

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

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

FINAL

ORDER

DSSM: Child Care Subsidy Program 11006.5.1 Terminating Providers

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 Child Care Subsidy Program. 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 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 31, 2010 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Change

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Child Care Subsidy Program.

Statutory Authority

- 45 CFR §98.40, *Compliance with applicable State and local regulatory requirements*; and,
- 11 Del.C. Ch. 85, *State Bureau of Identification*

Summary of Proposed Change

DSSM 11006.5.1, *Terminating Providers*: this new rule, effective April 1, 2010, outlines the reasons the Division of Social Services may terminate the contract of any child care provider, including self-arranged clients.

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 observations summarized below. The Division of Social Services (DSS) has considered each comment and responds as follows.

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) reviewed the Division of Social Services (DSS) proposal to adopt a new regulation establishing standards for termination of providers from continued participation in the Child Care Subsidy Program. We endorse the proposed regulation since the reasons for termination appear to be fairly straightforward and reasonable.

Agency Response: DSS thanks both Councils for their endorsement.

Findings of Fact:

The Department finds that the proposed changes as set forth in the January 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding *Terminating Providers in the Child Care Subsidy Program* is adopted and shall be final effective March 10, 2010.

DSS FINAL ORDER REGULATION #10-09

NEW:

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

11006.5.1 Terminating Providers

This policy applies to all providers, including self-arranged clients.

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:
 - A. Has a suspended, closed or terminated Office of Child Care Licensing (OCCL) license.
 - B. Is convicted of committing fraud against DHSS.
 - C. Charges fees not allowed by the Child Care Contract, Division policy, or a Division approved waiver; has failed to reimburse those fees and has repeated offenses in this area.
 - D. Charges Purchase of Care Plus fees when she or he is not a DSS authorized POC Plus provider.
 - E. Does not keep accurate records per the DSS Child Care Contract; has had repeated offenses, has been counseled and has failed to meet the requirements of a corrective action plan agreed upon with the Child Care Monitor.
 - F. Does not keep an open bank account to receive direct deposit payments from the Child Care Subsidy 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:
 - A. Does not complete the 45 hours of mandatory health and safety training hours within 18 months of becoming a relative or non-relative care provider as outlined in the initial orientation session.
 - B. Has an unsuitable criminal history or a member of the provider's household has an unsuitable criminal history. DSS uses Office of Child Care Licensing (OCCL) guidelines and Title 11, Chapter 85 of the Delaware Code to determine unsuitable criminal history.

13 DE Reg. 1211 (03/01/10) (Final)