

July 25 2018

Nicole M. Cunningham
Planning, Policy & Quality Unit
Division of Medicaid & Medical Assistance
1901 N. DuPont Hwy.
P.O. Box 906
New Castle, DE 19720-0906

RE: DHSS/DSS Proposed TANF Contracts of Mutual Responsibility Regulation [22 DE Reg. 20 (July 1, 2018)]

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) proposal to amend the Division of Social Services Manual regarding Temporary Assistance for Needy Families (TANF), specifically, to revise the requirements of the Contract of Mutual Responsibility (CMR). Council would like to share the following observations.

The Contract of Mutual Responsibility (CMR) is an agreement between the TANF client and DSS which sets obligations and expectations for helping the client achieve self-sufficiency. States are left broad discretion to formulate the terms of these conditions to receipt of TANF. Council notes that the provisions in Delaware regarding CMR are viewed by many in the disability community as being overly severe.

Council is concerned that in simplifying the language, DSS has removed language that emphasizes that the DSS worker is responsible for ensuring that services are available (and that a recipient is not sanctioned if they are not) and that the recipient understands their obligations under the CMR. Most of the language stressing the DSS goal of encouraging recipients to meet Contract expectations has been removed. For example, the existing regulation states: "*Under TANF, the client and the worker must become partners in efforts to surmount any and all obstacles to success.*" This sentence and all others like it have been removed from the new regulations.

First, revised Section 1, Paragraph C, which relates to making changes to a CMR if the needs or circumstances of the family has changed, substitutes the word “will” to “may”. This is a significant, fundamental change, making changes to the CMR discretionary rather than mandatory, and should be corrected. For example, if a family requires a change to the CMR as a reasonable accommodation for a disability, DSS would be obligated to revise the CMR. As a policy matter, it should be mandatory that DSS revise a CMR to reflect changes in a family’s circumstances; otherwise the DSS would be acting in an arbitrary manner.

Second, there are no proposed changes to Section 3017.1, the Transitional Work Program or TWP, which is designed to allow recipients with disabilities to avoid mandatory work requirements under the CMR. What is interesting is that the regulations do not state that disability may factor into other required elements of a CMR. DSS is obligated to make reasonable accommodations in all aspects of its programs. Therefore, Council suggests a new subsection C be added to the proposed revised Section 3009(4) that states the following:

C. CMRs must reflect any needed accommodations required by a household member with a disability. DSS will consider and grant any substantiated reasonable accommodation request from a recipient with a disability (or a member of the household with a disability) when developing or revising a CMR and shall not impose any requirement that a recipient or household member is unable to complete due to disability.

Thank you for your consideration of our observations and recommendations. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF:kpc