

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

POC - Determining and Reviewing Child Care

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Purchase of Care (POC), specifically, to align policy with Federal requirements. 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 August 2019 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by September 3, 2019 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 November 12, 2019 the Delaware Health and Social Services/Division of Social Services proposes to amend the Division of Social Services Manual section 11004.11 regarding Purchase of Care (POC), specifically, to align policy with Federal requirements.

Statutory Authority

45 CFR 98.21 (b)(2)

Background

On Nov. 19, 2014, President Barack Obama signed into law the Child Care and Development Block Grant (CCDBG) which is a comprehensive reauthorization with new requirements. The amended version of DSSM 11004.11, Determining and Reviewing Child Care, includes several new requirements mandated by CCDBG. The revised policy outlines the requirement for 12-month authorizations for eligible families, the prohibition from increasing copayments during the eligibility period, and the requirement to authorize an additional 90 days of child care in the event of a loss of need for assistance during the eligibility period. The revised policy also includes case processing guidance for DSS eligibility staff.

Purpose

Summary of Proposed Changes

Effective for services provided on and after November 12, 2019 Delaware Health and Social Services/Division of Social Services proposes to amend section 11004.11 of the Division of Social Service Manual regarding Purchase of Care (POC), specifically, to align policy with Federal requirements.

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/Division of Social Services 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 must be received by 4:30 p.m. on September 3, 2019.

Fiscal Impact Statement

The policy amendment will have no fiscal impact since the purpose is to revise the requirements of the program.

Summary of Comments Received with Agency Response and Explanation of Changes

DSS received endorsement from two commenters.

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

- Governor's Advisory Council for Exceptional Citizens
- State Council for Persons With Disabilities

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 2019 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual section 11004.11 regarding Purchase of Care (POC), specifically, to align policy with Federal requirements, is adopted and shall be final effective November 12, 2019.

10/9/19

Date of Signature

Kara Odom Walker, MD, MPH, MSHS,
Cabinet Secretary

POLICY – AMENDMENT

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

11004.11 ~~Review/Determination~~ Determining and Reviewing Child Care

~~45 CFR 98.145~~ 45 CFR 98.21 (b)(2)

~~All childcare applicants and recipients are continuously eligible for child care services for twelve months. This means that the applicants and recipients remain eligible for child care services unless:~~

- ~~A. The child moves out of or is removed from the parent's/caretaker's home, or~~
- ~~B. The child moves out of state, or~~
- ~~C. The child is deceased.~~

~~In the event of any of the above, close the child care case.~~

~~Additionally, the child care parent fee will not change during the authorization unless the parent/caretaker in a single parent home loses his or her job or one or both parents in a two parent home loses his or her job. (See DSSM 11004.12.1 Continuing Child Care after Loss of Need.)~~

~~Complete a review/redetermination of the circumstances of each parent/caretaker at least once every twelve months and just prior to the end of each authorization period.~~

~~Close the child care case if parents/caretakers fail to complete a review or return the six month interim report (See DSSM 9068.1 12-Month Certification Periods). Only child care/food benefit cases will require an interim report. If the parents/caretakers provide good cause for their failure to complete or return the report, the case should be processed.~~

~~Good cause can be anything believed to be reasonable, but generally includes things such as:~~

- ~~1. Illness;~~
- ~~2. Court required appearance;~~
- ~~3. Household emergency (fire, heating problem, family crisis, etc.);~~
- ~~4. Lack of transportation; or~~
- ~~5. Inclement weather.~~

Parents/caretakers whose child care cases close because they failed to complete a redetermination or provide verification, can reapply for service. However, if DSS is in a "wait list" situation, these parents/caretakers will be subject to DSS' priority service order (see Section 11004.3.1 Prioritizing Service Needs).

Do not allow an authorization to end or close a case without first ensuring the parents/caretakers were given timely and adequate notice.

All recipients of child care assistance are continuously eligible for 12 months of child care services as outlined in this policy.

1. **DSS must complete an interview with the client at application and redetermination as part of the child care eligibility process. The client can complete the interview with DSS in person or by telephone.**
2. **DSS must authorize 12 months of child care services for every eligible child.**
3. **DSS case workers must complete Form 636 "Child Care Checklist" when adding an additional child to an open, on-going child care case.**
4. **The child care copayment:**
 - Must decrease when a decrease in the family's income is reported; and
 - Must not increase beyond the initial copayment amount during the authorization period.

Note: If a family's income decreases during the child care authorization period and then increases, the adjusted copayment cannot exceed the original copayment amount.

5. **If a family has a loss of need for child care services during the authorization period, DSS must authorize the family for 90 days of continuing care before the child care case is closed (see DSSM 11004.12.1). If the family regains a need for child care services before the 90 days ends, the family will remain eligible and authorized for child care until their next review.**
6. **DSS will close a child care case at any time during the authorization period for the following reasons (see DSSM 11004.12):**
 - Excessive unexplained absences of the child from the child care site;
 - A permanent change in the child's state residency;
 - The family's income exceeding 85% of the state median income (SMI);
 - Substantiated fraud or intentional program violations;
 - A written request to close the case or to authorize child care for a specific length of time; or
 - The death of the case head or of the authorized child.
7. **DSS case workers must redetermine the eligibility of a child care case prior to the end of the authorization period.**
8. **A client must show good cause for not returning a redetermination application timely to avoid the closure of the child care case. Good cause can be anything believed to be reasonable, but generally includes things such as:**
 - An illness;
 - A court required appearance;
 - A household emergency (e.g., fire, heating problem, family crisis, etc.);
 - A lack of transportation;
 - A domestic violence situation; or
 - Inclement weather.
9. **A family whose child care case closed due to failure to complete a redetermination or provide verification may reapply for service. If DSS is using a wait list for child care assistance, the family will be subject to the DSS priority service order (see DSSM 11004.3.1).**

10. DSS must not end a child care authorization or close a child care case without providing the family with at least a 10-day notice.

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

13 DE Reg. 1552 (06/01/10)

18 DE Reg. 697 (03/01/15)

23 DE Reg. 388 (11/01/19) (Final)