent/caretakers enrolled in and participating in a General Diploma (GED) program." In contrast, although Par.A.4 includes teens attending middle or high school, the regulation omits any reference to persons participating in a GED program. Moreover, consistent with the attached May 29 SCPD memo to DSS on a related regulation, the term "GED" is "underinclusive". Therefore, DSS should consider inserting the following Par. 5 (and renumbering the balance of the list) as follows:

5. Teen parents enrolled in and participating in a program to acquire a General Education Diploma (GED) or similar secondary credential approved by the Delaware Department of Education.

Agency Response: DSS will revise the final regulation to reference GED and similar secondary credential approved by the Delaware Department of Education. The final regulation will read as follows. "4. Teen parents who are enrolled in, or attending middle school or high school; or a program to acquire a General Education Diploma (GED) or similar secondary credential approved by the Delaware Department of Education;"

Additionally, at Paragraph 1, "on the list" is revised to read "in the circumstance" as a clearer directive, as follows: "Parents/Caretakers in the circumstance below will continue to receive Child Care Assistance as long as they meet all eligibility requirements."

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the July 2014 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program, specifically, *Prioritizing Service Needs*, is adopted and shall be final effective September 10, 2014.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #14-37

REVISION:

11004.3.1 Service Priorities Prioritizing Service Needs

45 CFR 98.20

45 CFR 98.44

~~In addition to the eligibility questions in Section 11004.3, determine if the applicant meets a priority for service. If the applicant has a need, but is not a service priority, services may be delayed. Delay services by placing non-service priority applicants on a waiting list while authorizing service for those who are a priority. The following families qualify for priority service:~~

~~A. TANF recipients who are Workfare mandatory and not working (Category 11);~~

~~B. TANF recipients who are working; (Category 12);~~

~~C. Individuals receiving FS who are mandatory E&T participants; (Category 21);~~

~~D. Families in Category 31 with the following need for service:~~

~~1. teen parents who attend high school or ABE or GED programs,~~

~~2. special needs parent/caretaker or child, and~~

~~3. homeless families as defined in Section 11003.7.2;~~

~~4. families who meet the 40% of FPL criteria in Section 11004.7~~

~~protective children as referred by Family Services up to the number agreed upon between DSS and Family Services.~~

~~Parents/caretakers in the above circumstances will continue to receive child care services as long as they meet the service need and they continue to meet program requirements, e.g., they continue in Food Stamp Employment & Training (FS E&T).~~

This policy applies to all Child Care Assistance applicants who may experience a delay in service due to a wait list.

DSS Requires When There Is A Wait List That Certain Groups Be Given Priority.

Applicants Will Be Referred To A Waitlist If Their Need For Child Care Does Not Meet One (1) Of The Requirements.

Parents/Caretakers ~~[on the list in the circumstance]~~ below will continue to receive Child Care Assistance as long as they meet all eligibility requirements.

A. The following groups are given priority:

1. TANF applicants and recipients who are Employment and Training (E&T) Mandatory and not working (Category 11);
2. TANF recipients who are working (Category 12);
3. Individuals receiving Food ~~[Benefits (FB)]~~ **Supplement Program (FSP)]** who are mandatory E&T participants (Category 21);
4. Teen parents who are **[enrolled in or]** attending middle school or high school; **[or a program to acquire a General Education Diploma (GED) or similar secondary credential approved by the Delaware Department of Education;]**
5. Parent/Caretakers or child with special needs as defined in DSSM 11003.7.8;
6. Homeless families as defined in DSSM 11003.7.2;
7. Families who meet the 40% of FPL criteria as defined in DSSM 11004.7;
8. Division of Family Services (DFS) may refer children to DSS for protective Child Care up to the number agreed upon by both Divisions.

18 DE Reg. 233 (09/01/14) (Final)