



Office of Children and Family Services

Andrew M. Cuomo
Governor

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Administrative Directive

Transmittal:	20-OCFS-ADM-06
To:	Commissioners of Social Services
Issuing Division/Office:	Division of Child Care Services
Date:	May 21, 2020
Subject:	COVID-19 Guidance for Child Care Subsidy
Suggested Distribution:	Directors of Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff
Contact Person(s):	Child Care Subsidy Program questions: <ul style="list-style-type: none"> Maryellen DeCicco, OCFS Division of Child Care Services, 518-408-3395 Maryellen.DeCicco@ocfs.ny.gov Child Care Time and Attendance (CCTA) questions: <ul style="list-style-type: none"> Support@controltec.com or 877-369-6106 Welfare Management System (WMS) Services questions: <ul style="list-style-type: none"> ocfs.sm.WMS@ocfs.ny.gov
Attachments:	None

Filing References, if applicable (check on these – be sure they are correct and there are no typos)

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR Parts 404, 405, 407, and 415			

I. Purpose

The purpose of this Administrative Directive (ADM) is to provide local social services districts (LSSDs) guidance regarding options available to expand the child care services that are provided under the New York State Child Care Block Grant to families affected by the novel coronavirus, SARS-CoV-2, and clarify how such waivers must be administered. Due to the current state of emergency, social distancing guidelines, and the widespread nature of this crisis, all families in New York State are considered to be impacted by the novel coronavirus, which causes COVID-19.

II. Background

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order 202, declaring a disaster emergency for the entire State of New York. On March 12, 2020, Governor Cuomo issued Executive Order 202.1. Under the order, Section 410-w of the Social Services Law and sections 404.1, 404.7, 415.2, 415.3, 415.6 of Title 18 of the NYCRR were waived insofar as the statute and regulations establish financial eligibility standards, reimbursement requirements, and set timeliness requirements for the provision of services including payment for absences due to the coronavirus abatement processes.

On March 16, 2020, the New York State Office of Children and Family Services (OCFS) notified LSSDs of the opportunity to request a waiver to expand the child care services they provide to families affected by COVID-19. All families in New York State are considered to be impacted by the novel coronavirus, and therefore COVID-19 as the term is used in this guidance. The waiver is available for the duration of the disaster emergency provided that LSSDs continued to have funds available under either the district's New York State Child Care Block Grant or any local funds appropriated for such purpose. LSSDs were able to select from the following options:

- Extend the eligibility period
- Expand the definition of a child needing protective services
- Expand the number of allowable absences
- Expand the number of allowable program closures
- Expand eligibility up to 85 percent of the state median income level
- Waive family share for families impacted by COVID-19
- Make other requests related to eligibility and/or administration of the child care subsidy program

On April 14, 2020, OCFS notified LSSDs of the option to request a 30-day extension of any waiver to expand child care services provided to families affected by COVID-19 that were previously approved by OCFS.

III. Program Implications

During the COVID-19 disaster period, LSSDs may expand the child care services that are provided under the New York State Child Care Block Grant to families affected by the novel coronavirus, SARS-CoV-2, by requesting certain regulatory waivers, provided that the LSSDs continued to have funds available under either the district's New York State Child Care Block Grant or any local funds appropriated for such purpose. All statutory and

regulatory requirements for child care services that are not specifically waived remain in effect. This includes, but is not limited to, LSSDs paying the actual cost of care, up to the applicable market rate as outlined in 19-OCFS-LCM-23, *Child Care Market Rates 2019*. LSSDs must evaluate which of the approved COVID-19 waiver option(s) apply to each individual family, child, or child care provider's situation on a case-by-case basis.

Regulatory waivers for child care services during the COVID-19 disaster period will last for 30 days unless otherwise specified. LSSDs will be notified if their approved waiver options to expand child care services will continue to be available beyond the current approval period and will be required to submit a new request to extend the waiver period at that time. OCFS recommends that LSSDs publicize all approved waivers on their websites and in LSSD offices that remain open to the public. LSSDs must continue to send all required appropriate and timely notices.

The choice of any of these options requires that the district amend its Child and Family Services Plan. In order to expedite amendment submission and approval, OCFS has streamlined the amendment process for effects of the disaster, for the duration of the emergency period. The waiver request form submitted by the LSSD serves as the amendment request. Once the request has been submitted by the LSSD, the LSSD may immediately implement the requested plan amendments provided the LSSD received OCFS's prior verbal approval of the waiver request. OCFS also provides written approvals via email. OCFS posts a list of approved waiver types, by district, on the OCFS website at <https://ocfs.ny.gov/programs/childcare/plans/>.

A brief description of each of the available waivers and guidance regarding the administration of each of the waiver options is provided below.

Extend the eligibility period

This option provides families who are not receiving public assistance, and who would otherwise need to have their eligibility for child care assistance redetermined within the period of the disaster recovery, an additional 30 days to complete such redetermination. Districts must continue to provide child care services to such families during the extended redetermination period. If an LSSD has been approved for a subsequent waiver period, cases may be extended for additional 30-day increments beyond the initial 30 days. Cases may only be extended for a maximum total of 90 days regardless of how many waiver periods are approved.

Expand the definition of protective services

This option allows LSSDs to provide child care services to families who need such services for a child to be protected because a parent or caretaker is unavailable to care for the child or children as a result of being quarantined due to exposure to COVID-19 when such child is not quarantined with the parent or caretaker.

Expand allowable absences

This option allows LSSDs to expand the maximum total number of days that the LSSD will make payments on behalf of a child already in receipt of subsidy who is temporarily absent from care due to the effects of COVID-19. This includes, but is not limited to, children who are absent from care due to the parent or caretaker being furloughed or working from home as a result of the disaster emergency, children who are kept home as a precautionary measure to limit exposure to COVID-19, and children who are temporarily absent due to illness or official quarantine. Payment for absences may be made to a child care provider

on behalf of a child whose parent or caretaker is no longer employed or is currently furloughed as a result of the disaster emergency, provided that the family was in receipt of child care subsidy prior to the termination or suspension of the parent's or caretaker's employment. The first notification to LSSDs regarding this option indicated that the child had to be temporarily absent due to being quarantined. This option has since been expanded to include any child temporarily absent due to effects of COVID-19. LSSDs may seek to expand previously approved waiver requests if necessary. Payment for absences may only be made for days that the provider is open and available to provide care, and the child is not in attendance. An LSSD may limit payment for absences based on contract status or type of provider on the waiver request.

Expand allowable closure days

This option allows LSSDs to expand the maximum total number of days that the LSSD will make payments to eligible providers that are closed due to the effects of COVID-19. This includes, but is not limited to, programs that are closed due to exposure to COVID-19, due to low enrollment as a result of the disaster emergency, or as a precautionary measure to reduce the spread of COVID-19. An LSSD may limit payment for program closures based on contract status or type of provider on the waiver request.

Expand income eligibility

This option allows LSSDs to expand eligibility standards to serve families with incomes up to 85 percent of the state median income (SMI). The LSSD may limit the expansion to any income amount between 200 percent of the federal poverty level (FPL) and 85 percent of the SMI. The LSSD must specify this level on the waiver request. If the amount is different than the prefilled option of up to 85 percent SMI, that amount must be written in. This expansion applies to both new applications for child care subsidy as well as redeterminations. However, cases approved or redetermined under the expanded financial eligibility standards will only be eligible if the LSSD continues to have an approved waiver and has funds available. Once the waiver is no longer in place or the LSSD no longer has funds available to support the waiver, these cases must be closed, with timely and adequate notice, as they will no longer meet financial eligibility criteria.

New cases must meet all other child care subsidy eligibility standards, including programmatic, family, and child eligibility. New cases must have an actual need for child care services. New applicants must not be approved if the parent or caretaker is available to care for the child and child care services are not currently necessary. For example, a new application will not be programmatically eligible if the parent or caretaker is temporarily furloughed and subsidy is only requested to pay a provider while a child is absent from care. The LSSD must evaluate on a case-by-case basis if a parent or caretaker is available to care for the child when such parent or caretaker is currently working from home, and no other parent or caretaker in the household is available to provide care. While families are strongly encouraged to keep children home, in order to prioritize child care slots for essential workers, child care subsidy may be provided if child care services are needed to allow the parent or caretaker to work from home.

When issuing the OCFS-LDSS-4779, *Approval of Your Application for Child Care Benefits*, for cases with income between 200 percent FPL and 85 percent SMI, the authorization end date may be either the end of the waiver period or the district's regular authorization period of six or 12 months. If the notice indicates a six- or 12-month authorization period, LSSDs must also include a statement that the case will be closed when the LSSD no longer has an approved waiver in place. Once the LSSD no longer has an approved waiver to expand

income eligibility, the LSSD must issue the OCFS-LDSS-4782, *Notice of Intent to Discontinue Child Care Benefits*, and close the case no sooner than 10 days after the issuance of such notice.

Waive family share

This option allows LSSDs to waive the family share for those families who have been impacted by COVID-19 for the duration of the waiver period. Appropriate client notices must be sent to the family and the provider, so that both are aware that the LSSD will be paying the family share during this time. Because this waiver impacts all open cases with family share, the LSSD may use a single generic notification letter or the OCFS-LDSS-4781, *Notice of Intent to Change Child Care Benefits and Family Share Payments*. Once the LSSD no longer has an approved family share waiver or no longer has funds available to support the waiver, adequate and timely notice must be sent to both the family and the provider to notify of the change in benefits.

In order to allow the maximum amount of flexibility for LSSDs, reduce financial burden on families, and support child care providers, OCFS is currently allowing LSSDs the option to waive family share for those families who have been impacted by COVID-19. OCFS is requesting from the federal Office of Child Care the authority to waive family share for all families statewide. Although a statewide waiver of family share is not being implemented at present, OCFS has requested such a waiver in recognition of the possibility that all LSSDs choosing to implement of this waiver could result in the waiver of family share for all families in New York State.

IV. System Implications

For LSSDs outside of New York City, case and payment processing in the Welfare Management System (WMS) and the Child Care Time and Attendance (CCTA) system may require changes depending on which waivers the LSSD has approved. In most cases, the system will support the necessary changes, but the implementation of the waivers will require action by the LSSD including, but not limited to, the issuance of updated notices.

Eligibility periods

For the waivers to extend the eligibility period and expand income eligibility, the LSSD may need to process eligibility periods that are not the standard six or 12 months. The LSSD must still redetermine and open cases in WMS as usual for either six or 12 months, depending on the eligibility period specified in the Child and Family Services Plan and in WMS settings.

In order to track the redetermination extension, the LSSD may create a purchase of service (POS) line for one month at a time to allow for payments during the extension without going beyond that point. It may also be helpful to keep a list of the cases impacted, so that these cases can be easily identified in the future. It is the responsibility of the LSSD to manage the extension of the redetermination period.

Cases up to 85 percent SMI will only remain eligible for child care subsidy while the LSSD has an approved waiver in place. Waivers are approved for 30 days at a time, and It is unknown at this time how many 30-day waiver period extensions will be available for cases up to 85 percent SMI. At the time of case opening, the LSSD may not know how long the 85 percent SMI waiver will continue to be available. It is the responsibility of the LSSD to

manage the continuing eligibility of these cases 30 days at a time up to the six- or 12-month redetermination.

Payments for absences and closures

For absence and program closure waivers, the LSSD must change the maximum number of days in all applicable attendance codes and attendance groups so that CCTA will allow for the payment of additional absence/closure days than those specified in the LSSD's currently approved Child and Family Services Plan.

Family share

In CCTA, family share is a system-calculated value based on the family type, size, and income. When the LSSD chooses to waive family share, CCTA will continue to calculate a family share. The LSSD must remove the family share from the case by generating a new notice and not attaching the calculated family share to any of the authorizations on the case. OCFS is working to identify an alternative solution for waiving the family share that would be less burdensome for LSSDs. If such a solution is identified, OCFS will notify LSSDs.

Opening cases above 200 percent of the state income standard

For the waiver to expand eligibility up to 85 percent SMI, the LSSD must make changes to both WMS and CCTA. In WMS, when income is entered above the 200 percent threshold, the worker will receive error code 611, SVC TYPE NOT COMPATIBLE WITH ELIG CATEGORY FOR DIST TITLE XX. This error code cannot be overridden or bypassed and will not allow the worker to open the case. The LSSD must enter a placeholder of \$1, so that an error is not generated and to make these cases easier to identify in the future.

If a new case is entered first in WMS and is imported to CCTA, then the income that has been entered in WMS will be brought into CCTA. The LSSD must take whichever of the following steps are applicable to maintain accurate income data in CCTA. If an LSSD does not have case update enabled for income on the Central "Sydney on SQL" (SOS) (WMS) import, then the LSSD must enter the accurate income information in CCTA. The income data entered in CCTA will remain while the case is open and will not be updated with WMS data in the future. At this time, nearly all LSSDs have income updates turned off in the Central SOS (WMS) import. If the LSSD has income update turned on, then any income data that are entered in CCTA will be overwritten with WMS data (if different) when a change is made in the case in WMS, meaning that the LSSD must reenter accurate income data in CCTA as it is overwritten or choose to change the percentages in the WMS Title XX matrix instead.

In CCTA, when a family's income is above 200 percent of the SIS, this will generate an error. The LSSD must either 1) override the income eligibility limit error when saving the eligibility record for the family or 2) change the percentages of the SIS in the Administration >Eligibility Levels window. If the LSSD chooses to change the Eligibility Levels, then the percentage must be updated for each family size from one to 20, and that percentage must be a percentage of the SIS, not SMI. Further, those income thresholds must be updated when the SIS change is effective on June 1, and they must be changed back to 200 percent when the LSSD no longer has this approved waiver in place. At this time, OCFS recommends that LSSDs override the income eligibility limit when saving the eligibility record for the family in CCTA as this is the simplest solution available.

The *WMS Services Manual*, the *WMS Services Coding Guide*, and the *WMS Services Error Guide* are available at <http://ocfs.state.nyenet.it/GeneralResources/WMSDefault.asp>. Also, a Computer Based Training video is available with instructions on how to update the WMS Services Title XX Matrix at <https://www.hslcnys.org/hslc/Content/DLT01/3748/player.html>.

V. Effective Date

The effective date of this release is March 16, 2020.

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

Issued by:

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Title: Deputy Commissioner

Division/Office: Division of Child Care Services