

# 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 11006

### PROPOSED

### PUBLIC NOTICE

#### Child Care Subsidy Program

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 the Child Care Subsidy Program, specifically, to clarify policy related to subsidized child care provider reimbursement.

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 March 2, 2020. Please identify in the subject line: Child Care Subsidy Program.

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 Division of Social Services Manual regarding Division of Social Services Manual regarding the Child Care Subsidy Program, specifically, to clarify policy related to subsidized child care provider reimbursement.

#### Statutory Authority

- 45 CFR §98.45(l)(2)(iii)
- 45 CFR §98.40
- 11 Del.C. Ch. 85
- 31 Del.C. Ch. 3

#### Background

DSS is proposing to amend DSSM 11006.4.1 Paying for Absent Days and Holidays in Child Care to update the formatting of the policy and to add information about how the new child care copayment factors into payments to providers for absent days for authorized children.

DSS is proposing to amend DSSM 11006.5.1 Terminating Providers and Self-Arranged Clients to update the formatting and clarify the text of the policy. DSS changed the health and safety training hours and timeframe for relative care providers to reflect the current requirements. DSS also added a separate section explaining the reasons DSS will terminate services to parents and caretakers who have self-arranged child care.

#### Summary of Proposal

##### *Purpose*

The proposed rules explain the guidelines for when DSS will pay Purchase of Care (POC) providers for absent days and holidays for authorized child care services. The proposed rules also explain when DSS will terminate, from the Child Care Subsidy Program, a provider, a relative child care provider, or a parent or caretaker who has self-arranged child care.

##### *Summary of Proposed Changes*

Effective for services provided on and after April 11, 2020 Delaware Health and Social Services/Division of Social Services proposes to amend Division of Social Service Manual regarding the Child Care Subsidy Program, specifically, to clarify policy related to subsidized child care provider reimbursement.

##### *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 March 2, 2020.

### **Fiscal Impact**

There is no fiscal impact associated with this policy change.

## **POLICY – AMENDMENT**

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

### **11006.4.1 Paying for Absent Day Policy Days and Holidays in Child Care**

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

~~DSS pays for up to five absent days per month. The number of paid absent days per month is the same as the number of days authorized for care in one week (up to a maximum of five days per month). The specific number of paid absent days is indicated on each child's Authorization Form.~~

~~Payment may be made for the major holidays listed in the contract for any child who attended at least one day during the month.~~

~~No payment is made to a provider for a holiday that occurs before the start date of the authorization at that provider's site.~~

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.
4. 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)

## **POLICY – AMENDMENT**

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

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

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

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

~~DSS May Terminate Providers with Just Cause~~

~~1. The Division of Social Services may terminate any provider or self-arranged client from the Child Care Subsidy Program (Purchase of Care) if she or he:~~

**1. DSS may terminate a provider from the POC program if the provider:**

- ~~A. Has a suspended, ~~elosed~~ closed, or terminated Office of Child Care Licensing (OCCL) ~~license~~ license;~~
- ~~B. Commits fraud against ~~DHSS~~ DHSS;~~
- ~~C. Charges fees not allowed by the ~~Child Care Contract, Division policy, or a Division approved waiver~~; ~~DSS~~ has failed to reimburse ~~those fees and/or unallowable child care fees~~, or has repeated offenses in this ~~area~~ area;~~
- ~~D. Charges ~~Purchase of Care~~ POC Plus fees when ~~she or he~~ the provider is not a DSS authorized POC Plus provider; ~~provider~~;~~
- ~~E. Does not keep accurate records per the ~~DSS Child Care Contract~~; ~~has had repeated offenses~~, ~~POC contract~~, has been counseled and has failed to meet the requirements of a corrective action plan agreed upon with the ~~Child Care Monitor~~; ~~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 ~~Child Care Subsidy Program~~ POC program. Direct deposit is mandatory for all DSS child care subsidy providers effective May 1, 2008.~~

~~2. In addition to the items mentioned above, the Division of Social Services may terminate any relative care provider from the Child Care Subsidy Program (Purchase of Care) if she or he:~~

**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 ~~the 47~~ 28 hours of mandatory health and safety training hours within ~~48~~ 12 months of becoming a relative ~~or non-relative~~ care provider, or the training requirements as outlined in the initial ~~POC~~ orientation ~~session~~ session; or~~
- ~~B. Has an unsuitable criminal ~~history~~ history, or a member of the provider's household has an unsuitable criminal history. DSS uses ~~Office of Child Care Licensing (OCCL)~~ 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. 624 (02/01/20) (Prop.)