

MEMORANDUM

DATE: May 29, 2009

TO: Ms. Sharon L. Summers, DSS
Policy, Program & Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 12 DE Reg. [DSS Child Care Subsidy Program Special Needs Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services' (DSS) proposal to amend its regulations regarding eligibility for its child care subsidy program based on special needs. The regulations were published as 12 DE Reg. 1363 in the May 1, 2009 issue of the Register of Regulations. SCPD has the following observations and recommendations.

First, the Division is deleting all 4 examples which appear in the current regulations. The Division may wish to consider retention of some examples. Examples 2 and 3 could be retained since one addresses the special needs of a caretaker and the other addresses the special needs of a child. In other contexts (e.g. Section 11003.9.3), the Division includes 8 clarifying examples which are instructive to agency workers and applicants.

Second, DSS is deleting a cross reference on waiver of fees: "See section 11004.7 to determine eligibility for waiving the parent fee." Since children with special needs are considered a priority under 45 C.F.R. 98.44(b), DSS may wish to consider retaining the cross reference to facilitate positive eligibility determinations.

Third, the regulations contains the following sentence: "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 requires care that cannot be provided in a regular day care." This is not accurate. For example, parents do not have to demonstrate that a 13-18 year old child's needs cannot be met in a regular day-care setting. See "Children with Special Needs" section. Moreover, it may not be age-appropriate to place a 16-17 year old in a "regular day care" even if a day care were willing to mix

populations.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Elaine Archangelo
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Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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