



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: March 28, 2014

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

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

RE: 17 DE Reg. 897 [DSS Proposed TANF Employment & Training Program Sanction Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services' (DSS) proposal to adopt revised TANF Employment & Training Program standards which primarily focus on sanctions. The proposed regulation was published as 17 DE Reg. 897 in the March 1, 2014 issue of the Register of Regulations. SCPD has the following observations.

As background, families participating in the program are generally subject to sanctions if they do not comply with work activity requirements. The current sanction protocol requires the TANF case to be closed, followed by 4 consecutive weeks of participation in work activities to justify reopening, and closure of the case for at least 1 month. DSS proposes to revamp this approach based on the following rationale:

When examining TANF work participation rates it was discovered that many families begin to immediately re-participate and that the mandatory one month closure was a significant hardship since they were incurring expenses as a result of participating. Additionally, these families while participating were not reflected in the TANF work participation rate because they were not receiving a grant.

The policy change would remove the requirement that the case be closed for at least one (1) month and reopen the TANF case at the beginning of the four (4) week participation period.

This change allows families to immediately reengage and potentially not see a reduction in their TANF grant, while also raising the TANF work participation rate by an estimate three (3) percent.

Approximately, thirty-two (32) more families a month will receive TANF benefits because of the rule change.

SCPD endorses the proposed regulation since the primary change in standards promotes employment activities and program participation. However, Council has two (2) observations.

First, a single custodial parent of a child under age 6 may qualify for an exemption from a sanction if child care is not available. Unavailability based on lack of a proximate day care option is based on the following standard (§3011.2., Par. 1.2a):

Appropriate child care is unavailable within a reasonable distance from their home or work. Reasonable distance is defined as care that is located in proximity to either a parent's place of employment or the parent's home; generally care that is within a one hour drive from either home or work.

SCPD recommends that DSS reconsider the "one hour drive" standard. For example, if a single parent lived and worked in Wilmington, and child care were only available in Dover, that would be presumptively a "reasonable distance". This means the parent would have to drive 45 miles to drop off the child in Dover, drive 45 miles back to Wilmington to work, drive 45 miles back to Dover after work to pick up the child, and then drive 45 miles back to Wilmington with the child, an aggregate of 180 miles. The same analysis would apply to a single parent living and working in Georgetown who could only locate child care in Dover. The parent would have to drive 36 miles to drop off the child in Dover, drive 36 miles back to Georgetown to work, drive 36 miles back to Dover to pick up child after work, and then drive 36 miles back to Georgetown with the child, an aggregate of 144 miles. The "one hour distance" standard does not appear in the attached federal regulations, 45 C.F.R. §§261.15 and 261.56. DSS could adopt a different standard.

Second, §3011.2.1, Par. 5, recites as follows: "While a parent may not be sanctioned as a result of child care being unavailable, the parent is not exempt from TANF work participation requirements or the TANF time limits." The statement that the parent who proves the unavailability of child care may not be sanctioned but "is not exempt from TANF work participation" is odd and ostensibly contradictory. If the parent proves a lack of available child care, the parent should logically be exempt from work participation. DSS may wish to review the accuracy of the recital.

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

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

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# 45 CFR 261.56 - WHAT HAPPENS IF A PARENT CANNOT OBTAIN NEEDED CHILD CARE?

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CFR Updates Authorities (U.S. Code)

## § 261.56 What happens if a parent cannot obtain needed child care?

(a)

(1) If the individual is a single custodial parent caring for a child under age six, the State may not reduce or terminate assistance based on the parent's refusal to engage in required work if he or she demonstrates an inability to obtain needed child care for one or more of the following reasons:

- (i) Appropriate child care within a reasonable distance from the home or work site is unavailable;
- (ii) Informal child care by a relative or under other arrangements is unavailable or unsuitable; or
- (iii) Appropriate and affordable formal child care arrangements are unavailable.

(2) Refusal to work when an acceptable form of child care is available is not protected from sanctioning.

(b)

(1) The State will determine when the individual has demonstrated that he or she cannot find child care, in accordance with criteria established by the State.

(2) These criteria must:

- (i) Address the procedures that the State uses to determine if the parent has a demonstrated inability to obtain needed child care;
- (ii) Include definitions of the terms "appropriate child care," "reasonable distance," "unsuitability of informal care," and "affordable child care arrangements"; and
- (iii) Be submitted to us.

(c) The TANF agency must inform parents about:

- (1) The penalty exception to the TANF work requirement, including the criteria and applicable definitions for determining whether an individual has demonstrated an inability to obtain needed child care;
- (2) The State's process or procedures (including definitions) for determining a family's inability to obtain needed child care, and any other requirements or procedures, such as fair hearings, associated with this provision; and
- (3) The fact that the exception does not extend the time limit for receiving Federal assistance.

[64 FR 17884, Apr. 12, 1999; 64 FR 40291, July 26, 1999]

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## 45 CFR 261.15 - CAN A FAMILY BE PENALIZED IF A PARENT REFUSES TO WORK BECAUSE HE OR SHE CANNOT FIND CHILD CARE?

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§ 261.15 Can a family be penalized if a parent refuses to work because he or she cannot find child care?

(a) No, the State may not reduce or terminate assistance based on an individual's refusal to engage in required work if the individual is a single custodial parent caring for a child under age six who has a demonstrated inability to obtain needed child care, as specified at § [261.56](#).

(b) A State that fails to comply with the penalty exception at section 407(e)(2) of the Act and the requirements at § [261.56](#) may be subject to the State penalty specified at § [261.57](#).

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