



STATE OF DELAWARE
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MEMORANDUM

DATE: July 14, 2010

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

FROM: Daniese McMullin-Powell, ^{com/kit}Chairperson
State Council for Persons with Disabilities

RE: 14 DE Reg. 11 [DSS Proposed Child Care Subsidy Interview & Service
Authorization Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services (DSS's) proposal to amend its Child Care Subsidy Program standards regarding applicant interviews and service authorizations. Overall, the proposed regulation is more condensed than the current version and omits illustrations. It also clarifies that parents cannot obtain the subsidy if they are caring for their own children in their own home or facility if the parent provides direct care to the child in that setting. The proposed regulation was published as 14DE Reg. 11 in the July 1, 2010 issue of the Register of Regulations. SCPD has the following observations and recommendations.

First, §11004.2.4 authorizes consideration of a "special need" conveyed through "correspondence submitted by a physician or medical professional". The current regulation is more expansive in defining the scope of persons who can submit documentation of a special need. Section 11004.2.B.4.c authorizes the DSS worker to rely on "written documentation from a recognized professional (such as a doctor, social worker, nurse, school counselor, etc) of the special needs". This is superior to the proposed regulation which requires an actual letter (in contrast to "written documentation") and is limited to medical professionals. There are many circumstances in which a non-medical professional (e.g. DVR worker; social worker; psychologist) could logically provide the confirmation of a special need.

Second, in §11004.2.4, DSS may wish to consider amending the first line to read "any other information...such as documentation of travel time or a special need." Travel time would be relevant to the need for child care in both the employment and school contexts. Merely referencing a "work schedule" or "class schedule" will understate the extent of need which

should include travel time.

Third, §11004.2.4. limits DSS workers to consideration of a “protective need” only if based on a DFS referral: “For a protective need, a referral from Division of Family Services must be submitted.” This may be unduly narrow. SCPD recognizes that related regulations [§§11003.7.6 and 11003.7.8] limit consideration of children with protective child care needs to those referred by DFS. The relevant federal regulation [45 CFR 98.20] refers to “an appropriate protective services worker” but does not define the term. As a practical matter, the DSCYF often provides primary case management and other services through contractors (e.g. Child, Inc.; Delaware Guidance). Moreover, there are many victim protection organizations. For example, many police departments have victim advocates. SCPD recommends expanding the scope of persons who can document a “protective need”. Consider the following substitute standard:

A protective need must be based on a referral from the Division of Family Services (“DFS”), authorized DFS contract agency, or victim services personnel employed by law enforcement or non-profit organization.

Fourth, §11004.9 includes the following recital: “These children may be able to get another type of child care”. This is somewhat cryptic. If DSS is aware of some other sources of child care assistance in this context, it would be preferable to provide some guidance to workers through a cross reference or note. The Department of Education periodically includes non-regulatory notes in its regulations with cross references to other regulations or resources.

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
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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