

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 11003

FINAL

ORDER

Determining Special Needs and Income Eligibility for Child Care

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding Child Care, specifically, to determine special needs and income eligibility for child care. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the January 2020 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 2020 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Purpose

The proposed rules explain technical and financial eligibility requirements for the Child Care Subsidy Program.

Statutory Authority

- 45 CFR 98.20 (a)
- 45 CFR 98.21 (c)

Background

DSS is revising the eligibility requirements for the Child Care Subsidy Program based on the reauthorization of the Child Care and Development Block Grant Act, which mandated new eligibility requirements for child care assistance. DSS has changed the formatting of the policies so that the policies are easier for DSS staff, stakeholders, and the public to understand.

DSS is proposing to amend DSSM 11003.7.8 "Determining Special Needs for Child Care" to include the current process that DSS staff are to follow when determining eligibility for Special Needs Child Care. The policy explains the requirements and documentation needed in order to qualify for Special Needs Child Care. DSS added a section to the policy to provide direction to DSS eligibility workers on coding within the DSS eligibility system.

NOTE: Regulation 11003.7.8 is being published as final. Regulation 11003.7.8 was originally proposed with 11003.6, 11003.7.7 and 11003.9.1 in APA # 19-050 at 23 DE Reg. 531 (01/01/20) (Prop.). Regulations 11003.6, 11003.7.7 and 11003.9.1 will be republished at a later date.

Summary

Effective for services provided on and after August 11, 2020 Delaware Health and Social Services/Division of Social Services proposes to amend section 11003.7.8 of the Division of Social Service Manual regarding Child Care, specifically, to determine special needs and income eligibility for child care.

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 (DHSS)/Division of Social Services (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 were to have been received by 4:30 p.m. on January 31, 2020.

Fiscal Impact Statement

DSS amended the eligibility policies to provide clear and accurate directions on the eligibility requirements for the Child Care Subsidy Program. These policies are currently in place and there are no new financial responsibilities associated with the amended eligibility policies.

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received during the public comment period related to regulation 11003.7.8.

FINDINGS OF FACT:

The Department finds that the proposed changes to 11003.7.8 as set forth in the January 2020 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding Child Care, specifically, to determine special needs and income eligibility for child care, is adopted and shall be final effective August 11, 2020.

6/23/2020

Date of Signature

Kara Odom Walker, MD, MPH, MSHS, Secretary,
DHSS

POLICY – AMENDMENT

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

11003.7.8 Determining Special Needs for Child Care

45 CFR 98.20(a)

Eligibility

~~Families requesting Special Needs Child Care must be technically and financially eligible.~~

EXCEPTION: ~~DFS referrals do not have to meet financial criteria.~~

~~The parent/caretaker must meet the need criteria as listed in 11003.8.~~

~~To be eligible for Special Needs care the parent/caretaker must meet the definition of need as explained below.~~

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.

Adults with Special Needs:

~~A parent/caretaker may be eligible for Special Needs Child Care services if the parent/caretaker has a condition which makes him/her unable to care for his/her child for some portion of the day.~~

~~Documentation of the condition 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.~~

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.

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

Children with Special Needs:

~~A child that is 13 through 18 years of age may be eligible for Special Needs Child Care if the child's parent/caretaker has a need and is financially eligible. The child's physical, medical or emotional condition must be such that the child is unable to care for himself or herself.~~

~~A child that is younger than 13 years of age who has a special need may be eligible for care if the child's parent/caretaker has a need and is financially eligible.~~

~~Documentation of the condition 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.~~

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 **[correspondence documentation]** completed by a physician or medical professional that details the special need and the required care.

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

Families with Protective Child Care Needs:

~~Children referred by the Division of Family Services (DFS) may be eligible for Special Needs Child Care.~~

~~A child that is active with and referred by DFS for child care:~~

- ~~1. is considered to have met the need criteria;~~
- ~~2. does not have to meet the financial criteria;~~
- ~~3. may receive child care regardless of citizenship status.~~

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.

Families with Transitional Work Program Needs:

~~Children referred by the Transitional Work Program (TWP) may be eligible for Special Needs Child Care.~~

~~A parent/caretaker that is active with and referred by TWP for child care:~~

- ~~1. is considered to have met the need criteria;~~
- ~~2. must have gross household income at or below 200% FPL;~~
- ~~3. is not required to provide a Medical Certification Form or a Special Needs Form.~~

~~DSS staff will authorize childcare for 5 days part time with extended care. Please refer to policy section 11004.9 Authorizing Service. Authorize care for additional time if the parent's/caretaker's activities with TWP require more than part time care.~~

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.

<p>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.</p>

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) (Final)