

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** 11003.7.8 & 11003.8

PROPOSED

PUBLIC NOTICE

Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Special Needs* and *Necessity of Child Care*.

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 Sharon L. Summers, Policy & Program Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by April 30, 2011.

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 PROPOSED CHANGE

The proposed changes described below amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Special Needs* and *Necessity of Child Care*.

Statutory Authority

45 CFR §98.20, *A child's eligibility for child care services*

Summary of Proposed Changes

DSSM 11003.7.8, *Special Needs*: The Special Needs rule is being revised by eliminating Special Needs for children and maintaining it for adults.

DSSM 11003.8, *Necessity of Child Care*: This section is being revised to clarify what constitutes a need for child care. Parents and caretakers must have a need as defined by the Division of Social Services in order to receive subsidized child care. In the case of a two-parent family both parents must have a need.

DSS PROPOSED REGULATIONS #11-09

REVISIONS:

11003.7.8 **Special Needs**

45 CFR 98.20

Eligibility

Families requesting Special Needs Child Care must be technically and financially eligible.

EXCEPTION: DFS referrals do not have to meet financial criteria.

~~If the parent/caretaker meets the need criteria as listed in 11003.8, the family will not be eligible for Special Needs Child Care unless the child under age 13 requires care that cannot be provided in a regular day care.~~

The parent/caretaker must meet the need criteria as listed in 11003.8.

To be eligible for Special Needs care the parent/caretaker ~~or child~~ must meet the definition of need as explained below.

~~Children with Special Needs:~~

~~A child that is 13 through 18 years of age may be eligible for Special Needs Child Care if the child's physical, medical or emotional condition is such that he is unable to care for himself. Children under age 13 may qualify for Special Needs Child Care if they have a need that cannot be met in a regular daycare setting. Children 13 years of age and older are only eligible for Special Needs Childcare.~~

~~Documentation of the condition may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so.~~

Adults with Special Needs:

A parent/caretaker may be eligible for Special Needs Child Care services if the parent/caretaker has a condition which makes him/her ~~the parent/caretaker~~ unable to care for his/her child for some portion of the day.

Documentation of the condition may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so.

Families with Protective Child Care Needs:

Children referred by the Division of Family Services (DFS) may be eligible for Special Needs Child Care.

A child that is active with and referred by DFS for child care:

1. is considered to have met the need criteria;
2. does not have to meet the financial criteria;
3. may receive child care regardless of citizenship status.

Families with Transitional Work Program Needs:

Children referred by the Transitional Work Program (TWP) may be eligible for Special Needs Child Care.

A parent/caretaker that is active with and referred by TWP for child care:

1. is considered to have met the need criteria;
2. must have gross household income at or below 200% FPL;
3. is not required to provide a Medical Certification Form or a Special Needs Form.

DSS staff will authorize childcare for 5 days part time with extended care. Please refer to policy section 11004.9 Authorizing Service. Authorize care for additional time if the parent's/caretaker's activities with TWP require more than part time care.

11003.8 Necessity ~~Of~~ of Child Care

~~For parent/caretakers to receive child care services, DSS will need to consider whether child care is necessary. Child care will be considered necessary when:~~

- ~~A. the child is not in school during the hours of the parent/caretaker's employment; or~~
- ~~B. the child is not in school during the hours of the parent/caretaker's participation in a training or education component of a DSS Food Stamp or TANF Employment and Training program; or~~
- ~~C. both parents in a two parent household have a need for child care. For example:~~
 - ~~1. in two parent households both parents work; or~~
 - ~~2. one works and the other has another need (such as education or training), is incapacitated (a parent who needs to participate in in-patient rehabilitation is included in the meaning of incapacitated) or is unavailable (such as one parent works the late shift and needs to sleep during the day while the other parent works).~~

45 CFR 98.20

For parents/caretakers to receive child care services, DSS must determine if child care is necessary. For two-parent households, both parents must have a need for child care. Child care is necessary when:

- A. The child is not in school during the hours of the parent's/caretaker's employment
- B. The child is not in school during the hours of the parent's/caretaker's participation in a training or education component of a DSS Employment and Training program
- C. The child is active with and referred by DFS for child care (See DSSM 11003.7.8)
- D. The parent/caretaker is active with and referred by the DSS Transitional Work Program for child care (See DSSM 11003.7.8)
- E. The parent/caretaker has a special need (See DSSM 11003.7.8)

14 DE Reg. 1009 (04/01/11) (Prop.)