

Division of Child Care Services

Policy Statement

Id Number: 09-1

TOPIC: Day Care Referral Processes and Program Removal from the Referral List

MODALITIES IMPACTED: All Modalities

APPLICABLE REGULATIONS: Title 18 of the New York State Codes of Rules and Regulations § 413.3

CONTACT: Regional Office:
<http://www.ocfs.state.ny.us/main/beccs/regionaloffices.asp>

EFFECTIVE: Immediately 1-13-09

This policy statement is effective immediately and cancels all previous memos or statements on the topic.

The purpose of this policy statement is to highlight how referral information concerning child care providers will be shared with parents. In addition, this policy provides information on the circumstances under which a provider is removed from and reinstated to the referral list, and if he/she is eligible for subsidy payments. An important goal of the policy is to make this practice consistent across the state.

All child day care providers that are licensed or registered by the Office of Children and Family Services (OCFS) become part of an OCFS day care referral list. The day care referral list is used by Child Care Resource & Referral agencies (CCR&R), local Social Services districts, regional offices and registrars when contacted by parents asking for information about available day care providers.

Licensors, registrars and CCR&R's have at their disposal a host of information that they may share with parents who call for a day care referral. A provider's profile page in the Child Care Facility System (CCFS) is a convenient source for all significant provider information. The profile page contains information such as: name of provider, contact name, phone number (if listed), address, provider status, length of time provider has been in business, whether the provider is authorized to administer medications, total capacity, age of children accepted by the provider, the provider's most recent two-year record of violation and enforcement information (including the specific regulatory violations) and if the provider is off the referral list. If a caller is requesting more information than the profile page contains, he/she must be referred to the appropriate licensing or registration office. Contact information for the assigned licensor or registrar is in CCFS. Finally, information that is considered confidential may not be released. Please see policy statement number 96-08 for information that may not be released.

Removal and Reinstatement of Providers from the Referral List

A provider will be removed from the referral list when a decision has been made by OCFS to revoke, suspend or deny the renewal of his/her license or registration (i.e., issuance of the notice of suspension and/or revocation and/or denial of renewal). CCFS has been programmed to automatically remove a provider from the referral list when the status of the program is changed to suspend, deny, revoke or any combination of the three statuses. Regional Office staff, CCR&Rs and local district registrars have access to a report in CCFS that contains the names of providers that are removed from the referral list. The list in CCFS must be used as the official source of information.

Provider Notification

A provider will be notified regarding any changes to his/her status on the child care referral list. Notification that a provider has been removed from the referral list will be included in the enforcement letter sent to the provider from OCFS. A provider will also be informed in writing of reinstatement to the referral list. A provider will be reinstated upon his/her successful challenge to an enforcement action or upon his/her successful completion of the terms of a Stipulation of Settlement entered into between the provider and OCFS to settle an enforcement action. The messages will include the following:

Stipulation of Settlement Message:

Please be advised that the Office of Children and Family Services will return you to the child care referral list when you are in full compliance with the stipulation of settlement.

Message included in a letter mailed to providers that have met the stipulation of Settlement agreement, successfully challenged an enforcement action or prevailed in an Article 78 action:

“Please be advised that the Office of Children and Family Services has returned you to the Child Care Referral list.”

Parental Choice and Subsidy Payments (When a provider is off the referral list)

Licensed or registered child care providers who are in enforcement for a denial of renewal or a revocation may continue to provide day care services while pursuing their hearing rights. Providers that have been suspended may not operate. Parents whose children attend a provider that is in enforcement for a denial of renewal or revocation may choose to continue using the provider and local districts are still obligated to issue a child care subsidy. Although referrals should not be made to such providers, to the extent that a parent learns of such a provider through other means, and selects him/her to provide child care, a child care subsidy must be issued. When this occurs, we recommend that local district staff advise parents of the regulatory violations, and, if additional information is needed, refer parents to the assigned licensor/registrar.

A provider becomes ineligible for subsidy payments when their license or registration is suspended. Such ineligible providers have been known to initiate the enrollment process

for becoming a legally-exempt provider so that they can continue to receive subsidy payments. The *Guide to Enrollment for Legally-Exempt Child Care Providers*, (Rev. July 13, 2007) does not allow for a child care provider to be enrolled as a legally-exempt child care provider while the provider has a license or registration to operate a day care program. Once a provider's license or registration to operate is terminated or otherwise closed, that provider may submit a request for enrollment as a legally-exempt child care provider. In those situations, the legally-exempt provider enrollment agency must carefully review what is known about the provider's past role in exposing children to safety and risk issues, including what steps the provider has taken to correct any identified safety issues, and in accordance with the *Guide to Enrollment* determine whether children may be exposed to unreasonable risk to their health, safety or welfare while in the provider's care. The enrollment request of a provider who is determined to be "High Risk" must be denied.

OCFS Commitment and Standards

This policy reflects OCFS's continued commitment to the following interests: parent's access to up-to-date provider information, reduction of risk to young children, and the promotion of stable business opportunities for day care providers. The following are standards set by OCFS for regional office staff, registrars and CCR&R agencies in meeting this commitment:

- Inquiries regarding a providers' compliance history and removal of providers from the referral listings will be handled consistently across the state;
- Regional offices, local registrars and CCR&Rs will provide information contained on a provider's web profile to parents regarding a provider's compliance history;
- Child care providers must be notified in writing of their removal from and reinstatement to the referral list.

Approved

Date: 1-13-09



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Deputy Commissioner

Division of Child Care Services