

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 11004

FINAL

ORDER

BEFORE DELAWARE HEALTH AND SOCIAL SERVICES
IN THE MATTER OF

REVISION OF THE REGULATION
OF DELAWARE'S
DELAWARE SOCIAL SERVICES MANUAL (DSSM)
DSSM 11004.1, 11004.8

Processing Applications for Child Care

NATURE OF THE PROCEEDINGS:

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 Division of Social Services Manual (DSSM) regarding Purchase of Care, specifically, to update the formatting and text to provide clear child care application requirements and procedures for DSS staff, stakeholders, and the public.

The Department published its notice of proposed regulation changes pursuant to 29 *Del. C.* § 10115 in the June 2021 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2021 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 September 11, 2021 the Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) proposes to amend the DSSM regarding Purchase of Care, specifically, to update the formatting and text to provide clear child care application requirements and procedures for DSS staff, stakeholders, and the public.

Statutory Authority

- 45 CFR 98.20
- 31 *Del. C.* § 503(e)
- 31 *Del. C.* § 508
- 31 *Del. C.* § 512(1)

Background

DSSM 11004.1 Processing Applications for Child Care explains the requirements for parents and caretakers to apply for child care assistance, including application methods and verification requirements. DSSM 11004.8 Defining Presumptive Child Care Services explains that parents and caretakers may be eligible for presumptive child care services for a one- or two-month period when the parent or caretaker has an immediate need for child care but has not submitted all mandatory verifications to DSS. These policies also detail application processing procedures for DSS staff.

Purpose

The purpose of DSS amended DSSM 11004.1 and 11004.8 is to update the formatting and text to provide clear child care application requirements and procedures for DSS staff, stakeholders, and the public. DSS added examples of when child care is guaranteed, application methods, and types of verifications to DSSM 11004.1.

Public Notice

In accordance with 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 were to have been received by 4:30 p.m. on July 1, 2021.

Fiscal Impact Statement

DSS amended these regulations to provide clear and accurate directions on application processing for child care. These regulations are currently in place and there are no new financial responsibilities associated with the amendments.

Summary of Comments Received with Agency Response and Explanation of Changes

The following summarized comments were received:

Comment: One commenter indicated the list of situations in which DSS will provide child care assistance for eligible children does not mention cases in which parents or caretakers are attending an educational program. The commenter suggested DSS add this eligibility criteria to the list.

Agency Response: DSS is adding educational programs to the list in DSSM 11004.1 (1).

Comment: One commenter noted the revised regulations state that parents/caretakers may apply for child care in various ways, including by emailing a completed application to the local DSS office. The commenter suggested these email addresses be publicly available. In addition, other information that should be publicly available include the various forms that parents/caretakers may have to complete for their child care applications.

Agency Response: DSS informs families during intake, redetermination, and contact during the eligibility period of the various ways of returning documentation and at that time, an email address will be provided to the family. DSS provides forms to clients when they are required for eligibility determination.

Comment: One commenter noted DSSM 11004.8, Defining Presumptive Child Care Services states that child care will be approved for only the current month if a case is "pending verifications prior to adverse action," and approved for the current month and next month if a case is "pending verifications after adverse action." The commenter recommended clarifying what "adverse action" means in this context. The recommendation included a cross-reference in this section to DSSM 11003.7.2, Determining Child Care for Homeless Families. Homeless families are eligible to receive presumptive child care services for 90 days even if they lack documentation when they apply.

Agency Response: DSS is revising DSSM 11004.8 based on the comments.

Comment: One commenter indicated the proposed regulation DSSM 11004.8.3 states that if parents and caretakers were denied presumptive child care in their previous eligibility determination, they are not eligible for presumptive child care. The commenter requested clarification on the rationale for this rule and why a previous denial should affect a current eligibility determination.

Agency Response: Families are authorized for presumptive child care when required verification is pending. Families are given a specific period of time in which to provide missing verification. If the missing verification is not submitted to DSS by the deadline, the child care case is closed. If the family continues to have a need, the family is required to verify eligibility information prior to receiving child care services.

DSS is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Community Legal Aid Society, Inc.

FINDINGS OF FACT:

The Department finds the proposed changes as set forth in the June 2021 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 *Del.C.* §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding Purchase of Care, specifically, to update the formatting and text to provide clear child care application requirements and procedures for DSS staff, stakeholders, and the public, is adopted and shall be final effective September 11, 2021.

8/13/2021

Date of Signature

Molly K. Magarik, MS
Cabinet Secretary, DHSS

POLICY AMENDMENT

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

11004.1 ~~Application Process~~ Processing Applications for Child Care

[Statutory Authority]

45 C.F.R 98.20

~~The application process will always consist of the following:~~

- ~~A. a Case Manager, parent/caretaker interview; (in person or over the phone)~~
- ~~B. a review and verification of eligibility requirements;~~
- ~~C. a review of the parent information about child care certificates;~~
- ~~D. a determination of eligibility along with written parent/caretaker notification of the eligibility decision;~~
- ~~E. completion of the Application for Child Care Assistance;~~
- ~~F. as necessary, a determination of the child care fee;~~
- ~~G. creation of a case in the DCIS II Child Care Sub-system;~~
- ~~H. as appropriate, completion of the Service Authorization Form;~~
- ~~I. completion of the Child Care Payment Agreement; and~~
- ~~J. a review of the parent/caretaker's rights and responsibilities, such as keeping their Case Manager informed of changes.~~

This policy applies to parents and caretakers who submit an application for child care assistance.

1. DSS will provide child care assistance for eligible children when a parent or caretaker:
 - Participates in a TANF or Food Benefit Employment and Training (E&T) program;
 - Participates in the TANF Transitional Work Program (TWP);
 - **[Attends a DSS-approved educational program or job training program;]**
 - Is employed or accepts an offer of employment;
 - Receives protective services from the Division of Family Services (DFS); or
 - Verifies a special need.
2. A parent or caretaker may apply for child care:
 - In person at any DSS location;
 - Over the phone with a DSS case worker;
 - By mailing, faxing, or emailing a completed application to the local DSS office; or
 - Online through Delaware ASSIST or other online application methods.
3. DSS will interview the applicant and process the signed child care application within two business days.
The **[application]** filing date will be the effective begin date for assistance.
4. A parent or caretaker must verify household income and the need for child care during the application process.
 - A. A parent or caretaker must verify the last 30 days of earned and unearned income received prior to the date of application for DSS to determine financial eligibility.
 - i. Earned income may be verified by:
 - a. Wage stubs;
 - b. A signed employer statement on employer letterhead noting the employee's name, start date, work schedule, earnings, and frequency of pay;
 - c. Verification of Employment (Form 170); or
 - d. A data match confirming employment and income.
 - ii. Unearned income may be verified by:
 - a. Award letters;
 - b. Pension statements;

- c. Court order documentation;
- d. Other forms of documentation from sources verifying the gross unearned income amount; or
- e. A data match confirming unearned income.

B. A parent or caretaker must verify their need for child care by providing:

- i. Wage verification or an offer of employment that includes the amount of work hours;
- ii. A schedule, proof of registration, or statement from an authorized education program verifying the start date, days and hours of attendance, and expected completion date;
- iii. A schedule, proof of registration, or statement from an authorized training program verifying the start date, days and hours of attendance, and expected completion date;
- iv. A DFS referral for protective care; or
- v. Child Care Medical Certification Form (Form 611) or written documentation completed by a physician or medical professional that verifies a special need and the required care.

C. Presumptive child care may open when a parent or caretaker reports income and a need for child care but has not provided all mandatory verifications in accordance with DSSM 11004.8.

5. A parent or caretaker must provide all mandatory verifications, complete an intake interview, and make a provider selection within 30 days from the application date for child care to become effective on the application filing date.

A. If information is returned after 30 days of the application date, but before 60 days, child care will begin on the date verifications are received.

B. If information is not returned before 60 days from the application date, the parent or caretaker must reapply for child care.

6. DSS must inform parents and caretakers of their:

- Eligibility determination;
- Monthly parent copayment amount; and
- Rights and responsibilities for the Child Care Subsidy Program.

7. DSS must give parents and caretakers a Subsidized Child Care Client Agreement (Form 626) when child care approval cannot be generated from the eligibility system.

9 DE Reg. 572 (10/01/05)

POLICY AMENDMENT

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

11004.8 Defining Presumptive Child Care Services

[Statutory Authority]

31 Del.C. §503(e), 508, and 512(1)

~~Presumptive Child Care is a limited one to two month eligibility period and authorization for child care. This will be automatically generated when a mandatory verification field is in the "pending verification" status and the parent/ caretaker did not receive Child Care in the previous month.~~

~~When the case is entered into the DCIS II Child Care Sub system and the status is pending due to verification needed, the system automatically calculates the 10 day period allowed for the return of necessary information. If the case is entered and the 10 day calculation falls prior to adverse action, the system will generate an authorization for the current month only. If the case is entered and the 10 day calculation falls after adverse action the system will generate an authorization for the current month and the next month only. Eligibility will be denied after the presumptive period if the client does not return the necessary information. It will be necessary to change the appropriate fields and check verified if the client returns the necessary information. The system will generate the appropriate notices.~~

~~If a client was opened in Presumptive Child Care or denied Presumptive Child Care in the previous determination, Presumptive Child Care will not be issued.~~

This policy applies to parents and caretakers who need immediate child care services, but who have not verified all mandatory eligibility factors.

1. Parents and caretakers may self-declare income and the need for child care at the time of application and receive presumptive child care services if they are determined eligible pending verifications.

2. Presumptive child care is limited to a one- or two-month eligibility and authorization period.

A. If a case is pending verifications prior to [the date of] adverse action [in the eligibility system], child care will be approved for the current month only.

B. If a case is pending verifications after [the date of] adverse action [in the eligibility system], child care will be approved for the current month and the next month only.

[Note: Families who apply for Purchase of Care and meet the definition of "homeless" in DSSM 1003.7.2 will receive presumptive child care services for 90 days, regardless of whether documentation is provided at the time of application.]

3. Parents and caretakers are not eligible for presumptive child care if they:

- Received child care assistance in the previous month;
- Were open in presumptive child care in their previous eligibility determination; or
- Were denied for presumptive child care in their previous eligibility determination.

4. DSS case workers will:

A. Process the child care application and complete the intake interview within two business days for parents and caretakers in need of presumptive child care services.

B. Enter the application information and select "pending verification" for missing mandatory verifications in the eligibility system. The eligibility system will automatically open presumptive child care if the parent or caretaker is eligible in accordance with section (3) of this policy.

C. Enter the presumptive child care authorization period of one or two months after the child care has been confirmed.

D. Inform the parent or caretaker in writing of the mandatory verifications required to complete the eligibility determination for child care.

E. Update the mandatory verifications in the eligibility system to "verified" once the parent or caretaker provides the mandatory verifications.

i. The case worker will also update the authorization to the next review period, which will be 12 months from the application filing date, unless a shorter authorization period was requested in writing in accordance with DSSM 11004.5.

F. Update the mandatory verifications in the eligibility system to "not verified" one day after the requested return date if the parent or caretaker fails to provide the mandatory verifications.

i. The child care case will close at the end of the presumptive child care authorization period.

9 DE Reg. 572 (10/01/05)

25 DE Reg. 280 (09/01/21) (Final)