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 *Income and Making Income Determinations*.

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 *Income and Making Income Determinations.*

Statutory Authority

45 CFR §98.11(b)(2), *Administration under contracts and agreements*

Summary of Proposed Changes

1) **DSSM 11003.9.1**, *Income*: The purpose of this rule change is to clarify the rules regarding determining countable income and to remove procedures. This amendment clarifies how to decide what income to count to determine eligibility for subsidized child care.

2) **DSSM 11003.9.5**, *Making Income Determinations*: The purpose of this rule change is to clarify the rules regarding determining financial eligibility and to remove procedures. The revised rule clarifies how to count income to arrive at a monthly amount.

DSS PROPOSED REGULATIONS #10-29
REVISIONS:

11003.9.1 Income

<u>45 CFR 98.11(b)(2)</u>

A. Countable Income. All sources of income, earned (such as wages) and unearned (such as child support, social security pensions, etc.) are countable income when determining a family's monthly gross income. Monthly gross income ~~typically~~ includes the following:

1. ~~Money from wages or salary, such as total money earnings~~ <u>Money earned</u> from work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece rate payments and cash bonuses<u>. Count the amount</u> earned before deductions are made for taxes, bonds, pensions, union dues, etc. <u>This is gross</u>

income. Wages need to be equal to the federal minimum wage or an equivalent.

~~Gross income from farm or non-farm self-employment is determined by subtracting the self-employment standard deduction for producing income as described below. The individual's personal expenses (lunch, transportation, income tax, etc.) are not deducted as business expenses but are deducted by using the TANF standard allowance for work connected expenses. In the case of unusual situations (such as parent/caretaker just beginning business), refer to DSSM 9056 and 9074.~~

Earnings from self-employment are counted after applying a standard deduction for self-employment expenses. To get the self-employment deduction, self-employed households must verify at least one business cost to produce income.

Self-Employment Standard Deduction for Producing Income

The cost for producing income is a standard deduction of the gross income. This standard deduction is a percentage of the gross income determined annually and listed in the Cost-of-Living Adjustment (COLA) notice each October. The standard deduction is considered the cost to produce income.

~~The standard deduction is considered the cost to produce income. The gross income test is applied after the standard deduction. The earned income deductions are then applied to the net self-employment income and any other earned income in the household.~~

~~The standard deduction applies to all self-employed households with costs to produce income. To receive the standard deduction, the self-employed household must provide and verify they have business costs to produce income. The verifications can include, but are not limited to, tax records, ledgers, business records, receipts, check receipts, and business statements. The self-employed household does not have to verify all its business costs to receive the standard deduction.~~

~~Self-employed households not claiming or verifying any costs to produce income will not receive the standard deduction.~~

2. Social Security pensions, Supplemental Security Income, Veteran's benefits, public assistance payments, net rental income, unemployment compensation, workers compensation, pensions, annuities, alimony, adoption assistance, disability benefits, military allotments, Rail Road Retirement, and child support.

B. Disregarded Income

Monies received from the following sources are not counted:

1. per capita payments to or funds held in trust for any individual in satisfaction of a judgment of Indian Claims Commission or the Court of Claims;
2. payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under ESM 21(a) of the Act;
3. money received from the sale of property such as stocks, bonds, a house or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds are counted as income from self-employment);
4. withdrawal of bank deposits;
5. money borrowed or given as gifts;
6. capital gains;
7. the value of USDA donated foods and Food Stamp Act of 1964 as amended;
8. the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
9. any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
10. loans or grants such as scholarships obtained and used under conditions that preclude their use for current

living costs;

11. any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act;

12. home produce ~~utilized~~ used for household consumption;

13. all of the earned income of a ~~minor or minor parent (under 18) who is a full-time student or a part-time~~ child under age 18 who is a student who is working but is not a full-time employee (such as high school students who are employed full-time during summer);

14. all payments derived from participation in projects under the Food ~~Stamp~~ Benefit Employment & Training (~~FS~~ FB E&T) program or other job training programs;

15. all Vista income; and

16. all income derived as a Census taker.

Resources (such as cars, homes, savings accounts, life insurance, etc.) are not considered when determining financial eligibility or the parent fee.

(Break In Continuity of Sections)

11003.9.5 Making Income Determinations

45 CFR 98.11(b)(2)

~~DSS programmed the DCIS II Child Care Sub system to automatically make financial eligibility decisions. As long as the appropriate income for the appropriate persons is entered into the system, and as long as the correct family size is entered, the DCIS II Child Care Sub system will calculate income and determine eligibility.~~

~~In the event of system failure, use 4 1/3 weeks per month to compute a person's monthly gross income. If there is a variance in wages, use the average of the last month's wages or the average of the last three month's wages, whichever is less.~~

~~The following are examples for converting various pay schedules to monthly income.~~

~~A. Client A is paid $200.00 per week - $200 x 4.33 = $866/month.~~

~~B. Client A is paid $200 per week, but has a varying work schedule. Week one - $200; week two $100; week three - $176; week four - $200. $200 + $100 + $176 + $200 = $676 divided by 4 = $169/week average. $169 x 4.33 = $731.77/month.~~

~~C. Client B is paid $400 every other week. $400 x 2.16 = $864.~~

~~D. Client C is paid $950 twice a month. $950 x 2 = $1900/month.~~

~~E. Other sources of income, such as child support, are added to wages either as the actual amount received or as an average of the amount received in the past three months.~~

Staff will use gross monthly income in all cases except for self-employment income. Gross income is income before any deductions. See 11003.9.1 for disregarded income.

Determine the monthly amount of income using the conversion method below. This applies to earned and unearned income.

A. Weekly gross income is multiplied by 4.33 to calculate the monthly income.

B. Bi-weekly gross income is multiplied by 2.16 to calculate the monthly income. Bi-weekly income is income that is received every other week.

C. Semi-monthly gross income is multiplied by 2 to calculate the monthly income. Semi-monthly income is income that is received twice each month.

If the income is different from pay to pay, use the income from the previous month or the average of the last three months income, whichever is less. This applies for earned and unearned income.

14 DE Reg. 8 (07/01/10) (Prop.)