



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904  
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

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Nicole Cunningham  
Planning, Policy and Quality Unit  
Division of Medicaid and Medical Assistance  
1901 North DuPont Highway, PO Box 906  
New Castle, DE 19720-0906

**DHSS/DSS Proposed DSS Application Process Regulation [22 DE Reg. 652 (February 1, 2019)]**

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services/Division of Social Services (DHSS/DSS) proposal to amend the DSS Manual in order to update the sections on the application process for DSS benefit programs. The amendment will modernize the language and make it more understandable. Council supports the formatting and updating of the DSS Manual regarding the application process for DSS benefit programs; however, we would like to share the following observations and request additional changes.

First, the updated version of Subsection 2000(C)(ii) states that DSS will inform applicants of their (1) potential eligibility for assistance; (2) right to an eligibility decision within a reasonable time; and (3) right to appeal any DSS eligibility decision. The GACEC recommends that DSS remove the policy of notifying applicants about "potential eligibility for assistance." Rather than stating that DSS will inform applicants about their potential eligibility, the DSS Manual should explicitly note that DSS will encourage people contacting a DSS office about benefits to apply on that day. The problem with a policy of informing applicants about potential eligibility is that some applicants might be given erroneous information indicating that they are not eligible for benefits. These applicants might then be dissuaded from completing the application process when they are actually entitled to benefits they critically need. To ensure that DSS is giving all applicants equal opportunity to undergo the eligibility determination process, the DSS Manual should instruct DSS offices to encourage all potential applicants to apply for benefits, regardless of potential eligibility.

Second, under Subsection 20001.1(1)(E), "Submitting Applications," the proposed changes do not adequately address situations in which DSS should help an applicant with the application process. Under federal regulations governing Supplemental Nutrition Assistance Program

(SNAP) eligibility requirements, state agencies must ensure that SNAP offices establish procedures that best serve households with special needs, “such as, but not limited to, households with elderly or disabled members, households in rural areas with low-income members, homeless individuals...households with adult members who are not proficient in English....” The proposed language, however, only states that applicants “[w]ill be assisted by DSS in completing the application process if hospitalized or ill.” This policy is too narrow and should be expanded to require DSS to also assist persons who may be elderly, have a disability, be homeless, speak limited English, or otherwise have good cause for assistance. Furthermore, while the current version of the DSS Manual explains that “[i]f an applicant is hospitalized or is ill, provisions for completing the application process at the hospital or in the client’s home will be made by the local intake office,” the revised version no longer includes this explanation. Council requests DSS specify in the updated manual that DSS will make reasonable accommodations to help individuals with the application process, which may include accommodations to allow completion of the application process (including interviews) at the client’s home or other locations.

Third, the updated subsection on interviewing applicants with limited English proficiency is an improvement, but it could still benefit from additional improvements. DSS’ revised policies now explicitly state that “DSS will offer translation services to applicants who cannot speak English.” They also discuss how the “translator” is “preferably a translator available through the Division’s contracted language services.” Council supports DSS’ efforts to include policies that clarify that it should offer language assistance services; however, the proposed language uses incorrect terminology. Translation refers to written language assistance, whereas oral language assistance should be referred to as interpretation. Additionally, the term “applicants who cannot speak English” is too simplistic and should be replaced with “applicants who are limited English proficient” or “applicants with limited English proficiency.” The DSS Manual in Section 1000 already includes an accurate definition of “limited English proficient” that tracks the definition used in federal guidance on language access: “Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English may be limited English proficient.” This distinction in terms is significant because, for example, an applicant might be able to generally speak English but might not understand it well enough to undergo an interview without an interpreter. DSS should also provide an interpreter whenever applicants request one.

Fourth, the proposed language regarding DSS-provided interpreters could be improved. It is unclear what DSS means when it notes that an interpreter will “preferably” be one available through a contracted language service. When would DSS use a non-contracted interpreter? Who would DSS consider to be an acceptable alternative? Council recommends DSS also include a policy stating that it will not ask friends or family members accompanying applicants with limited English proficiency (LEP) to interpret, nor will it require LEP applicants to provide their own interpreters. DSS’ default policy should always be to use certified, trained interpreters.

Please feel free to contact me or Wendy Strauss at the GACEC office if you have questions on our comments. Thank you for the opportunity to share our recommendations with you.

Sincerely,

*Ann C Fisher*

Ann C. Fisher  
Chairperson

ACF: kpc