



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: March 29, 2019

TO: Ms. Nicole Cunningham, DSS
Planning Policy and Development Unit

FROM: *J. Webb*
J. Todd Webb – Chairperson
State Council for Persons with Disabilities

RE: 22 DE Reg. 773 [DSS Final Regulation on CMR Requirements for TANF
Recipients (March 1, 2019)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Division of Social Services' (DSS) finalized regulation on CMR requirements for TANF recipients. This regulation was finalized and published as 22 DE Reg. 773 in the March 1, 2019 issue of the Register of Regulations. SCPD has the following observations.

DSS finalized changes to various sections of the DSS Manual concerning the Contract of Mutual Responsibility (CMR) for TANF (cash assistance) recipients. TANF is a limited cash benefit for families with little to no income, and adult recipients must participate in work programs to receive the benefit. The CMR is essentially an individual responsibility plan and an agreement between the TANF client and DSS that "sets obligations and expectations for helping the client achieve self-sufficiency." The amended changes were intended to enhance the definition of the CMR, provide clarity to the requirements of the contract and responsibilities of TANF recipients, improve readability, and introduce the requirement of a financial coaching orientation.

These final regulations do not explicitly refer to accommodating TANF recipients with disabilities in the context of CMRs. DSS declined to include such references in response to comments recommending that it do so. Instead, DSS added a provision in DSSM 3009 stating that "DSS encourages clients to disclose any difficulties that may create barriers for meeting the CMR requirements. DSS will not impose a sanction if good cause exists." The amendments also now provide that "DSS will work with clients to identify barriers" and "will provide

supportive services to clients to assist in reducing identified barriers.” The amended regulations do not detail what supportive services are available, although elsewhere, the DSS Manual notes that child care and transportation services can be offered, while other supports are provided by vendors.

In explaining its decision to omit references to accommodations for people with disabilities, DSS wrote that “DSS will continue to make accommodations for any client with barriers to complying with the CMR components” and pointed to the Transitional Work Program (DSSM 3017.1) as outlining accommodations for individuals who have been determined unable to work in an unsubsidized employment setting by a health professional. Although the TWP policies do address accommodations for TANF recipients who are eligible for that program, DSS is obligated under the Americans with Disabilities Act and Section 504 to ensure that all of its programs and services accommodate people with disabilities.

In summary, while the final regulations now include language on identifying and reducing client barriers, they fail to clearly note that DSS will offer reasonable accommodations for clients with disabilities in the context of CMRs. Although the Transitional Work Program (which is discussed in CLASI’s comments on proposed amendments to DSSM 3017.1) is one form of accommodation, it does not – as DSS seems to suggest – fulfill the agency’s legal responsibility to create policies allowing for reasonable accommodations throughout the entire TANF program. At this time, DSS is continuing to revise other sections of the DSS Manual pertaining to the CMR. Therefore, The SCPD will continue to raise the issue of accommodations in future comments on proposed amendments.

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

cc: Mr. Ray Fitzgerald, DSS
Mr. Thomas Hall, DSS
Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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