

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 512 (31 Del.C. §512)

ORDER

Nature of the Proceedings

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. This proposal gives direction on *Couples Cases* for the eligibility process. 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 May 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 2005 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed New Rule

Citation

- State Medicaid Manual, Section 3597
- DSSM 20810 - Treatment of Couples in Medical Institutions: Adds a new rule that clarifies when a couple is considered a *Couples Case* and gives direction for the eligibility process. This action incorporates current policy into a rule.

Summary of Comments Received with Agency Response

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following summarized comment:

GACEC and SCPD endorse the concept of the proposed regulations since it appears DSS includes a provision suggesting that, in deciding whether to apply the “Couple Case” financial limits to a couple, DSS would adopt the approach most favorable to the individuals.

Agency Response: DSS thanks you for your endorsement.

Findings of Fact

The Department finds that the proposed changes as set forth in the May 2005 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the policies for the Long Term Care Program related to treatment of couples in medical institutions is adopted and shall be final effective July 10, 2005.

Vincent P. Meconi, Secretary, DHSS, 6/15/2005

DSS FINAL ORDER REGULATION #05-30

NEW:

DSSM 20810 Treatment of Couples in Medical Assistance

A legally married husband and wife who have continuously shared a room in a hospital, nursing home, skilled nursing facility or intermediate care facility for a period of at least 6 months, may be considered a Couples Case and the Couples Case income and resource limits would apply to them. Should a married couple be determined a Couples Case, then spousal rules will not apply. The decision to treat a married couple as a Couples Case or as 2 individuals

should be based on the couple's best interests in regard to the income and resource limits. See DSSM 20100.5.5 and 20300.

9 DE Reg. 142 (07/01/05) (Final)