

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
Division of Social Services**

**11000 Child Care Subsidy Program**

**11001 Overview of the Child Care Policy Manual**

The purpose of this manual is to outline the policies governing the Division of Social Services (DSS) Child Care Subsidy Program. This program is a collection of multiple federal and State grants, which the Division chooses to combine into one seamless Child Care Subsidy Program. Therefore, except where specific differences are noted, the policies contained in these pages apply as one uniform standard to all individual child care funding sources.

The Division created a seamless Child Care Subsidy Program to ease the decisions child care staff make and to make it possible for families to continue receiving subsidized care as long as they remain eligible. The heart of the seamless system is a common fee scale, a standard set of payment rates, and a funds account management system all built around a sophisticated information system. The Child Care Management Information System (CCMIS) is an important part of the Division's Child Care Subsidy Program. It not only supports the information needs of staff, but also manages their major policy concerns. Therefore, staff should use this Policy Manual in conjunction with the CCMIS User Manual to both understand and operate the Division's Child Care Subsidy Program.

The Child Care Subsidy Program Policy Manual is arranged much like the TANF Public Assistance Manual. The first section covers administrative functions, such as the purpose and goals of the program. The next section covers technical and financial eligibility for child care assistance. The third section covers application processing and the fourth section covers various items from parental rights and responsibilities to overpayments. The last section covers provider issues.

Each section is numbered in succeeding order, beginning with the 11001 series, e.g. 11001, 11002, 11003, etc. Policies which have more than one reference are numbered as follows: 11003 is the policy reference defining eligibility requirements, while 11003.1 refers to technical requirements, further defining eligibility requirements.

**11002 Administration**

This section discusses the following administrative policies:

- A. Purpose of Delaware's Child Care Subsidy Program,
- B. Goals,
- C. Services Provided,
- D. Persons Eligible,
- E. Responsibility for the Administration of Delaware's Child Care Subsidy Program,
- F. Legal Authority,
- G. Other Administrative Policies,
- H. Seamless Services, and
- I. Definitions and Explanation of Terms.

**11002.1 Purpose Of Delaware's Child Care Subsidy Program**

The purpose of Delaware's Child Care Subsidy Program is to provide support to Delaware families who need care and who need otherwise cannot pay for all or part of the cost of care.

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

**11002.2 Goals**

The goal of the Child Care Subsidy Program is to supplement the care and protection that children receive from their parents. This supplemental care is necessary when parents/caretakers must be apart from their children during a portion of a 24-hour day because:

- A. the children's parents/caretakers work,

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- B. the children's parents/caretakers must participate in a DSS Employment and Training program and attend school or participate in a training program which leads to employment,
- C. the children or parents have a special need requiring either one of them to be out of the home, or
- D. the children need to be protected from neglect and/or abuse.

Child care provided under these circumstances enables families:

- A. to achieve and maintain independence;
- B. to provide care, protection, health, supervision, social experience and learning opportunities which are essential to a child's growth and development; and
- C. to maintain the bonds of family unity.

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

### **11002.3 Services Provided**

Delaware's Child Care Subsidy Program offers the following services:

- A. an evaluation of the need for child care services;
- B. a determination of financial eligibility;
- C. an assessment of the family's child care needs;
- D. an explanation of the available types of child care, the choices parents/caretakers have regarding these provider types, and various provider requirements such as licensure, health, and safety;
- E. an explanation of the State's payment rates and fee scale, including a discussion of how DSS assesses fees, where fees are to be paid, what happens if they are not paid, and how parents/caretakers are to keep DSS informed of changes that affect fees; and
- F. an explanation of parent/caretakers' rights as recipients of DSS subsidized child care, including:
  1. the right to retain legal rights to their child while the child is in care,
  2. the right to make decisions about the choice of child care and child care provider,
  3. the right to request information about any substantiated parental complaints on any licensed or license-exempt child care provider, and
  4. the right to appeal any denial and/or termination of child care services.

### **11002.4 Determining Persons Eligible for Child Care Assistance**

45 CFR 98.20

DSS provides child care services to eligible Delaware families with children who need child care.

#### **1. Eligibility Criteria for Children**

- A. To be determined eligible for child care services, children must be:
  - Under 13 years of age or 13 through 18 years of age and physically or mentally incapable of self-care as determined by a medical professional, and
  - U.S. citizens or qualified aliens or non-U.S. citizens referred through the Division of Family Services.
- B. Children are also eligible for child care services if they are:
  - In need of protective services,
  - Homeless, or
  - In foster care or awaiting foster care placement.

#### **2. Eligibility Criteria for Parents and Caretakers**

- A. To be determined eligible for child care services, parents and caretakers must meet at least one of the following requirements:
  - Participate in a TANF or Food Benefit Employment and Training program.
  - Receive wages from employment.
  - Attend approved job training or educational programs.
  - Receive protective services from the Division of Family Services.
  - Report a special need.

Related policies: DSSM 11003, 11003.7.8

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

**21 DE Reg. 808 (04/01/18)**

### **11002.5 Administering Delaware's Child Care Subsidy Program**

Statutory Authority

31 **Del.C.** §103

This policy explains the direct responsibility within the Department of Health and Social Services for Delaware's Child Care Subsidy Program.

1. Delaware's Child Care Subsidy Program is established under:
  - Title IV-A and Title XX of the Social Security Act;
  - Public Law 101-508 of the Omnibus Budget Reconciliation Act of 1990;
  - Child Care and Development Block Grant (CCDBG) Act of 2014; and
  - Title 31 of the Delaware Code.
2. The Department of Health and Social Services (DHSS) is the agency designated by the State of Delaware as responsible for Delaware's Child Care Subsidy Program.
3. The Division of Social Services (DSS) is the agency within DHSS that assumes day-to-day responsibility for the administration of Delaware's Child Care Subsidy Program.
  - A. The DSS Policy and Program Development Unit assumes primary responsibility for:
    - i. Developing and implementing child care regulations found at 16 **DE Admin. Code** 11000.
    - ii. Managing the Child Care and Development Block Grant (CCDBG) and the Child Care and Development Fund (CCDF).
    - iii. Managing the Social Services Block Grant (SSBG).
    - iv. Collaborating with external stakeholders to develop and revise Delaware's CCDF State Plan.
    - v. Collaborating and receiving technical assistance from federal partners to ensure compliance with the requirements of the CCDBG Act.
  - B. The DSS Purchase of Care Unit assumes primary responsibility for:
    - i. Managing Delaware's Child Care Subsidy Program.
    - ii. Referring children to Head Start and other child care facilities for service.
    - iii. Coordinating services and supports for Head Start eligible children.
    - iv. Providing information to families and the public on the availability of subsidized funding for persons in need of child care.
    - v. Establishing contracts with child care providers and other interested agencies to carry out the purpose and goals of Delaware's Child Care Subsidy Program.
    - vi. Monitoring child care providers to ensure providers are adhering to the terms of their Purchase of Care contracts.
    - vii. Determining eligibility for the Relative Child Care Program.
    - viii. Establishing provider reimbursement rates, creating a parent fee scale, and determining income eligibility limits.
    - ix. Collecting, analyzing, and maintaining statistical data on clients who receive services.
    - x. Coordinating with public and private agencies to ensure and improve the availability

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and quality of child care.

- C. The DSS Operations Unit assumes primary responsibility for:
  - i. Following federal and state policies and procedures for determining and processing technical and financial eligibility for the Child Care Subsidy Program.
  - ii. Explaining the Child Care Subsidy Program rights and responsibilities to parents and caretakers applying for assistance.
  - iii. Attending child care trainings provided by DSS.
  
- D. The DSS Information Systems Unit assumes primary responsibility for:
  - i. Developing and maintaining the eligibility system design to support child care policy.
  - ii. Developing and maintaining the Purchase of Care system to support child care provider data.
  - iii. Developing and maintaining the Provider Self Service system to support child care providers in receiving and reporting attendance data.
  - iv. Maintaining client and provider data for administrative reports to meet federal reporting guidelines.
  
- E. The DSS Fiscal Unit assumes primary responsibility for:
  - i. Managing federal and state child care funds.
  - ii. Ensuring funds are available for child care provider payments.
  - iii. Processing Purchase of Care contracts and paying vendor invoices.
  - iv. Transferring CCDF quality funds to the Delaware Department of Education and tracking the spending of CCDF quality funds.
  - v. Managing the time and effort of all staff that perform CCDF work and are paid through CCDF, including staff at DSS, the Delaware Department of Education, and the Department of Services for Children, Youth and Their Families.
  - vi. Reporting SSBG funding usage.
  - vii. Completing federal and state child care reports.
  
- F. The DSS Staff Development Unit assumes primary responsibility for:
  - i. Designing, developing, and updating trainings and training materials for the Child Care Subsidy Program.
  - ii. Administering training sessions to DSS staff that cover current child care policies, procedures, and program requirements.
  
- G. The DSS Fair Hearing Unit assumes primary responsibility for:
  - i. Providing child care applicants and recipients with written information about their right to a fair hearing.
  - ii. Reviewing and processing fair hearing requests.
  - iii. Arranging the date, time, and location of fair hearings and sending written notification of the hearing to all parties.
  - iv. Providing a written decision by the Hearing Officer to the appellant within 90 days from the date the appeal was filed.

**25 DE Reg. 537 (11/01/21)**

**11002.5.1 Responsibility for Direct Administration of Delaware's Child Care Subsidy Program**

**Repealed, effective November 11, 2021.**

**25 DE Reg. 537 (11/01/21)**

### **11002.6 Legal Authority**

The Delaware Child Care Subsidy Program operates under authority of both State and federal laws and regulations. The State grants authority under Title 31 of the Delaware Code. Federal authority is granted through Title XX of the Social Security Act, and Work Requirements under Section 273.7, Title 7, Chapter II of the Revised Code of Federal Regulations, and the Child Care and Development Block Grant as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

#### **11002.6.1 State Law**

The State Law governing the Child Care Subsidy Program is Title 31, Part I, Chapter 3, Subchapter VI, Delaware Code - Section 391. Intent and Purpose. The intent and purposes of this subchapter of the State Law are to:

- A. provide child day care facilities available within this state so as to provide safe, adequate, economical care for children whose mothers, fathers, guardians, or custodians are employed or are seeking employment or are enrolled in training or education courses or where this service would contribute to the resolution of family problems;
- B. secure by decentralized neighborhood management the highest attainable degree of assurance that each child day care center will properly and economically meet the needs of those children who can make the best use of that service within their neighborhood under supervision of the Division of Social Services with that objective in view.

#### **11002.6.2 Federal Law/Regulation**

In addition to the State Law noted above, Delaware's Child Care Subsidy Program operates under the authority of several rules, including:

- A. Providing child care to families receiving TANF benefits who must participate in Delaware's TANF Employment and Training activities or to persons who work and receive TANF (Categories 11 and 12).
- B. Title 7, Chapter II of the Code of Federal Regulations, Part 273.7(d)(iv)(3)(i) states: "The State agency will reimburse the cost of dependent care it determines to be necessary for the participation of a household member in the E&T program up to the actual cost of dependent care, or the applicable payment rate for child care, whichever is lowest. The payment rates for child care are established in accordance with the Child Care and Development Block Grant provisions of 45 CFR 98.43, and are based on local market rate surveys. The State agency will provide a dependent care reimbursement to an E&T participant for all dependents requiring care unless otherwise prohibited by this section." Such child care is provided as part of the State's Food Stamp Employment and Training Program previously known as First Step - Food Stamps (Category 21).
- C. The Child Care and Development Block Grant (part of Categories 31 and 41) as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The purpose of the CCDBG as stated in Rule 98.1 of the CFR is, "to increase the availability, affordability, and quality of child care services." The goals of the grant are:

1. to provide low-income families with the financial resources to find and afford quality child care,
2. to enhance the quality and increase the supply of child care for all families,
3. to provide parents/ caretakers with a broad range of options in addressing their child care needs,
4. to strengthen the role of the family,
5. to improve the quality and coordination of child care programs and early childhood development programs, and
6. to increase the availability of early childhood development and before and after school services.

D. Title XX of the Social Security Act and the Omnibus Budget Reconciliation Act of 1981 establishes child care under the Social Services Block Grant (part of Categories 31 and 41).

The purpose of child care services provided under SSBG is to provide support to families with young children in order for parents to work, obtain training, or receive an education. The program also allows child care to meet the special needs of the child or for the child's protection in cases of abuse and/or neglect.

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### 11002.7 Other Administrative Policies

Case Managers are to view Child Care Policy as an extension of the DSS Policy Manual. It is part of the whole. Therefore, policies on Administration and Fair Hearings contained in DSSM 1000 and DSSM 5000 equally apply to the Child Care Subsidy Program and the Case Managers who administer it.

Specifically, Case Managers must be familiar with the following corresponding policies on Administration:

- 1002 - Courteous Treatment of Clients
- 1003 and 1003.1 to .4 - Confidentiality
- 1004 - Records to be Kept in Locked Files
- 1005 and 1005.1 - Case Record Maintenance and Retention
- 1006 and 1006.1 to .7 - Civil Rights and Non-Discrimination
- 1007 and 1007.1 to .6 - Complaint Procedures
- 1008 - Availability of Program Manuals
- 1009 - Procedures for Serving Non-English Speaking Hispanic Clients
- 1010 - Procedures for Serving Hearing Impaired Clients

In addition, Case Managers must be familiar with the entire section of DSSM 5000, Fair Hearing Practices and Procedures.

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

### 11002.8 Seamless Services

The DSS Child Care Subsidy Program operates under the authority of different funding sources, with each source uniquely setting mandates for providing child care services to families. However, the Division combines these sources into one seamless program.

Seamlessness means that families can reasonably expect to continue to receive child care services with the same provider as long as families remain basically eligible (income and need) for services. Therefore, except where specific differences are noted, the policies in this manual act as a uniform standard for our Child Care Subsidy Program.

### 11002.9 Defining Child Care Subsidy Program Terms

45 CFR 98.2

**This policy contains terms and definitions for the Child Care Subsidy Program.**

**“Application for Social Services and Internet Screening Tool” or “ASSIST”**

means an online self-service portal that allows individuals to apply for health and social service benefits in Delaware.

**“ASSIST Worker Web” or “AWW”**

means the system that DSS uses to screen and determine benefit eligibility.

**“Authorization”**

means a child is approved for child care services. The authorization specifies the approved amount of care a child is eligible to receive.

1. DSS will enter the authorization for care after the child care case is confirmed and opened.
2. DSS will send notification of the child care authorization to the parent or caretaker by a notice generated from AWW or by DSS Form 626 “Subsidized Child Care Client Agreement”.
3. The authorization provides the parent or caretaker the ability to receive subsidized child care services.
4. The authorization gives the child care provider the authority to provide subsidized child care services.
5. The authorization informs the child care provider of:
  - The amount of care the child is authorized to receive;
  - The DSS payment amount to the provider; and

<b>“Caretaker”</b>	<ul style="list-style-type: none"><li>• The parent or caretaker copayment amount to the provider.</li></ul> means the non-parent adult who is responsible for the primary support and guardianship of a child. <ol style="list-style-type: none"><li>1. The caretaker acts in the place of the parent.</li><li>2. If custody or guardianship has not been legally granted to the caretaker, DSS must make a referral to the Division of Family Services (DFS).</li></ol>
<b>“Child”</b>	means a person who is eligible for the Child Care Subsidy Program based on age or special need. To be determined eligible for child care services, the child must be: <ul style="list-style-type: none"><li>• Under the age of 13 years old; or</li><li>• Between the ages of 13 and 19 years old and physically or mentally incapable of self-care or in need of protective services.</li></ul>
<b>“Child Care and Development Block Grant” or “CCDBG”</b>	means the block grant that supplies federal funding for the Child Care Subsidy Program. CCDBG is also known as the Child Care and Development Fund (CCDF). The CCDBG provides: <ul style="list-style-type: none"><li>• Child care to low income families;</li><li>• The ability for parents and caretakers to choose their child care providers;</li><li>• Continuity of care for children; and</li><li>• Health and safety requirements for child care providers.</li></ul>
<b>“Child Care Category”</b>	means the code for the child care funding source or the family’s technical eligibility for services. The child care category codes are as follows: <ul style="list-style-type: none"><li>• 11: Participants receiving TANF and not working, but participating in the TANF Employment and Training program.</li><li>• 12: Participants receiving TANF and working.</li><li>• 21: Participants receiving food benefits who are mandatory or voluntary participants in the Food Benefit Employment and Training program and not receiving TANF.</li><li>• 31: SSBG, CCDBG, and state funds income eligible participants. Participants who receive food benefits and are not mandatory or voluntary for the Food Benefit Employment and Training program.</li><li>• 41: A participant who is a qualified alien or U.S. citizen whose eligibility allows a non-U.S. citizen or non-qualified alien to receive child care services. Example: The participant has one child who is a citizen and one child who is not a citizen in need of child care services.</li><li>• 51: A participant who is not a U.S. citizen or legal alien, but receives child care services due to a family member in category 41.</li></ul>
<b>“Child Care Center”</b>	means a licensed child care facility that provides child care services. A child care center is open less than 24 hours per day and provides services to twelve or more children.
<b>“Child Care Certificate”</b>	means a form issued to a parent or caretaker that permits the parent or caretaker to choose a child care provider who has a contract with DSS. <ol style="list-style-type: none"><li>1. The certificate allows the parent or caretaker to select the DSS contracted provider of their choice.</li></ol>

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<b>“Child Care Services”</b>	<p>2. The certificate is not an authorization for child care services.</p> <p>means the activities that assist eligible families in the arrangement of child care for their children.</p>
<b>“Child Care Subsidy Program”</b>	<p>means the program that provides financial support to eligible Delaware families who need assistance paying for child care. The program also assists families who are having difficulty locating care for their children, including children who need care during non-traditional hours, children who are English language learners, and children who have special needs.</p>
<b>“Child Care Type”</b>	<p>means the setting or place where child care is provided.</p> <ol style="list-style-type: none"> <li>1. DSS categorizes child care types and assigns a site number to all new providers. <ul style="list-style-type: none"> <li>• Family Child Care Providers have site numbers that begin with 15.</li> <li>• Large Family Child Care Providers have site numbers that begin with 16.</li> <li>• Child Care Center Providers have site numbers that begin with 17.</li> <li>• Summer Camps have site numbers that begin with 18.</li> <li>• Relative Child Care Providers have site numbers that begin with 19.</li> </ul> </li> </ol>
<b>“Code of Federal Regulations” or “CFR”</b>	<p>means the codification of the rules published by the federal government to implement federal legislation. The rules have the force of law once they become effective.</p>
<b>“Educational Program”</b>	<p>means a program of instruction to achieve at least one of the following:</p> <ul style="list-style-type: none"> <li>• A basic literacy level of 8.9;</li> <li>• Completion of a course in English as a second language;</li> <li>• A GED, Adult Basic Education (ABE), or high school diploma;</li> <li>• Completion of a special training or certificate course approved by a DSS employment and training program;</li> <li>• A post-secondary degree approved by a DSS employment and training program; or</li> <li>• A second associate’s degree approved by a DSS employment and training program if it leads to a bachelor’s degree and employment is obtained upon completion.</li> </ul>
<b>“Employment”</b>	<p>means part-time or full-time work for which the parent or caretaker receives wages equal to or greater than the federal minimum wage.</p>
<b>“Family Child Care Home”</b>	<p>means a licensed child care provider who cares for one to six children in the provider’s private residence. The children receiving subsidized child care may not be related to the provider or live at the same residence as the provider.</p>
<b>“Family Size”</b>	<p>means the total number of individuals whose needs and incomes are considered together for determining child care assistance.</p> <ol style="list-style-type: none"> <li>1. The family size will always include the parent(s) and all of the dependent children under the age of 18 years old who are living in the home.</li> <li>2. Parents are defined as the natural, legal, adoptive, or step-mother and father.</li> </ol>



<b>“Food Benefit Employment &amp; Training”</b>	means the DSS program that supports food benefit recipients by providing skill development, training, and work experience opportunities that can lead to self-sustaining employment. This program is also known as the Supplemental Nutrition Assistance Program (SNAP) Employment and Training program.
<b>“Good Cause”</b>	means an adequate or substantial reason why a client has not taken an action. <ol style="list-style-type: none"><li>1. If a parent or caretaker claims good cause, DSS may request the parent or caretaker to provide evidence to verify the claim.</li><li>2. DSS will determine good cause on a case-by-case basis.</li><li>3. DSS will not take adverse action on a case if good cause exists.</li></ol>
<b>“Graduated Phase-Out”</b>	means a 12-month transition out of the Child Care Subsidy Program that supports long-term financial stability and promotes self-sufficiency. Graduated Phase-Out is only initiated at redetermination of the Child Care Subsidy Program when a family’s gross income exceeds program income guidelines.
<b>“Income”</b>	means any type of earned or unearned money payment that is of gain or benefit to a family. Examples of income include wages, Social Security pensions, public assistance payments, and child support.
<b>“Income Eligible”</b>	means a family is financially eligible to receive child care services based on the family’s gross income.
<b>“Income Entry Limit”</b>	means the maximum allowable amount of gross income a family can have to be financially eligible for the Child Care Subsidy Program.
<b>“Income Exit Limit”</b>	means the maximum allowable amount of gross income a family can have before the family is determined no longer financially eligible for the Child Care Subsidy Program at redetermination.
<b>“Large Family Child Care Home”</b>	means a licensed child care service provided by any person or entity that is permitted to care for seven to twelve children in a private home or a non-residential setting.
<b>“Low Income Family”</b>	means a family whose income is less than the Income Entry Limit for the Child Care Subsidy Program.
<b>“Non-Temporary Care”</b>	means a limited period of 90 days of continued care for families who no longer have a need for child care services due to a non-temporary change in circumstances.
<b>“Parent”</b>	means the child’s natural mother, natural legal father, adoptive mother or father, or stepparent.
<b>“Parent Copayment”</b>	means the financial amount the parent or caretaker must pay toward the cost of child care. This was previously called the “Child Care Parent Fee”. <ol style="list-style-type: none"><li>1. The copayment will be determined from the gross income received by the family and the family’s size.</li><li>2. The gross income amount received by the family will be compared to the Federal Poverty Level (FPL).</li><li>3. A family will pay a percentage of their gross income for their copayment amount.</li></ol>
<b>“Parental Choice”</b>	means the right of parents and caretakers to choose from a broad range of child care providers, including the type and location of the child care service.

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<b>“Physical or Mental Impairment”</b>	means a condition impairing the child’s normal development patterns in which the child cannot function safely without special care and supervision. A licensed doctor or other medical professional must verify the condition.
<b>“Protective Service”</b>	means the supervision and placement of a child by the Division of Family Services (DFS) in order to monitor and prevent situations of abuse or neglect.
<b>“Provider Self Service” or “PSS”</b>	means a Child Care Subsidy Program website where child care providers can update their program information, view attendance records, and submit payment information.
<b>“Purchase of Care” or “POC”</b>	means the name of Delaware’s Child Care Subsidy Program that provides financial support to eligible Delaware families who need assistance paying for child care.
<b>“Purchase of Care Plus” or “POC+”</b>	means a care option that allows providers to charge parents and caretakers participating in the Child Care Subsidy Program the difference between the DSS reimbursement rate and the provider’s private fee for services. The provider receives the DSS rate, the DSS determined child care copayment (if applicable), and any additional provider determined copayments.
<b>“Reimbursement Rate”</b>	means the maximum dollar amount the State will pay for child care services.
<b>“Relative”</b>	means an adult who is by marriage, blood relationship, or court decree the grandparent, great grandparent, sibling, aunt, or uncle of the child receiving care.
<b>“Residing With”</b>	means living in the home of the parent or caretaker.
<b>“Seamless Service”</b>	means a family is able to retain the same provider regardless of the source of funding, and providers are able to provide services to children regardless of a family’s eligibility for assistance or the source of payment. This type of service, to the extent permitted by applicable laws, allows different funding streams to prevent interruption in child care services.
<b>“Self-Arranged Care”</b>	means child care services which are arranged between the parent or caretaker and the child care provider. In this type of arrangement, the provider does not accept the state reimbursement rate and the parent or caretaker will pay the provider their full rate. DSS will only reimburse the parent or caretaker the state reimbursement rate for care minus any applicable copayment.
<b>“Social Services Block Grant” or “SSBG”</b>	means a grant provided by the Administration for Children and Families (ACF) that is a flexible funding source allowing states to fund different social service programs to meet the needs of citizens within their individual state.
<b>“Special Needs Child Care”</b>	means child care that is authorized due to a child under 19 years old or an adult who requires specialized care for physical, emotional, or developmental needs. A licensed doctor or other medical professional must verify the need and the required care.
<b>“State Median Income” or “SMI”</b>	means the average income for each state reported yearly by the U.S. Census Bureau. <ol style="list-style-type: none"> <li>1. At any time a family’s income exceeds the federal income guideline of 85% of Delaware’s SMI, the family is no longer eligible for the Child Care Subsidy Program and the family’s child care case will close.</li> </ol>
<b>“TANF Child Care”</b>	means the child care program for TANF applicants and recipients who work or who are participating in the TANF Employment and Training program.

<b>“Technical Eligibility”</b>	means requirements based on need and category that families must meet to receive child care services.
<b>“Temporary Assistance for Needy Families” or “TANF”</b>	means a state and federally funded program established by Title IV-A of the Social Security Act and authorized by Title 31 of the Delaware Code to provide benefits to low-income families with dependent children. <ol style="list-style-type: none"><li>1. While on TANF, families are eligible for child care as long as they are working or participating in a TANF Employment and Training activity.</li></ol>
<b>“Temporary Care”</b>	means child care will continue if a parent or caretaker has a temporary break in his or her need for child care services. The temporary break should not exceed 90 days.
<b>“Training”</b>	means a program that establishes or enhances a person’s job skills. The training should lead to employment or assist a person in maintaining employment. <ol style="list-style-type: none"><li>1. Recognized training programs include, but are not limited to:<ul style="list-style-type: none"><li>• DSS employment &amp; training programs;</li><li>• WIOA-sponsored training programs;</li><li>• Recognized school vocational programs; and</li><li>• On-the-job training programs.</li></ul></li></ol>
<b>“Verification”</b>	means written or verbal documentation confirming a need for service, source of income, or the accuracy of statements or information.
<b>“Workforce Innovation and Opportunity Act” or “WIOA”</b>	means federal legislation that coordinates workforce development programs and funding streams.

**16 DE Reg. 78 (07/01/12)**  
**16 DE Reg. 1276 (06/01/13)**  
**17 DE Reg. 526 (11/01/13)**  
**24 DE Reg. 55 (07/01/20)**

**11002.10      Establishing Program Integrity in Child Care**

Statutory Authority  
45 CFR 98.68

This policy establishes guidelines to ensure integrity and accountability in Delaware’s Child Care Subsidy Program.

1. DSS will support child care program integrity by:
  - A. Collaborating and sharing data with other agencies;
  - B. Verifying eligibility for families;
  - C. Verifying attendance standards for children served;
  - D. Monitoring providers; and
  - E. Reviewing quality assurance.
2. DSS will provide training to eligibility staff in an effort to reduce and prevent administrative and improper payment errors.
3. DSS will cooperate with other agencies to share information when appropriate and allowable by federal and state laws to reduce, detect, and prevent improper payments and fraud.

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4. DSS will educate families receiving child care subsidy on program rules including reporting requirements for household changes.

**25 DE Reg. 537 (11/01/21)**

**11003 Determining Technical Eligibility for Child Care Assistance**

45 CFR 98.20

PRWORA 401 and 402

This policy applies to applicants for and recipients of child care assistance.

1. **Parents/Caretakers Must Meet Certain Eligibility Criteria**

To be technically eligible parents/caretakers must have a need that requires them to be out of the home or reasonably unavailable to provide supervision (e.g., a medical condition, needing rest because of working a third shift, etc.).

  - A. Parents/Caretakers must be a Delaware resident.
  - B. Parents/Caretakers who need services must meet one of the following:
    1. Accept or keep a job;
    2. Participate in a DSS Employment and Training (E & T) program;
    3. Participate in the Transitional Work Program (TWP);
    4. Participate in job search;
    5. Have a break in education/training;
    6. Prevent child abuse or neglect as referred by Division of Family Services (DFS);
    7. Provide care for the children when the parents/caretakers have a special need;
    8. Enrolled and attending middle school or high school;
    9. Enrolled and participating in a General Education Diploma (GED) program or similar secondary credential assessment approved by the Delaware Department of Education.
2. **Children Must Meet Certain Criteria**

Children may be eligible if they:

  - A. Live in the home and are under the age of 13;
  - B. Live in the home and are age 13 to 18 and are physically or mentally incapable of caring for themselves;
  - C. Are active with and referred by the Division of Family Services (DFS).
3. **Non-Citizens May Qualify for Child Care Assistance**

Non-citizens may qualify if:

  - A. At least one U.S. citizen or legal alien lives in the household.
  - B. Both parents/caretakers meet technical and financial eligibility criteria.
  - C. The following aliens qualify for a period of five (5) years from the date of:
    1. Obtaining status as a refugee; or
    2. Obtaining status as an asylee; or
    3. Their deportation is being withheld.
  - D. They are aliens admitted as permanent residents who have worked forty (40) qualifying quarters.
  - E. They, their spouses or unmarried dependent children are honorably discharged veterans or on active military duty.

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

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

**16 DE Reg. 319 (09/01/12)**

**18 DE Reg. 148 (08/01/14)**

**11003.1 Technical Requirements**

Technical requirements relate to the circumstances which qualify a parent/caretaker for a specific category of child care funding. These circumstances help determine whether a child care need exists, whether DSS guarantees child care, whether DSS considers income, and whether the parent pays a child care fee.

**11003.2 Processing Child Care for Parents and Caretakers Participating in TANF**

45 CFR 98.20 (a)(3)(i); 45 CFR 98.21 (a)(2); 45 CFR 98.21 (d)

This policy applies to parents and caretakers who need child care assistance while participating in the Temporary Assistance for Needy Families (TANF) program.

1. DSS guarantees child care for an eligible child when the child's parent or caretaker:
  - Participates in the TANF Employment and Training (E&T) program;
  - Participates in the TANF Transitional Work Program (TWP); or
  - Is employed or accepts an offer of employment.
  
2. DSS case workers must open child care for an eligible child and authorize care for twelve months when the parent or caretaker applies for TANF.
  
3. A parent or caretaker who loses eligibility for child care due to a TANF E&T or TWP sanction or loss of employment will receive three months of continued child care before their child care case is closed.
  - A. DSS case workers must authorize three months of child care beginning the month after the TANF sanction request or job loss in accordance with DSSM 11004.12.1 to:
    - Provide continuity of care for the child; and
    - Give the parent or caretaker the opportunity to re-engage with the TANF E&T or TWP program or obtain employment.
  
  - B. If the parent or caretaker cures the TANF E&T or TWP sanction or obtains employment during the three months of continued child care, DSS will authorize care until the family's next eligibility review date.

**25 DE Reg. 192 (08/01/21)**

**11003.2 Processing Child Care for Parents and Caretakers Participating in TANF**

**Repealed, effective August 11, 2021.**

**13 DE Reg. 1337 (04/01/10)**

**14 DE Reg. 1373 (06/01/11)**

**16 DE Reg. 643 (12/01/12)**

**25 DE Reg. 192 (08/01/21)**

**11003.3 RESERVED**

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

**16 DE Reg. 990 (03/01/13)**

**11003.4 RESERVED**

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

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

**15 DE Reg. 92 (07/01/11)**

18 DE Reg. 697 (03/01/15)

**11003.4.1 RESERVED**

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

15 DE Reg. 92 (07/01/11)

**11003.4.2 RESERVED**

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

15 DE Reg. 92 (07/01/11)

18 DE Reg. 697 (03/01/15)

**11003.4.3 RESERVED**

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

15 DE Reg. 92 (07/01/11)

18 DE Reg. 697 (03/01/15)

**11003.4.4 RESERVED**

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

15 DE Reg. 92 (07/01/11)

18 DE Reg. 697 (03/01/15)

**11003.4.5 RESERVED**

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

15 DE Reg. 92 (07/01/11)

**11003.4.6 RESERVED**

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

15 DE Reg. 92 (07/01/11)

18 DE Reg. 697 (03/01/15)

**11003.4.7 RESERVED**

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

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

18 DE Reg. 697 (03/01/15)

**11003.5 In-Home Child Care**

See Administrative Notice: A-7-99 Child Care Issues

The Fair Labor Standards Act requires that in-home child care providers be treated as domestic service workers. As a result, DSS must pay these providers the federal minimum wage. Paying the federal minimum wage would make the cost of in-home care disproportionate to other types of care. As a result, DSS has placed a limit on parental use of the in-home care option.

A. As of July 1994, in-home care has been limited to:

1. families in which four or more children require care, or
2. families with fewer children only as a matter of last resort.

B. Examples of "last resort" may include:

1. the parent works the late shift in a rural area where other types of care are not available, or
2. there is a special needs child for whom it is impossible to find any other child care arrangement.

Federal regulations define in-home care as child care provided in the child's own home. In-home care also includes situations where the caregiver and the child share a home.

EXAMPLE 1: Ms. Jones lives at 100 Main Street in Newark. Ms. Jones goes to Mrs. Johnson's house at 200 Main Street in Newark to provide dependent care for Mrs. Johnson's children. Because in-home care is provided, Ms. Jones must be paid at least the federal minimum wage. Ms. Jones must, therefore, be providing dependent care to at least four children.

EXAMPLE 2: Ms. Smith and Ms. Kelly live in the same house at 500 DuPont Street in Wilmington. Ms. Smith provides dependent care for Ms. Kelly's only child in this house. The federal minimum wage provisions do not apply. Ms. Smith would receive the established rate for the one child even though the rate is below the federal minimum wage.

**11 DE Reg. 1488 (05/01/08)**

### **11003.6 REPEALED**

Effective January 11, 2021

**16 DE Reg. 213 (08/01/12)**

**24 DE Reg. 704 (01/01/21)**

### **11003.7 RESERVED**

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

**15 DE Reg. 1759 (06/01/12)**

#### **11003.7.1 Income Eligible/Program Limitation**

There is no child care guarantee with the funding sources which make up the income eligible category like there is with TANF and Transitional Child Care. Funding is limited by the amount of DSS' grant award. This means that DSS cannot serve all the income eligible parent/caretakers who have a legitimate child care need. Though families may be eligible, a lack of available funding will prevent DSS from authorizing service. DSS therefore, reserves the right to limit, where appropriate, its income eligible child care services whenever the demand for income eligible services comes near or matches available funding resources. DSS also reserves the right, under these conditions, to determine who it will serve, when it will serve them, and how it will serve them.

#### **11003.7.2 Determining Child Care for Homeless Families**

45 CFR 98.41, 42 USC 11434a (2), 42 USC 11302 (a)

Families who apply for Purchase of Care and meet the definition of "homeless" will receive presumptive child care services for 90 days, regardless of whether documentation is provided at the time of application.

1. **This policy references The McKinney-Vento Homeless Assistance Act definition of "homeless" which means individuals who lack a fixed, regular, and adequate nighttime residence, and includes individuals who are:**
  - Living in the housing of others due to loss of housing, economic hardship, or a similar reason;
  - Living in a motel, hotel, trailer park, or camping ground due to lack of alternative adequate accommodations;
  - Living in an emergency or transitional shelter;
  - Living primarily at a public or private place not designed or ordinarily used as a regular sleeping accommodation for human beings;
  - Living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting;
  - Abandoned in a hospital; and
  - Migrant children who have joined a parent or the spouse of a parent within the past 36 months and who are living in any of the above situations.
2. **Families who make a personal choice to reside in the housing of others are not considered homeless.**
3. **Families who are homeless will qualify for child care services when:**
  - The family is determined homeless based on the definition in this policy;

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- The family's income is at or below 185% of the Federal Poverty Level; and
  - The parent or caretaker is seeking employment or housing.
4. **Child care providers are required to allow children who are determined homeless and children in foster care to begin receiving child care services once they are determined eligible for child care subsidy, regardless of whether documentation has been provided, including immunization records.**

**22 DE Reg. 1014 (06/01/19)**

#### 11003.7.3 Income Eligible/Loss of Employment or Job Transition

Parent/caretakers who lose employment or who have a gap in employment because of a transition between jobs, can continue service for up to three months. Child care services will cease if employment does not begin again after this time.

**13 DE Reg. 1088 (02/01/10)**

#### 11003.7.4 Income Eligible/Training

Parent/caretakers who participate in a DSS Food Benefit or TANF Employment and Training program can continue receiving child care services for the duration of their participation as long as:

- A. the training was part of a TANF or Food Benefit Employment & Training (FB E&T) Employability Development Plan; and
- B. there is a reasonable expectation that the training course will lead to a job within a foreseeable time frame (6 to 18 months), such as persons participating in apprenticeship programs, on-the-job training programs, or vocational skill programs.

Child care services can continue for up to three months to allow for breaks between training programs or to allow for an employment search upon completion of training.

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

**13 DE Reg. 1088 (02/01/10)**

#### 11003.7.5 Determining High School/GED Eligibility and Participation

45 CFR 98.20

This policy applies to applicants and recipients seeking a high school diploma or GED.

##### 1. **DSS Requires Parents/Caretakers Meet Certain Eligibility Criterion**

Parents/Caretakers who attend high school or GED program can receive Child Care for the duration of their participation.

- A. If parents/caretakers are:
  - Attending high school or high school equivalency and have not previously received a high school diploma or GED.
  - Meeting all other financial and technical requirements. (See DSSM 11003.9- Financial Requirements and DSSM 11003-Determining Technical Eligibility for Child Care)

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

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

**17 DE Reg. 739 (01/01/14)**

#### 11003.7.5.1 Determining Post-Secondary Eligibility and Participation

45 CFR 98.20

This policy applies to applicants and recipients who meet Child Care income eligibility requirements.

##### 1. **DSS Requires Parents/Caretakers Seeking A Degree Meet Certain Criterion.**

Parents/Caretakers who are enrolled in higher education or training programs that lead to a degree or certification/licensure can receive Child Care for the duration of the education program.

- A. The parents/caretakers must be participating:
  - In a DSS TANF Employment and Training (TANF E & T) Program; or
  - In the DSS Food Supplement Program Employment and Training (FS E & T); and
- B. DSS expects the course of instruction will lead to employment.
- C. Parents/Caretakers who already have a Bachelor's degree or higher are not eligible.

**17 DE Reg. 739 (01/01/14)**



### **11003.7.6 Income Eligible/Protective Child Care**

DSS will provide child care services for children who need to receive or who receive protective services from the Division of Family Services exclusive of other child care needs. DSS will also give service priority to protective children, meaning DSS will provide an exemption to protective children during a waiting list period. However, by agreement with the Division of Family Services, this exemption will only exist for a limited number of protective children. Currently the limitation is 280 children, but is subject to change based on available funding and forecasted need.

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

### **11003.7.7 REPEALED**

Effective January 11, 2021

**24 DE Reg. 704 (01/01/21)**

### **11003.7.8 Determining Special Needs for Child Care**

45 CFR 98.20(a)

This policy applies to parents and caretakers requesting Special Needs Child Care for themselves or for their children.

**1. Families requesting Special Needs Child Care must meet the Special Needs eligibility requirements.**

- A. DSS will determine a parent or caretaker to be eligible for Special Needs Child Care if:
  - i. The parent or caretaker has a condition that causes the parent or caretaker to be unable to care for his or her child for some portion of the day; and
  - ii. The parent or caretaker is financially eligible for child care assistance.
  
- B. DSS will determine a child to be eligible for Special Needs Child Care if:
  - i. The child is under 19 years of age;
  - ii. The child is physically or mentally incapable of self-care; and
  - iii. The parent or caretaker has a need per DSSM 11003.8 and is financially eligible for child care assistance.
  
- C. DSS requires documentation of the special need.
  - i. The family can verify the special need by submitting:
    - DSS Form 611 "Child Care Medical Certification Form"; or
    - Written documentation completed by a physician or medical professional that details the special need and the required care.
  
- D. DSS considers children who are active with and referred by the Division of Family Services (DFS) to have met the need criteria for Special Needs Child Care.
  - i. Children referred by DFS:
    - Are not required to meet the financial criteria for child care assistance; and
    - May receive child care services regardless of their citizenship status.
  
- E. DSS considers parents and caretakers who are active with the Transitional Work Program (TWP) to have met the need criteria for Special Needs Child Care.
  - i. Parents and caretakers participating with TWP:
    - Must be financially eligible for child care assistance; and
    - Are not required to submit documentation of a special need to DSS.
  - ii. TWP staff will request child care for clients who are participating with the program and will determine the amount of care needed.

Note: DSS case workers must select the individual approved for the Special Needs Child Care in the "Child Care Additional Demographics" screen in the eligibility system. Selection of the incorrect individual will result in an improper payment error.

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

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

**13 DE Reg. 97 (07/01/09)**

**13 DE Reg. 1339 (04/01/10)**

**14 DE Reg. 1373 (06/01/11)**

**24 DE Reg. 164 (08/01/20)**

### **11003.8 Necessity of Child Care**

45 CFR 98.20

For parents/caretakers to receive child care services, DSS must determine if child care is necessary. For two-parent households, both parents must have a need for child care. Child care is necessary when:

- A. The child is not in school during the hours of the parent's/caretaker's employment
- B. The child is not in school during the hours of the parent's/caretaker's participation in a training or education component of a DSS Employment and Training program
- C. The child is active with and referred by DFS for child care (See DSSM 11003.7.8)
- D. The parent/caretaker is active with and referred by the DSS Transitional Work Program for child care (See DSSM 11003.7.8)
- E. The parent/caretaker has a special need (See DSSM 11003.7.8)

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

**11 DE Reg. 1657 (06/01/08)**

**14 DE Reg. 1373 (06/01/11)**

### **11003.9 Financial Requirements**

Child care services are available to families who otherwise cannot pay for all or part of the cost of care. This determination of who cannot afford to pay all, or a portion of the cost of care, is always a determination based on income. The financial requirements, which follow, relate to the circumstances which qualify parent/caretakers for child care services based on income. These requirements help determine whose income to count or not count, what is counted, and when and how to count it.

#### **11003.9.1 Determining Income Eligibility for Child Care**

45 CFR 98.21(c)

This policy outlines how DSS determines income eligibility for applicants and recipients of the Child Care Subsidy Program.

1. DSS will determine income eligibility for the Child Care Subsidy Program when a family submits a completed and signed application and completes an interview for child care assistance.
2. Case workers must verify the past 30 days of income received by the family.
3. If a family's income fluctuates, DSS will average the last three to six months of the family's income and exclude temporary income (such as overtime, bonus, or holiday pay) for eligibility determination.

4. DSS considers all gross earned and unearned income received by the family when determining child care eligibility.
  - A. Gross income is the amount of earned and unearned income before deductions such as taxes, bonds, pensions, and union dues.
  - B. To be eligible for child care assistance, a family's gross monthly income must be equal to or less than 185% of the Federal Poverty Level (FPL) for the family size.
  
5. DSS counts the following income when determining child care eligibility:
  - A. Earned income, including, but not limited to:
    - i. Wages and salary;
    - ii. Armed forces pay;
    - iii. Commissions, tips, and piece-rate payments; and
    - iv. Self-employment earnings.
      - a. Self-employment earnings are counted after applying a standard deduction for self-employment expenses.
      - b. Self-employed clients must verify at least one business cost to receive the self-employment deduction.
      - c. Self-employment earnings must be equal to the federal minimum wage.
  - B. Unearned income, including, but not limited to:
    - i. Social Security benefits, including Social Security Disability Income (SSDI), Supplemental Security Income (SSI), and Retirement, Survivors, and Disability Insurance (RSDI);
    - ii. Veteran's benefits and military allotments;
    - iii. Public assistance payments, including Temporary Assistance for Needy Families (TANF);
    - iv. Net rental income;
    - v. Unemployment compensation;
    - vi. Workers' compensation;
    - vii. Pensions;
    - viii. Railroad retirement;
    - ix. Annuities; and
    - x. Alimony and child support.
  
6. DSS excludes the following income when determining child care eligibility:
  - A. The value of U.S. Department of Agriculture (USDA) donated foods;
  - B. The value of Supplement Nutrition Assistance Program (SNAP) food benefits;
  - C. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the National School Lunch Act, as amended;
  - D. The value of homegrown produce used for household consumption;
  - E. The earned income of a child under the age of 18 years old who is a student;
  - F. All AmeriCorps VISTA income;

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- G. Temporary U.S. Census Bureau employment income received during the census period;
  - H. Temporary income received by a family that may determine the family to be over 85% of the State Median Income (SMI);
    - i. The family must submit documentation of when the income will end.
    - ii. The temporary work period cannot exceed 90 days.
  - I. The money received from the sale of property such as stocks, bonds, a house, or a car;
    - i. If the client is in the business of selling such property, the net proceeds are counted as income from self-employment.
  - J. Withdrawals from bank accounts;
  - K. Money borrowed or received as a gift;
  - L. Capital gains;
  - M. Federal income tax returns;
  - N. Non-recurring lump sum payments (e.g. a lump sum child support payment);
  - O. Any payments derived from participation in activities under the Food Benefit Employment & Training program or other job training programs;
  - P. Loans or grants, such as scholarships obtained and used under conditions that preclude their use for current living costs;
  - Q. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act;
  - R. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of Indian Claims Commission or the Court of Claims;
  - S. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under ESM 21(a) of the Act; and
  - T. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
7. DSS does not consider resources such as cars, homes, savings accounts, or life insurance when determining income eligibility for child care assistance.
8. Once eligibility has been established, DSS will complete a net income test to determine if the family will have a copayment for child care assistance.
- A. Net income is the total income counted in the child care budget after shelter and utility deductions have been applied.

- B. The net income test determines if the family has an excessive financial burden. DSS will waive the copayment if the family's income falls below 40% of the FPL per DSSM 11004.7.1.

**9 DE Reg. 564 (10/01/05)**

**11 DE Reg. 1488 (05/01/08)**

**14 DE Reg. 178 (09/01/10)**

**24 DE Reg. 704 (01/01/21)**

### **11003.9.2 Whose Income to Count**

In all Categories, count all income attributable to the parent(s) and children included in the family size according to section 11003.9.1 as family income. Family size as used here means those persons whose needs and income are considered together as defined in section 11003.9.3. A person who acts as a child's caretaker (as defined in Section 11002.9), is not included in the definition of family. In this instance, any income attributable to the child or children is the income which is counted.

Income of active DFS referrals/cases is excluded. Active DFS referrals/cases do not need to meet financial eligibility.

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

### **11003.9.3 Defining Family Size for Child Care**

45 CFR 98.20

Family size is defined by the individuals who live together and whose needs and incomes are considered together for child care subsidy.

1. The family size includes parents and their children under age 18 who are living in a household together.
  - A. DSS defines parents as:
    - i. Natural birth parents of a child;
    - ii. Legal parents of a child as deemed by a court of law;
    - iii. Adoptive parents of a child as deemed by a court of law;
    - iv. A stepparent of a child; or
    - v. Unmarried partners with a child in common.
  - B. DSS includes in the family size the parent or parents with their natural, legal, adopted, or step-child or children under age 18 who are residing in the same household.
  - C. DSS groups unmarried partners together in the family size only if they live together and have a child in common residing in the same household.
    - i. When DSS groups unmarried partners together, the family size will include:
      - The unmarried partners;
      - The child in common; and
      - Any other child who is the natural, legal, adoptive, or step- child of one of the unmarried partners and residing in the same household.
  - D. DSS excludes from the family size any adults who are not the natural, legal, adoptive, or step- parent of the child or children in the household, including a caretaker, legal guardian, or unmarried partner who is not the child's parent.
    - i. In this type of case:
      - The family size will only include the child or siblings in the household; and
      - The income of the excluded adult will not count in determining the parent copayment.
  - E. A parent may receive child care even if there is another adult living in the household who is not included in the family size, such as an unmarried partner who is not the child's parent, a relative, or a friend.

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2. DSS uses the earned and unearned income per DSSM 11003.9.1 that is received by the parents and children included in the family size to determine the family's financial eligibility and copayment for child care.
3. Examples of family size:
  - A. Mom and dad are married with two children. Both parents are employed and meet the financial requirements for child care. This is a family size of four.
  - B. Dad and his unmarried partner have a child in common. Both parents are employed. Dad has two children from a previous relationship, and Dad's unmarried partner has one child from a previous relationship. The four children reside in the household. Since there is a child in common, this is a family size of six.
  - C. Mom and her unmarried partner have no children in common. Mom is employed and has one child who resides in the household. Mom's unmarried partner is not employed and has two children who reside in the household. Mom is eligible to receive child care for her child only, and this is a family size of two.
    - i. Mom's unmarried partner is not required to care for Mom's child.
    - ii. Mom's unmarried partner is not eligible for child care because the partner does not have a need for care.
  - D. Grandfather and grandmother have custody of their grandchild and receive child support for the grandchild. Grandfather is employed, and grandmother is on disability. This is a family size of one.
    - i. Only the child support income received for the grandchild will count when determining the parent copayment.
    - ii. Although grandmother is not working, she is not required to provide care for the child because she is not the child's parent.
  - E. Uncle has custody of his nephew and his godchild. Uncle is employed and receives child support for his nephew. Because the children are not related to each other, there are two family size determinations.
    - i. The nephew is a family size of one and only the child support income will count when determining the parent copayment.
    - ii. The godchild is a family size of one and no income will count when determining the parent copayment.

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

**24 DE Reg. 700 (01/01/21)**

#### **11003.9.4 Determining Child Care for Parents Who Are Under Age 18**

45 CFR 98.20 (3)(i)(ii)

This policy applies to minor parents who are under the age of 18 and residing with their legal guardians or parents.

**1. A minor parent who is applying for child care services must:**

- Have a need for child care;
- Meet financial eligibility requirements based on the minor parent's income;
- Provide a referral from the Division of Family Services (DFS) if the family has an active DFS case; and
- Provide a medical form or statement of a special need, if applicable.

**2. The legal guardian or parent of a minor parent must:**

- Sign the child care application of the minor parent. DSS will deny child care if the legal guardian or parent of the minor parent does not sign the application.
- Verify legal guardianship of the minor parent's child if:

- i. The legal guardian or parent provides primary support for the minor's child; and
- ii. The legal guardian or parent is applying for child care services.

Note: An agency that has custody of a minor parent must apply on behalf of the minor requesting child care services.

**23 DE Reg. 577 (01/01/20)**

**11003.9.4.1 Determining Child Care for Minor Parents Participating in TANF E&T**

45 CFR 98.20 (a)(3)(i); 45 CFR 98.21 (a)(2); 45 CFR 98.21 (d)

This policy applies to minor parents (ages 16 through 17) who need child care assistance while participating in the Temporary Assistance for Needy Families (TANF) Employment and Training (E&T) program.

1. DSS guarantees child care for an eligible child when the child's minor parent:
  - Participates in the TANF E&T program;
  - Participates in the TANF Transitional Work Program (TWP); or
  - Is employed or accepts an offer of employment.
2. DSS case workers must open child care for an eligible child and authorize care for twelve months when the minor parent applies for TANF.
3. A minor parent who loses eligibility for child care due to a TANF E&T or TWP sanction or loss of employment will receive three months of continued child care before their child care case is closed.
  - A. DSS case workers must authorize three months of child care beginning the month after the TANF sanction request or job loss in accordance with DSSM 11004.12.1 to:
    - Provide continuity of care for the child; and
    - Give the minor parent the opportunity to re-engage with the TANF E&T or TWP program, obtain employment, or attend an educational setting.
  - B. If the minor parent cures the TANF E&T or TWP sanction, obtains employment, or attends an educational setting during the three months of continued child care, DSS will authorize care until the family's next eligibility review date.

**25 DE Reg. 192 (08/01/21)**

**11003.9.5 Making Income Determinations**

45 CFR 98.11(b)(2)

Staff will use gross monthly income in all cases except for self-employment income. Gross income is income before any deductions. See 11003.9.1 for disregarded income.

Determine the monthly amount of income using the conversion method below. This applies to earned and unearned income.

- A. Weekly gross income is multiplied by 4.33 to calculate the monthly income.
- B. Bi-weekly gross income is multiplied by 2.16 to calculate the monthly income. Bi-weekly income is income that is received every other week.
- C. Semi-monthly gross income is multiplied by 2 to calculate the monthly income. Semi-monthly income is income that is received twice each month.

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If the income is different from pay to pay, use the income from the previous month or the average of the last three months income, whichever is less. This applies for earned and unearned income.

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

**14 DE Reg. 178 (09/01/10)**

**11003.10 Reporting Changes in Need and Income for Child Care**

45 CFR 98.21 (e)(1)(i,ii)

Parents and caretakers are required to report a change in household income and need for child care to DSS within 10 days of the change.

- 1. A family must only report a change in income that results in the family's monthly income exceeding 85% of the state median income (SMI) guideline for the household size.**
- 2. A family must report a non-temporary change that occurs in their household circumstance, including:**
  - The loss of employment;
  - The completion of an education or training program; and
  - A permanent change in state residency.
- 3. A family may report changes by:**
  - Calling the local DSS office or the Change Report Center;
  - Emailing th local DSS office or the designated resource mailbox; or
  - Visiting the local DSS office.
- 4. When a family reports a non-temporary change that ends their need for child care, DSS will authorize 90 consecutive days of child care before the family's child care case is closed.**
- 5. DSS must verify a change reported by a third party agency or person with the family.**

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

**23 DE Reg. 60 (07/01/19)**

**11004 Applying for Child Care Assistance**

45 CFR 98.1(b)(1)

Parents and caretakers who are interested in receiving child care assistance may inquire about services by contacting a DSS office.

- 1. Parents and caretakers may informally inquire about child care eligibility by contacting a DSS office by phone call or unannounced office visit.**
- 2. Each informal inquiry for child care services will be reviewed by a DSS eligibility case worker at the time of inquiry. Parents and caretakers who appear to be eligible may complete the formal application process on the same day as the informal inquiry.**
- 3. Eligibility case workers who are assessing informal child care inquiries shall:**
  - A. Review each applicant's need for child care based on the information that the applicant provides.
  - B. Review current case information in ASSIST Worker Web (AWW), if applicable.
  - C. Notify parents and caretakers whether they are potentially eligible for services. A written decision is not required for an informal inquiry.
  - D. Inform all parents and caretakers of their right to file a formal application.
  - E. Proceed with the formal application process for potentially eligible parents and caretakers on the same day as the informal inquiry.
  - F. Provide the applicant with Form 105 "Appointment and Request for Verification" when additional information is needed to complete the eligibility process.

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

**21 DE Reg. 808 (04/01/18)**



### **11004.1 Processing Applications for Child Care**

Statutory Authority

45 C.F.R 98.20

This policy applies to parents and caretakers who submit an application for child care assistance.

1. DSS will provide child care assistance for eligible children when a parent or caretaker:
  - Participates in a TANF or Food Benefit Employment and Training (E&T) program;
  - Participates in the TANF Transitional Work Program (TWP);
  - Attends a DSS-approved educational program or job training program;
  - Is employed or accepts an offer of employment;
  - Receives protective services from the Division of Family Services (DFS); or
  - Verifies a special need.
  
2. A parent or caretaker may apply for child care:
  - In person at any DSS location;
  - Over the phone with a DSS case worker;
  - By mailing, faxing, or emailing a completed application to the local DSS office; or
  - Online through Delaware ASSIST or other online application methods.
  
3. DSS will interview the applicant and process the signed child care application within two business days. The application filing date will be the effective begin date for assistance.
  
4. A parent or caretaker must verify household income and the need for child care during the application process.
  - A. A parent or caretaker must verify the last 30 days of earned and unearned income received prior to the date of application for DSS to determine financial eligibility.
    - i. Earned income may be verified by:
      - a. Wage stubs;
      - b. A signed employer statement on employer letterhead noting the employee's name, start date, work schedule, earnings, and frequency of pay;
      - c. Verification of Employment (Form 170); or
      - d. A data match confirming employment and income.
    - ii. Unearned income may be verified by:
      - a. Award letters;
      - b. Pension statements;
      - c. Court order documentation;
      - d. Other forms of documentation from sources verifying the gross unearned income amount; or
      - e. A data match confirming unearned income.
  
  - B. A parent or caretaker must verify their need for child care by providing:
    - i. Wage verification or an offer of employment that includes the amount of work hours;
    - ii. A schedule, proof of registration, or statement from an authorized education program verifying the start date, days and hours of attendance, and expected completion date;
    - iii. A schedule, proof of registration, or statement from an authorized training program verifying the start date, days and hours of attendance, and expected completion date;
    - iv. A DFS referral for protective care; or
    - v. Child Care Medical Certification Form (Form 611) or written documentation completed by

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a physician or medical professional that verifies a special need and the required care.

- C. Presumptive child care may open when a parent or caretaker reports income and a need for child care but has not provided all mandatory verifications in accordance with DSSM 11004.8.
5. A parent or caretaker must provide all mandatory verifications, complete an intake interview, and make a provider selection within 30 days from the application date for child care to become effective on the application filing date.
- A. If information is returned after 30 days of the application date, but before 60 days, child care will begin on the date verifications are received.
- B. If information is not returned before 60 days from the application date, the parent or caretaker must reapply for child care.
6. DSS must inform parents and caretakers of their:
- Eligibility determination;
  - Monthly parent copayment amount; and
  - Rights and responsibilities for the Child Care Subsidy Program.
7. DSS must give parents and caretakers a Subsidized Child Care Client Agreement (Form 626) when child care approval cannot be generated from the eligibility system.
- 9 DE Reg. 572 (10/01/05)**  
**25 DE Reg. 280 (09/01/21)**

**11004.2 Interviews and Necessary Documentation**

45 CFR 98.11

Complete an interview either over the phone or in person. Conduct the interview the same day if possible. Parents will need to supply the following verifications:

1. if employed:
  - a. pay stubs for the 30 days before the date of application, or
  - b. a letter or employer statement (on company letterhead) noting the employer's name, telephone number, the parent's/caretaker's work schedule, earnings, frequency of pay, and start date,
2. any unearned income, such as child support, Social Security, and unemployment compensation
3. if in training and/or school:
  - a. a statement from the school/training program with starting and completion dates and days and hours required to attend, or
  - b. a copy of a registration form and class schedule;
4. any other information which will help in determining the need for service, such as documentation of a special need. Documentation of the special need may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so. For a protective need, a referral from Division of Family Services must be submitted.

Parents must be given any information that will help them to make an informed decision regarding their child care services. Provide parents/caretakers with a list of providers and a child care certificate packet as needed. Although verifications are needed, Presumptive Child Care may be opened pending information. Presumptive Care can be authorized for approximately one month, depending on the date of application. (For more information on Presumptive Child Care see DSSM 11004.8).

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

**14 DE Reg. 182 (09/01/10)**

### **11004.2.1 Conducting the Interview**

The interview will include:

- A. An evaluation of parents/caretakers need for child care services (see Section 11003);
- B. A determination of financial eligibility as needed;
- C. An assessment of the family's child care needs as well as the needs of the children to be placed in care;
- D. An explanation of the available types of child care; the choices parents/caretakers have regarding these provider types; the various provider requirements regarding licensure, possible co-pays, health, and safety, including record of immunization; and required child abuse and criminal history checks;
- E. An explanation of DSS payment rates and parent fee scale, including a discussion of how fees are assessed, where fees are to be paid, what happens if the fee is not paid, and how parents/caretakers are to keep DSS informed of changes that affect fees;
- F. An explanation of parents/ caretakers rights and responsibilities;
- G. Completion of the Application for Child Care Assistance, and as applicable completion of the Child Care Authorization and the Child Care Payment Agreement form; and
- H. Verification of appropriate information establishing need and income.

The entire process, from the time when parents/caretakers make an informal request for child care to the time when a decision is finally made, should take no longer than one month.

Parents/caretakers who fail to keep their initial appointment for an interview are given the opportunity to reschedule.

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

**10 DE Reg. 564 (09/01/06)**

**18 DE Reg. 697 (03/01/15)**

### **11004.3 Review and Verification of Eligibility Requirements**

As part of the formal application process, use the parents/caretakers interview to review and verify eligibility requirements. This interview will always include an evaluation of the parents/caretakers need for child care and, as appropriate, a determination of financial eligibility. Section 11003, Eligibility Requirements, provides guidance for this review.

When a parent/caretaker makes a contact to inquire about child care, ask the following questions of the parent/caretaker to determine and verify need (these questions follow the eligibility requirements noted in Section 11003 and match DCIS II Child Care Sub system need codes.

- A. Is the parent/caretaker employed or in need of child care to accept employment? (Category 12 for TANF employed or Category 31 if not on TANF) The caretaker must be part of the TANF grant to be a Category 12.
- B. Is the parent a TANF Employment and Training participant and needs care to participate in a TANF Employment and Training activity? (Category 11)
- C. Is the parent/caretaker a Food Stamp Employment & Training (FS E&T) participant? (This is Category 21.)
- D. Is the parent/caretaker a self-initiated participant (TANF, a mandatory or voluntary Food Stamp Employment & Training (FS E&T)? (This is Category 21.)
- E. Is the parent/caretaker in and regularly attending a training program or going to school? (Category 31)
- F. Is a special needs child or parent/caretaker in the household? (Category 31)
- G. Is there a protective referral from Family Services? (Category 31)

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H. If the parent/caretaker meets a Category 13 or 31 need, is the family income equal to or below 200 percent of the federal poverty level?

Use the appropriate documents identified in Section 11004.2 to verify the need for service. However, verification will not delay authorization of service in the event documentation is not immediately available. Authorize service while allowing parents/caretakers ten days to provide the appropriate verification. If the client is applying for services the system will automatically determine eligibility for Presumptive Child Care. The system will generate the appropriate notices, request the information and end date the authorization. If the client does not meet presumptive requirements and fails to provide requested information the system will close the case and give appropriate notice. (For more detail on Presumptive Child Care see section 11004.8)

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

### **11004.3.1 Prioritizing Service Needs**

45 CFR 98.20

45 CFR 98.44

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 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 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)**

### **11004.4 Child Care Certificates**

As part of the application process, inform all parents/caretakers of their right to choose a child care provider. Parents/caretakers may elect to use a provider under contract with DSS or elect to receive a child care certificate. The child care certificate allows parents/caretakers to select any licensed non-contract provider or license-exempt provider. The child care certificate is part of a package of information provided to parents/caretakers as part of the formal application process. It is necessary to not only provide parents/caretakers with a copy of this package, but explain the purpose of this package and ensure that parents/caretakers reasonably understand its contents.

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

#### **11004.4.1 Explanation of Certificates**

Use the following as a guide to explain the child care certificate package.

A. Parents/caretakers can use this package to select a child care provider of their choice. However, they must select care that is legal. Legal care is care that is licensed or that is exempt from licensing requirements.

B. Licensed Care: All family child care homes, large family child care homes and child care centers must have a license to operate in Delaware. Do not allow a parent to select an unlicensed family or large family child care home, or center child care provider.

C. License-exempt Care: The following provider types are exempt from licensing requirements in Delaware:

1. persons who come into the child's own home to care for the parent/caretaker's child,
2. relatives who provide care in their home for the parent/caretaker's child;

Though the above provider types are exempt from licensing requirements, they are still required to meet certain health and safety standards. These standards are:

1. maintaining documentation of the child's immunization record,
2. safe and clean building premises,
3. providers and those 18 and older who live in the home where care is being provided are required to submit to a fingerprinted background check and must not have any prohibited criminal convictions or prohibited child abuse and neglect substantiations as designated under 31 Delaware Code, Section 309, 16 Delaware Code, Section 923 and the Child Care Development Block Grant Act of 2014; and
4. relatives who provide care cannot be part of the welfare grant.

D. Once parents/caretakers know the appropriate provider to select, they also need to know how DSS will pay for the care provided. DSS has established rates above which it will not pay (see Appendix II for current reimbursement rates).

Parents/caretakers will need to know these rates and whether or not the provider is willing to accept them. If the provider is willing, the certificate will act just like a DSS contract and DSS will pay the provider directly less any child care fee. If the provider is not willing, the parent/caretaker will self-arrange care with the individual provider.

If the provider contracted purchase of care slots are full, the provider may offer the parent/caretaker the option of receiving service as a purchase of care plus client. The provider then receives the regular DSS subsidy from the Division, the DSS determined parent fee and any additional fee determined by the provider from the parent/caretaker.

If the provider is not willing to accept purchase of care plus, the parent/caretaker will self-arrange care with the individual provider. The parent/caretaker will pay the provider and submit an original receipt to DSS for reimbursement. The parent/caretaker, however, will only receive reimbursement up to the DSS statewide limit.

E. The provider will need to complete and return the original copy of the actual child care certificate before case managers can authorize care. Relative care providers will also complete and return the yellow copy of the License Exempt Provider Criminal History and Child Abuse and Neglect Background Check Request for all persons 18 and older living in the home. If this form is not returned, discontinue care.

F. Service will not be delayed because of an incomplete child abuse clearance check, but remind parents/caretakers that DSS will not pay for care if, after authorization, the check should reveal a history of abuse or neglect.

G. Allow parents/caretakers one month to use a certificate. If the certificate is not used within that time, it no longer remains valid and the parents/caretakers will need to obtain a new certificate if they still wish to receive service.

H. The original copy of the child care certificate is completed and returned by the provider. The certificate package provides instructions for completion. The provider should keep a copy.

I. The client has 60 days from confirmation of eligibility to provide the DSS Case Manager with the name of his/her provider. If the client fails to provide this information his/her case will close.

**8 DE Reg. 1153 (02/01/05)**

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

**13 DE Reg. 1088 (02/01/10)**

**20 DE Reg. 810 (04/01/17)**

#### **11004.4.2 Purchase of Care Plus (POC+)**

POC+ is a care option that allows providers to charge 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.

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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.

It is the provider's responsibility to include in their contract with the DSS client the explanation of POC+, the length of POC+ if it is specified, the co-payment amount, the providers policy on non-payment of fees, and a statement that they have explained to the client their options and that the client chooses to participate in POC+.

In order for providers to be able to participate in the POC+ option they must agree to take a percentage of DSS waived fee clients and attend training on POC+.

If a client is currently participating in POC+ and goes to a zero parent fee for DSS, the client can stay POC+ or request a regular POC slot. If a regular POC slot is not available the client can chose to remain in a POC+ slot, self arrange, or find a provider with a regular POC slot.

A provider cannot change a zero parent fee client from a regular POC slot to a POC+ slot.

NOTE: It is important to explain to DSS clients who receive POC and Food Stamps that if they choose to participate in POC+ they need to inform the DSS worker of the co-payment amount so that the Food Stamp case can be updated.

**10 DE Reg. 564 (09/01/06)**

#### **11004.5 Processing Eligibility for Child Care**

45 CFR 98.20; 45 CFR 98.21

The DSS eligibility system determines if families applying for the Purchase of Care (POC) program are eligible for child care subsidy based on federal and state rules.

1. DSS case workers will enter a family's financial and technical information into the DSS eligibility system at application, at redetermination, and when a family reports a change in circumstances.
2. DSS case workers will enter child care authorization information into the DSS eligibility system once a child has been determined eligible for the POC program.
3. DSS case workers will authorize eligible children for 12 months of care.
  - A. An authorization may be set for less than 12 months if the authorization period is requested in writing by:
    - i. The parent or caretaker;
    - ii. A medical professional verifying the length of time child care is required for a special need; or
    - iii. The Delaware Division of Family Services (DFS) verifying the length of time child care is needed to prevent child abuse or neglect.
4. DSS case workers will enter the child care copayment amount in the Dependent Care Expense screen of the DSS eligibility system after the copayment has been assigned to each authorization.
5. DSS will send notification to the family of their eligibility and authorization status for the POC program.
  - A. DSS will send a written eligibility notice to the family that will include:
    - i. The POC eligibility approval or denial determination;
    - ii. The family's income budget and expense deductions; and
    - iii. The copayment calculation if the family is approved for POC.
  - B. DSS will send a letter of authorization for each authorized child to the family. The letter will include:
    - i. The child's name;
    - ii. The child's Master Client Index (MCI) number;
    - iii. The child care provider's name;
    - iv. The type of care (full-time, part-time, or time and a half);

- v. The number of days of care; and
- vi. The family's copayment amount.

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

**24 DE Reg. 589 (12/01/20)**

#### **11004.6 Child Care Eligibility Screening Application**

Complete an Application for Child Care Assistance for all parents/caretakers before authorizing child care services. The information from this form becomes the basis upon which child care services are authorized. Therefore, the information should be as complete and accurate as possible. It is important for the parent/caretaker requesting service to sign this application. Their signature represents their official request for service. If a face-to-face interview is not conducted to obtain the information to complete the application, obtain the parent/caretaker signature on the application at the earliest opportunity after service is authorized. Do not allow parents/caretakers to receive services beyond one month without having a signed application on file.

When it is necessary to authorize new child care services to parents/caretakers because of a category change (such as parents/ caretakers going from a Category 11 to 31), it is not necessary to have parents/caretakers complete a new application. This enables DSS to maintain the concept of seamless service.

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

#### **11004.7 Determining Child Care Copayments**

45 CFR 98.45 (k)

DSS determines and assigns copayments for families who receive the Purchase of Care (POC) child care subsidy.

1. DSS determines copayments for the POC program according to:
  - A. The family's household size;
  - B. The family's gross monthly income;
  - C. The family's shelter and utility expense deductions; and
  - D. A percentage of the family's gross monthly income compared to the Federal Poverty Level (FPL) guidelines as listed in the current POC sliding fee scale that DSS publishes in the annual October Cost of Living Adjustments Administrative Notice.
2. DSS will waive the copayment if one of the following conditions applies to a family:
  - A. The family has net income below 40% of the FPL and is determined to have an excessive financial burden in accordance with DSSM 11004.7.1.
  - B. The family has gross income at or below 70% of the FPL.
  - C. The family is active with and referred by the Delaware Division of Family Services (DFS), including foster care families.
  - D. The family is participating in Delaware's Temporary Assistance for Needy Families (TANF) program.
  - E. The child receives TANF and is being cared for by a caretaker who is not the child's natural or adoptive parent.
  - F. The parent is age 18 or younger and is attending high school or a high school equivalent.
3. DSS may assign a copayment to a case with a caretaker if the eligible child receives income and does not meet one of the waiver conditions listed in section (2) of this policy.
4. DSS will calculate the family's assigned copayment as a monthly amount.
  - A. The copayment will not increase beyond the initial copayment amount during the eligibility period if the family reports an increase in income.
  - B. The copayment will decrease during the eligibility period if the family reports a decrease in income.

Note: If a family's copayment decreased during the eligibility period, and then the family reports an increase in income during the same eligibility period, the copayment may increase up to the initial copayment amount assigned at application or redetermination.

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**8 DE Reg. 1310 (03/01/05)**

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

**24 DE Reg. 589 (12/01/20)**

#### **11004.7.1 Determining Excessive Financial Burden for Child Care**

45 CFR 98.45 (k)

DSS determines if a family has an excessive financial burden when establishing the family's copayment for the Purchase of Care (POC) program.

1. DSS considers a family to have an excessive financial burden for the POC program if the family's net income is below 40% of the Federal Poverty Level (FPL) prior to or after DSS deducts certain household expenses from the family's gross income.
  - A. When determining excessive financial burden, expense deductions are limited to:
    - i. Rent, mortgage, and lot rent;
    - ii. Any mandatory expense required by a landlord or a mortgage holder (e.g., homeowners insurance, property taxes, and school taxes);
    - iii. Current monthly utility expenses (e.g., electric, gas, trash, water, and sewer), excluding late fees and past due amounts;
    - iv. Telephone expenses, which are capped at the same rate as the Food Supplement Program's standard allowance; and
    - v. Unreimbursed medical costs.
      - a. Before DSS can consider medical costs as a deduction, a family not already receiving Medicaid or the Delaware Healthy Children Program (DHCP) must first apply for either Medicaid or DHCP.
      - b. The DHCP premiums are included in the unreimbursed medical cost deduction.
      - c. DSS will consider any unreimbursed medical costs not covered by Medicaid or DHCP as a deduction to determine the family's income for excessive financial burden.
  - B. Case workers must verify all expenses by using:
    - i. The documentation of the actual billed expense;
    - ii. A receipt of payment;
    - iii. A signed lease; or
    - iv. A DSS approved form detailing the expense.
  - C. DSS will apply one of the following utility allowances as a deduction to a family's gross income when applicable:
    - i. The heating and cooling standard utility allowance (HCSUA);
    - ii. The limited utility allowance (non-heating/non-cooling);
    - iii. The one-utility allowance; or
    - iv. The telephone allowance.
2. DSS will deduct allowable and verified expenses from a family's gross income to determine if the family's net income falls below 40% of the FPL for excessive financial burden.
3. DSS will waive child care copayments for families who are determined to have an excessive financial burden.

**10 DE Reg. 564 (09/01/06)**  
**24 DE Reg. 589 (12/01/20)**

#### **11004.7.2 Paying the Child Care Fee**

Parent/caretakers will pay their child care fee directly to the child care provider. This fee, in combination with what DSS pays the provider, represents the reimbursement limit DSS allows for child care services. These limits are based on the child care type and the age of the child. DSS has contracts with providers for these rates which include purchase of care



plus option. If, however, providers do not accept these rates or the purchase of care plus option, parent/caretakers will self-arrange care directly with the provider. In this instance, the parent/caretaker will not only pay their fee, but also the provider's full charge for care. The parent/caretaker will submit an original receipt for reimbursement, at which time DSS will reimburse the parent/caretaker in an amount up to the statewide limits (see 11004.4.1 above), less the child care fee.

Parent/caretakers who fail to pay their child care fee or who fail to make arrangements to pay past fees owed will have their child care services terminated. Providers are responsible for informing DSS of the parent/caretaker's failure to pay the fee. Obtain such information in writing from providers whenever possible. However, it is acceptable to obtain this information verbally if the following procedures are used.

A. Accept and document (e.g. note the date and time of the call/conversation and the information given in the case record) the information from the provider.

B. Request that the provider follow up this information in writing to the child care monitor in their county.

C. Send the Failure to Pay Child Care Fee Closing (CCMIS Notice 4060) to the parent/caretakers informing them that service will terminate due to non-payment of the fee unless arrangements are made with providers to pay past fees owed.

NOTE: Allow timely (10 days) and adequate notice.

D. Require parent/caretakers to submit information in writing which details the arrangements they made with providers to pay past fees owed.

Parent/caretakers whose child care case closes because of failure to pay child care fees cannot receive a new authorization for service until they satisfy or make arrangements to pay past fees owed.

**8 DE Reg. 1153 (02/01/05)**

#### **11004.8 Defining Presumptive Child Care Services**

Statutory Authority

31 **Del.C.** §§503(e), 508, and 512(1)

This policy applies to parents and caretakers who need immediate child care services, but who have not verified all mandatory eligibility factors.

1. Parents and caretakers may self-declare income and the need for child care at the time of application and receive presumptive child care services if they are determined eligible pending verifications.

2. Presumptive child care is limited to a one- or two-month eligibility and authorization period.

A. If a case is pending verifications prior to the date of adverse action in the eligibility system, child care will be approved for the current month only.

B. If a case is pending verifications after the date of adverse action in the eligibility system, child care will be approved for the current month and the next month only.

Note: Families who apply for Purchase of Care and meet the definition of "homeless" in DSSM 1003.7.2 will receive presumptive child care services for 90 days, regardless of whether documentation is provided at the time of application.

3. Parents and caretakers are not eligible for presumptive child care if they:

- Received child care assistance in the previous month;
- Were open in presumptive child care in their previous eligibility determination; or
- Were denied for presumptive child care in their previous eligibility determination.

4. DSS case workers will:

A. Process the child care application and complete the intake interview within two business days

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for parents and caretakers in need of presumptive child care services.

- B. Enter the application information and select "pending verification" for missing mandatory verifications in the eligibility system. The eligibility system will automatically open presumptive child care if the parent or caretaker is eligible in accordance with section (3) of this policy.
- C. Enter the presumptive child care authorization period of one or two months after the child care has been confirmed.
- D. Inform the parent or caretaker in writing of the mandatory verifications required to complete the eligibility determination for child care.
- E. Update the mandatory verifications in the eligibility system to "verified" once the parent or caretaker provides the mandatory verifications.
  - i. The case worker will also update the authorization to the next review period, which will be 12 months from the application filing date, unless a shorter authorization period was requested in writing in accordance with DSSM 11004.5.
- F. Update the mandatory verifications in the eligibility system to "not verified" one day after the requested return date if the parent or caretaker fails to provide the mandatory verifications.
  - i. The child care case will close at the end of the presumptive child care authorization period.

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

**25 DE Reg. 280 (09/01/21)**

#### **11004.9 Authorizing Child Care Services**

45 CFR 98.11

All child care services must be authorized before parents/caretakers can receive subsidized child care. Parents/caretakers can choose any provider who is:

- A. licensed, licensed exempt, or self arranged, and
- B. approved to receive purchase of care.

No parent/caretaker can receive POC funds to provide child care services to their own children in a home or any other child care facility where the parent/caretaker provides direct care to that child. These parents may be able to get child care assistance if their children are placed in another child care setting.

Authorizations always start after service has been approved. The exact date is selected by the parent/caretaker. An authorization ends on the last day of the month of the authorization period. At no time can the authorization period exceed the review date. Child care may be authorized only for the days and hours that parents/caretakers need care. The types of care that can be authorized are part time (P), full day (X), and day and a half (T). All licensed and licensed exempt child care providers can receive up to five (5) absent days, depending on the number of days the child is authorized to attend. Children in self arranged care and children authorized for seven (7) days do not receive absent days.

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

**14 DE Reg. 182 (09/01/10)**

**20 DE Reg. 810 (04/01/17)**

#### **11004.9.1 Changing Authorizations**

Complete a change to an existing authorization whenever a situation occurs within the authorization period which requires a change to the parent/caretaker's situation. The DCIS II Child Care Sub system defines this as a Change Authorization. Examples of when Change Authorizations occur are:

- A. a change in the authorized level of service, for example number of days, type of service, absent days, etc.;
- B. a change of provider;
- C. a change in category;
- D. a change in parent/caretaker need;
- E. a change in family size;

- F. a change in income; or
- G. a change in the child care fee.

To make any changes necessary to the current Authorization, navigate to the Child Care Authorization Details II screen, make the change and re-run SFU/EDBC.

Change Authorizations always affect future events, meaning the change will affect future transactions (i.e., future payments for child care).

When changes to an authorization cause a decrease in parent/caretaker service (e.g., less care, increase in fee), DSS considers this a negative change. According to the DCIS II Child Care Sub system, negative changes will occur the first day of the next month. Provide the parent/caretaker with adequate and timely notice whenever such a negative change occurs. DSS programmed the DCIS II Child Care Sub system to allow for timely notice. Therefore, any negative change will not cause a change to the authorization unless sufficient time remains in the current month for Case Managers to send the parent/caretaker notice of this change. If there is not sufficient time, the change will not occur until the first day of the month following the next month.

EXAMPLE: On January 20, Case Manager X is notified by parent Y of an increase in parent Y's income. Case Manager X posts the adjusted income to the DCIS II income screen.

The adjusted income will increase the child care fee on the authorization, which is a negative change (i.e., parent Y will have to pay a higher fee). Since this change occurs after January 20 (change does not occur until the next work day), the DCIS II Child Care Sub system will not make parent Y's new fee effective until March 1. The DCIS II Child Care Sub system sends parent Y a letter notifying parent Y of the higher fee.

DSS considers changes which increase the level of parent/caretaker service (e.g., increase in the number of days, reduction in fee) a positive change. The DCIS II Child Care Sub system is programmed to allow positive client changes to occur the first day of the current month.

A neutral change, like a change in category, will generally take place the first day of the next month. However, some category changes, going from a Category 11 or 12 (no fee) to a Category 31 will cause a negative change. The parent/caretaker will now have to pay a fee.

EXAMPLE: Parent Y who was a TANF participant and a Category 11 obtains a job. The job causes parent Y's TANF case to close. Parent Y can no longer get Category 11 child care, but qualifies for Category 31. Enter new income in the DCIS II income screens. Parent Y's TANF case is due to close on January 31, but the change is not completed until after January 21. The DCIS II Child Care Sub system will automatically change the category code from 11 to 31, and give notice once the client is no longer eligible for TANF but continues to be eligible under category 31.

The expiration dates for Change Authorizations will remain the same as on the original authorization.

#### Correct Transactions

If a change needs to be made to an old transaction (authorizations for which DSS already made payment), go to the Correct Transaction screen. The Correct Transaction function is located in DCIS II Child Care Sub system. Correct transactions can only be completed for positive changes, meaning the change caused an increase in service or a change in the child care fee, thereby increasing the provider payment. The only areas that can be changed on a transaction are:

- A. family size increase
- B. income decrease
- C. waive fee code added
- D. absent days change from no to yes
- E. extended care changes from no to yes
- F. days per week
- G. type of day

Case Managers can only make corrections in the above areas to transactions created within the last 3 months. Supervisors may make changes in the above areas to any past transaction. Changes to transactions that are not editable (not listed above) will have to be referred to the Child Care Monitors.

If the change was negative, meaning a decrease in services, process an overpayment.

**9 DE Reg. 572 (10/01/05)****11004.9.2 Interrupted Child Care**

Families receiving child care during the school year sometimes need to change their service requirements during the summer months. For instance, some parents make alternate arrangements during the summer for a school-age child who receives care throughout the school year. These arrangements may not require the need for child care services. However, the parent may still need child care when the school year starts again in September. In addition, some parents only work during the school year and may not need child care during the summer months, such as parents who drive a school bus.

DSS will continue service to those families who do not need service for the summer but who will need service again in September. This break is considered an interruption of service and not as an end to the family's service need. Therefore, even though these families need to re-apply for service before September, they will not be re-applying as totally new cases and will not have to go on the waiting list.

Certain families who have an authorization end date for June may not keep their redetermination appointments (due to making alternate arrangements for child care during the summer or not needing care at all). These families are notified to contact their Case Manager if they need care again in September. If they fail without good cause to keep their re-application appointments or to contact their Case Manager, their service will not continue as before. They will go on the waiting list.

**9 DE Reg. 572 (10/01/05)****11004.9.3 Changing Child Care Providers**

45 CFR 98.30

Parents and caretakers who receive child care subsidy for their children have parental choice in selecting child care providers. DSS case workers will follow the procedures in this policy when a parent or caretaker requests to change or add a child care provider.

1. Parents and caretakers have parental choice to change and add child care providers during their eligibility period for the Purchase of Care program.
  - A. A parent or caretaker who wants to change child care providers must give a five-day notice to their current child care provider prior to withdrawing the child from the child care site.
  - B. A parent or caretaker may add an alternate child care provider in the event the primary child care provider is unable to care for the child.
    - i. The alternate child care provider cannot receive payments for absent days.
  - C. A parent or caretaker may use two child care providers if care is needed during different hours or at different locations.
    - i. DSS will authorize each provider only for the days and hours that the child attends each child care site.
    - ii. Examples:
      - a. A parent is employed and works day and evening hours. The parent may use one provider during the day and a second provider during the evening.
      - b. A parent is employed and works two days at one location and three days at another location. The parent may use one provider near one location and a second provider near the other location.
2. DSS will remove and add child care provider authorizations in a family's Purchase of Care case when the parent or caretaker requests to change providers.
  - A. DSS case workers will end the authorization in the eligibility system for the child care site that the child will no longer attend effective the last day of the month the authorization will end.
  - B. DSS case workers will add the authorization in the eligibility system for the new child care site effective the first day the child will attend the site.

3. DSS will add an additional child care provider authorization to a family's Purchase of Care case when the parent or caretaker requests an alternate provider or two providers.
  - A. DSS case workers will confirm a parent's or caretaker's need when a parent or caretaker requests two child care providers.
  - B. DSS case workers will add the authorization in the eligibility system for the new child care site effective the first day the child will attend the site.

**24 DE Reg. 696 (01/01/21)**

#### **11004.9.4 Creating Unmet Needs**

Under certain conditions, DSS may not be able to provide service to eligible parent/caretakers. Either because of a lack of funding or because DSS cannot match child's child care need with an available provider, do not authorize service. When an authorization for one of the above reasons cannot be completed, place the child or children on an Unmet Need Waiting List. Follow the Unmet Needs Section of the User Manual both for placement and removal of a child(ren) on the Unmet Need Waiting List.

When services to parent/caretakers who are a non-service priority must be delayed, do the following:

- A. continue to accept requests and applications for child care services,
- B. complete the child care case information to create a CCMIS case,
- C. place the child(ren) on the Unmet Need Waiting List,
- D. inform parent/caretakers that DSS is placing them on a waiting list and that they will be notified when an opening becomes available, and
- E. either authorize care when services are available or close the case if parent/caretakers no longer desire service.

#### **11004.9.5 Establishing 12-Month Authorization for Child Care**

45 CFR 98.21

Families approved for Purchase of Care must be authorized for 12 months of child care.

1. **DSS case workers must set Purchase of Care authorizations for a 12-month period.**
2. **Purchase of Care authorizations may be set for a shorter period only if the client provides a written statement verifying the length of time requested for child care. The written statement may be from:**
  - The parent or caretaker;
  - A medical professional verifying the length of time child care is required for a special need;
  - The Delaware Division of Family Services (DFS) verifying the length of time child care is needed to prevent child abuse or neglect.
3. **Purchase of Care authorizations must continue during the following circumstances:**
  - The child turns 13 years old during the authorization period;
  - The child is temporarily out of state;
  - The parent or caretaker experiences a temporary change in work, education, or training, including, but not limited to:
    - i. An injury resulting in time off of work,
    - ii. A break from approved educational study, or
    - iii. A transition from past employment to new employment;
  - Any other temporary circumstance in a household that will not exceed 90 days.

**22 DE Reg. 505 (12/01/18)**

**11004.10 Child Care Payment Agreement**

Parent/caretakers will no longer receive a copy of the authorization. Instead, as authorizations are created, the CCMIS will automatically batch and process the authorizations each night at the DCIS data center. The DCIS data center will mail the authorization to providers the next work day. Instead of the authorization, provide parent/caretakers with a copy of the Child Care Payment Agreement Form (Form 626). Parent/caretakers will present this copy of the Child Care Payment Agreement form to providers as their initial verification of service authorization. (Providers have been instructed to accept this as a sign of authorization until the official authorization arrives in the mail.)

The purpose of the Child Care Payment Agreement Form is to ensure that parent/caretakers acknowledge their responsibilities as recipients of DSS child care services. Complete the blank spaces of this form with information appropriate to each parent/caretaker. Complete the form, give two copies to the parent/caretaker (one for their records and one for presentation to the provider), and keep one copy with the Case Manager's file.

**11004.11 Determining and Reviewing Child Care**

45 CFR 98.21 (b)(2)

All recipients of child care assistance are continuously eligible for 12 months of child care services as outlined in this policy.

1. **DSS must complete an interview with the client at application and redetermination as part of the child care eligibility process. The client can complete the interview with DSS in person or by telephone.**
2. **DSS must authorize 12 months of child care services for every eligible child.**
3. **DSS case workers must complete Form 636 "Child Care Checklist" when adding an additional child to an open, on-going child care case.**
4. **The child care copayment:**
  - Must decrease when a decrease in the family's income is reported; and
  - Must not increase beyond the initial copayment amount during the authorization period.

Note: If a family's income decreases during the child care authorization period and then increases, the adjusted copayment cannot exceed the original copayment amount.

5. **If a family has a loss of need for child care services during the authorization period, DSS must authorize the family for 90 days of continuing care before the child care case is closed (see DSSM 11004.12.1). If the family regains a need for child care services before the 90 days ends, the family will remain eligible and authorized for child care until their next review.**
6. **DSS will close a child care case at any time during the authorization period for the following reasons (see DSSM 11004.12):**
  - Excessive unexplained absences of the child from the child care site;
  - A permanent change in the child's state residency;
  - The family's income exceeding 85% of the state median income (SMI);
  - Substantiated fraud or intentional program violations;
  - A written request to close the case or to authorize child care for a specific length of time; or
  - The death of the case head or of the authorized child.
7. **DSS case workers must redetermine the eligibility of a child care case prior to the end of the authorization period.**

8. **A client must show good cause for not returning a redetermination application timely to avoid the closure of the child care case. Good cause can be anything believed to be reasonable, but generally includes things such as:**
  - An illness;
  - A court required appearance;
  - A household emergency (e.g., fire, heating problem, family crisis, etc.);
  - A lack of transportation;
  - A domestic violence situation; or
  - Inclement weather.
  
9. **A family whose child care case closed due to failure to complete a redetermination or provide verification may reapply for service. If DSS is using a wait list for child care assistance, the family will be subject to the DSS priority service order (see DSSM 11004.3.1).**
  
10. **DSS must not end a child care authorization or close a child care case without providing the family with at least a 10-day notice.**
  - 9 DE Reg. 572 (10/01/05)
  - 13 DE Reg. 1552 (06/01/10)
  - 18 DE Reg. 697 (03/01/15)
  - 23 DE Reg. 388 (11/01/19)

#### **11004.12 Closing Child Care Cases**

45 CFR 98.21 (a)

This policy applies when DSS ends child care eligibility and authorization for services.

1. **DSS will close child care cases prior to redetermination or during graduated phase-out due to:**
  - Excessive unexplained absences of the child from the child care site;
  - A permanent change in the child's residency;
  - The family's income exceeding 85% of the state median income (SMI);
  - Substantiated fraud or intentional program violations;
  - A written request to close the case or to authorize child care for a specific length of time (see DSSM 11004.9.5); or
  - The death of the case head or of the authorized child.
  
2. **DSS case workers must complete the following steps prior to closing child care cases for excessive unexplained absences:**
  - Mail Form 330 "Request for Contact" to the parent or caretaker to request clarification regarding the child's absences;
  - Close the child care case if the parent or caretaker does not contact the DSS office by the requested due date.
  
3. **The DSS eligibility system will:**
  - Provide a 10-day closing notice informing the parent or caretaker of their right to a fair hearing;
  - End date the authorization on the last day of the current month. If a 10-day notice cannot be given, the authorization will end on the last day of the next month.

Note: Excessive unexplained absence is defined as 10 or more unexplained absences per month.
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9 DE Reg. 572 (10/01/05)  
22 DE Reg. 505 (12/01/18)

**11004.12.1 Continuing Child Care after Loss of Need**

45 CFR 98.20

Under certain circumstances, DSS will continue child care for up to three months after parents/caretakers lose their need for service. DSS will continue to authorize service for up to three months for parents/caretakers who:

- A. lose employment and who need to search for new employment,
- B. experience a gap in employment because of a transition between jobs,
- C. end an education/training program and need to search for employment, or
- D. experience a break in an education/training program.

**13 DE Reg. 1088 (02/01/10)****11004.13 Determining Graduated Phase-Out for Child Care at Redetermination**

45 CFR 98.21(b)

This policy applies to recipient families whose income exceeds the child care income limit at redetermination.

- 1. The graduated phase-out of assistance is provided to families that report during redetermination income exceeding 185% but falling at or below 200% of the Federal Poverty Level (FPL).**
- 2. The graduated phase-out of child care assistance has a two-tier income range applicable at the time of redetermination.**
  - Tier 1: Income over 185% of the FPL - the graduated phase-out of assistance begins.
  - Tier 2: Income over 200% of the FPL - the child care closes.
- 3. An additional twelve months of child care will be authorized at the time of the graduated phase-out.**
  - A. The family must continue to have a need for child care during the graduated phase-out period.
  - B. The family will remain eligible for the full twelve months of assistance even if during the graduated phase-out period the family's income increases above 200% of the FPL but remains below 85% of the State Median Income (SMI).
  - C. If the family's income exceeds 85% of the SMI during the graduated phase-out period, the child care will close.
- 4. A new parent fee will be set at the start of the graduated phase-out period.**  
**21 DE Reg. 576 (01/01/18)**

**11005 Review of Parent/Caretakers' Rights and Responsibilities**

Complete the application process by reviewing with parent/caretakers their rights and responsibilities. These rights and responsibilities reflect DSS' belief that parent/caretakers should be well informed about the child care decisions they make. Therefore, ensure that parent/caretakers receive the following information as part of the application process.

**11005.1 Parent/Caretaker Rights**

A. Parent/caretakers have the right to choose the type of provider and the type of care for their children (see Section 11004.4 for discussion of certificates and parental choice).

B. Parent/caretakers have the right to have unlimited access to their children and the child care provider during normal working hours and whenever the children are in the provider's care.

1. Licensed providers must allow parental access as part of their licensing standards. Complaints against licensed providers who fail to provide parental access should be addressed to the Office of Child Care Licensing, Department of Children, Youth, and Their Families.



2. Exempt providers must agree to allow parental access as part of the certificate process. Those providers who do not certify to allow access can be denied authorization to provide service.

C. Parent/caretakers have the right to request a list of substantiated parental complaints on any licensed or license-exempt provider. Maintain a record of complaints, particularly substantiated complaints, and provide this information to parent/caretakers upon request. The DSS Contracts Administrator's Office is the central repository for complaints about providers.

D. Parent/caretakers have the right to appeal any denial and/or termination of child care services.

### **11005.2 Parent/Caretaker Responsibilities**

A. Parents/caretakers have the responsibility to give accurate information to Case Managers concerning their financial status and their need for service. Failure to provide requested and accurate information could lead to a denial and/or termination of service.

B. Parents/caretakers have the responsibility to report changes in their financial status and need for service as these changes occur. Failure to do so could lead to termination of service.

C. Parents/caretakers have the responsibility to pay their assessed child care fee. Parents/caretakers pay the fee directly to the provider at a schedule determined by the provider. Providers have the right to deny service to parents/caretakers who fail to pay their fees.

D. Parents/caretakers have the responsibility to abide by the provider's rules and procedures regarding the operation of their child care facility. Failure to do so could lead to termination from the provider's program. (Such a termination will not cause termination from DSS' subsidized child care services, but can make it difficult for DSS to locate another placement.)

E. Parents/caretakers have the responsibility to reimburse DSS for any payments made on their behalf for which they were not eligible. DSS has the right to recoup such overpayments. In cases where fraud is suspected, recovery must be attempted.

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

### **11005.3 Child Care Case Records**

Child care case records are maintained in accordance with DSSM policies as noted in Section 1000 under the heading Administration. However, ensure that child care case records contain, at a minimum, the following information:

- A. a copy of the Application for Child Care Assistance;
- B. verification of child care need, such as pay stubs and/or employer letter, school or training registration, special needs form;
- C. verification of income, such as pay stubs or employer letter;
- D. a copy of the Child Care Payment Agreement (Form 601b); and
- E. any information pertinent to the child care case, such as protective referral, etc.

Authorizations, client notices, and other pertinent case information is contained in the DCIS II Child Care Sub system. The DCIS II Child Care Sub system is considered an electronic case file and, therefore, equally or more valuable as the manual record. Maintain both the manual file as well as the electronic file in an up-to-date manner.

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

### **11005.4 Child Care Overpayments**

45 CFR 98.11

A child care overpayment occurs when DSS pays for more child care service than parents/caretakers are eligible to receive. Overpayments may be the result of an agency, provider or parent/caretaker action.

DHSS will attempt recovery in all cases of suspected fraud, in all cases involving current recipients, and in all cases where the overpayment amount would equal or exceed the costs of recovery. Each adult in the child care household is liable for repayment of the overpayment. In instances where a legal guardian or parent is required to sign the child care application, the legal guardian(s) or the parent(s) in the home is responsible for the overpayment even though the parent(s) or guardian(s) is not technically part of the child care household.

**14 DE Reg. 187 (09/01/10)**

#### **11005.4.1 Determining the Overpayment Amount**

To determine the amount of the overpayment subtract the amount that the parent should have paid the provider from the DSS calculated parent fee. The difference is the overpayment amount.

**14 DE Reg. 187 (09/01/10)**

#### **11005.4.2 Overpayment Notices**

Notify parents/caretakers in writing of any overpayment. The overpayment notice will contain:

1. a statement of the client's right to a fair hearing as provided in DSSM 5300
2. the method by which s/he may request a fair hearing
3. what to do to continue receiving your benefits after requesting a fair hearing
4. a statement that s/he may represent him/herself or that s/he may be represented by counsel or by another person
5. the reason for the overpayment
6. the amount of the overpayment
7. the overpayment time period
8. the name of the child/ren associated with the overpayment.

DSS can only recoup child care overpayments from child care benefits. Any attempt to recover child care overpayments from TANF benefits can only occur if there is a voluntary request from the recipient family. Audit and Recovery Management Services (ARMS) is the agency responsible for establishing repayment agreements and the collection of overpayments.

**14 DE Reg. 187 (09/01/10)**

#### **11005.4.3 RESERVED**

**14 DE Reg. 187 (09/01/10)**

#### **11006 Subsidized Child Care Provider Policy**

The purpose of the subsidized child day care program is to provide care for children for a portion of the day in the absence of the parent/caretaker. It is a support service to enable the parent/caretaker to hold a job and/or obtain training or education leading to employment. The program is also used to meet the special developmental needs of the child that would otherwise go unmet or to remove the child from a family situation where he/she may be in danger.

##### **11006.1 Service Providers**

All licensed family day care homes, group day care homes, and day care centers are eligible for a contract to provide subsidized child day care service. The contract must be fully signed before the provider can begin to provide subsidized care.

The contracted fee for service is established by DHSS, published in the annual Social Services Block Grant Plan. The department reserves the right to withhold payment if the provider does not perform in accordance with the terms of the contract.

##### **11006.2 Client Eligibility Policy**

Eligibility is based on the financial and situational needs of the applicant for service and in accordance with DHSS established priorities for service.

##### **11006.3 Acceptable Service Authorizations**

This policy applies to all Licensed, Licensed Exempt, Relative/Non-Relative Providers.

1. Eligible Children Must Be DSS-Approved for Provider to Receive Payment

2. Child Care Providers Will Receive Authorization Notice

Providers will receive authorization notice for each child at first enrollment and for each change or redetermination. The providers will receive a computer-generated copy of the parent/caretaker authorization letter for each child in their care. In the case of a computer problem or last-minute authorization, the provider may instead receive a handwritten authorization form (Subsidized Child Care Client Agreement- Form 626) from the DSS worker to validate the provider services. Providers will also receive a computer-generated authorization letter from DSS when data entry for the handwritten form has been completed.

Authorizations for service will show:

- The child's name and ID number.
- The service start and end date.
- The number of service days per week.
- The length of the service day (part day, full day, etc.)
- Any co-pay the parent must pay.

3. Providers Verify Authorization Information

The child care provider must verify information on the authorization form. DSS will only pay for those services stated on the form. If a provider feels the service information is not accurate, the parent/caretaker must contact DSS to have the information adjusted.

4. Provider must have the Authorization Letter or Form 626 at the start of Service

DSS cannot guarantee payments for services provided without a valid authorization in place. All providers must have Purchase of Care (POC) or form 626 to support the start date of a child.

5. Only DSS Authorized Children Will Be Accepted for Continued Services

Payment cannot be made after the expiration date unless a new DSS authorization has been issued. Providers cannot assume that parents/caretakers with expired authorizations will continue to be eligible for services.

**14 DE Reg. 40 (07/01/10)**

**11006.4 Provider Reimbursement**

Reimbursement is monthly as indicated on the Day Care Contract (Compensation, Method of Payment, and Collection of Fee sections). Complete records must be retained by the provider for a period of three years, listing each child's daily attendance, accurately stating the number of authorized days present by type, and the number of absent days. These records will be monitored on a regular basis.

Payment will be made only for the number of days and type of authorization indicated on the child's authorization notice and in accordance with absent day policy. Reimbursement rates differ for each type of child care setting.

**10 DE Reg. 564 (09/01/06)**

**16 DE Reg. 876 (02/01/13)**

**11006.4.1 Paying for Absent Days and Holidays in Child Care**

45 CFR 98.45(l)(2)(iii)

This policy explains provider payments for absent days and holidays during authorized child care.

1. The number of paid absent days per month for a child is the same as the number of days authorized for care in one week, up to a maximum of five days per month.
2. DSS will pay for absent days for an authorized child after the family's copayment has been paid and there is a remaining balance due to the provider.
3. DSS will pay for up to five absent days per month for an authorized child who does not have an assigned copayment.

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4. DSS may pay for more than five absent days per month for a child who is authorized for Special Needs Child Care and is absent due to the eligible child's or the eligible parent's or caretaker's verified disability or serious health condition.
5. DSS will pay for the six major holidays per year that the provider has chosen. The authorized child must be attending the provider's site prior to the date of the holiday for the provider to receive payment for the holiday.  
**13 DE Reg. 100 (07/01/09)**  
**23 DE Reg. 878 (04/01/20)**

#### **11006.4.2 Charging Fees to Purchase of Care Families**

45 CFR 98.45

Purchase of Care (POC) providers may charge certain fees to families receiving the POC child care subsidy.

1. POC providers can charge families receiving POC only for the following fees:
  - A. The parent copayment that DSS determines based on the family's household size and income.
  - B. Purchase of Care Plus (POC+) fees that are determined by subtracting the State's daily payment rate from the provider's private daily payment rate. Families in the POC+ program must pay the difference between the two rates.
  - C. Late pick-up fees charged when a child is picked-up after the family's authorized hours for care.
  - D. Field trip fees charged for a child to participate in an activity.
    - i. The provider must present the activity, the date of the activity, and the cost of the activity to the family prior to the field trip.
    - ii. The provider must allow the family to choose if the child will participate in the field trip.
    - iii. If the child does not participate in the field trip, the provider cannot charge the family for the field trip date if child care services are not available to the child because the provider's site is closed during the activity.
  - E. Returned check fees charged when the family's payment cannot be collected.
2. Fees not listed in section (1) must be approved by DSS before the provider can charge the family.
3. A family that receives POC is responsible for paying their parent copayment (if applicable) and the fees listed in section (1) when the fee is charged by the POC provider.
  - A. A family must continue to pay their parent copayment during instances when their POC provider is closed, unless DSS waives the family's copayment for an approved reason.
    - i. A family will pay their copayment when their provider is closed due to:
      - Vacation;
      - Illness;
      - Training; or
      - A provider holiday that replaces a DSS approved holiday.
4. POC providers are responsible for collecting fees from the families that they serve.
5. POC providers must develop a fee policy, discuss the policy with families at initial enrollment, and review the policy with families at least every 12 months.
  - A. The provider's fee policy must state:
    - i. The fees that the provider will charge to families prior to, during, and after delivery of service; and

ii. The provider's fee collection schedule.

B. Providers who are approved by DSS to charge POC+ fees must:

- i. Display the POC+ certificate;
- ii. Inform families of regular POC slots as slots become available;
- iii. Review the POC+ contract with families;
- iv. Complete a budget with families that agree to pay POC+ fees; and
- v. Maintain copies of executed POC+ contracts signed by families and the provider.

**8 DE Reg. 1153 (02/01/05)**

**24 DE Reg. 696 (01/01/21)**

#### **11006.4.3 Clients Who Fail to Pay Child Care Fee**

A client may be denied service or terminated from service if notice is received from the provider that the client has failed to pay the assessed fee for service. Provider notice must be written and a copy forwarded to the Food Stamp Employment & Training Case Manager. Service may be authorized if:

- A. the client submits written documentation that arrangements have been made with the provider to pay fees due the provider; or
- B. the Unit Supervisor has determined, based on case review, that care should not be denied.

#### **11006.4.4 State of Emergency**

The provider will be paid at the current rate of payment for those normal hours of operation during which the provider is closed because of conditions which result in an officially-declared "state of emergency" by the Governor, if the emergency restricts or prohibits travel in the vicinity of the provider.

The provider may be paid for approved absent days for emergency closing caused by fire, flood, health, or safety hazard determined by the Office of Child Care Licensing. Consideration will be given to each individual case based on relocation, rehabilitation, or permanent closing of the provider.

#### **11006.4.5 Multi-site Programs**

If the site the child(ren) attends is closed and care is offered at an alternate site within the same organization, payment will be made only for those children who attended the alternate site. The provider should attach a memorandum listing the children and the alternate site they attended.

#### **11006.4.6 Reimbursement**

**REPEALED**

**10 DE Reg. 564 (09/01/06)**

#### **11006.4.7 Reporting of Payment Problems**

Providers should contact the Child Care Monitor if a payment error is suspected on the site payment statement, or if additional information is needed regarding the transaction listed on the statement.

DSS must be informed no later than 60 days after the first statement was sent.

EXAMPLE: The October attendance report is submitted in November for payment. Upon reconciling provider records with the DSS site payment statement, the provider determines that an error was made. The provider must notify the monitor no later than January 30 that an error was made.

The following information is needed:

- A. provider name,
- B. provider identification number or EIN/Social Security number,
- C. child(ren)'s name and identification numbers,
- D. dollar amount of the suspected error, and

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E. a description of the error or payment is question and a clear explanation of why an error is believed to have occurred or why additional information is needed.

DSS will investigate the complaint and correct any error. The corrected payment will be included in the following month's payment.

If a provider fails to notify DSS of an error or problem within the 60 day time frame, the provider may be subject to loss of payment.

**11006.4.8 Completing Correct Transactions**

Statutory authority  
45 CFR 98.45 (I)(6)

DSS staff will complete a correct transaction to adjust a child care provider payment.

1. A correct transaction is entered into the DSS eligibility system to correct provider payment errors that occurred because of:
  - A. A DSS processing error; or
  - B. A change in care or family circumstances reported or discovered during an authorized month, such as:
    - i. An increase in the level of care;
    - ii. An increase in the number of days needed for care;
    - iii. A change in paid absent days;
    - iv. A change in family size; or
    - v. A change in family income.
2. DSS staff will complete a correct transaction to adjust a provider payment when:
  - A. A child care provider reports an authorization or payment discrepancy within 60 days of the date of the applicable payment and DSS confirms the payment error; or
  - B. DSS determines that a payment discrepancy occurred due to a processing error or a change in care or family circumstances.
3. DSS staff may complete a correct transaction once the provider has been paid for the month in which the correct transaction is being requested.
4. The DSS eligibility system will automatically issue the difference in payment to the provider once the correct transaction has been entered.

**25 DE Reg. 536 (11/01/21)**

**11006.4.9 Completing Manual Adjustments**

Statutory Authority  
45 CFR 98.45 (I)(6)

DSS staff will complete a manual adjustment to request a change to a child care authorization.

1. DSS staff will complete Form 634 "Child Care Manual Adjustment Form" to correct authorization errors that occurred because of:

- Overlapping eligibility;
  - Prior confirmation;
  - An incorrect start date; or
  - An incorrect payment rate.
- A. DSS staff will complete Form 634 when:
- i. A child care provider reports an authorization or payment discrepancy within 60 days of the date of the applicable payment and DSS confirms the authorization error; or
  - ii. DSS determines that an authorization discrepancy occurred due to a processing error.
- B. DSS staff who prepare Form 634 must:
- i. Have their supervisor sign and approve the form;
  - ii. Enter a case comment in the eligibility system detailing the reason for the manual adjustment; and
  - iii. Submit the completed form to a DSS child care monitor.
2. Upon receiving Form 634, the child care monitor will:
- Notify the provider of the adjustment;
  - Request a summary attendance report from the provider; and
  - Submit the required manual adjustment documents to the Purchase of Care (POC) administrator.
- A. The child care monitor must submit the following documents to the POC administrator for manual adjustments:
- i. Form 634 "Child Care Manual Adjustment Form";
  - ii. The DSS manual adjustment worksheet;
  - iii. A copy of the case comment from the eligibility system that details the reason for the manual adjustment;
  - iv. A copy of the child care authorization from the eligibility system;
  - v. The provider's summary attendance report or a copy of the attendance report from the eligibility system; and
  - vi. The self-arranged payment report (for self-arranged care authorizations only).
3. A POC administrator will review the documents submitted by the child care monitor and enter approved manual adjustments into the DSS POC system.
4. The DSS eligibility system will automatically issue the difference in payment to the provider once the manual adjustment has been entered.

**25 DE Reg. 536 (11/01/21)**

**11006.5 Termination**

Providers may terminate a child(ren) for the following reasons.

- A. The parent/caretaker frequently abuses/disregards operating policy of the facility (hours, etc.).
- B. The parent/caretaker fails to pay the established fee or is frequently late with payment.

Five calendar days notice must be given to the parent/caretaker and the DSS Case Manager. Termination MUST be in writing and a copy sent to the Case Manager.

**11006.5.1 Terminating Providers and Self-Arranged Clients**

45 CFR 98.40, 11 Del.C. Ch. 85, 31 Del.C. Ch. 3

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This policy applies to Purchase of Care (POC) providers and clients who have self-arranged child care.

1. DSS may terminate a provider from the POC program if the provider:
  - A. Has a suspended, closed, or terminated Office of Child Care Licensing (OCCL) license;
  - B. Commits fraud against DHSS;
  - C. Charges fees not allowed by DSS, has failed to reimburse unallowable child care fees, or has repeated offenses in this area;
  - D. Charges POC Plus fees when the provider is not a DSS authorized POC Plus provider;
  - E. Does not keep accurate records per the DSS POC contract, has been counseled and has failed to meet the requirements of a corrective action plan agreed upon with the POC program, or has repeated offenses in this area; or
  - F. Does not keep an open bank account to receive direct deposit payments from the POC program.
2. In addition to the conditions listed in section 1, DSS may terminate a relative care provider from the POC program if the relative care provider:
  - A. Does not complete 28 hours of mandatory health and safety training hours within 12 months of becoming a relative care provider, or the training requirements as outlined in the initial POC orientation session; or
  - B. Has an unsuitable criminal history, or a member of the provider's household has an unsuitable criminal history. DSS uses the OCCL's guidelines and Title 11, Chapter 85 of the Delaware Code to determine unsuitable criminal history.
3. DSS may terminate a parent or caretaker who has self-arranged child care from the POC program if the parent or caretaker:
  - A. Submits fraudulent attendance records to DSS;
  - B. Does not keep an open bank account to receive direct deposit payments from the POC program as required to participate in self-arranged child care; or
  - C. Does not attend the mandatory orientation to become a self-arranged client.

**13 DE Reg. 1211 (03/01/10)**

**15 DE Reg. 223 (08/01/11)**

**23 DE Reg. 878 (04/01/20)**

### **11006.6 Complaints**

#### Client Complaints

Clients may make a complaint when they believe a facility is not meeting the licensing regulations or the provisions of the DSS contract. When a client makes a complaint to a Case Manager, the Case Manager will complete a Client Provider Complaint Form (Form 633). The Case Manager will forward the complaint to the Office of Child Care Licensing with a copy to the Child Care Monitor. Licensing will send results of the investigation to the Child Care Administrator.

#### Provider Complaints

Providers may make complaints regarding clients to the Case Manager. The complaint should be in writing.

Clients will send provider complaints regarding DSS provider contracts or payments process to their Case Manager. The Case Manager will send the complaint to the Child Care Administrator.

**8 DE Reg. 1154 (02/01/05)**

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

**10 DE Reg. 564 (09/01/06)**

**10 DE Reg. 1826 (06/01/07)**

**11 DE Reg. 1488 (05/01/08)**

**13 DE Reg. 1088 (02/01/10)**

**15 DE Reg. 222 (08/01/11)**

**16 DE Reg. 78 (07/01/12)**

**16 DE Reg. 643 (12/01/12)**

### **11006.7 Determining Relative Child Care**



45 CFR 98.2, 98.41

This policy applies to families who request Purchase of Care funding for a relative to provide child care.

**1. The relative providing child care must be related to the child by:**

- Marriage,
- Blood relationship, or
- Court decree.

**2. The relative providing child care must be related to the child in one of the following relationships:**

- Great-Grandparent,
- Grandparent,
- Adult Sibling,
- Aunt, or
- Uncle.

**3. The relative provider shall:**

- Be 21 years of age or older;
- Only provide care for the children of one family member;
- Not reside in the same home as the children needing care; and
- Only provide care during non-traditional hours that are not normally offered through a licensed child care provider. Relative child care is limited to evening and weekend shift work hours only.

**4. The relative provider must successfully complete:**

- The "Criminal History, Child Abuse, and Neglect Background Check Request Form". This form must be completed for the relative provider and each individual 18 years of age or older who is living in the relative provider's home;
- The orientation class on relative child care rules and regulations;
- 28 hours of approved training within 12 months of completing the relative child care orientation class;
- Three hours of health and safety training annually; and
- CPR and first aid courses. The relative provider's certifications must be current and re-certifications must be completed every two years.

**5. In the children's home, the relative provider shall:**

- Care for a minimum of four children in the home. The total number of children who are cared for in the home may not exceed a maximum of five children.
- Care for no more than two children under two years of age.
- Care for the children of one family member. The children must be related as siblings.

**6. In the relative provider's home, the relative provider shall:**

- Care for a minimum of one child in the home. The total number of children who are cared for in the home may not exceed a maximum of five children.
- Care for no more than two children under two years of age.
- Care for the children of one family member. The children must be related as siblings.

Note: Parents and caretakers who need child care during non-traditional hours shall be referred to Delaware's statewide Resource and Referral Agency for assistance in finding a provider.

