



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
Margaret M. O'Neill Bldg., Third Floor, Suite 1  
410 Federal Street  
Dover, Delaware 19901  
302-739-3621

The Honorable John Carney,  
Governor

John McNeal, Director  
SCPD

**MEMORANDUM**

DATE: May 27, 2022

TO: Ms. Nicole M. Cunningham

FROM: Terri Hancharick, Chairperson  
State Council for Persons with Disabilities

RE: Proposed DSS Amendments to 16 DE Admin. Code 11000 Relative In-Home Care,  
25 Delaware Register of Regulations 1012 (May 1, 2022)

The State Council for Persons with Disabilities (SCPD) has reviewed the proposed revisions. Of significant concern to SCPD is that DSS appears to be restating the provisions limiting Relative In-Home Care to families with four or more children and eliminating the “last resort” exception to the role for special needs children when other childcare cannot be found.

Section 3 includes the following limit: "Relative childcare is limited to evening and weekend shift work hours only." This is ill-conceived given the overall shortage of childcare providers. While this shortage of childcare providers particularly for children with disabilities started pre-pandemic, Covid 19 created even greater challenges for “special needs” parents. Children with disabilities in most cases are found to be far more vulnerable to Covid 19, its variables and its long-term impact. An impact has by no means become normalized, as even today Delaware like other states has seen a rapid spike in Covid 19 cases.

Moreover, "special needs" parents and children are eligible for the State childcare program. See 16 **DE Admin. Code** 11003.7.8. It may be extremely difficult for a parent of a special needs child ages 13-18 to identify a licensed provider to add a 13–18-year-old to their daycare. Moreover, "special needs" parents often rely on relatives for parenting assistance and federal law requires states to accommodate that reliance. See Joint DOJ/HHS LOF to Mass. Dept. Of Children & Families (1/29/15), published at [https://www.ada.gov/ma\\_docf\\_lof.pdf](https://www.ada.gov/ma_docf_lof.pdf). See also U.S. DOJ/HHS Joint Guidance, "Protecting the Rights of Parents and Prospective Parents with Disabilities: Technical Assistance for State and Local Child Welfare Agencies and Courts under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act (8/15)", published at [https://www.ada.gov/doj\\_hhs\\_ta/child\\_welfare\\_ta.pdf](https://www.ada.gov/doj_hhs_ta/child_welfare_ta.pdf).

SCPD strongly recommends:

1. That Section 3 should be revised to allow relative childcare for “special needs” children and adults apart from evening and weekend shifts.
2. That when parents of “special needs” children are denied program modification, that they be informed to where they may find the Divisions ADA Title II/Section 504 Grievance Policy, as required to be provided by the public entity. See: [28 CFR 35.107 \(b\)](#).

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

cc: The Honorable Molly Magarik, Secretary, DHSS  
Director Thomas Hall, Division of Social Services  
Ms. Laura Waterland, Esq., DLP  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

25 Del. Reg. 1012 DSS Relative In-home Care (May 1, 2022)