

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

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

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 *Overpayments*.

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 July 31, 2010.

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 CHANGES

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

Statutory Authority

45 CFR §98.11, Administration under contracts and agreements

Summary of Proposed Changes

DSSM 11005.4, 11005.4.1, 11005.4.2 and 11005.4.3 [Reserved], *Child Care Overpayments*: The purpose of this rule change is to clarify current policy guidelines regarding overpayments and to remove the examples. The original text is also reformatted to simplify language and improve readability.

DSS PROPOSED REGULATION #10-31

REVISIONS:

11005.4 Child Care Overpayments

45 CFR 98.11

~~A child care overpayment occurs when DSS pays providers for more child care service than parents/caretakers are eligible to receive. The overpayment may result because of agency or parent/caretaker error.~~

~~EXAMPLE 1: A Case Manager incorrectly enters parent income information resulting in a lower parent fee. After several months, the Case Manager realizes the mistake. Because DSS has already made payment to the provider, the Case Manager must process this change as an overpayment.~~

~~EXAMPLE 2: A parent reports income of \$500.00 for a family size of three. However, after several months, the Case Manager discovers income actually was \$750.00. The lower income resulted in the parent paying a smaller fee than the parent should have paid. Because DSS has already made payment to the provider, the Case Manager~~

must process this change as an overpayment.

The CCMIS will not process changes to an authorization for a prior period of time through the Correct Transactions function when the result is negative. A negative change means parents/caretakers receive less service because of a change in circumstances; for example, the change results in the parent paying a higher fee. In these situations, process an overpayment, using the child care overpayment notice and complete a Change Authorization to correct the error for future authorizations.

DSS is to attempt recovery in all cases of suspected fraud, in all cases involving current recipients, and in all cases where the overpayment amount would equal or exceed the costs of recovery.

11005.4.1 Determine the Overpayment Amount

Determine the amount of the overpayment by:

- A. subtracting the difference between what DSS paid the provider versus what DSS should have paid, or
- B. subtracting the difference between the fee the parent paid and the fee the parent should have paid.

EXAMPLE: A child over age two in a center is paid \$13.00/day or \$299.00 (\$13.00 x 23 days) for a full month of child care. The parent paid no fee; DSS paid the full fee. However, the parent should have paid a fee amounting to \$1.00/day. DSS should have paid \$12.00/day if the parent paid \$1.00/day fee, or \$276.00 monthly.

\$299.00 DSS paid
276.00 DSS should have paid
23.00 Overpayment

If this overpayment continued for six months, the total overpayment is \$138.00. The Case Manager must complete an overpayment notice, noting the amount of the overpayment and the child care category under which the child received service.

DCIS provides case managers with access to the Claims Management function of the CCMIS to assist in determining the overpayment amount. Access is limited to child transactions and is inquiry only. The Claims Management function provides access to the actual provider payment.

11005.4.2 Overpayment Notices

Once the overpayment amount is determined, complete an overpayment notice in detail. Submit the notice to the supervisor who will check it for accuracy.

Send the original notice to the parent/caretaker and, after waiting 10 days, send a copy to the Audit and Recovery Unit. Audit and Recovery are responsible for establishing repayment agreements with parents/caretakers and for collecting and tracking payments on overpayment debts.

To provide parent/caretakers who disagree with the overpayment amount the opportunity to request a fair hearing, wait 10 days before sending the copy of the overpayment notice to Audit and Recovery. This allows parents/caretakers with an opportunity to contact case managers to possibly resolve the matter before intervention by Audit and Recovery.

11005.4.3 Role of Audit and Recovery

Collection of the overpayment by Audit and Recovery follows current policy as noted in DSSM 7000. Note that DSS can only recoup child care payments from child care benefits. Any attempt to recover child care overpayments from AFDC benefits can only occur if there is a voluntary request from the recipient family. The recipient family can only

~~make such a voluntary request if the child care they were receiving was Food Stamp Employment & Training (FS E&T) AFDC Child Care, At Risk, or Transitional Child Care.~~

~~In addition to establishing repayment agreements and overseeing the collection of overpayments, Audit and Recovery also investigate overpayments for suspicion of fraud. Case managers will not make fraud determinations, but in cases where they suspect fraud, they should notify Audit and Recovery of their suspicions.~~

~~The Provider Administrator, along with Child Care Monitors, will continue to assume responsibility for situations involving provider overpayments.~~

A child care overpayment occurs when DSS pays for more child care service than parents/caretakers are eligible to receive. Overpayments may be the result of an agency, provider or parent/caretaker action.

DHSS will attempt recovery in all cases of suspected fraud, in all cases involving current recipients, and in all cases where the overpayment amount would equal or exceed the costs of recovery. Each in the adult child care household is liable for repayment of the overpayment.

11005.4.1 Determining the Overpayment Amount

To determine the amount of the overpayment subtract the amount that the parent should have paid the provider from the DSS calculated parent fee. The difference is the overpayment amount.

11005.4.2 Overpayment Notices

Notify parents/caretakers in writing of any overpayment. The overpayment notice will contain:

1. a statement of the client's right to a fair hearing as provided in DSSM 5300
2. the method by which s/he may request a fair hearing
3. what to do to continue receiving your benefits after requesting a fair hearing
4. a statement that s/he may represent him/herself or that s/he may be represented by counsel or by another person
5. the reason for the overpayment
6. the amount of the overpayment
7. the overpayment time period
8. the name of the child/ren associated with the overpayment.

DSS can only recoup child care over payments from child care benefits. Any attempt to recover child care overpayments from TANF benefits can only occur if there is a voluntary request from the recipient family. Audit and Recovery Management Services (ARMS) is the agency responsible for establishing repayment agreements and the collection of overpayments.

11005.4.3 RESERVED

14 DE Reg. 15 (07/01/10) (Prop.)