

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF SOCIAL SERVICES**  
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)  
16 DE Admin. Code 11004

**PROPOSED**

**PUBLIC NOTICE**

**POC - Determining and Reviewing Child Care**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual regarding Purchase of Care (POC), specifically, to align policy with Federal requirements.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on September 3, 2019. Please identify in the subject line: POC - Determining and Reviewing Child Care.

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

**SUMMARY OF PROPOSAL**

The purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Social Services (DHSS/DSS) is proposing to amend the Division of Social Services Manual regarding Purchase of Care (POC), specifically, to align policy with Federal requirements.

**Statutory Authority**

45 CFR 98.21 (b)(2)

**Background**

On Nov. 19, 2014, President Barack Obama signed into law the Child Care and Development Block Grant (CCDBG) which is a comprehensive reauthorization with new requirements. The amended version of DSSM 11004.11, Determining and Reviewing Child Care, includes several of the new requirements mandated by CCDBG. The revised policy outlines the requirement for 12-month authorizations for eligible families, the prohibition from increasing copayments during the eligibility period, and the requirement to authorize an additional 90 days of child care in the event of a loss of need for assistance during the eligibility period. The revised policy also includes case processing guidance for DSS eligibility staff.

**Summary of Proposal**

*Summary of Proposed Changes*

Effective for services provided on and after October 11, 2019 Delaware Health and Social Services/Division of Social Services proposes to amend section 11004.11 of the Division of Social Service Manual regarding Purchase of Care (POC), specifically, to align policy with Federal requirements.

*Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services/Division of Social Services (DHSS/DSS) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on September 3, 2019.

**Fiscal Impact**

The policy amendment will have no fiscal impact since the purpose is to revise the requirements of the program.

## **POLICY – AMENDMENT**

Delaware Department of Health and Social Services  
Division of Social Services  
Policy and Program Development Unit

### **11004.11 ~~Review/Determination~~ Determining and Reviewing Child Care**

~~45 CFR 98.145~~ 45 CFR 98.21 (b)(2)

~~All childcare applicants and recipients are continuously eligible for child care services for twelve months. This means that the applicants and recipients remain eligible for child care services unless:~~

- ~~A. The child moves out of or is removed from the parent's/caretaker's home, or~~
- ~~B. The child moves out of state, or~~
- ~~C. The child is deceased.~~

~~In the event of any of the above, close the child care case.~~

~~Additionally, the child care parent fee will not change during the authorization unless the parent/caretaker in a single parent home loses his or her job or one or both parents in a two parent home loses his or her job. (See DSSM 11004.12.1 Continuing Child Care after Loss of Need.)~~

~~Complete a review/redetermination of the circumstances of each parent/caretaker at least once every twelve months and just prior to the end of each authorization period.~~

~~Close the child care case if parents/caretakers fail to complete a review or return the six month interim report (See DSSM 9068.1 12-Month Certification Periods). Only child care/food benefit cases will require an interim report. If the parents/caretakers provide good cause for their failure to complete or return the report, the case should be processed.~~

~~Good cause can be anything believed to be reasonable, but generally includes things such as:~~

- ~~1. Illness;~~
- ~~2. Court required appearance;~~
- ~~3. Household emergency (fire, heating problem, family crisis, etc.);~~
- ~~4. Lack of transportation; or~~
- ~~5. Inclement weather.~~

~~Parents/caretakers whose child care cases close because they failed to complete a redetermination or provide verification, can reapply for service. However, if DSS is in a "wait list" situation, these parents/caretakers will be subject to DSS' priority service order (see Section 11004.3.1 Prioritizing Service Needs).~~

~~Do not allow an authorization to end or close a case without first ensuring the parents/caretakers were given timely and adequate notice.~~

~~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. 98 (08/01/19) (Prop.)