



# Office of Children and Family Services

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## Local Commissioners Memorandum

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| <b>Transmittal:</b>             | 19-OCFS-LCM-23  |
| <b>To:</b>                      | Commissioners of Local Social Services Districts  |
| <b>Issuing Division/Office:</b> | Division of Child Care Services   |
| <b>Date:</b>                    | October 8, 2019   |
| <b>Subject:</b>                 | <b>Child Care Market Rates 2019</b>   |
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| <b>Attachments:</b>             | Attachment A: <i>Child Care Market Rates</i>  |

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to advise local departments of social services (LDSSs) of the adoption of regulations related to the market rates and the maximum reimbursements for expenditures for child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). These changes to Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Section 415.9 were filed as a notice of emergency adoption and proposed rule-making on April 23, 2019. The emergency regulations became effective May 1, 2019. LDSSs were previously notified in 19-OCFS-INF-03, issued on April 29, 2019, about the revisions to the child care market rates. The proposed regulations were adopted as a final rule on August 7, 2019.

### II. Background

Federal and New York State law require the state to establish payment rates for child care subsidies 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); Section 410-x(4) of the Social Services Law]. Federal regulation requires that payment rates be based on a local market rate survey or approved alternative methodology [45 CFR 98.45(f)(2)(i)]. State law requires the New York State Office of Children and Family Services (OCFS) to establish, in regulation, the applicable market-related payment rate, which establishes a ceiling for state and federal reimbursement for payments for child care services (Section 410-x(4) of the Social Services Law). The market rates must take into

account 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 for children with special needs.

OCFS contracted with a preferred source contractor in New York State to conduct a telephone survey of a random sample of licensed/registered child care providers. Prior to conducting the telephone survey, a letter was sent to all licensed/registered child care 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 market rate survey. From September 2017 to March 2018, the contractor conducted the telephone survey in English and in Spanish, and had resources available to assist providers in other languages. Market rate data was collected from 3,744 providers.

OCFS analyzed data from the survey for five distinct groupings of districts. Market-related payment rate ceilings (market rates) were established for each county cluster at the 69<sup>th</sup> percentile.

### 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 LDSS 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 LDSS 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 subsidized children, then the actual cost of care is the amount the provider is currently receiving from the LDSS for such children, unless the provider can demonstrate to the LDSS that the actual cost of providing care to such children is higher than that amount, as detailed below.

Federal and state reimbursement is available for child care services for eligible families only when the subsidy payment does not exceed the amount charged by the provider to the general public for similar care.

LDSSs may negotiate contracts with individual providers. The negotiated payment rates may be the same as or lower than the rates charged to non-subsidized families. Even though the negotiated rate may be less than the usual charge to non-subsidized families, the negotiated rate is considered to be the actual cost of care for those child care services provided under a contractual agreement between the LDSS and the provider.

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

### **Determining Actual Cost of Care for Providers Without a Contract Who Care Only for Subsidized Children**

If a provider cares only for children receiving child care subsidies, and does not have a contract with the LDSS, then the actual cost of care is the rate the provider currently receives from the LDSS. However, if the provider can document that he or she provided child care services to a non-subsidized child in the recent past, and that a higher rate was received from the non-subsidized family, then the LDSS can establish the non-subsidized rate as the actual cost of care. Additionally, if a provider can document that the costs, excluding those that are reimbursed by other sources of funding, related to the provision of child care services have increased in the previous 12 months, then that provider may request a higher payment rate from the LDSS. For this purpose only, the LDSS should consider increases in program-related operating costs, such as employees' salaries and benefits, occupancy, insurance, equipment, supplies, and food.

The increases in costs must be solely related to or clearly attributable to the operation of the child care program. For instance, not all costs of homeowners' insurance can be considered; only those costs that the insurance carrier has specifically attributed to the existence of the child care program should be considered. Furthermore, costs of home improvement or maintenance to the general residence would not be considered attributable solely to the operation of the child care program.

The costs associated with the child care program to maintain compliance with existing regulatory standards should not be considered. In offering services as a child care provider, the provider is attesting to the fact that he or she has been and will be satisfying the basic regulatory standards. A statement that he or she now has to charge more because the program was compelled to meet those standards does not present a legitimate expense attributable to the operation of a child care program. However, if new regulatory standards are created, the costs incurred by an existing program to meet the new regulatory standards should be considered. For instance, when Alyssa's Law was enacted, some providers' properties required physical modifications to comply with Alyssa's Law. The cost of modifications that were amortized by the provider over a reasonable period of time would be considered solely attributable to the operation of the child care program. Other potential includable costs are those associated with compliance with the administration of medication requirements. For example, when out-of-pocket expenses related to retaining a health care consultant or obtaining required training are documented by a provider who is newly choosing to come into compliance with the administration of medication requirements, those expenses are to be considered by the LDSS.

In order to determine the amount of increase that is reasonable, the LDSS should annualize the appropriate costs, including amortizing any relevant capital expenditures over a reasonable multiple-year period; then, the LDSS should spread the annualized costs over the capacity of the program and convert the costs to a weekly (or daily) increased cost per child. Providers and/or LDSSs can contact the local child care resource and referral agency if they need additional information on how to maintain business records for child care programs.

When considering increased food costs, the LDSS may consider whether the provider has chosen to use other available resources to offset food costs, particularly the Child and Adult Care Food Program (CACFP). If a provider has experienced increased food costs because he or she has voluntarily or involuntarily left the CACFP program, such additional food costs should not be considered. If the provider has never participated in CACFP, the LDSS could

deny an increase or deny that part of the increase that could be offset by the provider by using the CACFP program.

Generally, the increase in the provider's own salary or profit drawn from the program would not be considered. However, to the extent that the provider has granted increases in the salaries to his or her employees and the provider also delivers direct child care services on-site to the children in his or her program, then a similar increase in the provider's own salary, if any, can be considered as an increase in costs to the program. Increased personnel costs for a substitute or additional staff that are documented by the provider may also be considered, so long as it is clear that the enhanced staffing was not offset by additional revenues that the provider was able to generate by serving more children.

### **Determining the Applicable Market Rate**

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

Additional factors affecting rates may apply when care is provided: outside of the family's district of residence, to a child with special needs, by a program that is accredited, to a family experiencing homelessness, during non-traditional hours, or in excess of a weekly or daily period.

#### **1. Type of Provider**

- a. Licensed or registered 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.
- 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. 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. 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.

## 2. 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: 3 years through 5 years and 6 years through 12 years. The age categories are

- 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; and
- d. 6 years **through** 12 years.

When a change in a child's age results in his/her 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.

## 3. Duration of Care

Market rates also differ according to the number of hours of care needed. The LDSS 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 LDSS 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, LDSSs must use Monday as the start of the weekly period.

### a. Weekly

The LDSS 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 LDSS 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 nonsubsidized 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 subsidized children in those instances. The LDSS must apply the weekly market rates divided by five.

### c. Part-Day

The LDSS must apply the part-day market rate when child care services are provided for **at least three but fewer than six hours per day**. Part-day market rates also must be applied for children who are enrolled in pre-kindergarten, kindergarten, or a higher grade who are provided care before and/or after school for less than three hours per day by day care centers or school-age child care programs that do not charge on an hourly basis.

### d. Hourly

Except as noted above for the part-day rate, the LDSS must apply the hourly market rate when child care services are provided for **fewer than three hours per day**.

### Care in Excess of a Weekly or Daily Market Rate Period

When child care services are provided by a single provider in excess of 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, part-day, or hourly) would be applied for the amount of time over 12 hours. When determining the appropriate market rate, LDSSs 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.

An 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

LDSSs have the option to pay for child care services that are needed for 24 hours in a single day. Reimbursement is available to the LDSS if the LDSS 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 LDSS 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 LDSS 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 rate for each provider used. However, if the combined reimbursement to the multiple providers would exceed one weekly market rate, then in order 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 LDSS 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 LDSS will determine how to distribute the reimbursement for the multiple providers.

If the LDSS 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.

### **Children With Special Needs**

When child care services are provided for a child with special needs, LDSSs will receive reimbursement for payments in excess of the applicable market rate up to the statewide limit. Any payments in excess of the market rates must be related to the increased costs associated with meeting the special care needs of the particular child. Detailed requirements relative to the provision of child care services to children with special needs are set forth in 91 ADM-34.

The rate of reimbursement to a provider caring for a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the state, as applicable, based on the amount of time the child care services are provided per week, irrespective of the type of child care provider used or the age of the child.

The highest applicable market rates in the state are as follows. These rates are also the maximum reimbursable rates for special needs children:

|          |         |
|----------|---------|
| Weekly   | \$406   |
| Daily    | \$69    |
| Part-Day | \$46    |
| Hourly   | \$17.00 |

### **Location of Care**

Whenever child care services are provided by a provider located outside the LDSS that authorizes the subsidy, the LDSS must make payments based on the actual cost of care, up to applicable market rate for the county in which the care is provided. The same standard applies to care provided in another state, but the LDSS must use New York State rules for calculating payments.

For a child with special needs receiving child care services in another state, the LDSS must make payments based on the actual cost of care, up to the other state's special needs rate, if there is a demonstrated cost associated with caring for the child with special needs that exceeds the other state's regular payment rates. If the other state does not have a special needs rate, then New York's special needs rate applies, if there is a demonstrated cost associated with caring for the child with special needs that exceeds the other state's regular payment rates.

### **Standard and Enhanced Market Rates for Informal Child Care Providers**

The standard market rates for informal child care providers are 65 percent of the market rates established for registered family day care. The enhanced market rate for informal child care providers is 70 percent 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 10 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 LDSS of the providers whom they have verified to have completed 10 or more hours of training. When the LDSS 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 LDSS must increase the payment amount to the enhanced market rate no later than the beginning of the first full month after the LDSS has been notified that the provider completed the 10 hours of training. The LDSS must send the required notice, OCFS/LDSS-4781, *Notice of Intent to Change Child Care Benefits*, 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 LDSS if the provider has completed an additional 10 or more hours of training.

An LDSS 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 percent 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 percent of the registered family day care market rate is shown in Attachment A, not the LDSS option to set the enhanced market rate at a higher level, up to 75 percent 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 percent of the market rates established for licensed or registered day care centers.

LDSSs 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 LDSS chooses to establish an enhanced market rate for eligible legally-exempt group child care programs, then the LDSS must indicate the rate and percentage in its Child and Family Services Plan. Each enhanced market rate may be established up to 81 percent of the applicable market rate for day care centers. When an LDSS establishes both enhanced market rates, the LDSS 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 LDSS applies when calculating payments must be based on the percentages selected for each individual enhanced market rate, up to a maximum of 87 percent 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 LDSS 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 percent of the applicable market rate for day care centers.

### **Differential Payment Rates**

There are three possible differential payment rates: nationally accredited programs, care during non-traditional hours, and care for children experiencing homelessness (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.

#### **Nationally Accredited Programs**

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

#### Non-Traditional Hours

LDSSs must pay eligible child care providers a differential payment rate of at least 5 percent 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.

LDSSs may choose to establish differential payment rates that are greater than 5 percent and not to exceed 15 percent 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. LDSSs 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 LDSS chooses to set a differential payment rate for care during non-traditional hours that exceeds the 5 percent minimum differential, then the LDSS must indicate that rate in its Child and Family Services Plan.

#### Children Experiencing Homelessness

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

LDSSs may establish differential payment rates for child care services provided to a child experiencing homelessness by legally-exempt child care providers, up to 15 percent 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 LDSS chooses to set a differential payment rate for care provided to a child experiencing homelessness that exceeds the 5 percent minimum differential for licensed or registered providers or any differential payment rate for legally-exempt child care providers, then the LDSS must indicate those rates in its Child and Family Services Plan.

### 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 percent of the actual cost of care or the applicable market rate, whichever is less.

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

## **IV. System Implications**

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

This LCM has implications for users of the Child Care Time and Attendance (CCTA) system. CCTA is currently used by LDSSs outside of New York City only. The new market rates were updated automatically in CCTA with an effective date of May 1, 2019. When calculating payments on or after May 1, 2019, 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.

If an informal child care provider becomes eligible for an enhanced market rate and the LDSS uses CCTA to calculate payments, the LDSS must make several updates in the system so that payments will be calculated accurately. The LDSS 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 LDSS must change the provider's rates to the enhanced market rates for the provider's payment to change.

If the LDSS chooses to offer an enhanced market rate for eligible informal child care categories that is greater than the 70 percent enhanced market rate and an informal child care provider becomes eligible for an enhanced market rate, the LDSS 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 percent enhanced market rate. The LDSS must take appropriate steps to accurately calculate and/or adjust such payments outside of CCTA.

If the LDSS 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 LDSS 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.

LDSSs are required to use these market rates when determining the payment amounts for all cases that are opened on or after the effective date of the rates, and they 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 subsidies 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 LDSS 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, 2019, would only be eligible for the increased amount as of May 1, 2019. 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 date of May 1, 2019.

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 LDSS (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 May 1, 2019. For example, a provider who has been charging private pay families an amount in excess of the previous market rates as of January 1, 2019, would only be eligible for the increased payment amount as of May 1, 2019. However, if the provider increased the rate for private pay families on or after May 1, 2019, the provider is eligible for the cost of care up to the new market rate from the date the provider increased the rate or May 1, 2019, whichever is later, upon proper documentation of this increase.

Where the new market rates have decreased from the previous market rates, the LDSS 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 May 1, 2019. Benefit reductions are to be made prospectively. For those cases in which an LDSS did not make the necessary reductions at the next case action that occurred on or after May 1, 2019, the amount the LDSS paid above the market rate is not reimbursable from state and federal funds.

Whenever the amount of child care benefits changes, LDSSs 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 LDSS 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 LDSS 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. Effective Date**

The effective date of this release is May 1, 2019.

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

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

**ATTACHMENT A**

**CHILD CARE MARKET RATES**

Market rates are established in five groupings of social services districts 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

**MARKET RATES**

The market rates established for each group apply to all districts in the designated group.

**GROUP 1 COUNTIES:****Nassau, Putnam, Rockland, Suffolk, and Westchester****DAY CARE CENTER**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$364                   | \$338                 | \$310               | \$317              |
| DAILY    | \$65                    | \$62                  | \$55                | \$65               |
| PART-DAY | \$43                    | \$41                  | \$37                | \$43               |
| HOURLY   | \$9.50                  | \$11.00               | \$10.00             | \$8.00             |

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**FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME**

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$300                 | \$295           | \$285               | \$275              |
| DAILY    | \$60                  | \$60            | \$60                | \$57               |
| PART-DAY | \$40                  | \$40            | \$40                | \$38               |
| HOURLY   | \$10.00               | \$10.00         | \$10.00             | \$10.00            |

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**SCHOOL-AGE CHILD CARE**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                   | \$310               | \$317              |
| DAILY    | \$0                     | \$0                   | \$55                | \$65               |
| PART-DAY | \$0                     | \$0                   | \$37                | \$43               |
| HOURLY   | \$0                     | \$0                   | \$10.00             | \$8.00             |

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(Group 1 Counties)

## LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

|          | AGE OF CHILD     |                  |              |             |
|----------|------------------|------------------|--------------|-------------|
|          | <u>Under 1 ½</u> | <u>1 1/2 – 2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$0              | \$0              | \$233        | \$238       |
| DAILY    | \$0              | \$0              | \$41         | \$49        |
| PART-DAY | \$0              | \$0              | \$28         | \$32        |
| HOURLY   | \$0              | \$0              | \$7.50       | \$6.00      |

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INFORMAL CHILD CARE  
STANDARD RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$195          | \$192    | \$185        | \$179       |
| DAILY    | \$39           | \$39     | \$39         | \$37        |
| PART-DAY | \$26           | \$26     | \$26         | \$25        |
| HOURLY   | \$6.50         | \$6.50   | \$6.50       | \$6.50      |

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INFORMAL CHILD CARE  
ENHANCED RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$210          | \$207    | \$200        | \$193       |
| DAILY    | \$42           | \$42     | \$42         | \$40        |
| PART-DAY | \$28           | \$28     | \$28         | \$27        |
| HOURLY   | \$7.00         | \$7.00   | \$7.00       | \$7.00      |

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

## DAY CARE CENTER

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$280                   | \$264                 | \$245               | \$215              |
| DAILY    | \$59                    | \$55                  | \$51                | \$45               |
| PART-DAY | \$39                    | \$37                  | \$34                | \$30               |
| HOURLY   | \$9.75                  | \$9.25                | \$9.00              | \$9.00             |

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## FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$190                 | \$185           | \$180               | \$175              |
| DAILY    | \$40                  | \$40            | \$38                | \$35               |
| PART-DAY | \$27                  | \$27            | \$25                | \$23               |
| HOURLY   | \$8.00                | \$8.00          | \$8.00              | \$8.00             |

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## SCHOOL-AGE CHILD CARE

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                   | \$245               | \$215              |
| DAILY    | \$0                     | \$0                   | \$51                | \$45               |
| PART-DAY | \$0                     | \$0                   | \$34                | \$30               |
| HOURLY   | \$0                     | \$0                   | \$9.00              | \$9.00             |

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(Group 2 Counties)

## LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

|          | AGE OF CHILD     |                  |              |             |
|----------|------------------|------------------|--------------|-------------|
|          | <u>Under 1 ½</u> | <u>1 1/2 – 2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$0              | \$0              | \$184        | \$161       |
| DAILY    | \$0              | \$0              | \$38         | \$34        |
| PART-DAY | \$0              | \$0              | \$26         | \$23        |
| HOURLY   | \$0              | \$0              | \$6.75       | \$6.75      |

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INFORMAL CHILD CARE  
STANDARD RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$124          | \$120    | \$117        | \$114       |
| DAILY    | \$26           | \$26     | \$25         | \$23        |
| PART-DAY | \$18           | \$18     | \$16         | \$15        |
| HOURLY   | \$5.20         | \$5.20   | \$5.20       | \$5.20      |

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INFORMAL CHILD CARE  
ENHANCED RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$133          | \$130    | \$126        | \$123       |
| DAILY    | \$28           | \$28     | \$27         | \$25        |
| PART-DAY | \$19           | \$19     | \$18         | \$16        |
| HOURLY   | \$5.60         | \$5.60   | \$5.60       | \$5.60      |

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**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, and Yates**

## DAY CARE CENTER

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$220                   | \$206                 | \$195               | \$180              |
| DAILY    | \$48                    | \$45                  | \$44                | \$39               |
| PART-DAY | \$32                    | \$30                  | \$29                | \$26               |
| HOURLY   | \$8.00                  | \$8.00                | \$8.00              | \$7.00             |

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## FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$160                 | \$150           | \$150               | \$150              |
| DAILY    | \$35                  | \$35            | \$33                | \$30               |
| PART-DAY | \$23                  | \$23            | \$22                | \$20               |
| HOURLY   | \$5.00                | \$5.00          | \$5.00              | \$5.00             |

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## SCHOOL-AGE CHILD CARE

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                   | \$195               | \$180              |
| DAILY    | \$0                     | \$0                   | \$44                | \$39               |
| PART-DAY | \$0                     | \$0                   | \$29                | \$26               |
| HOURLY   | \$0                     | \$0                   | \$8.00              | \$7.00             |

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(Group 3 Counties)

## LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

|          | <b>AGE OF CHILD</b>     |                         |                     |                    |
|----------|-------------------------|-------------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 1/2 – 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                     | \$146               | \$135              |
| DAILY    | \$0                     | \$0                     | \$33                | \$29               |
| PART-DAY | \$0                     | \$0                     | \$22                | \$20               |
| HOURLY   | \$0                     | \$0                     | \$6.00              | \$5.25             |

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INFORMAL CHILD CARE  
STANDARD RATE

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$104                 | \$98            | \$98                | \$98               |
| DAILY    | \$23                  | \$23            | \$21                | \$20               |
| PART-DAY | \$15                  | \$15            | \$14                | \$13               |
| HOURLY   | \$3.25                | \$3.25          | \$3.25              | \$3.25             |

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INFORMAL CHILD CARE  
ENHANCED RATE

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$112                 | \$105           | \$105               | \$105              |
| DAILY    | \$25                  | \$25            | \$23                | \$21               |
| PART-DAY | \$16                  | \$16            | \$15                | \$14               |
| HOURLY   | \$3.50                | \$3.50          | \$3.50              | \$3.50             |

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

**DAY CARE CENTER**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$282                   | \$265                 | \$250               | \$230              |
| DAILY    | \$59                    | \$55                  | \$52                | \$50               |
| PART-DAY | \$39                    | \$37                  | \$35                | \$33               |
| HOURLY   | \$8.50                  | \$8.25                | \$9.00              | \$9.75             |

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**FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME**

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$225                 | \$210           | \$200               | \$200              |
| DAILY    | \$45                  | \$45            | \$45                | \$40               |
| PART-DAY | \$30                  | \$30            | \$30                | \$27               |
| HOURLY   | \$8.75                | \$8.75          | \$8.50              | \$9.00             |

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**SCHOOL-AGE CHILD CARE**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                   | \$250               | \$230              |
| DAILY    | \$0                     | \$0                   | \$52                | \$50               |
| PART-DAY | \$0                     | \$0                   | \$35                | \$33               |
| HOURLY   | \$0                     | \$0                   | \$9.00              | \$9.75             |

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(Group 4 Counties)

## LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

|          | AGE OF CHILD     |                  |              |             |
|----------|------------------|------------------|--------------|-------------|
|          | <u>Under 1 ½</u> | <u>1 1/2 – 2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$0              | \$0              | \$188        | \$173       |
| DAILY    | \$0              | \$0              | \$39         | \$38        |
| PART-DAY | \$0              | \$0              | \$26         | \$25        |
| HOURLY   | \$0              | \$0              | \$6.75       | \$7.31      |

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INFORMAL CHILD CARE  
STANDARD RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$146          | \$137    | \$130        | \$130       |
| DAILY    | \$29           | \$29     | \$29         | \$26        |
| PART-DAY | \$20           | \$20     | \$20         | \$18        |
| HOURLY   | \$5.69         | \$5.69   | \$5.53       | \$5.85      |

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INFORMAL CHILD CARE  
ENHANCED RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$158          | \$147    | \$140        | \$140       |
| DAILY    | \$32           | \$32     | \$32         | \$28        |
| PART-DAY | \$21           | \$21     | \$21         | \$19        |
| HOURLY   | \$6.13         | \$6.13   | \$5.95       | \$6.30      |

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

**DAY CARE CENTER**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$406                   | \$315                 | \$289               | \$236              |
| DAILY    | \$69                    | \$60                  | \$54                | \$47               |
| PART-DAY | \$46                    | \$40                  | \$36                | \$31               |
| HOURLY   | \$15.75                 | \$17.00               | \$15.75             | \$10.00            |

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**FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME**

|          | <b>AGE OF CHILD</b>   |                 |                     |                    |
|----------|-----------------------|-----------------|---------------------|--------------------|
|          | <b><u>Under 2</u></b> | <b><u>2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$200                 | \$196           | \$185               | \$170              |
| DAILY    | \$40                  | \$40            | \$35                | \$35               |
| PART-DAY | \$27                  | \$27            | \$23                | \$23               |
| HOURLY   | \$16.00               | \$15.00         | \$15.00             | \$15.00            |

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**SCHOOL-AGE CHILD CARE**

|          | <b>AGE OF CHILD</b>     |                       |                     |                    |
|----------|-------------------------|-----------------------|---------------------|--------------------|
|          | <b><u>Under 1 ½</u></b> | <b><u>1 ½ - 2</u></b> | <b><u>3 - 5</u></b> | <b><u>6-12</u></b> |
| WEEKLY   | \$0                     | \$0                   | \$289               | \$236              |
| DAILY    | \$0                     | \$0                   | \$54                | \$47               |
| PART-DAY | \$0                     | \$0                   | \$36                | \$31               |
| HOURLY   | \$0                     | \$0                   | \$15.75             | \$10.00            |

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(Group 5 Counties)

## LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

|          | AGE OF CHILD     |                  |              |             |
|----------|------------------|------------------|--------------|-------------|
|          | <u>Under 1 ½</u> | <u>1 1/2 – 2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$0              | \$0              | \$217        | \$177       |
| DAILY    | \$0              | \$0              | \$41         | \$35        |
| PART-DAY | \$0              | \$0              | \$27         | \$23        |
| HOURLY   | \$0              | \$0              | \$11.81      | \$7.50      |

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INFORMAL CHILD CARE  
STANDARD RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$130          | \$127    | \$120        | \$111       |
| DAILY    | \$26           | \$26     | \$23         | \$23        |
| PART-DAY | \$18           | \$18     | \$15         | \$15        |
| HOURLY   | \$10.40        | \$9.75   | \$9.75       | \$9.75      |

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INFORMAL CHILD CARE  
ENHANCED RATE

|          | AGE OF CHILD   |          |              |             |
|----------|----------------|----------|--------------|-------------|
|          | <u>Under 2</u> | <u>2</u> | <u>3 - 5</u> | <u>6-12</u> |
| WEEKLY   | \$140          | \$137    | \$130        | \$119       |
| DAILY    | \$28           | \$28     | \$25         | \$25        |
| PART-DAY | \$19           | \$19     | \$16         | \$16        |
| HOURLY   | \$11.20        | \$10.50  | \$10.50      | \$10.50     |

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**SPECIAL NEEDS CHILD CARE**

The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

The highest full time market rate in the State is:

|          |          |
|----------|----------|
| WEEKLY   | \$ 406   |
| DAILY    | \$ 69    |
| PART-DAY | \$ 46    |
| HOURLY   | \$ 17.00 |