



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: August 16, 2010

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

FROM: Daniese McMullin-Powell, <sup>DMP/kjp</sup> Chairperson  
State Council for Persons with Disabilities

RE: 14 DE Reg. 91 [DSS Proposed Children Eligibility for GA & TANF 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 the General Assistance (GA) and Temporary Assistance for Needy Families (TANF) programs. The proposed regulations were published as 14 DE Reg. 91 in the August 1, 2010 issue of the Register of Regulations. According to the "Summary of Proposed Changes", the impact will be that children living in the home of a non-relative custodian or legal guardian will be technically eligible for the TANF program. These children will no longer be eligible to receive benefits through the GA program. SCPD has the following observations.

First, there are positive aspects to the change. SCPD has been informally advised that the effect of switching an eligible child from a GA to a TANF grant would be to increase the monetary benefit from \$123.00 to \$201.00. This amounts to a benefit increase of more than 60%. Approximately 300 children would be affected. Moreover, the TANF standards (Section 3010) require the caretaker to enter into a Contract of Mutual Responsibility which prompts child immunization and regular school attendance. Finally, the TANF caretaker becomes eligible to participate in work support programs. See Summary of Proposed Changes at 14 DE Reg. At 91-92.

Second, there are some potentially negative aspects to the change. TANF imposes sanctions (§3009.1) on caretakers who fail to meet the benchmarks in the Contract of Mutual Responsibility which can amount to total elimination of benefits. The GA program is less prescriptive in imposition of beneficiary obligations. Unlike TANF, there are no equivalent requirements for participating in parenting classes, cooperation with child support, and ensuring child immunization and school attendance.

Third, §3004 should be revised.

A. The existing section contains an introductory sentence defining "relatives" which incorporates a bulleted list of "relatives". The new section retains the bulleted list but no introductory sentence (e.g.

“(a) relative is defined as follows”). The result is a list of qualifying “relative” standards with no context. See, e.g., analogous references in §3004 (e.g. “(a) guardian is defined as”; “a custodian...is defined as”).

B. The definition of “relative” could be enhanced by including a reference to an adult relative caregiver with a valid Caregiver Authorization form on record with the child’s public school pursuant to Title 14 Del.C. §202.

C. The definition of “guardian” is odd. For example, it only contemplates appointment of a guardian by the Family Court. The Court of Chancery has concurrent jurisdiction to appoint guardians of minors. See Title 12 Del.C. §3902. Moreover, it characterizes persons authorized by DFS to exercise custody and care of a child as a “guardian”. This is a distortion of law. Apart from the Court of Chancery, only the Family Court has the authority to appoint a “guardian” of a minor. See Title 10 Del.C. §925(16). SCPD is not aware of any statute which grants the DSCYF the authority to appoint a guardian. Finally, DFS is only one of multiple agencies which may delegate care of children to adults. See, e.g., Title 10 Del.C. §1009.

Fourth, in §3004.1, first sentence, DMMA may wish to delete the reference to “parent’s” since it is redundant. The definition of “caretaker” in §3001 ostensibly covers both parents and non-parents.

In summary, SCPD has the following recommendations.

A. DSS should consider some technical amendments based on Pars. 3 and 4 above.

B. DSS should consider whether caretakers could be given the option of applying for GA or TANF on a qualifying child’s behalf. As illustrated in §4001.1, deleted Illustration #5, a caretaker and child can currently qualify as separate GA assistance units. There may be circumstances in which the caretaker views the TANF requirements as unduly onerous.

If an option cannot be authorized, SCPD endorses the regulation given the significant increase in financial benefit to most eligible caretakers and children.

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

cc: Ms. Elaine Archangelo  
Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

14reg91 dss-ga & tanf 8-10