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

Child Care Redetermination

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual regarding Child Care Redetermination, specifically, *to add a graduated phase-out*. 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 November 2017 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 1, 2017 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual regarding Child Care Redetermination, specifically, *to add a graduated phase-out*.

Statutory Authority
- Child Care Development Fund (CCDF)
- CFR 98.21 (b) - Child Care Development Block Grant of 2014

Background

New law requires that child care will continue for an additional 12 months without interruption or increased parent fees as long as the family income is within 85% of the State Median Income guidelines for Delaware. This new law is required so that families will have a transition period or "graduated phase-out" from the child care assistance program to leave the child care assistance program, rather than the assistance abruptly ending.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to provide families who exceed the child care income a "graduated phase-out" from the child care assistance program.

Summary of Proposed Changes

Effective for services provided on and after January 1, 2018 Delaware Health and Social Services/Division of Social Services proposes to amend the Division of Social Service Manual to provide a "graduated phase-out" from the child care assistance program.

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 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) gives public notice and provides an open comment period for thirty (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 December 1, 2017.

Fiscal Impact

The following fiscal impact is projected:

	Federal Fiscal Year 2018	Federal Fiscal Year 2019
General (State) funds	$2,000,000	$2,250,000
Federal funds	$6,000,000	$6,250,000

Summary of Comments Received with Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD) offered the following summarized observations:

SCPD commented that "The Department of Health & Social Services maintains a program covering the costs of child care for individuals meeting certain program and financial standards… The Division projects a State fiscal impact of $2 million in FFY18 whose impact is partially offset by $6 million in federal funds."

"Since the State is required to implement the federal regulation, and the revision benefits program participants (including "special needs" parents and children), the SCPD is endorsing the proposed regulation."

Agency Response: The Division of Social Services (DSS) thanks the Council for its support.

No change to the regulation was made as a result of these comments.

DSS is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by the State Council for Persons with Disabilities.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the November 2017 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual regarding Child Care Redetermination, specifically, to add a graduated phase-out, is adopted and shall be final effective January 11, 2018.

12/20/17
Kara Odom Walker, MD, MPH, MSHS
Cabinet Secretary, DHSS

FINAL

11004.13 Determining Graduated Phase-Out for Child Care at Redetermination

45 CFR 98.21(b)

This policy applies to recipient families whose income exceeds the child care income limit at redetermination.

1. **The graduated phase-out of assistance is provided to families that report during redetermination income exceeding 185% but falling at or below 200% of the Federal Poverty Level (FPL).**

2. **The graduated phase-out of child care assistance has a two-tier income range applicable at the time of redetermination.**

- Tier 1: Income over 185% of the FPL - the graduated phase-out of assistance begins.
- Tier 2: Income over 200% of the FPL - the child care closes.

3. **An additional twelve months of child care will be authorized at the time of the graduated phase-out.**

A. The family must continue to have a need for child care during the graduated phase-out period.
B. The family will remain eligible for the full twelve months of assistance even if during the graduated phase-out period the family's income increases above 200% of the FPL but remains below 85% of the State Median Income (SMI).
C. If the family's income exceeds 85% of the SMI during the graduated phase-out period, the child care will close.

4. **A new parent fee will be set at the start of the graduated phase-out period.**