

## DCF Policy #90-006

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## SLIDING FEE POLICY

Department *Regulation 110 CMR 4.08* provides that all Department services, with the exception of information and referral services and family planning services, may be subject to a sliding fee. The Department maintains that continued fiscal responsibility by the parent(s) in the provision of services to their children supports the goal of strengthening the family.

### POLICY

It is the policy of the Department to assess fees from parents and guardians (see definition at end) whose children:

1. are in Department care or custody and are placed in substitute care, or
2. are receiving services from the Department as a result of a Children in Need of Services (CHINS) proceeding.

The Department assesses a separate fee for each child who enters a substitute care placement or who receives services from the Department as a result of a Children in Need of Services (CHINS) proceeding.

The fee assessment process considers: (1) the parent or guardian's gross income, and (2) benefits and subsidies received by children who are placed in substitute care.

### **Determining Parent or Guardian Gross Income**

In determining parent or guardian gross income, the Department obtains information from the Massachusetts Department of Revenue and other government sources. Parent or guardian gross income includes but is not limited to: all wages (including those from self-employment); Social Security (Title II) benefits accruing to the parent or guardian; Dividends/Interest; income from estates or trusts, net rental income, royalties; Public Assistance or Welfare Benefits [Supplemental Security Income (SSI), General Public Assistance] accruing to the parent or guardian; Pensions and Annuities; Unemployment Compensation; Worker's Compensation; Alimony or Child Support; and Veterans Pensions. Parent or guardian gross income does NOT include SSI and Social Security (Title II) benefits received by a child or adoption or guardianship subsidies.

Parents and guardians whose gross income is at or below 150% of the federal poverty level are assessed no fees. Parents and guardians whose gross income exceeds 150% of the federal poverty level are assessed fees as follows:

- Income-based Portion of the Fee: Guardians are not assessed an income-based portion of the fee. Parents (including adoptive parents) are charged a specified amount based upon their gross income and family size as set forth in the sliding fee scale. The sliding fee scale is updated periodically and is applied statewide.
- Benefit-based Portion of the Fee (Substitute Care Only): Parents or guardians will be assessed a benefit-based amount as a portion of the fee if they receive one or more of the following for a child who has been placed in substitute care:
  - Supplemental Security Income (SSI) Benefits
  - Social Security (Title II) Benefits
  - Adoption Subsidy
  - Guardianship Subsidy

If the parent or guardian receives SSI or Title II benefits for the child, the Department requires her/him to pay an amount equal to 75% of the benefit as part of the fee. (See *Policy #84-007, SSI/Title II*)

**Policy)** If the parent or guardian receives an adoption or guardianship subsidy for the child, the subsidy is reduced by an amount equal to 75% of the subsidy.

In no case will the assessed fee exceed the Department's cost of providing services to the child.

The Social Worker is responsible for explaining to the family that a fee will be assessed. The actual computation, management and collection of the fee is handled by the Department's contracted revenue provider. Area Administrative Managers receive and maintain accounting information from the contracted revenue provider and provide information to Social Workers and families upon request.

The contracted revenue provider also maintains the capacity to respond to telephone and written inquiries from parent(s) and guardians as well as Department staff. The fee is reviewed at least quarterly, as updated income information is available through the automated income sources, and whenever review of the service plan results in a change in services. Waivers must be approved by the Regional Director.

## **PROCEDURES**

1. **Social Worker Informs the Parent(s) or Guardian.** The Social Worker informs the parent(s) or guardian that it is the policy of the Department to require parents and guardians whose gross income exceeds 150% of the federal poverty level to participate with the Department in the cost of providing services for their child(ren) under the following circumstances:

- the child(ren) is in Department care or custody and is placed in substitute care, **OR**
- the child(ren) receives services from the Department as a result of a CHINS proceeding.

The Social Worker explains to the parent(s) or guardian that a "Sliding Fee Assessment" form is developed from information obtained from the Department of Revenue and Department records. The "Sliding Fee Assessment" form and the "Sliding Fee Guidelines", which include the Department "Sliding Fee Scale", are mailed directly by the contracted revenue provider.

2. **Contracted Revenue Provider Prepares and Mails Sliding Fee Assessment Form.** The Office of Administration and Finance ensures that the contracted revenue provider receives the necessary Department information and financial information obtained from the Massachusetts Department of Revenue regarding eligible families. Within 10 working days after receiving the information, the contracted revenue provider completes the automated income determination process, prepares the parent(s) or guardian's individualized "Sliding Fee Assessment" form, and mails 2 copies of the form to the parent(s) or guardian, along with the "Sliding Fee Cover Letter", "Sliding Fee Guidelines" and "Sliding Fee Scale". The mailing also includes an advisory translated into the major Department consumer preferred languages stating that the documents are important and need to be translated immediately. The "Sliding Fee Assessment" form states the fee amount due from the parent(s) or guardian and provides for submission of corrected income information, for requesting a full or partial waiver of the fee, and for requesting a fair hearing.

**Waivers.** The parent(s) or guardian may apply for a full or partial waiver under the following circumstances:

- the imposition of the fee would create an extreme financial hardship, **AND/OR**
- the parent or guardian's actual and reasonable monthly expenses, which are directly attributable to the child in placement, exceed the 25% of the child's monthly SSI or Title II benefit (which is retained by the parent). The amount of such a waiver equals the amount by which the directly attributable reasonable expenses exceed the 25% figure.

The parent(s) or guardian requests the waiver by completing the relevant section of the second copy of the "Sliding Fee Assessment" form and returning the form to the contracted revenue provider.

3. **Parent(s) or Guardian Accepts Fee Assessment; Regional Director Approves Waivers.** If the parent(s) or guardian does not submit corrected information or request a waiver or a fair hearing within 30 calendar days after the "Date of Assessment" (as reflected on the bottom of the Sliding Fee Assessment form), the fee assessment is assumed to be in effect as of the date of placement or the date the child began to receive Department services as a result of a CHINS proceeding. The effective date is specified on the "Sliding Fee Assessment" form.

If the parent(s) or guardian requests a full or partial waiver, the contracted revenue provider sends the "Sliding Fee Assessment" form and attached documentation to the Regional Director for review and approval.

*If the waiver request is approved* in full or in part, the Regional Director signs the "Sliding Fee Assessment" form, uses "Notice to Parent(s) or Guardian Regarding Waiver" to notify the parent(s) or guardian of the approval, and ensures that the "Sliding Fee Assessment" form, attached documentation, and a copy of the notice are returned to the contracted revenue provider.

*If the waiver request is denied*, the Regional Director uses "Notice to Parent(s) or Guardian Regarding Waiver", to notify the parent(s) or guardian of the reasons for the denial, her/his right to request a fair hearing, and the procedures for doing so. The Regional Director ensures that the Sliding Fee Assessment form, attached documentation and a copy of the denial notice are sent to the contracted revenue provider.

4. **Documentation.** The contracted revenue provider sends a copy of the "Sliding Fee Assessment" form and copies of any notices received regarding a waiver request or fair hearing to the Social Worker for filing with the Service Plan in the case record.
5. **Payment.** The contracted revenue provider computes the fee on a daily rate basis and includes on the Sliding Fee Assessment form the information that payment is due monthly at the address noted. Payment is due on the last working day of the month following the month services were provided and is considered delinquent if not received by that date.
6. **Billing and Accounting.** The contracted revenue provider is responsible for sending bills to the parent(s) or guardian on the first working day of the month following the month services were provided and for maintaining accurate, updated Area and Regional accounts receivable ledgers.
7. **Delinquency Notices.** If the parent(s) or guardian fails to pay a fee by the date payment was due, the contracted revenue provider prepares a written delinquency notice and sends it to the parent(s) or guardian on the third working day of the next month. Copies of the delinquency notice are also sent to the Area Administrative Manager and Social Worker.
8. **Returned Checks.** The contracted revenue provider is responsible for depositing sliding fee checks. The parent(s) or guardian is informed in the Sliding Fee Guidelines that checks which are returned from the bank for any reason will result in a requirement that future payments be made by money order.
9. **Nonpayment and Termination.** If a parent(s) or guardian fails to pay the assessed fee after receiving 3 delinquency notices, the contracted revenue provider automatically refers the parent(s) or guardian for debt collection. In addition, the Department considers termination of services.

To determine whether services should be terminated, the contracted revenue provider provides information regarding the parent(s) or guardian's delinquency status to the Area Administrative Manager who then consults with the Supervisor and Area Program Manager. The decision to terminate services is made by the Area Director, in conjunction with her/his staff. The Area Director notifies the parent(s) or guardian, in writing, of the decision to terminate services and informs the parent(s) or guardian of her/his right to request a fair hearing.

10. **Fair Hearings.** A parent(s) or guardian may request a fair hearing by completing the appropriate section of the "Sliding Fee Assessment" form and sending it along with a letter, if desired, to the contracted revenue provider, within 30 calendar days after the date of notice of one of the following decisions:
  - the Department's determination that the parent(s) or guardian's gross income exceeds 150% of the federal poverty level for that size family unit or its computation of the fee;
  - the Department's decision to deny a parent(s) or guardian's request for a full or partial waiver of the fee or the parent(s) or guardian's disagreement with the amount of a partial waiver; or
  - the Department's decision to terminate services due to nonpayment.

If a parent(s) or guardian requests a fair hearing, services are not reduced or terminated until the fair hearing is held as long as the parent(s) or guardian continues to pay all assessed fees. If the issue for the fair hearing is whether parent or guardian gross income falls at or below 150% of the federal

poverty level, no fee is required pending the outcome of the fair hearing. If the issue for the fair hearing is denial of a request for a waiver or the amount of a partial waiver, then only the undisputed portion of the fee must be paid pending the fair hearing.

If the determination that the parent(s) or guardian's income is above 150% of the federal poverty level or the denial of the full or partial waiver is upheld at the fair hearing, the total fee is applied retroactively to the date the Sliding Fee Assessment became effective, and the parent(s) or guardian is responsible for paying past due amounts.

**Example:** Parent A is assessed a fee of \$250.00 per month for his child's placement. The parent requests and is denied a partial waiver of the fee in the amount of \$50.00. During the period prior to the fair hearing, the parent is required to pay a monthly fee of \$200.00, which is the undisputed portion of the total assessed fee. If the denial of the partial waiver of the fee is upheld by the fair hearing, and it has been 3 months since the fair hearing was requested, Parent A would owe the Department \$150.00 for the past due amount of the assessed fee.

## **DEFINITION**

### **Guardian**

For purposes of this policy, the definition of "guardian" found in Department Regulation 110 CMR 2.00 (25) is used: the individual, organization or agency which has been appointed guardian of the person by a Probate Court of the Commonwealth, in accordance with MGL c. 201, or a court of competent jurisdiction in another state.