



Office of Children and Family Services

Kathy Hochul
Governor

52 WASHINGTON STREET
RENSSELAER, NY 12144

Sheila J. Poole
Commissioner

Administrative Directive

Transmittal:	21-OCFS-ADM-30
To:	Commissioners of Social Services
Issuing Division/Office:	Division of Child Care Services
Date:	November 24, 2021
Subject:	Changes to Child Care Subsidy Regulations: Parts 404 and 415
Suggested Distribution:	Directors of Social Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff Temporary Assistance Staff
Contact Person(s):	Child Care Subsidy Policy Unit, ocfs.sm.districtsupport.subsidy@ocfs.ny.gov
Attachments:	<ul style="list-style-type: none"> • <i>CFSP Amendment Request</i> • <i>OCFS-LDSS-4779, Approval of Your Application for Child Care Benefits</i> • <i>OCFS-LDSS-4780, Denial of Your Application for Child Care Benefits</i> • <i>OCFS-LDSS-4781, Notice of Intent to Change Child Care Benefits and Family Share Payments</i> • <i>OCFS-LDSS-4782, Notice of Intent to Discontinue Child Care Benefits</i> • <i>OCFS-LDSS-4784, Approval of Your Redetermination for Child Care Benefits</i> • <i>OCFS-LDSS-4785, Approval of Your Transitional Child Care Benefits</i> • <i>OCFS-LDSS-7009, Notice of Child Care Assistance Overpayment and Repayment Requirements</i> • <i>OCFS-LDSS-7010, Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan</i> • <i>OCFS-LDSS-4788, Notice of Evaluation of Child Care Benefits – No Change</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-INF-07, 20-OCFS-ADM-17, 19-OCFS-ADM-19,		18 NYCRR Parts 358, 404 and 415	SSL 34-a(9), 410-u, 410-w, and 410-x(6)		

16-OCFS- LCM-03, and 05-OCFS- ADM-03					
--	--	--	--	--	--

I. Purpose

The purpose of this Administrative Directive (ADM) is to inform local social services districts (districts) of changes to Title 18 of the official compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR) Parts 404 and 415, regarding the provision of child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act. This ADM also informs districts of a new client notice and several revised client notices that must be used by districts to provide notification to families about actions related to their child care subsidy benefit as required by Sections 34-a(9) and 410-w(8) of the Social Services Law (SSL) and 18 NYCRR parts 358, 404, and 415.

II. Background

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES) was signed into law. With the passage of CARES, New York State received \$163.6 million in emergency relief for child care. On December 27, 2020, the Consolidated Appropriations Act, 2021, including the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA), 2021, was signed into law. With the passage of CRRSA, New York State received an additional \$468.8 million in supplemental Child Care and Development Block Grant (CCDBG) funding and emergency relief for the child care system. On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law. ARPA also included multiple types of funding to support the child care industry, including funding for CCDBG as well as funding for COVID-19 child care relief and stabilization. ARPA provided New York State with an additional \$1.9 billion in total child care funding. New York State is using a portion of the available federal funding to expand child care assistance funded by the NYSCCBG. The New York State budget for State Fiscal Year 2022 also includes funding to support these changes, as well as the legislative authority for the New York State Office of Children and Family Services (OCFS) to implement federal requirements from CCDBG. These revisions also allow OCFS to obligate and liquidate funds allocated to the NYSCCBG, in accordance with timelines under CARES, CRRSA, ARPA, and New York State budget appropriations.

To achieve compliance with CCDBG and support legislative changes, OCFS is adopting new regulations which districts must come into compliance with starting December 1, 2021. With this ADM, OCFS is providing an overview of the regulatory changes and guidance for the implementation of such.

Changes made to 18 NYCRR Parts 415 and 404 allow OCFS to implement statutory requirements pursuant to CCDBG and the New York 2022 Fiscal Year Enacted Budget.

III. Program Implications

Regulatory changes are in the following areas:

Definitions

- State Median Income (SMI)

18 NYCRR Part 415.1(ae) is a new regulation that defines SMI as the most recent SMI data published by the United States Bureau of the Census for a family of the same size. OCFS will update the SMI annually following guidance from the Administration for Children and Families for the Low-Income Home Energy Assistance Program (LIHEAP) to calculate SMI for each family size. The SMI will be updated by OCFS annually, and the effective date of such update will coincide with the updating of the state income standard (SIS) on June 1. The SMI and 85% of the SMI levels for each family size, valid through May 31, 2022, are shown below.

Family Size	NYS SMI (100%)	85% NYS Annual SMI
1	\$54,585.44	\$46,397.62
2	\$71,380.96	\$60,673.82
3	\$88,176.48	\$74,950.01
4	\$104,972.00	\$89,226.20
5	\$121,767.52	\$103,502.39
6	\$138,563.04	\$117,778.58
7	\$141,712.20	\$120,455.37
8	\$144,861.36	\$123,132.16
9	\$148,010.52	\$125,808.94
10	\$151,159.68	\$128,485.73
11	\$154,308.84	\$131,162.51
12	\$157,458.00	\$133,839.30
13	\$160,607.16	\$136,516.09
14	\$163,756.32	\$139,192.87
15	\$166,905.48	\$141,869.66
16	\$170,054.64	\$144,546.44
17	\$173,203.80	\$147,223.23
18	\$176,352.96	\$149,900.02
19	\$179,502.12	\$152,576.80
20	\$182,651.28	\$155,253.59

- Engaged in Work

The definition of “engaged in work,” per 18 NYCRR Part 415.1(o)(1), was revised to remove the minimum 20 hour per week work requirement for persons who are not in receipt of TA or are not certified foster parents. To meet the definition of engaged in work, an applicant/client must work, on average, a minimum number of hours per week as specified by OCFS. At this time, OCFS has determined that this amount will be 10 hours per week. All other aspects of this definition remain unchanged.

- Very Low Income

18 NYCRR Part 415.2(d)(1)(i)(a) was amended to define “very low income” as a family income level of up to 200% SIS. Each district may no longer define “very low income” at a level below 200% SIS in its Child and Family Services Plan (CFSP).

- Local Priorities

Districts maintain the ability to establish local priorities in the CFSP. However, regulatory changes to 415.2(d)(1)(ii) preclude districts from refining or replacing federally mandated priorities, including very low income, with a local priority. Additionally, local priorities established under the NYSCCBG cannot be based on income.

Program Implications for Cases Funded Under NYSCCBG

- **12-Month Eligibility**

Pursuant to the federal CCDBG Act of 2014, regulatory changes were made to facilitate the implementation of 12-month eligibility for child care assistance regardless of a temporary change in the ongoing status of the child's parent as working or attending a job training or educational program, or a change in family income as long as that family's income does not exceed 85% of SMI for a family of the same size.

Districts may only redetermine a recipient's continued eligibility when case factors indicate that a redetermination could be beneficial to the family by reducing the family share or increasing subsidy, a change has occurred which might bring the family over the eligibility threshold of 85% SMI, or at redetermination. Any income-based family share can only be decreased or remain stable during the 12-month eligibility period.

The 12-month eligibility period begins with the subsidy start date, which, once approved, can be backdated as far as the date the application was received, including when the family is using an enrolled legally exempt provider. Once the case is approved, there cannot be a change in the eligibility period unless the case meets one of the case-closing criteria listed in 18 NYCRR 415.2(d)(4). If there is a change or lapse in activity other than a non-temporary cessation in work or attendance at a training or education program, the family must still receive child care as authorized for the remainder of the 12-month eligibility period.

When opening cases, districts must assess that funding is available for the entirety of the 12-month eligibility period. If sufficient funding to authorize child care for the entire 12-month eligibility period is not available, the case may be denied at the initial eligibility determination if the family is not eligible for a guarantee. If the case is approved and opened, it cannot be closed due to a lack of funding prior to the end of the 12-month eligibility period. Insufficient funding is no longer an acceptable reason for case closing. The 12-month eligibility period only applies to cases funded under the NYSCCBG. Cases for child care services funded by Title XX of the federal Social Security Act remain eligible for case closure due to a lack of funding.

When a child, who is currently authorized for child care services, turns 13 years old; or turns 18 years old and is a child with special needs or is under court supervision; or turns 19 and is a child with special needs or is under court supervision who is a full-time student in a secondary school, or in an equivalent level of vocational or technical training, the child remains eligible through the end of the 12-month eligibility period. Other provisions for child care services for children age 13 or older with special needs outlined in 20-OCFS-ADM-17, *Child Care Subsidy for Children Age 13 or Older with Special Needs*, remain unchanged.

The 12-month eligibility period applies to all cases funded under the NYSCCBG, including temporary assistance (TA) cases, Child Care in Lieu of TA cases, transitional child care cases, and protective cases. Such cases are still required to provide 12 months of child care services, even when the family's eligibility for other benefits or services ends and the associated case is closed.

- Case Closure

18 NYCRR Part 415.2(d)(4), regarding non-voluntary case closings, is amended to specify when districts must close cases. For child care services funded under the NYSCCBG, a district must provide services to recipients for the duration of the 12-month eligibility period with the following exceptions:

- the family's income exceeds 85% of SMI,
- the family has experienced a non-temporary cessation in work or attendance at a training or education program,
- 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,
- the recipient has been convicted of or voluntarily admitted to fraudulently receiving child care assistance, or
- the recipient certified and attested to false information on the application for child care assistance and/or enrollment form or any attachment thereto.

OCFS's stand regarding a temporary cessation is as required by federal rule, which includes, but is not limited to, any cessation of work or attendance at a training or education program that does not exceed three months; any interruption in work for a seasonal worker who is not working between regular industry work seasons; any student holiday or break for a parent participating in training or education; any reduction in work, training or education hours, as long as the parent is still working or attending training or education. Any cessation in work or attendance at a training or education program that exceeds these time frames is considered to be a non-temporary cessation. When a parent's or caretaker's average weekly hours falls below the required hours to be considered "engaged in work", but the parent or caretaker is still working, this is considered to be temporary cessation and the case must remain open and assistance must be continued unchanged. If the parent or caretaker fails to meet the definition of "engaged in work" consistently for three consecutive months, the parent or caretaker is considered to be experiencing a non-temporary cessation of work as they do not meet programmatic eligibility criteria and the case must be closed in accordance with 415.2(d)(4).

Cases can be closed for failure to respond to requests for documentation that is necessary in connection with an investigation audit, or program review.

- Reporting Requirements

Districts must not impose unnecessary documentation requirements on families. Regulatory amendments to 18 NYCRR Part 415.4 clarify that families are only required to report changes in financial circumstances that put the family's income over 85% SMI. Families continue to be required to notify the district of any change in living arrangements, employment, household composition, child care provider or other circumstances that affect the family's need or eligibility for child care services.

18 NYCRR 415.3(g) was revised to clarify that the caretaker's failure to respond to or comply with requests for documentation in connection with an investigation, audit, or program review, constitutes an appropriate basis to close the child care assistance case in accordance with 18 NYCRR 415.2(d)(4).

- Family Share

Once a child is deemed eligible, family share will only be recalculated by the district

- during the 12-month eligibility period if there is a change in household circumstances that will *decrease* the amount of family share,
- at any time when an overpayment has occurred and the recovery of the overpayment will be made through an additional payment by the family, and
- at redetermination at the end of the 12-month eligibility period.

Family share cannot be increased during the 12-month eligibility period. This limitation applies to families that are initially determined exempt from paying a family share who experience a change in the circumstances that made them exempt (e.g., families receiving Temporary Assistance (TA) when they transition to receiving low-income child care assistance – during the 12-month child care eligibility period – and families experiencing homelessness who are no longer homeless). In such instances, families who were exempt from paying a family share for their child care assistance will continue to be exempt from paying a family share through the remainder of their 12-month eligibility period for child care. This also applies to families whose child care assistance case type changes during the eligibility period. For example, for families in receipt of child care in lieu of TA who transition to receiving low-income child care assistance during the 12-month eligibility period, the family share cannot be increased for the remainder of the 12-month eligibility period.

Implications for Cases Funded Under Either NYSCCBG or Title XX

- Absences

18 NYCRR Part 415.6(b), regarding district reimbursement for payments on behalf of children who are temporarily absent from child care, is repealed and replaced with new requirements. This section of the ADM replaces the section pertaining to children's absences in 05-OCFS-ADM-03, *Child Care Subsidy Program*.

Required payment for absences. Districts must pay for up to 24 absence days per child per provider per year, regardless of the reason for the absence or contract status of the provider. The provider must be duly licensed, registered, or enrolled. If a child is provided care by multiple providers in one year, each provider is entitled to up to 24 absences, as needed. Districts may not stipulate payment for less than 24 absences in their contracts with providers unless the district has an approved waiver.

Optional payment for absences. Districts may choose to pay for an additional 1 to 56 absence days per year (for a total of 25 to 80). Each district must specify in its CFSP whether it opts to make absence payments above the required 24 days per year, and if so, the number of absence days that will be paid and which providers are eligible for such payments. If a district opts to pay for more than the required 24 absences, the district may limit payments for the additional absences by the provider's contract status, the type of child care provided, or the child's reason for absence from care. Districts that choose to limit the extra absences must apply the standards consistently. The number of additional absences must also be counted per child per provider, as applicable. For example, if a district elects to pay for five absences in addition to the mandated 24, but limits the additional absences to contracted providers only, if a child attends two contracted providers, each is eligible for reimbursement for up to 29 absences, as needed. If the child attends a contracted and a non-contracted provider during the year, the contracted provider

will be eligible for reimbursement for up to 29 absences, and the non-contracted provider will only be eligible for up to 24 absences, as needed.

In order to be paid for any absences, the provider must

- be an eligible provider per 415.1(g);
- require payment for absences from families who are not receiving a child care subsidy, as well as those who are receiving a subsidy; and
- be open and available to provide care on the day the child is absent.

Reimbursement is not available for a day a child is absent from care if the provider ordinarily charges the caretaker a daily or part-day rate 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.

The per year limit for absences will be applied based on the state fiscal year of April 1 to March 31. Each district must specify in its contract or written agreement with, or furnish written notice to, all providers, the maximum number of absences for which payment is allowable.

- Applications Submitted by Other Approved Electronic Means

18 NYCRR Part 415.3(a) was revised to clarify the existing requirement pertaining to the acceptance of applications for child care services. This amendment requires districts to accept applications submitted by mail as well as other electronic means, as approved by OCFS. Other approved electronic means include facsimile, electronic mail, or online applications. Districts were previously advised in 20-ADM-12, *Implementation of the Electronic LDSS-2921*, that districts outside New York City must accept applications for child care services through the E-2921 through myBenefits.

- Family Share Exemptions

18 NYCRR Part 415.3(e)(1) was revised to expand the groups of families that are exempt from the requirement for families to pay an income-based family share toward the cost of child care services. The following have been added to the category of families who are exempt from the income-based family share requirement:

- when such assistance is provided to a child as a protective or preventive service, and
- when such assistance is provided to a child and the child care services unit is comprised of the eligible child(ren) only.

However, a family that is exempt from paying a family share may be required to make a payment to recoup an overpayment for child care services, in accordance with existing policies.

- Waivers

Pursuant to 18 NYCRR 415.10, a district may request a waiver of any regulatory provision not established in statute. The waiver request must be submitted to the Office prior to implementation and included in the county CFSP.

- Other Regulatory Changes with No Anticipated Impact on Districts

Several regulatory changes pertaining to the enrollment of legally exempt child care providers were made to 18 NYCRR Part 415.13, including

- clarification that relative-only legally exempt providers and non-relative in-home legally exempt providers that elect to administer medication are not required to prepare a health care plan,
- clarification of additional requirements and time frames for enrollment as a legally exempt child care provider, and
- requirement that all applicants for enrollment as legally exempt providers are required to provide an email address for themselves or another person designated to receive communications from OCFS on the enrollment application. If the applicant is unable to provide at least one valid email address, they are required to provide a valid mailing address for themselves or another person designated to receive written communications from OCFS.

These changes are anticipated to have no implications for the routine administration of the NYSCCBG funds by districts. Other regulatory changes include a clarification of 18 NYCRR Part 404.1(c)(2) and the correction of a regulatory citation in 18 NYCRR Part 415.1(j).

IV. Required Action

Engaged in Work

Districts must apply the new definition of “engaged in work” to all applications and redeterminations that are currently in process. Although no retroactive application of this definition is required, districts may encourage applicants who were previously ineligible under the prior rule to reapply for services under the new standard.

Very Low Income

Each district defining “very low income” at a level below 200% SIS in its CFSP must amend their CFSP to apply the new definition.

Local Priorities

Districts currently refining federally mandated priorities, or defining local priorities established under the NYSCCBG based on income must amend their CFSP to comply with the updated requirements for local priorities.

12-Month Eligibility

Districts must comply with 12-month eligibility on December 1, 2021, as follows:

- (1) For a family applying for child care services, the district must apply the 12-month eligibility period, including all applicable regulatory changes.
- (2) For a family who applied for child care services prior to implementation, but the case determination is made after implementation the district must apply the 12-month eligibility period, including all applicable regulatory changes.
- (3) For a current recipient who was authorized for child care services prior to implementation, the eligibility period provided at determination will still apply. If such family reports a change in circumstances, the district must apply the new regulations to any changes in circumstances reported. This includes, but is not limited to, case closure rules and family share calculations.

When a case type changes during the 12-month eligibility period, the district must have procedures to enable families to keep their child care services without interruption as long as families remain eligible for such services, including procedures to transfer families from one unit of the district to another. Districts may need to revise existing procedures to comply with the 12-month child care eligibility requirement, but this does not waive the district's responsibility for transferring cases. When information is not available to determine if the family has been granted a full 12-month child care eligibility period, districts are obligated to act in the benefit of the family. It is at the district's discretion to authorize up to an additional 12 months of child care services to ensure that the family receives a full 12-month eligibility period. When this happens, the family share must not be increased.

When a family notifies the district that they are moving to a new district within the State, the district must provide the contact information for the new district and notify the family that their 12-month eligibility period will continue. The district of origin must continue to provide child care assistance in accordance with 18 NYCRR 415.4(d) and notify the new district of the family's eligibility and the end date of the 12-month eligibility. The receiving district must then authorize child care assistance for the family for the remainder of the 12-month eligibility period unless the family meets one of the case-closing criteria listed in 18 NYCRR 415.2(d)(4). If the family was exempt from paying an income-based family share, one may not be implemented during the additional 12-month eligibility period. If the family was required to pay an income-based family share, the amount of the family share may not be increased during the additional 12-month eligibility period.

Redetermination of Eligibility

Districts must redetermine a recipient's continued eligibility only when case factors indicate that a redetermination could be beneficial to the family by reducing the family share or increasing subsidy; when case factors indicate that a change has occurred, which might bring the family over the eligibility threshold of 85% SMI or be considered a non-temporary break in work, education, or training activity; and at recertification.

Districts must not reduce the 12-month eligibility period when redeterminations are made during the 12-month period, unless one of the case closure criteria is met. Districts must continue any decrease in family share or increase in subsidy through the remainder of the current 12-month eligibility period. Districts must complete a full redetermination when a child is born or otherwise joins the family's child care services unit such that a redetermination could be beneficial to the family by increasing subsidy. If a district determines that a family's income does not exceed 200% SIS, the district must give the family a new 12-month eligibility period since the new child is programmatically eligible for a full 12-month eligibility period. If a district determines a family's income is above 200% SIS and below 85% SMI, the district must add the child to the case and authorize child care services for the remainder of the current 12-month eligibility period. If the family is above 85% SMI, the district must close the case because the family is no longer eligible to receive child care services.

Absences

Districts must reimburse all licensed, registered, or enrolled providers caring for a child in receipt of child care subsidy for up to 24 absence days per child per provider per year, regardless of the reason for the absence or contract status of the provider. Districts must amend their CFSP to reflect any additional absences they elect to pay above the mandatory 24, as described below.

Applications Submitted by Other Approved Electronic Means

Districts may choose to accept applications through facsimile, email, and/or an online application, however, at least one of these electronic methods must be made available to potential applicants upon request in addition to the option to submit an application by mail. When an application is submitted

through one of the approved electronic methods, such applications are to be considered the original application equivalent to submitting a hard copy application by mail or in person. Applicants who have submitted their applications by electronic means must not be required to provide an original hard copy as a routine practice. However, if any electronically submitted application is illegible, it is appropriate for the district to follow up to attain clarification for any illegible information, as the district would with a hard copy submission. If an application is received via facsimile or email, the district must print the cover page to document the date of receipt for auditing purposes. These requirements apply to both initial applications and redeterminations.

Family Share Exemptions

Districts must review all currently authorized cases in receipt of child care assistance to determine any impact the new regulations have on the family share calculation. Reviews must take place as soon as possible, but no later than the next case action. Districts must calculate payments to accurately reflect the family share exemption and refund the family any family share paid between December 1, and the review date. Whenever the amount of child care benefits changes, districts must provide recipients with adequate notice as required by 18 NYCRR 358-2.2(a).

Child and Family Services Plan

Districts must amend their CFSP to revise district options in accordance with regulatory changes including changes to priority populations, case closings, and absences. In order to expedite amendment submission and approval, OCFS has streamlined the amendment process. Districts must complete the attached *Required 2021 CFSP Amendment* and submit it to OCFS within 30 days of the issuance of this ADM. Districts must amend any other section of their county plan that will be inconsistent with the new regulations using the “other” section on the attached amendment. Districts may email the attached *Required 2021 CFSP Amendment* to ocfs.sm.districtsupport.subsidy@ocfs.ny.gov. The *Required 2021 CFSP Amendment* will replace corresponding sections of the district’s approved 2021 APU. OCFS will post the approved *Required 2021 CFSP Amendment*, by district, on the OCFS website at <https://ocfs.ny.gov/programs/childcare/plans/>.

V. Client Notices

This ADM includes revised versions of eight client notices that reflect the regulatory changes pertaining to 12-month eligibility and family share:

- OCFS-LDSS-4779, *Approval of Your Application for Child Care Benefits* (Rev. 10/2021)
- OCFS-LDSS-4780, *Denial of Your Application for Child Care Benefits* (Rev. 10/2021)
- OCFS-LDSS-4781, *Notice of Intent to Change Child Care Benefits and Family Share Payments* (Rev. 10/2021)
- OCFS-LDSS-4782, *Notice of Intent to Discontinue Child Care Benefits* (Rev. 10/2021)
- OCFS-LDSS-4784, *Approval of Your Redetermination for Child Care Benefits* (Rev. 10/2021)
- OCFS-LDSS-4785, *Approval of Your Transitional Child Care Benefits* (Rev. 10/2021)
- OCFS-LDSS-7009, *Notice of Child Care Assistance Overpayment and Repayment Requirements* (Rev. 10/2021)
- OCFS-LDSS-7010, *Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan* (Re. 10/2021)

A new client notice, OCFS-LDSS-4788, *Notice of Evaluation of Child Care Benefits – No Change*, has been developed and attached herein. Below are descriptions of changes and when districts must use the form.

- **Attachment B – OCFS-LDSS-4779 (Rev.10/2021)**, *Approval of Your Application for Child Care Benefits*, must be used by the district when a new application for child care benefits has been approved. The district must show how the family share was calculated in the family share portion of the form and indicate in the child care benefits portion of the form if the child care benefits will be paid to the parent or provider. The effective dates of the child care benefits must also be included on the notice. This notice was revised to notify recipients of which families are exempt from paying a family share and to reflect changes to recipient responsibilities.
- **Attachment C – OCFS-LDSS-4780 (Rev.10/2021)**, *Denial of Your Application for Child Care Benefits*, must be used by the district when a new application for child care benefits has been denied at initial application. The district must select one or more of the denial reasons listed on the form. This notice was revised to reflect changes to priority populations. Since Very Low Income is defined as 200% SIS, references to “SSD Priority Level” were replaced with 200% SIS. Additionally, the option to deny a case was removed for situations when the family’s income exceeds the percentage of the SIS up to which the district has chosen to open cases. If cases are denied because funding is not available to fund the case for the entirety of the 12-month eligibility period, districts must select “due to insufficient funding the district is not opening cases at this time.”
- **Attachment D – OCFS-LDSS-4781 (Rev. 10/2021)**, *Notice of Intent to Change Child Care Benefits and Family Share Payments*, must be used by the district when there is a decrease in family share or inclusion of an additional payment amount, change in child care provider, and/or increase in benefits. This notice was revised to notify recipients of which families are exempt from paying a family share.
- **Attachment E – OCFS-LDSS-4782 (Rev. 10/2021)**, *Notice of Intent to Discontinue Child Care Benefits*, must be used by the district when the district intends to end the child care benefit, either during the 12-month eligibility period or at redetermination. This notice was revised to reflect changes in regulation regarding case closings, income eligibility levels at redetermination and during the 12-month eligibility period, and priority populations. A new option was added as a reason for discontinuance to reflect the different income eligibility levels during the 12-month eligibility period and at redetermination. Districts must select the applicable check boxes if discontinuing services during the 12-month eligibility period or at redetermination. Additional information has been incorporated to the addendum to explain the difference in eligibility levels. Additionally, the income chart included in the addendum includes fields for both eligibility levels for a family size of 1 to 20.

Districts are encouraged to provide families with as much notice as possible; however, the district must still provide a minimum 10-day notice when discontinuing a child care benefit, regardless of reason for case closure. The district must continue to give any impacted family a minimum of a 30-day written notice when it intends to reduce eligibility by amending its CFSP or implements the process for closing child care cases funded under Title XX, as described in its approved CFSP. When closing cases funded under Title XX due to lack of funding, districts must so indicate in the “other” option for reason for case closure.

- **Attachment F – OCFS-LDSS-4784 (Rev. 10/2021)**, *Approval of Your Redetermination for Child Care Benefits*, must be used by the district when an application for child care benefits has been approved at redetermination. This notice was revised to include additional types of families exempt from paying a family share and changes to recipient responsibilities. This form must be used at redetermination or when a family reports the addition of a new child to the

case and the family has been determined eligible for a new 12-month authorization because the income is less than 200% of the SIS.

- **Attachment G – OCFS-LDSS-4785 (Rev 10/2021)**, *Approval of Your Transitional Child Care Benefits*, must be used by the district when a family is no longer TA eligible and was in receipt of child care services while in receipt of TA or child care in lieu of TA, and is determined to be eligible for the transitional child care guarantee. This notice was revised to reflect changes to recipient responsibilities. The family share calculation field has been amended to include all types of families excluded from paying a family share. If a family is determined to be no longer eligible for TA at any time during the 12-month eligibility period, other than at the 12-month redetermination, a family share cannot be imposed or increased. Therefore, this field must only be completed if a family is at the end of a 12-month child care eligibility period and is starting a new 12-month child care eligibility period while transitioning off TA or child care in lieu of TA. In this situation, the district must show how the family share was calculated in the family share portion of the form and indicate if the child care benefits will be paid to the parent or provider in the benefits portion of the form. The effective dates of the child care benefits must also be included on the notice.
- **Attachment H – OCFS-LDSS-7009 (Rev. 10/2021)**, *Notice of Child Care Assistance Overpayment and Repayment Requirements*, was revised to differentiate between income-based family share payments and other payments imposed by the district to recoup an overpayment.
- **Attachment I – OCFS-LDSS-7010 (Rev. 10/2021)**, *Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan*, was revised to differentiate between income-based family share payments and other payments imposed by the district to recoup an overpayment.
- **Attachment J – OCFS-LDSS-4788 (10/2021)**, *Notice of Evaluation of Child Care Benefits – No Change*, must be used when a family reports a change in circumstances and there is no change in their child care benefit, when a family's case type is changing but there is no change in benefits, and when a district proposes to implement an amendment that will reduce the family's eligibility and/or increase family share at the next redetermination. If a family reports a change that does not affect eligibility but would decrease their benefit or increase family share, no changes may be put into effect. Districts must notify families that the change in circumstances has been evaluated and that there will be no change in benefits. When a family's TA, child care in lieu of TA, or protective case is closing, but the family still has time left in their 12-month child care eligibility period, districts must issue this notice to notify families of the continued benefits. If the changes are reported to the district as part of the 12-month eligibility redetermination process, this form is not used. Instead, the district must provide appropriate notice regarding the eligibility determination based on the information provided.

Notification must include detail of the benefits for which the child(ren) are currently authorized and specify the authorization end date. The district must show how the family share was calculated in the family share portion of the form and indicate if the child care benefits will be paid to the parent or provider in the benefits portion of the form. Districts must issue this notice as soon as possible, but no more than 30 days after the evaluation was completed. In cases where this notice is issued to notify the family of changes in the CFSP that will reduce eligibility for, or increase the family share percentage of, families receiving child care services, the district must provide the family at least 30-day written notice prior to redetermination or the implementation of the changes, whichever is later.

If a district wishes to use local equivalents of the required client notice forms listed in this ADM, such forms must be approved by the Division of Child Care Services (DCCS) prior to their use by the district. Any previously approved local equivalents of the client notices must be revised and resubmitted for approval to DCCS prior to their continued use by the district.

VI. Systems Implications

Welfare Management System (WMS)

Districts may need to open a new case in WMS to continue providing child care services through the end of the 12-month child care eligibility period when an associated TA, child care in lieu of TA, and/or protective case ends.

Processing child care services in WMS for families in receipt of TA

When authorizing child care payments for eligible families applying for or receiving TA, a district may use either the DSS-3209, *IM/WMS Authorization*, or the DSS-2970, *WMS/Services Authorization*. For case type 40, services cases, the Service Type Suffix Code value "S" designates child care services funded under the NYSCCBG for TA applicants/recipients and reimbursed at 75% federal and state share up to the district's allocation ceiling. While it is not required, OCFS recommends authorizing child care services in WMS on a services case separate from the TA case. Districts who continue to use the DSS-3209 to authorize child care for TA families through a non-services case are responsible for monitoring the differing length of eligibility periods for TA and child care and continuing child care payments through the full 12-month child care eligibility period, as required even if the family loses TA eligibility and the TA case is closed, unless the family meets case closure criteria for child care assistance. Districts that choose to process child care assistance for families applying for or receiving TA through a case type 40 services case with an "03S" direct service code will be able to track the child care 12-month eligibility period more easily. In such instance, as the family loses TA eligibility, the services case will remain open for the remainder of the 12-month period with the Service Type Suffix Code changed from "S" to "R" so that reimbursement is at 100% federal and state share up to the district's allocation ceiling.

Processing child care services in WMS for protective cases

The WMS portion of a protective case may be connected to a child welfare case set up in CONNECTIONS. When the child welfare case is closed in CONNECTIONS, the associated WMS case is automatically closed. In such cases, districts must open a new services case in WMS to continue the child care services through the end of the 12-month eligibility period.

WMS, WMS Error Guide, and Services Coding Guide have been updated to reflect the following:

- 12-Month Eligibility at Initial Eligibility and Redetermination
 - For determining initial eligibility and eligibility at redetermination after 12 months of child care services eligibility, income may not exceed 200% of the SIS and will be compared to the percentage of the state income standard listed in the Title XX Matrix in WMS. When changes are entered in WMS during the 12-month eligibility period, income will be compared to 85% SMI.
 - Error codes have been created for 02, 05, and 06 transaction types with a Direct Service (DIR) of 03R and 03S to force a 12-month authorization period.
- Family Share
 - To support waiving of family share, when child care services are provided as a protective or preventive service, cases with a DIR of 03R and a DIR of 17, 25, or 26, will not calculate the family share.

- Several new DIRs have been created to accommodate the need to exempt families from paying an income-based family share in certain situations.
 - DIR “XP” must be used for cases with protective or preventive services that are entered in WMS only and do not have a CONNECTIONS case. This new DIR will be a “phantom” DIR that will exempt the case from the family share requirement. No POS lines are allowed under the new DIR. 03R must still be used as the DIR to write POS lines, as such reporting will not be affected.
 - DIR “XO” must be used when child care assistance is provided to a child and the child care services unit is comprised of the eligible child or children only. This new DIR is a “phantom” DIR that exempts the case from the family share requirement and no POS lines are allowed under the new DIR. 03R must still be used as the DIR to write POS lines and reporting will not be affected.
 - DIR “XT” must be used when the family share is waived for TA cases that have closed and are now transitional child care cases or have been authorized as low-income child care cases during the remainder of the child care assistance eligibility period following the closure of the TA case. Family share cannot be increased for the remainder of the 12-month eligibility period. Since the family was exempt from paying a family share while the family had child care authorized as a TA recipient, the family share exemption must continue through the end of the 12-month eligibility period, including following the family’s TA case closure, regardless of whether this is a transitional child care case or a low-income case. Districts must use the new DIR for this and remove this DIR at the end of the initial 12-month eligibility period. 03R must still be used as the DIR to write POS lines and reporting will not be affected.

Child Care Time and Attendance (CCTA)

For districts that use CCTA to process child care subsidy payments, some modifications to CCTA have been made to support these regulatory changes. In other instances, guidance is provided for using the system as is to process cases with the required regulatory changes. Additional guidance will be made available after the release of this ADM through emails with CCTA district users and by contacting the Controltec Support Desk.

- State median income has been added to the Administration, Eligibility Levels window as well as the percentage for eligibility determinations during 12-month eligibility period, 85% SMI. Further, when opening a family’s record in CCTA and navigating to the Family, Eligibility Levels window, the chart will show the calculation of 85% SMI for the family size of that case. It is the caseworker’s responsibility to know when to apply the different income eligibility levels for determining the appropriate case action.
- Family Share
CCTA has not yet been modified to automatically apply the family share exemptions for the new categories of families who are exempt from paying a family share. At this time, districts that use CCTA have two options for issuing accurate payments. Districts may manually adjust the payment amount to reflect the family share of \$0, or districts may generate a new client notice that does not have a family share fee assigned to any of the authorizations/children. Essentially, no family share will be attached to the case in CCTA. When payments are subsequently calculated, CCTA will not deduct a family share from the payment amount.
- Absences
CCTA has been modified to allow all provider types to be paid for absences. Up to 24 recorded absences per child per state fiscal year (April 1 to March 31) will be paid for all provider types for all districts. Districts that choose to pay for more than the minimum required 24 absences per year must appropriately set up CCTA so that such additional absences are paid by setting

up an Attendance group for the additional absences and setting up Absent in provider's profiles who may be paid additional absences.

- Program Closures
Districts that use CCTA to process child care subsidy payments must apply program closures using the state fiscal year, aligning the application of program closures with that of absences.

VII. Additional Information

A full version of 18 NYCRR 415 can be found on the OCFS website.

<https://ocfs.ny.gov/programs/childcare/regulations/>

The revised and new client notices (OCFS-LDSS-4779, OCFS-LDSS-4780, OCFS-LDSS-4781, OCFS-LDSS-4782, OCFS-LDSS-4784, OCFS-LDSS-4785, OCFS-LDSS-7009, OCFS-LDSS-7010, OCFS-LDSS-4788) are available in English on the OCFS intranet and internet websites at the following links:

<http://ocfs.state.nyenet/admin/forms/BECS/>

<https://ocfs.ny.gov/main/documents/docsChildCare.asp>

The notices will soon be made available in Arabic, Bengali, Chinese, French, Haitian Creole, Italian, Korean, Polish, Spanish, Yiddish, and Russian. Hard copies of the client notices in English and Spanish will be available for order 30 days from the release of this ADM. To request hard copies:

- Complete form OCFS-4627, Request for Forms and Publications, which can be found at the same website. Once completed, mail the OCFS-4627 form to the following address:

New York State Office of Children and Family Services
Forms and Publications Unit
52 Washington Street, Room 116 South Bldg.
Rensselaer, NY 12144-2834

OR

- Call the OCFS Forms Hotline: (518) 473-0971

The revised and new client notices will soon be made available for use in CCTA and the OTDA Imaging Electronic Document Retrieval Intelligent Autofill System.

VIII. Effective Date

Districts must come into compliance with the requirements of the regulations including the use of the revised client notices by December 1, 2021.

/s/ Janice Molnar

Issued by:

Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services