



**Delaware Health
and Social Services**

Office of the Secretary

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MEMORANDUM

To: The Honorable Kimberly Williams
Chair, House Education Committee

The Honorable Laura V. Sturgeon
Chair, Senate Education Committee

Madeline Bayard
Delaware Early Childhood Council

From: Molly K. Magarik, MS
Cabinet Secretary

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A blue ink signature of Molly K. Magarik, with the initials 'MkM' written in a cursive style.

Date: May 10, 2023

RE: Progress Report Regarding the Creation of a Process for Identification and Funding of Children With Special Needs

Pursuant to Senate Bill NO. 252 of the 151st General Assembly, the Delaware Purchase of Care (POC) program is submitting this progress report.

The Department of Health and Social Services, DHSS would like to note the following:

1. To clarify, this report should not be considered a reflection of the Administration's position on the subject, but a collection of the working group's recommendations
2. The fiscal impact of these proposed policies are not currently included in the Governor's Recommended Budget
3. Supplemental Care Costs are considered "indeterminable because the working group struggled to project a number with confidence. This report does not reflect any fiscal or operational impacts to the Department of Education. Additional conversations will be needed with DOE to determine the fiscal impact to the agency
4. Additional research may be needed before fully implementing the proposed policies:
 - a. What other funding sources are available that can support this policy? (i.e. federal funds?)
 - b. How do these services compare to special education services provided in a public-school setting, or by other State-funded wrap around services?

This report is intended to meet the request for a report on the proposed regulations, rate changes and recommendations regarding the process for identification and funding of children with special needs.

"TO IMPROVE THE QUALITY OF LIFE FOR DELAWARE'S CITIZENS BY PROMOTING HEALTH AND WELL-BEING, FOSTERING SELF-SUFFICIENCY, AND PROTECTING VULNERABLE POPULATIONS."

The Child Care and Development Block Grant Act (CCDBG) is the federal law that dictates state level childcare subsidy policy and provides the following language regarding prioritizing children with special needs:

98.46 Priority for childcare services

(a) Lead Agencies shall give priority for services provided under subsection 98.50 (a) to:

- (1) Children of families with very low family income (considering family size)
- (2) Children with special needs which may include any vulnerable populations as defined by the Lead Agency; and
- (3) Children experiencing homelessness

As evidenced by the language, CCDBG provides states with a large degree of flexibility regarding defining these populations and prioritizing services to them. Currently, the POC Special Needs Policy defines this population as children under the age of 19 years and physically and mentally incapable of self-care. The policy further dictates that the parent/caretaker must have a physician or medical professional verify the special need. The state is proposing a revised Special Needs Policy which will initiate the process from a trauma focused perspective by first and foremost safeguarding parental rights, creating a more seamless process for parents/caretakers making the request and expanding the definition of special needs to be more inclusive of children with varying degrees and types of disabilities. The revised policy would also expand the list of qualified professionals who can verify the special need and finally, create a more seamless and equitable reimbursement rate structure for providers caring for these children.

To assist us in this endeavor, we convened a multidisciplinary team of early care and education professionals that included members of the Delaware Early Childhood Council, the childcare provider community, the Governor's Advisory Council on Exceptional Citizens, the state's Part B and Part C Coordinators, members of the Department of Education, Office of Early Learning, etc. The POC team also sought out technical assistance (TA) from the Administration for Children and Families, our federal oversight agency. This TA included a review of the processes and procedures used by other states to define and address the needs of this population, a peer-to-peer meeting with members of North Carolina's Department of Education and co-facilitation of the initial workgroup meeting.

A review of some other state definitions includes the following:

Maryland

“A child who has been diagnosed as being physically or mentally incapable of self-care appropriate to the age of the child, as verified by the State, based on a determination by a physician, licensed or certified psychologist or licensed social worker.”

Pennsylvania

“Children with special needs are defined as children between the ages of birth and 13 with physical, mental and/or development disabilities. A child between the ages of 13 years but

younger than 19 years and who is incapable of caring for him/herself may continue to receive childcare until the child no longer has the disability or turns 19 years of age.”

Virginia

“A child with a disability as defined in subsection 602 of the Individuals with Disabilities Education Act(20 USC 1401); a child who is eligible for early intervention services under Part C of the Individuals with Disabilities Education Act(20 USC 1431 et seq.); a child who is less than 13 years of age and who is eligible for services under subsection 504 of the Rehabilitation Act of 1973 (29 USC 794); and/or a child with a documented developmental disability, intellectual disability, emotional disturbance, sensory or motor impairment, or significant chronic illness who requires special health surveillance or specialized programs, interventions, technologies or facilities.”

West Virginia

“Children presenting a significant delay of at least 25% in one or more areas of development, or a six (6) month delay in two or more areas as determined by an early intervention program, special education program or other multi-disciplinary team shall be eligible for the Special Needs status.”

The workgroup also reviewed the reimbursement rate structures of these states. Some states reimburse providers based on the child’s developmental age rather than the chronological age and some states reimburse a percentage of the cost of care (for providing accommodations) as documented on a “Rate Request” form. Some accommodations may include specialized equipment/technology, additional staff, related professional development/training, etc. Currently, Delaware reimburses providers who care for children with special needs at about 5% above the base rate. This structure does not, however, consider the type or degree of a child’s disability.

Since the initial report, which was submitted on December 1, 2022, the workgroup diligently met on a weekly basis to develop and finalize the following recommendations regarding the legislative request to create a process for the identification and funding of children with special needs:

I. Special Needs eligibility determination

To identify children with special needs, the team recommends a process that would require a data match between the Department of Education (DOE) and DHSS. Through this process, the POC program would receive monthly data regarding special education state funded tier levels from the DOE and enrollment data from the Birth to Three programs. An alternative method would entail DHSS being allowed access to the respective agencies’ databases to retrieve this information. Either method would require an MOU between the POC program and those agencies. Some considerations for identifying children with special needs include the fact that the Birth to Three program does not identify children’s level of disability as DOE does. We will likely need to develop a separate reimbursement rate structure as the tiered process would not be applicable for this age group. An additional consideration is the new licensing requirement for childcare providers to ensure that all children in their care receive a developmental screening. This requirement becomes effective July 1, 2024 and will likely mean an increase in the number of children identified with special needs.

II. Establishment of a Special Needs Coordination Team

The team recommends the addition of a team of employees who would work with our partner agencies to complete the data matching. The team would be responsible for conducting the data match by either receiving monthly reports from DOE and Birth to Three or by having access to the agency databases in order to conduct the data matching. Additionally, the team would also be responsible for ensuring that the state is the payor of last resort by working with families to determine which funding streams such as private insurance and/or Local educational agency (LEA) is the responsible payor for the service, prior to tapping into POC funding. The team would also be responsible for assisting families and providers navigate the new process.

III. Recommendations for standard Special Needs provider pay schedule

The team recommends a tiered approach based on monthly data regarding special education state funded tier levels used by DOE. In this model providers would be reimbursed at a specific percentage above the base rate according to the identified level of a child's disability, e.g., providers would be reimbursed at 20% above the base rate for children identified at the basic level, 30% for children at the intensive level and 50% for children at the complex level. One consideration with the use of the tiered model is that the Birth to Three program does not specifically classify children based on levels of disability, therefore a separate reimbursement structure would need to be created for children in this age group. A possible solution would be to simply reimburse these providers at a flat rate above the base rate. These providers would also be able to request supplemental payments.

In consideration of the wide range of conditions that could result in a child receiving basic level special education services, members of the team recommended for basic services, that providers document the extra costs incurred to serve these children. The Special Needs Coordination Team will develop a simple provider reporting form to document provider costs. For those children for whom no additional services are needed or expenses incurred the provider would not be eligible for the basic level rate.

IV. Recommendation regarding extraordinary/excessive cost to providers

The team recommends the development of a process for providers to request a supplemental payment if they felt that the tiered reimbursement did not adequately cover their expenses. Providers would submit documentation (Special Needs Rate Request Form) of the additional expense to a resource mailbox to request approval for a supplemental payment. The Special Needs Administrator would manage this mailbox and approval process. When supplemental payments are requested, the Special Needs Coordinator would ensure that the state is the payor of last resort by working with families to determine which funding stream (such as private insurance and/or local LEA) might be the responsible payor for the service, prior to tapping into POC funding.

V. Cost Estimation

Some of the cost considerations include the following:

- A. **Additional provider reimbursement fees** – The division estimated these fees using the current level of POC monthly attendance and the New Castle County Child Care Center reimbursement rates based on 100% of the 75th percentile of the 2021 Market Rate. See Appendix A for details.

- a. **Estimated annual cost = \$3.5 million**

- B. **Supplemental Payments** – The division looked to estimate this cost based the idea that tiered reimbursement would suffice for most providers, however, some may require additional professionals such as Occupational or Physical Therapists, there

may be a need for specialized training or professional development for staff to accommodate a child's special need. Estimates for additional staff could be taken from the wage compensation scale developed by DOE and based on an hourly wage for these positions. These supplemental funds could be available upon request and until exhausted.

a. Estimated annual cost = indeterminable

C. Special Needs Coordination Team – The division estimated the need for approximately 3 full time employees to manage this work. These positions would come from the division's temp staff line item. This would include a Social Service Administrator (\$70,627.01) and 2 Senior Social Workers (\$62,137.13 x 2=\$124,247.46).

a. Estimated annual cost = \$194,874.47

D. System design/enhancements – This will be necessary to support the new policies and rate structure. The cost of these system changes are a rough estimate and could possibly cost more to implement.

a. Estimated cost = ~\$250,000

Budget	1 year
Provider payments	\$3,500,000
Special Needs Unit	\$194,874
*System Updates	\$250,000
Supplemental payments	Indeterminable
Total	\$3,944,874

VI. Implementation Timeline

Beyond the lack of funding in GRB, some considerations regarding implementation include initially having a legal review of the new policies and procedure to ensure compliance with state and federal law. The revised special needs policy and the new reimbursement rate regulations would need to be published through the Administrative Procedure Act (APA) process which includes a public comment period before they are finalized. This process takes several months. We would need to meet internally with our Information Systems Unit to discuss the feasibility of the desired enhancements and the timeframe necessary for completing them. We would need to meet with DOE and Birth to Three to develop/initiate the MOUs. This process could also take several months. We would need to development a marketing campaign or some way to engage stakeholders and families to alert them of the new process. This could be done over approximately 3 weeks holding virtual meetings, webinars, trainings, etc. And finally, DHSS would need to hire the team who will manage this work. As we are all now fully aware, most industries are finding it a challenge to secure an adequate complement of team members. DHSS is not immune to this concern. As we proceed with the outlined implementation timeline, we should keep this challenge in mind. However, we will aim to have the process finalized within the next 12 months.

Finally, the Division would like to sincerely thank the following people for their dedication and participation in this endeavor:

Belvie Herbert, Social Service Sr. Administrator, DSS
Jacqueline Bensel, Social Service Administrator, DSS
Linda Freeman, Social Service Administrator, DSS
Darlene Merrell, Management Analyst, DSS
Marilyn Brill, Administrative Specialist, DSS
Thomas Hall, Director, DSS
Betty Gail Timm, Director, Office of Childcare Licensing
Bill Doolittle, Volunteer Advocate for Children at Risk, and Federal Compliance for the Stakeholder Community
Bruce Orr
Caitlin Gleason, Associate Secretary, Early Childhood Support, Department of Education
Cindy Brown, education associate - early childhood support team, Department of Education
Dawn Alexander, Preschool Coordinator, Colonial School District
Eugenia Mumford, Jeans Love-N-Care Daycare
Georganne Buccine, Vice President of Youth Development, YMCA Delaware
Jaime Schneider, board president, Delaware Association for the Education of Young Children
Jennifer Johnson, Region III CCDF Systems Consultant
Jennifer Pulcinella, Chair, Infant and Early Childhood Committee, Governor's Advisory Council for Exceptional Citizens
John Fisher-Klein, Director, Office of Early Learning at the Delaware
Karen Hartz, Director, Early Childhood Services, Latin American Center
Kristina Horton, education associate, Department of Education
Lillian McCuen, Consultant with DOE
Madeleine Bayard, Delaware Early Childhood Council and Rodel
Mary Moore, Early Childhood Mental Health Administrator/Contractor, DSCYF
Melanie Thomas-Price, provider with A Leap of Faith Child Development Center, Subcommittee member Quality Childcare
Molly Cooley, Technical Assistance Liaison – Region III
Nicole Topper, Part C coordinator, Birth to Three Early Intervention Program, DPH
Pam Weir, Executive Director, Governor's Advisory Council for Exceptional Citizens (GACEC)
Rhonda Cannon-Tingle, Rhonda's Little Angel Daycare and Preschool, family childcare, Seaford, DE
Toni Dickerson, Center Administrator at Sussex Preschools and Chair of the Sussex County Providers Group

cc: Thomas Hall, Division Director, DSS
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Daniel Walker, Deputy Cabinet Secretary, DHSS
Belvie Herbert, POC Senior Administrator, DSS