



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: November 30, 2010

TO: Ms. Lisa Shaw, Deputy Director
 Office of Highway Safety

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

RE: 14 DE Reg. 419 OHS [Proposed DUI Fee Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Safety & Homeland Security/Office of Highway Safety's (OHS's) proposal to amend its regulation regarding the fees DUI Evaluation, Education and Referral programs are permitted to charge. The proposed regulation was published as 14 DE Reg. 419 in the November 1, 2010 issue of the Register of Regulations. SCPD has the following observations.

First, the regulation substitutes "DSAMH" for "DADAMH" in several sections. However, the OHS overlooked "DADAMH" references in §§6.4 and 6.4.5.

Second, the fee schedule in Regulation 1201, §7.0 (p. 421) does not match the fee schedule in Regulation 1204, §7.0 (p. 431). The SCPD infers that the schedules should be consistent. The following are inconsistent:

Regulation 1201	Regulation 1204
No Show (Education) - \$25.00	No Show (Education) - \$25.00 \$35.00
No Show (Treatment Group)- \$25.00	No Show (Treatment-Group) - \$25.00 \$35.00
No Show (Treatment Individual)- \$25.00	No Show (Treatment-Individual) - \$25.00 \$35.00
Administrative Reentry (Programs)- \$25.00	Administrative Re-Entry (Programs) - \$25.00 \$35.00
Administrative Re Screening - \$65.00	Administrative Re-screening - \$35.00
Hardeore Program- \$25.00	Hardcore Program - in development

Third, there are a few references “implying” that fees should not be charged if an offender has a valid excuse/good cause for missing an appointment. See, e.g., Regulation 1201, §4.5; and Regulation 1204, §4.1.1.3.1. However, many sections simply refer to fees for missed appointments with no reference to a valid excuse/good cause. See, e.g., Regulation 1201, §7.0; and Regulation 1204, §§4.1.1.5.2, 5.1.2.2, 5.2.3.2, 5.2.3.3, and 7.0. Regulation 1201 has no definition of “no show”. Regulation 1204, §2.0, has a definition of “no show” which is “weak” in the context of extenuating circumstances (e.g. an offender would be charged a “no show” fee even if absence were due to an emergency hospitalization, agency scheduling error, or late arrival of bus or paratransit).

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

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

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