

**OCFS Division of Child Care Services  
Amendments to Subsidy Regulations**

Paragraph (2) of subdivision (c) of section 404.1 of Title 18 NYCRR is amended to read as follows:

(2) The application process must [insure that]obtain all information, as prescribed by the department, which is necessary to establish eligibility[ is obtained]. The required information may be obtained verbally, in writing on department approved forms, or electronically from the WMS or other department system. Information obtained verbally must be recorded by the interviewer. All information must be verified by the applicant. When an applicant for social services is currently receiving [income maintenance]public assistance or medical assistance benefits, any relevant existing information, including, but not limited to service goals and living arrangements, which is available through the WMS or other department system, must be used to avoid a duplication of efforts in the collection of information.

Subdivision (j) of Section 415.1 of Title 18 NYCRR is amended to read as follows:

(j) Family share means the weekly amount paid by the child's caretaker toward the costs of the child care services determined in accordance with section 415.3[(f)](e) of this Part.

Subparagraphs (i) and (ii) of paragraph (1) of subdivision (o) of section 415.1 of Title 18 NYCRR are amended to read as follows:

(i) is working, on average, at least[ 20 hours per week] the minimum number of hours per week as specified by the Office, provided there is no physical or mental incapacity that limits the person to working less than[ 20 hours per week] the specified amount, and earning wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law for the type of employment; or

(ii) is self-employed and is able to demonstrate that the hours worked are, on average, at least[ 20 hours per week] the minimum number of hours per week as specified by the Office and such self-employment produces personal income equal to or greater than the minimum wage or has the potential for growth in earnings to produce such an income within one year.

Subdivision (ae) is added to Section 415.1 of Title 18 NYCRR to read as follows:

(ae) State median income means the most recent state median income data published by the Bureau of the Census, for a family of the same size, updated by the department for a family size of four and adjusted by the department for family size.

Subdivision (c) of Section 415.2 of Title 18 NYCRR is repealed in its entirety and replaced as follows:

(c) A social services district must provide recipients of services funded under the New York State Child Care Block Grant with such services for at least 12 months, except as provided in Section 415.2(d)(4).

Clause (a) of subparagraph (i) of paragraph (1) of subdivision (d) of Section 415.2 of Title 18 NYCRR is amended to read as follows:

(a) families with very low income. [Each social services district must establish in its consolidated services plan or integrated county plan an income level at or below 200 percent of the State income standard which will constitute the upper income level for families with very low income] Very low income is defined as an income level up to 200 percent of the state income standard;

Clause (a) of subparagraph (ii) of paragraph (1) of subdivision (d) of Section 415.2 of Title 18 NYCRR is amended to read as follows:

(a) Local priorities [may refine but can not] cannot replace the federally mandated priorities.

Clause (b) of subparagraph (ii) of paragraph (1) of subdivision (d) of Section 415.2 of Title 18 NYCRR is amended to read as follows:

(b) Local priorities may be based on one or a combination of factors[, including, but not limited to, household composition, reason for child care, and]. Local priorities established under the child care block grant cannot be based on income level.

Subparagraph (ii) of paragraph (3) of subdivision (d) of Section 415.2 of Title 18 NYCRR is amended to read as follows:

(ii) A social services district that has not established set asides must open a new case for an eligible family if the district has sufficient funding available to provide child care services to that family for the 12-month eligibility period at the time the family is determined to be eligible. If the district does not have sufficient funding available because all of the available funds are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee or place the family on a waiting list for subsidies.

Paragraph (4) of subdivision (d) of Section 415.2 of Title 18 NYCRR is amended to read as follows:

(4) Case closings.

(i) For New York State Child Care Block Grant funds, a social services district must provide services to recipients for the duration of the 12-month eligibility period unless:

(a) The recipient family's income exceeds 85 percent of state median income;

(b) The recipient family has experienced a non-temporary cessation in work or attendance at a training or education program;

(c) The recipient failed to agree to a reasonable plan for repayment or recovery of an overpayment or failed to comply with an agreed upon plan for repayment or recovery of an overpayment;

(d) The recipient has been convicted of or voluntarily admitted to fraudulently receiving child care assistance; or

(e) The recipient certified and attested to false information on the application for child care assistance and/or enrollment form or any attachment thereto.

(ii) For Title XX funds, once a social services district has committed all of the funds available to it, either through set asides approved in the district's consolidated services plan or integrated county plan and/or because all of the available funds are projected to be needed for open child care cases, the social services district may discontinue funding to those families which are not eligible for a child care guarantee that have lower priorities in order to serve families with higher priorities. If no priorities are established beyond the federally-mandated priorities and all funds are committed, case closings for families which are not eligible under a child care guarantee and are not a federally-mandated priority must be based on the length of time in receipt of services. The length of time used to close cases may be based either on the shortest or longest time receiving child care services but must be consistent for all families. The social services district must specify in its consolidated services plan or integrated county plan whether case closings will be based on the shortest or longest length of time receiving child care services.

Subdivision (a) of section 415.3 of Title 18 NYCRR is amended to read as follows:

(a) An applicant for child care assistance must apply, in writing, on forms and in a manner prescribed by the social services district in accordance with Part 404 of this Title. The social services district must permit the applicant to submit an application by mail, or other electronic means as approved by the Office. The caretaker with whom an eligible child or children lives is the applicant for such services.

Paragraph (1) of subdivision (e) of section 415.3 of Title 18 NYCRR is amended to read as follows:

(1) Each family receiving child care assistance[, except for a family where the parent(s) or caretaker relative(s) is receiving public assistance, a family experiencing homelessness, or when such assistance is provided to a child in foster care,] must contribute toward the costs of child care services by paying a family share based upon the family's income with the following exceptions: a family where the parent(s) or caretaker relative(s) is receiving public assistance, a family experiencing homelessness, when such assistance is provided to a child in foster care, when such assistance is provided to a child as a protective or preventive service, or when such assistance is provided to a child where the child care services unit is comprised of the eligible child(ren) only. However, [A]a family share [also] may be required of any family to recoup an overpayment for child care services [regardless of whether any member of the family is receiving public assistance].

Paragraph (7) of subdivision (e) of Section 415.3 of Title 18 NYCRR is amended to read as follows:

(7) The family share will be recalculated by the social services district whenever there is a change in income, household circumstances or child care provider that would [affect] decrease the amount of the family share, [or] when an overpayment for child care services has occurred and the recovery of such overpayment will be made through the family share, [but no less frequently than each] and at recertification.

Subdivision (g) of Section 415.3 of Title 18 NYCRR is amended to read as follows:

(g) The child's caretaker is responsible for responding to and providing documentation requested for an investigation, audit, or program review by a social services district, the Office, or other authorized agency to verify the accuracy and completeness of information on the application including, but not limited to, household circumstances, need for child care, and compliance with the caretaker's responsibilities under this section. The caretaker's failure to respond to or comply with requests for documentation constitutes an appropriate basis for the social services district to deny an application for child care assistance or to close the child care assistance case in accordance with 415.2(d)(4).

Subparagraph (iv) of paragraph (1) of subdivision (a) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(iv) a recipient's responsibility for notifying the social services district immediately of any change in financial circumstances that puts the family income over 85 percent of the state median income, living arrangements, employment, household composition, child care provider or other circumstances that affect the family's need or eligibility for child care services;

Paragraph (4) of subdivision (a) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(4) If an application for child care assistance is approved, the social services district must send written notice to the applicant for child care services, in accordance with section 404.1(f) of this Title. The notice must include: the determination of eligibility for child care services; the family share to be paid by the applicant, if required; the effective date(s) of such family share and the family share payment procedures which must be followed; the period for which child care assistance is authorized; the name of the worker or unit responsible for case management and the telephone number; a statement regarding the continuing responsibility of the applicant or recipient to report any change in his or her status that would impact their continued eligibility; the right of the recipient to accept or reject the service; and the applicant's right to a fair hearing in accordance with Part 358 and section 404.1(f) of this Title.

Paragraph (1) of subdivision (b) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(1) Continuing eligibility for child care services must be redetermined [as often as case factors indicate, but no less frequently than] every 12 months and when case factors indicate that redetermination could be beneficial to the family by reducing family share or increasing subsidy; provided, however, that a social services district may not require the submission of a new application merely because the applicant is no longer eligible for public assistance or no longer eligible for a child care guarantee. The district must establish procedures to enable families to keep their child care services without interruption as long as the families remain eligible for such services including procedures to transfer families from one unit of the district to another when necessary.

(2) All factors concerning need and eligibility for child care services must be reconsidered, reevaluated and verified during redeterminations. The periodic redeterminations conducted by the social services district do not eliminate the responsibility of a recipient of child care services to report to such district any change in financial circumstances that puts the family income over 85 percent of the state median income, living arrangements, child care arrangements, employment,

household composition or other circumstances that affect the family's need or eligibility for child care services.

Paragraph (3) of subdivision (c) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(3) The child care services provided must be reasonably related to the hours of employment, education or training of a child's caretaker, as applicable, and permit time for delivery and pick-up of the child. In the event the caretaker is no longer engaged in their approved activity during the 12-month eligibility period, the child care services must continue unless the recipient family has experienced a non-temporary cessation in work or attendance at a training or education program or experienced other circumstances set forth in 415.2(d)(4). Child care services must be provided, if needed, to enable an employed caretaker who works non-traditional hours to obtain up to eight hours of sleep if they have a child who is under the age of 6 and not in school for a full day. Child care services may be provided, if needed, to enable other employed caretakers who work non-traditional hours to obtain up to eight hours of sleep if the social services district indicates in its Child and Family Services Plan that it will provide such services.

Subparagraph (iii) of paragraph (8) of subdivision (e) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(iii) implement the process for closing child care cases[ for families other than those guaranteed child care assistance in accordance with 415.2(a)(1) of this Title, when the district has committed all available funds, whether through set asides approved in its Child and Family Services Plan and/or because all of the available funds are projected to be needed for open child care cases].

Paragraph (9) of subdivision (e) of Section 415.4 of Title 18 NYCRR is amended to read as follows:

(9) When a social services district implements the process for closing child care cases for families [other than those guaranteed child care services in accordance with 415.2(a)(1) of this Title because the district has committed all available funds, whether through set asides approved in its Child and Family Services Plan and/or because all of the available funds are projected to be needed for open child care cases], the district must:

(i) ...

(ii) ...

Subdivision (b) of Section 415.6 of Title 18 NYCRR is repealed and replaced as follows:

(b) Reimbursement for payment on behalf of children who are absent from child care is subject to the following conditions:

(1) The provider rendering the child care services must be duly licensed, registered, or enrolled to provide child care services.

(2) Reimbursement for absences from child care must be paid up to 24 days per year.

(3) Reimbursement for absences from child care may be paid up to 80 days per year. The social services district must specify in its Child and Family Services Plan whether it opts to make absence payments above 24 days and, if applicable, the total maximum number of absences and for which providers such payments will be made.

(4) The social services district must also specify in its contract or written agreement with, or through written notice to, all providers the maximum number of absences for which payment is allowable.

(5) Reimbursement is not available for a day a child is absent from care if the provider ordinarily charges the caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives subsidized child care from a different provider on the same day.

Subparagraph (i) of paragraph (2) of subdivision (c) of section 415.13 is amended to read as follows:

(i) Any legally exempt group or legally exempt non-relative family child care provider who elects to administer medication must prepare a health care plan on forms furnished by the Office. Such plan must protect and promote the health of children. The health care plan must be on site, followed by all staff and available upon demand by a caretaker or the Office. The health care plan must also be approved by the provider's health care consultant unless the only medications to be administered are:

(a)...

(b)...

Subdivision (i) of section 415.13 of Title 18 NYCRR is added:

(i) Additional requirements for enrollment.

(1) An application for enrollment will only be accepted by the Office when the applicant submits the minimum threshold of information as required by Office policy. An application sent to the Office that does not meet the minimum threshold will not be accepted and will be returned to the applicant. Once an application has been accepted, all additional required information must be submitted no later than 30 days. Failure to submit all required information within the required timeframes shall be considered a withdrawal of the application.

(2) An email address for the provider or other person designated to receive communications from the Office is required on all enrollment applications. If the applicant is unable to provide at least one valid email address, the applicant must provide a valid mailing address for the provider or other person designated to receive written communications from the Office.