



Office of Children and Family Services

Kathy Hochul
Governor

52 WASHINGTON STREET
RENSSELAER, NY 12144

Sheila J. Poole
Commissioner

Local Commissioners Memorandum

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Contact Person(s):	Melinda Denham, 518-402-6785 Melinda.Denham@ocfs.ny.gov ocfs.sm.districtsupport.subsidy@ocfs.ny.gov
Attachments:	Attachment A: <i>Child Care Market Rates</i> Attachment B: OCFS-6060, <i>Child Care Provider Attestation of Costs Form</i>

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to advise local social services districts (LSSDs) of regulatory changes pertaining to payment for child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX), which were filed with the New York State Department of State as an emergency rule making on June 1, 2022. The emergency regulations take effect June 1, 2022. These changes will be reflected in Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Part 415, and include the removal of hourly rates, a new definition of special needs payment rate, and the issuance of market rates in policy instead of regulation. This LCM also provides LSSDs with the new market rates and the special needs percentage that must be used for the calculation of child care assistance payments for services received on or after June 1, 2022. Finally, this LCM revises the guidance on how subsidy-only providers can demonstrate that their costs of providing child care are higher than their current payment rates, and issues a new form for this purpose, OCFS-6060, *Child Care Provider Attestation of Costs Form*.

II. Background

Federal and New York State law require the state to establish payment rates for child care assistance that are sufficient to ensure equal access to child care services for eligible children, as compared to children not eligible for assistance [42 USC §9858c(c)(4)(A); New York State Social Services Law (SSL) §410-x(4)]. Federal regulation requires that payment rates be based on the results of the most recent market rate survey or an approved alternative methodology [45 CFR §98.45(f)(2)(i)]. While

federal regulations do not require states to set payment rates at the 75th percentile of their most recent market rate survey, the federal Office of Child Care continues to emphasize the importance of the 75th percentile as a benchmark for ensuring equal access for families with child care assistance, and further states that rates set above the 75th percentile may be necessary to afford access to high quality care for children. New York's market rates were previously set at the 69th percentile of the survey conducted in 2017-18. However, the New York State Fiscal Year 2022-2023 Enacted Budget appropriated funds to, among other things, increase the market rates for child care assistance to the 80th percentile of the most recent survey.

OCFS partnered with the Human Services Call Center (HSCC) to conduct a telephone survey of a random sample of licensed and registered child care providers from across the state, as well as group day care programs in New York City issued permits by the NYC Department of Health and Mental Hygiene. Prior to conducting the telephone survey, a letter was sent to all those providers to inform them that they might be included in the sample of providers called to participate in the market rate survey. A copy of the questions accompanied the letter so that providers could prepare their responses in advance of their possible participation in the survey. OCFS also sent an email to providers with addresses on file to announce the launch of the survey, and to remind them, periodically, about the continuation of the survey and to encourage participation. From September 2021 through February 2022, the HSCC conducted the telephone survey in English, Spanish and had resources available to assist providers in other languages. In March of 2022, providers were emailed a link to the survey and invited to complete the survey online. Market rate data was collected from approximately 4,500 providers.

State law requires the New York State Office of Children and Family Services (OCFS) to establish market-related payment rates for child care services (SSL §410-x(4)). The market rates must consider the variations in costs of providing child care in different settings and to children of different age groups as well as the additional cost of providing child care to children with special needs.

Market rates are currently established in five groupings of LSSDs. Prior to conducting the 2022 survey, the composition of these five groupings was reassessed. No changes were made to the groupings from 2018. OCFS analyzed the survey data for each of the five distinct groupings of LSSDs. Market-related payment rates (market rates) were then established at the 80th percentile for each LSSD grouping by modality of care, age group, and rate type (weekly, daily, or part-day).

Federal regulation requires that payment practices reflect generally accepted payment practices, including paying on a part-time/full-time basis rather than paying for hours of service or smaller increments of time, such as per hour [45 CFR 98.45(l)(3)(i)].

III. Program Implications

Actual Cost of Care

Payments for child care services under the NYSCCBG and under Title XX must be only for the actual cost of care, up to the applicable market rate in Attachment A. The actual cost of care is as follows:

- for care provided pursuant to a contract between the LSSD and the provider, the payment rate set forth in the contract; or
- for care provided in instances other than pursuant to a contract between the LSSD and the provider, the amount charged to the general public for equal care in that facility or home.

However, if the facility or home cares only for children in receipt of child care assistance, then the actual cost of care is the amount the provider is currently receiving from the LSSD for such children, unless the provider can demonstrate to the LSSD that the actual cost of providing care to such children is higher than that amount, as detailed below.

LSSDs may negotiate contracts with individual providers. The negotiated payment rates may be the same as or lower than the rates charged to families not in receipt of child care assistance. Even though the negotiated rate may be less than the usual charge to families not in receipt of child care assistance, the negotiated rate is considered the actual cost of care for those child care services provided under a contractual agreement between the LSSD and the provider.

A contract cannot be made a condition of receiving payment under the NYSCCBG.

LSSDs should be in regular contact with providers, at a minimum of once a year, regarding their payment rates. Providers must be allowed to update their payment rates on record with the LSSD as often as their private pay rates change.

Determining Actual Cost of Care for Providers Without a Contract Who Care Only for Children in Receipt of Child Care Assistance

If a provider cares only for children receiving child care assistance, and does not have a contract with the LSSD, then the actual cost of care is the rate the provider currently receives from the LSSD. However, if a provider can demonstrate that the actual costs of providing care for such children are higher than the amount the LSSD is currently paying the provider, then that provider may request a higher payment rate from the LSSD. Providers must be allowed to demonstrate their higher costs by completing the OCFS-6060, *Child Care Provider Attestation of Costs Form*. This form replaces the guidance on “Determining Actual Cost of Care for Providers Without a Contract Who Care Only for Subsidized Children” from 19-OCFS-LCM-23 *Child Care Market Rates 2019*.

Determining the Applicable Market Rate

The LSSD must consider at least the following factors when selecting the applicable market rate for child care services: the location of care, the type of provider, the age of the child, and the duration of care.

Additional factors affecting payments may apply when care is provided to a child with special needs, to a family experiencing homelessness, during nontraditional hours, in excess of a weekly or daily period, or by a program that is accredited.

1. Location of care

Whenever child care services are provided by a provider located outside the LSSD that authorizes child care assistance, the LSSD must make payments based on the actual cost of care, up to the applicable market rate for the county where care is provided. The same standard applies to care provided in another state. The LSSD must make payments based on the actual cost of care, up to the applicable maximum child care services payment rate for the locality where care is provided, applying New York State rules for calculating payments as necessary. For example, a toddler is in full time care for 40 hours per week in a licensed day care center in New Jersey. The provider charges \$300 per week, but the weekly maximum rate established by New Jersey for this age and modality is \$312 per week. The provider is paid \$300 per week.

2. Type of Provider

The applicable market rate is selected based on the type of child care that is provided. The types of care that are eligible for child care assistance payments are:

- a. **Licensed, registered, permitted day care centers** - The maximum payment rate for care provided by licensed or registered day care centers is the applicable market rate for day care centers. This includes group day care programs located in New York City that are issued permits by the New York City Department of Health and Mental Hygiene.
- b. **Registered family day care homes** - The maximum payment rate for care provided by registered family day care homes is the applicable market rate for family day care homes.
- c. **Licensed group family day care homes** - The maximum payment rate for care provided by licensed group family day care homes is the applicable market rate for group family day care homes.
- d. **Registered school-age child care programs** - The maximum payment rate for care provided by registered school-age child care programs is the applicable market rate for school-age child care programs.
- e. **Enrolled legally exempt group child care programs** - The maximum payment rate for care provided by caregivers of legally exempt group child care programs as defined in 18 NYCRR section §415.1 is the applicable market rate for legally exempt group child care programs.
- f. **Enrolled legally exempt informal child care providers** - The maximum payment rate for care provided by informal legally exempt family child care and legally exempt in-home child care providers as defined in 18 NYCRR §415.1 is the applicable market rate for informal child care providers.

Note: All legally exempt child care providers — including legally exempt group child care programs and informal child care providers — must be enrolled by the legally exempt caregiver enrollment agency before payment is made.

3. Age of Child

Market rates differ according to the age of the child. The age categories differ for center-based child care (licensed or registered day care centers, registered school-age child care programs, and legally exempt group child care programs) and home-based child care (registered family day care, licensed group family day care, and informal child care). Only two age categories apply to school-age child care programs and legally exempt group child care: 3 years through 5 years and 6 years through 12 years. The age categories are the following:

- a. Under 1 ½ years (center-based) or under 2 years (home-based)
- b. 1 ½ years through 2 years (center-based) or 2 years (home-based)
- c. 3 years through 5 years

d. 6 years through 12 years

When a change in a child's age results in their movement from one age category to another, the new market rate limit must be applied at the beginning of the first full month following such a change.

For legally exempt group child care programs, a 2-year-old child is considered to be in the 3 years through 5 years market rate age category if the child is at least 2 years of age at the beginning of the school year but will turn 3 years of age on or before the applicable calendar date for which a child must be at least 5 years of age to be eligible for admission to school.

4. Duration of Care

Market rates also differ according to the number of hours of care needed. The LSSD must apply the appropriate market rate as defined below unless a child care provider has signed a purchase of service contract or other written agreement with the LSSD for payment on a different basis. To determine if care is provided for 30 or more hours over the course of five or fewer days in a single week, LSSDs must use Monday as the start of the weekly period.

a. **Weekly** – The LSSD must apply the weekly market rate when child care services are provided for **30 or more hours over the course of five or fewer days in a single week**.

b. **Daily** – The LSSD must apply the daily market rate when child care services are provided for **less than 30 hours over the course of five or fewer days in a single week and for at least six but less than 12 hours per day**.

Some providers routinely charge private pay parents a daily rate for child care services provided for 30 or more hours over the course of five or fewer days in a single week. The daily market rates do not apply for children receiving child care assistance in those instances. The LSSD must apply the weekly market rates divided by five.

c. **Part-day** – The LSSD must apply the part-day market rate when child care services are provided for **less than six hours per day**.

Note: With this policy, effective June 1, 2022, there are no longer hourly market rates for child care services payments.

Care in Excess of a Weekly or Daily Market Rate Period

When child care services provided by a single provider exceed one weekly or daily market rate period and the provider routinely charges an additional rate for these additional periods, payment for child care services must be based on the actual cost of care up to the applicable market rate. If care is provided for six or seven days in a week, then an additional market rate would apply for the sixth and/or seventh day. If care is provided for 12 hours or more in a day, then an additional market rate (daily or part-day) would be applied for the amount of time over 12 hours. When determining the appropriate market rate, LSSDs must use Monday as the start of the weekly period.

An example of care in excess of a daily market rate period is as follows: a provider, whose normal operating hours are 7 a.m. to 5:30 p.m., cares for a child from 7 a.m. to 11 p.m. (16 hours) per day, Monday through Friday, and charges an additional amount for care after 5:30 p.m. In this example, the

maximum payment available is one weekly market rate plus five part-day rates. One weekly market rate applies since care is provided for 30 or more hours over the course of five or fewer days in a single week. Since care is provided for 12 or more hours per day, five part-day market rates also apply for the four additional hours of care above the 12 hours per day provided from 7 p.m. to 11 p.m., Monday through Friday.

Another example of care in excess of a weekly market rate period is as follows: a provider, whose normal operating hours are Monday through Friday 7 a.m. to 5:30 p.m., cares for a child from 9 a.m. to 5 p.m. (8 hours) per day, Monday through Friday, and from 7 a.m. to 11 a.m. (4 hours) on Sunday and charges an additional amount for care on the weekend. In this example, the maximum payment available is one weekly market rate plus one part-day market rate. One weekly market rate applies because care is provided for 30 or more hours for the five-day period Monday through Friday. Because care is provided for a sixth day in the week, one part-day market rate applies for the four hours of care on Sunday.

Care Provided for 24 Hours in a Day

LSSDs have the option to pay for child care services that are needed for 24 hours in a single day. Reimbursement is available to the LSSD if the LSSD has selected this option in its Child and Family Services Plan.

When a single provider provides child care services for 24 hours in a day, the LSSD must determine if care is provided for 30 or more hours over the course of five or fewer days in a single week. Then, the LSSD must evaluate whether the care provided is in excess of a weekly or daily market rate period. Payment for the child care services must be based on the actual cost of care up to the applicable market rate.

An example of 24-hour care that leads to a total amount of care in excess of 30 or more hours over the course of five or fewer days in a single week is as follows: a provider, whose normal operating hours are Monday through Friday 7 a.m. to 5:30 p.m., cares for a child from 12 a.m. on Monday to 12 a.m. on Tuesday (24 hours) and from 9 a.m. to 5 p.m. (8 hours) per day, Tuesday through Friday. The provider also charges an additional amount for care after 5:30 p.m. In this example, the maximum payment available is one weekly market rate plus one daily market rate. One weekly market rate applies since care is provided for 30 or more hours during Monday through Friday. One daily market rate also applies because care is provided for 12 or more hours per day on Monday.

Care Provided by Multiple Providers

Where child care services are provided by multiple providers, reimbursement will be made for the actual cost of such services up to the applicable market rate for each provider used. However, if the combined reimbursement to the multiple providers would exceed one weekly market rate, then to receive such reimbursement, the parent or caretaker must demonstrate that their schedule of employment, or other approved activity, or the special needs of the child necessitate that child care services be arranged with multiple providers. If the LSSD determines that the parent or caretaker has not demonstrated that there is a necessity to use multiple providers, reimbursement is limited to the one weekly market rate that is applicable for the type of provider who provides care for the highest number of hours. The LSSD will determine how to distribute the reimbursement for the multiple providers.

If the LSSD determines that the parent or caretaker has demonstrated that there is a need to use multiple providers when the combined reimbursement to the multiple providers would exceed one

weekly market rate, reimbursement will be made to each provider for the actual cost of such services up to the applicable market rate for each provider. For example, a provider cares for a child from 7:30 a.m. to 4:30 p.m., Monday through Friday. Another provider cares for that child from 6 p.m. to 9:30 p.m. on Tuesday and Thursday. The maximum payment available is one weekly market rate for the first provider and two part-day market rates for the second provider.

Market Rates for Qualifying Children With Special Needs

The market rate for a child determined to have special needs is 115% of the market rate that would otherwise apply to such a child based on the child's age, location of care, type of care, and rate type (in other words, the applicable market rate plus 15% is the market rate for a child with special needs that meets the qualifying criteria). To qualify for the special needs market rate, the parent or caretaker must demonstrate to the LSSD that the special needs of the child require additional child care related services beyond that which is generally required by children of a similar age and the total cost of providing child care services exceeds the market rate that would otherwise apply. The special needs market rate is not a differential like the non-traditional hours, homelessness, or accredited differentials. Rather, if a child qualifies for a special needs rate, that is the market rate for that child. If that child also qualifies for one or more differentials, then the total differential percentage is applied to the special needs market rate.

The special needs market rate is established when the parent or caretaker provides the LSSD with documentation of qualifying diagnoses by a physician, licensed, or certified psychologist or other professional with the appropriate credentials to make such diagnosis and documentation that the child is incapable of caring for himself or herself and requires child care services beyond that which is generally required by children of similar age within the child care setting. Examples of acceptable documentation include, but are not limited to, documents from appropriate professionals such as documentation from early intervention as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development and adaptive or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delays may be considered appropriate documentation. An Individualized Education Plan (IEP) from the child's school may provide acceptable documentation of special needs when it is based on the opinions of appropriate professionals. The caretaker may work in conjunction with the provider to receive documentation that their child requires more intensive child care services than other children in care.

For a child with special needs, receiving child care services located in another state, the LSSD must apply an additional 15% to the payment rates that apply to the location of care, i.e. the other state's child care subsidy payment rates for that location.

Standard and Enhanced Market Rates for Informal Child Care Providers

The standard market rates for informal child care providers are 65% of the market rate established for registered family day care. The enhanced market rate for informal child care providers is 70% of the market rates established for registered family day care.

The enhanced market rate is available for providers of informal child care who have demonstrated to the enrollment agency that they have completed ten or more hours of training annually in the areas set forth in section 390-a(3)(b) of the Social Services Law.

The enrollment agency will inform the LSSD of the providers who have been verified to have completed 10 or more hours of training. When the LSSD is notified by the enrollment agency that an informal child care provider has completed 10 or more hours of training, then the provider is eligible to receive the enhanced market rate for a period of 12 consecutive months. The LSSD must increase the payment amount to the enhanced market rate no later than the beginning of the first full month after the LSSD has been notified that the provider completed the 10 hours of training. The LSSD must send the required notice, OCFS-LDSS-4781, *Notice of Intent to Change Child Care Benefits and Family Share Payments*, to the parent/caretaker. The provider remains eligible to receive the enhanced market rate for a period of 12 consecutive months, even if there is a gap in the family's child care subsidy or if the child care subsidy ends and the provider begins providing care for a different subsidized child during the 12-month period. In order to continue to receive the enhanced market rate beyond the 12-month enhanced rate eligibility period, the provider must complete an additional 10 or more hours of training and submit documentation to the enrollment agency. The enrollment agency will notify the LSSD if the provider has completed an additional 10 or more hours of training.

An LSSD has the option, if it so chooses in the child care portion of its Child and Family Services Plan, to increase the enhanced market rate for eligible informal child care categories up to 75% of the applicable registered family day care market rate.

The standard and enhanced market rates for informal child care providers are included in Attachment A. Only the enhanced market rate calculated at 70% of the registered family day care market rate is shown in Attachment A, not the LSSD option to set the enhanced market rate at a higher level, up to 75% of the registered family day care market rate.

Standard and Enhanced Market Rates for Legally Exempt Group Child Care Programs

The standard market rates for legally exempt group child care programs are 75% of the market rates established for licensed or registered day care centers.

LSSDs may establish one or two enhanced market rates for eligible legally exempt group child care programs for meeting enhanced requirements: *enhanced market rate-health* and *enhanced market rate-training* (see 18-OCFS-ADM-10 for further details on the enhanced requirements). If the LSSD chooses to establish an enhanced market rate for eligible legally exempt group child care programs, then the LSSD must indicate the rate and percentage in its Child and Family Services Plan. Each enhanced market rate may be established up to 81% of the applicable market rate for day care centers. When an LSSD establishes both enhanced market rates, the LSSD must apply the appropriate market rate or rates when calculating payments for each legally exempt group child care program.

When a legally exempt group child care program is eligible for both enhanced market rates, then the enhanced market rate that the LSSD applies when calculating payments must be based on the percentages selected for each individual enhanced market rate, up to a maximum of 87% of the applicable market rate for day care centers.

Payments to enrolled legally exempt group child care programs must be only for the actual cost of care, up to the applicable market rate, whichever is less. When a legally exempt group child care program is eligible for an enhanced market rate or rates that the LSSD has specified in its Child and Family Services Plan, those rates are the applicable market rates.

Legally exempt group child care programs may be eligible for an enhanced market rate or rates and at the same time be eligible for one or more differential payment rates set forth below. In such instances,

the differential is applied to the provider's actual cost of care or the applicable enhanced market rate(s), whichever is less. Payment made to legally exempt group child care programs must not exceed 100% of the applicable market rate for day care centers.

Differential Payment Rates

There are three possible differential payment rates: care during nontraditional hours, care for children experiencing homelessness, and nationally accredited programs (see below and 17-OCFS-LCM-05 for further details). Differential payment rates apply to the actual cost of care or the applicable market rate, whichever is less.

1. Nontraditional Hours

LSSDs must pay eligible child care providers a differential payment rate of at least 5% above the actual cost of care or the applicable market rate, whichever is less, for child care during non-traditional hours: evening, night, or weekend hours. Non-traditional hours are defined as child care provided before 6 a.m. or after 7 p.m. during Monday through Friday, any hour during Saturday and Sunday, and any hour during the following federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

LSSDs may choose to establish differential payment rates that are greater than 5% and not to exceed 15% above the actual cost of care or the applicable market rate, whichever is less, for eligible child care providers for child care services that are provided during non-traditional hours. LSSDs may establish a differential rate for non-traditional hours provided by legally exempt child care providers as well as by licensed/registered providers.

If the LSSD chooses to set a differential payment rate for care during non-traditional hours that exceeds the 5% minimum differential, then the LSSD must indicate that rate in its Child and Family Services Plan.

2. Children Experiencing Homelessness

LSSDs must pay validly licensed or registered child care providers a differential payment rate of at least 5% above the actual cost of care or the applicable market rate, whichever is less for child care provided to a child experiencing homelessness. LSSDs may choose to establish differential payment rates that are greater than 5% and not to exceed 15% above the actual cost of care or the applicable market rate, whichever is less, for licensed or registered child care providers for child care services that are provided to a child experiencing homelessness.

LSSDs may establish differential payment rates for child care services provided to a child experiencing homelessness by legally exempt child care providers, up to 15% above the actual cost of care or the applicable market rate, whichever is less. There is no required minimum amount for legally exempt providers.

If the LSSD chooses to set a differential payment rate for care provided to a child experiencing homelessness that exceeds the 5% minimum differential for licensed or registered providers or any differential payment rate for legally exempt child care providers, then the LSSD must indicate those rates in its Child and Family Services Plan.

3. Nationally Accredited Programs

LSSDs may establish differential payment rates for child care services provided by validly licensed or registered child care providers that have been accredited by a nationally recognized child care

organization. Nationally recognized organizations that provide accreditation to licensed/registered child care providers include the National Association for Education of Young Children (NAEYC), National Association for Family Child Care (NAFCC), and National School Age Child Care Association (NSACCA).

Legally exempt child care providers are **not** eligible for the differential payment rate for nationally accredited programs.

If the LSSD chooses to set a differential payment rate for licensed or registered child care providers for accreditation, then the LSSD must indicate that rate in its Child and Family Services Plan and that rate must be at least 5% and no more than 15% above the actual cost of care or the applicable market rate, whichever is less.

Providers Qualifying for More Than One Differential Payment Rate

A child care provider may qualify for multiple differential payment rates for the care of a particular child. To calculate the payment, all differential payment rates for which the provider qualifies are added to calculate a total differential payment rate, up to a maximum of 25% of the actual cost of care or the applicable market rate, whichever is less.

LSSDs may request a waiver from OCFS to establish a total differential payment rate that is above the 25% maximum. The LSSD waiver request must show that the 25% maximum is insufficient to provide access within the LSSD to child care providers who are eligible for multiple differential payment rates.

IV. System Implications

Welfare Management System (WMS)

This LCM has no Welfare Management System (WMS) implications.

Child Care Time and Attendance (CCTA)

This LCM has implications for users of the Child Care Time and Attendance (CCTA) system. CCTA is currently used by LSSDs outside of New York City only. The new market rates were updated automatically in CCTA with an effective date of June 1, 2022. When calculating payments on or after June 1, 2022, CCTA will automatically compare the calculated payments to the appropriate market rates based on the date upon which child care services were received, not the date when the payment is being calculated. Special needs rates are specific to the provider and must be updated on an individual basis by the LSSD.

System changes are under development to correctly calculate payments in the absence of an hourly rate and a statewide special needs rate. Once such changes have been deployed, LSSDs outside of New York City will be notified about the changes and instructions for any required actions when processing cases and payments. In some instances, LSSDs may need to update individual provider and/or case records.

If an informal child care provider becomes eligible for an enhanced market rate and the LSSD uses CCTA to calculate payments, the LSSD must make several updates in the system so that payments will be calculated accurately. The LSSD must update the provider's type of care to include the suffix

ENH for Enhanced in the provider type of care window, provider profile window, and any authorizations. Choosing the Enhanced type of care tells CCTA to compare payment calculations based on the provider's rates to the enhanced market rates, instead of the standard market rates. If the informal child care provider's rates are the same as the standard market rates, then the LSSD must change the provider's rates to the enhanced market rates for the provider's payment to change.

If the LSSD chooses to offer an enhanced market rate for eligible informal child care categories that is greater than the 70% enhanced market rate and an informal child care provider becomes eligible for an enhanced market rate, the LSSD must calculate payments using the enhanced rate as indicated in its Child and Family Services Plan. CCTA will not automatically calculate an enhanced market rate for informal child care providers above the 70% enhanced market rate. The LSSD must take appropriate steps to accurately calculate and/or adjust such payments outside of CCTA.

If the LSSD establishes one or both optional enhanced market rates for legally exempt group child care programs, CCTA will not automatically calculate an enhanced market rate for these programs. The LSSD must take appropriate steps to accurately calculate and/or adjust such payments outside of CCTA, until such time as system changes are made to support the enhanced legally-exempt group market rates.

V. Required Actions

All previous market rates are superseded by those published in this issuance.

LSSDs are required to use these market rates when determining the payment amounts for services provided on or after the effective date of the emergency rulemaking. LSSDs must review all currently authorized cases to determine that payment is authorized for the actual cost of care up to the applicable market rate. Reviews must take place as soon as possible, but no later than the next case action or redetermination, whichever comes first.

Recipients of child care assistance that have paid for child care costs in excess of the previous market rate after the effective date of the new market rates are eligible for an increased payment from the LSSD if the new applicable market rates have increased (their actual child care charges up to the new market rate). For example, a parent who has been paying an amount in excess of the previous market rates as of January 1, 2022, would only be eligible for the increased amount as of June 1, 2022. Parents who have documented out-of-pocket payments for the excess cost must be reimbursed for the out-of-pocket payment up to the new market rates effective June 1, 2022.

Where the new market rates have increased from the previous market rates, providers who can provide documentation of the cost of care to private pay families in excess of the previous market rates are eligible for an increased payment from the LSSD (their actual child care charges for private pay families, up to the new market rates). The increased payment is effective the date the provider begins charging the increased rate, but no earlier than June 1, 2022. For example, a provider who has been charging private pay families an amount in excess of the previous market rates as of January 1, 2022, would only be eligible for the increased payment amount as of June 1, 2022. However, if the provider increased the rate for private pay families on or after June 1, 2022, the provider is eligible for the cost of care up to the new market rate from the date the provider increased the rate or June 1, 2022, whichever is later, upon proper documentation of this increase.

Where the new market rates have increased from the previous market rates, providers who do not have a contract with the LSSD and only care for children in receipt of child care assistance must be allowed to submit the *Child Care Provider Attestation of Costs Form*, OCFS-6060 in order to request a payment rate increase from the LSSD. Districts must apply payment rate increases retroactive to June 1, 2022 for completed OCFS-6060 forms received through September 30, 2022. For completed OCFS-6060 forms received October 1, 2022 or later, LSSDs must apply payment rate increases as of the first day of the month in which the form was received.

Where the new market rates have decreased from the previous market rates, the LSSD will need to reduce benefits. Please note that when a benefit is reduced due to changes in the market rates, the effective date for the reduction is not retroactive to June 1, 2022. Benefit reductions are to be made prospectively. For those cases in which an LSSD did not make the necessary reductions at the next case action that occurred on or after June 1, 2022, the amount the LSSD paid above the market rate is not reimbursable from state and federal funds. Required actions regarding benefit reductions includes cases receiving a special needs rate prior to June 1, 2022. It is possible that the applicable new market rate plus 15% will be less than the special needs rate being paid according to 19-OCFS-LCM-23 *Child Care Market Rates 2019*. In such instances, benefit reductions are to be made prospectively no later than the next case action.

Whenever the amount of child care benefits changes, LSSDs must provide recipients with adequate notice as required by 18 NYCRR 358-2.2.

If the provider's rate is in excess of the market rate and the LSSD does not have a contract with the provider, the parent who chooses to continue care with the provider must make up the difference. If the LSSD has a contract to pay a rate that is higher than the market rate, the amount above the market rate is not reimbursable from state and federal funds.

VI. Access to Forms

Client notices for the Child Care Assistance Program and the new *Child Care Provider Attestation of Costs Form*, OCFS-6060 are available on the OCFS intranet and the internet websites at the following links:

- <http://ocfs.state.nyenet/admin/forms/BECS/> and
- <http://ocfs.ny.gov/main/documents/docsChildCare.asp>.

These forms will be made available on the websites in other required languages as soon as those translations are completed.

To order hard copies of forms, complete the Request for Forms and Publications (OCFS-4627) and mail it to:

OCFS Forms and Publications Unit
52 Washington Street, Room 134 North Bldg.
Rensselaer, NY 12144-2834

OR

Call the Forms Hotline: 518-473-0971

VII. Effective Date

The effective date of this release is June 1, 2022.

/s/ Janice M. Molnar, Ph.D.

Issued by:

Name: Janice M. Molnar, Ph.D.

Title: Deputy Commissioner

Division/Office: Division of Child Care Services

ATTACHMENT A**CHILD CARE ASSISTANCE PROGRAM MARKET RATES**

Market-related payment rates are established in five groupings of counties. The rates established for each group apply to all counties in the designated group. The county groups are as follows:

- Group 1: Nassau, Putnam, Rockland, Suffolk, Westchester
- Group 2: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Schenectady, Tompkins, Warren
- Group 3: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, Yates
- Group 4: Albany, Dutchess, Orange, Saratoga, Ulster
- Group 5: Bronx, Kings, New York, Queens, Richmond

GROUP 1 COUNTIES: Nassau, Putnam, Rockland, Suffolk, Westchester

DAY CARE CENTER				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$409	\$380	\$355	\$325
Daily	\$85	\$82	\$75	\$69
Part-Day	\$57	\$55	\$50	\$46

SCHOOL-AGE CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$355	\$325
Daily	\$0	\$0	\$75	\$69
Part-Day	\$0	\$0	\$50	\$46

LEGALLY EXEMPT GROUP CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$266	\$244
Daily	\$0	\$0	\$56	\$52
Part-Day	\$0	\$0	\$38	\$35

FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$350	\$345	\$325	\$300
Daily	\$75	\$70	\$70	\$65
Part-Day	\$50	\$47	\$47	\$43

INFORMAL CHILD CARE – STANDARD RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$228	\$224	\$211	\$195
Daily	\$49	\$46	\$46	\$42
Part-Day	\$33	\$31	\$31	\$28

INFORMAL CHILD CARE – ENHANCED RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$245	\$242	\$228	\$210
Daily	\$53	\$49	\$49	\$46
Part-Day	\$35	\$33	\$33	\$30

GROUP 2 COUNTIES: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Schenectady, Tompkins, Warren

DAY CARE CENTER				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$340	\$320	\$300	\$265
Daily	\$70	\$68	\$64	\$57
Part-Day	\$47	\$45	\$43	\$38

SCHOOL-AGE CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$300	\$265
Daily	\$0	\$0	\$64	\$57
Part-Day	\$0	\$0	\$43	\$38

LEGALLY-EXEMPT GROUP CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$225	\$199
Daily	\$0	\$0	\$48	\$43
Part-Day	\$0	\$0	\$32	\$29

FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$300	\$285	\$269	\$240
Daily	\$60	\$60	\$57	\$50
Part-Day	\$40	\$40	\$38	\$33

INFORMAL CHILD CARE – STANDARD RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$195	\$185	\$175	\$156
Daily	\$39	\$39	\$37	\$33
Part-Day	\$26	\$26	\$25	\$21

INFORMAL CHILD CARE – ENHANCED RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$210	\$200	\$188	\$168
Daily	\$42	\$42	\$40	\$35
Part-Day	\$28	\$28	\$27	\$23

GROUP 3 COUNTIES: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, Yates

DAY CARE CENTER				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$295	\$275	\$253	\$245
Daily	\$64	\$59	\$55	\$55
Part-Day	\$43	\$39	\$37	\$37

SCHOOL-AGE CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$253	\$245
Daily	\$0	\$0	\$55	\$55
Part-Day	\$0	\$0	\$37	\$37

LEGALLY EXEMPT GROUP CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$190	\$184
Daily	\$0	\$0	\$41	\$41
Part-Day	\$0	\$0	\$28	\$28

FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$266	\$252	\$250	\$225
Daily	\$55	\$53	\$50	\$50
Part-Day	\$37	\$35	\$33	\$33

INFORMAL CHILD CARE – STANDARD RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$173	\$164	\$163	\$146
Daily	\$36	\$34	\$33	\$33
Part-Day	\$24	\$23	\$21	\$21

INFORMAL CHILD CARE – ENHANCED RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$186	\$176	\$175	\$158
Daily	\$39	\$37	\$35	\$35
Part-Day	\$26	\$25	\$23	\$23

GROUP 4 COUNTIES: Albany, Dutchess, Orange, Saratoga, Ulster

DAY CARE CENTER				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$336	\$314	\$293	\$258
Daily	\$75	\$71	\$65	\$55
Part-Day	\$50	\$47	\$43	\$37

SCHOOL-AGE CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$293	\$258
Daily	\$0	\$0	\$65	\$55
Part-Day	\$0	\$0	\$43	\$37

LEGALLY EXEMPT GROUP CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$220	\$194
Daily	\$0	\$0	\$49	\$41
Part-Day	\$0	\$0	\$32	\$28

FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$275	\$268	\$250	\$250
Daily	\$60	\$55	\$52	\$50
Part-Day	\$40	\$37	\$35	\$33

INFORMAL CHILD CARE – STANDARD RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$179	\$174	\$163	\$163
Daily	\$39	\$36	\$34	\$33
Part-Day	\$26	\$24	\$23	\$21

INFORMAL CHILD CARE – ENHANCED RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$193	\$188	\$175	\$175
Daily	\$42	\$39	\$36	\$35
Part-Day	\$28	\$26	\$25	\$23

GROUP 5 COUNTIES: Bronx, Kings, New York, Queens, Richmond

DAY CARE CENTER				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$406	\$370	\$325	\$300
Daily	\$80	\$75	\$67	\$60
Part-Day	\$53	\$50	\$45	\$40

SCHOOL-AGE CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$325	\$300
Daily	\$0	\$0	\$67	\$60
Part-Day	\$0	\$0	\$45	\$40

LEGALLY EXEMPT GROUP CHILD CARE				
	Age of Child			
	Under 1 ½ yrs	1 ½ - 2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$0	\$0	\$244	\$225
Daily	\$0	\$0	\$50	\$45
Part-Day	\$0	\$0	\$34	\$30

FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$325	\$300	\$275	\$250
Daily	\$70	\$60	\$60	\$55
Part-Day	\$47	\$40	\$40	\$37

INFORMAL CHILD CARE – STANDARD RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$211	\$195	\$179	\$163
Daily	\$46	\$39	\$39	\$36
Part-Day	\$31	\$26	\$26	\$24

INFORMAL CHILD CARE – ENHANCED RATE				
	Age of Child			
	Under 2 yrs	2 yrs	3 – 5 yrs	6 – 12 yrs
Weekly	\$228	\$210	\$193	\$175
Daily	\$49	\$42	\$42	\$39
Part-Day	\$33	\$28	\$28	\$26