

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** 11000

FINAL

ORDER

Determining Child Care Copayments

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Determining Child Care Copayments, specifically, to amend the Division of Social Services Manual (DSSM) regarding Determining Child Care Copayments. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 Del. C. §10115 in the May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after July 11, 2024, Delaware Health and Social Services (DHSS) /Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) to amend determining child care copayments.

Statutory Authority

45 CFR 98

Background

DSSM 11004.7 Determining Child Care Copayments explains how childcare copayments are determined for families who receive Purchase of Care. The policy is being amended in response to federal changes to the child care subsidy program which requires copayments to be capped at 7% of a family's gross income. The policy is also being amended to expand the list of criteria which can be used to waive copays. Through this amendment, families who fall at or below 150% of the FPL will have their copays waived.

Purpose

The purpose of this proposed regulation is to amend determining child care copayments.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 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 May 31, 2024.

Fiscal Impact Statement

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$4,130,000	\$4,130,000
Federal funds	\$1,770,000	\$1,770,000

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DSS Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the May 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 11004.7 regarding Determining Child Care Copayments, specifically, to clarify internal policy and procedures, is adopted and shall be final effective July 11, 2024.

6/14/2024 | 7:35 AM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

11000 Child Care Subsidy Program

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%~~ 150% 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 monthly calculated copayment amount must not exceed 7% of the family's gross income.
 - ~~A.~~ B. The copayment will not increase beyond the initial copayment amount during the eligibility period if the family reports an increase in income.
 - ~~B.~~ C. 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.

8 DE Reg. 1310 (03/01/05)
10 DE Reg. 1007 (12/01/06)
24 DE Reg. 589 (12/01/20)
28 DE Reg. 53 (07/01/24) (Final)