

# 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 3008

### PROPOSED

### PUBLIC NOTICE

### TANF Family Cap

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Social Services (DHSS/DSS) is proposing to amend the Delaware Social Services Manual (DSSM) 3008 regarding the TANF Family Cap.

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 and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [DHSS\\_DMMA\\_Publiccomment@Delaware.gov](mailto:DHSS_DMMA_Publiccomment@Delaware.gov) or by fax to 302-255-4413 by 4:30 p.m. on March 31, 2023. Please identify in the subject line: TANF Family Cap.

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 proposed regulation is to change the Delaware Social Services Manual (DSSM) 3008 to provide additional financial assistance to applicable TANF recipients.

#### Statutory Authority

45 CFR 260

#### Background

Delaware previously imposed a "family cap" on recipients of Temporary Assistance for Needy Families (TANF) to reduce out-of-wedlock pregnancies among recipients. Under the family cap rule, a household will receive no additional TANF cash benefits if the household size increases due to the birth of a child that occurs more than ten months after the date of application for TANF, with some exceptions. This means that some households receive less in TANF cash benefits than they would have in the absence of Delaware's family cap policy.

Current research has found the family cap rule has the potential to drive children and families deeper into poverty with little evidence that the rule affects the birthrate for TANF recipients. Family cap rules are also likelier to increase financial hardship for children and families of color.

Delaware is proposing to repeal the family cap policy to help reduce childhood poverty and support families as they work toward achieving financial stability. As a result of this policy amendment, children who were previously family capped will receive monthly TANF benefits which will increase their family's benefit amount. This change will provide additional financial assistance to approximately 155 Delaware families.

#### Summary of Proposal

##### *Purpose*

The purpose of this proposed regulation is to change the Delaware Social Services Manual (DSSM) 3008 to provide additional financial assistance to applicable TANF recipients.

##### *Summary of Proposed Changes*

Effective for services provided on and after May 1, 2023, DHSS/DSS proposes to amend DSSM 3008 regarding the TANF Family Cap

##### *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 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gives public notice and provides an open comment period for 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 31, 2023.

## Fiscal Impact

	Federal Fiscal Year 2023	Federal Fiscal Year 2024
Federal funds	\$ 0	\$ 0
General (State) funds	\$ 201,000	\$ 205,020

### 3008 Eligibility of Certain Minors

#### ~~3008.2 Family Cap~~

##### ~~Required Individuals:~~

~~No additional TANF cash benefits will be issued due to the birth of a child, if the birth occurs more than ten (10) calendar months after:~~

- ~~• the date of application for TANF; or~~
- ~~• for active cases, the date of the first redetermination after October 1, 1995.~~

~~While no additional TANF cash benefits will be issued for the child(ren), the child(ren) will be considered a TANF recipient for all other purposes, including Medicaid coverage, Welfare Reform child care, other supportive services and food stamp benefits.~~

~~NOTE: Children born prior to the periods identified above who return or enter the household are not included in this restriction.~~

##### ~~Exceptions~~

~~The family cap restrictions will not apply in the following cases:~~

- ~~• to an additional child conceived as a result of incest or sexual assault; or~~
- ~~• to a child who does not reside with his or her parent; or~~
- ~~• to a child that was conceived in a month the assistance unit (i.e., the entire family) was not receiving TANF. This does not apply in cases that close due to being sanctioned.~~

~~Determining financial eligibility and grant amounts for an assistance unit which contains child(ren) affected by the family cap provision.~~

~~The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources is/are included when determining the assistance unit's income and resources. The child(ren) is/are not included when determining the payment standard for the assistance unit.~~

~~See 3022 Ineligibility Due to Family Cap~~

**26 DE Reg. 756 (03/01/23) (Prop.)**