

## Regulatory Flexibility Analysis

### 1. Effect on small businesses and local governments:

The adjustments to the child care market rates will affect the 58 social services districts. There is a potential effect on over 20,000 licensed and registered child care providers and an estimated 56,000 informal providers that may provide child care services to families receiving a child care subsidy.

### 2. Compliance requirements:

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the applicable market rates. Districts will need to review cases to determine whether the payments reflect the actual cost of care up to applicable market rates. Payment adjustments will have to be made, as appropriate.

Social services districts will also be required to amend their existing Child and Family Services Plans to select the expanded categories of eligible families to include the parent/caretaker that is a dislocated worker and is participating in a training program in an employment field that currently is or is likely to be in demand in the near future. In addition, social services districts would also be required to amend their its existing Child and Family Services Plan to increase the enhanced market rate for legally-exempt providers of family child care or in-home child care to 75 percent of the registered family child care rate, if social services districts so desire.

### 3. Professional Services:

Neither social services districts nor child care providers should have to hire additional professional staff in order to implement these regulations.

### 4. Compliance costs:

Under section 410-v(2) of the Social Services Law, the State is responsible for reimbursing social services districts for 75 percent of the costs of providing subsidized child care services to public assistance recipients; districts are responsible for the other 25 percent of such costs. In addition, the State is responsible for reimbursing districts for 100 percent of the costs of providing child care services to other eligible low-income families. The State reimbursement for these child care services is made from the State and/or federal funds allocated to the State Child Care Block Grant, and is limited on an annual basis to each district's State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2009-10, social services districts received their allocations of \$736,036,409 in federal and State funds under the New York State Child Care Block Grant, an increase of \$11.9 million from the base amount allocated to districts for SFY 2008-09. These increases in funding are available to cover any increased payments by social services districts due to the implementation of the new market rates. In addition, social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations.

Social services districts will be required to provide the subsidies on behalf of the parent for subsidized child care services to legally-exempt family child care and in-home child providers who have completed ten hours of training annually, as approved by the legally-exempt caregiver enrollment agency, at the enhanced rate of seventy percent (70%) of the family child care rate. Districts do have the option to pay seventy five percent (75%) of the family child care rate for the enhanced market rate to legally-exempt family child care and in-home care approved by the legally-exempt caregiver enrollment

agency, if the district selects this option in its Children and Family Services Plan. In addition, a social services district 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 legally-exempt family child care and in-home child care categories to up to 75 percent of the applicable registered family day care market rate: (i) for all such providers; (ii) for those providers who were receiving the enhanced rate on the date of the regulations but only for the remainder of their current one-year enrollment period; or (iii) for those providers who were receiving the enhanced rate on the date of the regulations for the remainder of the time they remain enrolled and continue to meet the ten hour annual training requirement. Social services districts may also use block grant funds allocated to them to increase the enhanced rate from 70 percent up to 75 percent, if social services districts select this option.

The exclusion of the one time payment of \$250 under the American Recovery and Reinvestment Act of 2009 related to the determination of eligibility for social services programs, which receive federal funds, will not require any additional compliance costs to implement.

Social services districts have the option to serve families in which the parent/caretaker is a dislocated worker and is participating in a training program in an employment field that currently is or is likely to be in demand in the near future. Social services districts may choose to serve these families to provide safe, affordable child care to enable these parents/caretakers to be trained in various skills and rejoin the workforce in new employment. Social services districts may use the already allocated block grant funds to serve this optional category of families, if social services districts so desire.

5. Economic and technological feasibility:

The child care providers and social services districts affected by the regulations have the economic and technological ability to comply with the regulations.

6. Minimizing adverse impact:

The market rates were developed in accordance with federal guidelines for conducting a survey of child care providers and with standard statistical methodology to minimize adverse impact. The Office applied standard statistical methods to choose a sample of approximately 5,020 licensed and registered child care providers so that it was representative throughout the State. The rates were analyzed to establish the market rates at the 75<sup>th</sup> percentile of the amounts charged in accordance with guidelines issued in the Child Care and Development Fund Final Rule. The market rates are clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. As a result, the rates established for counties are based on the actual costs of care that were reported in the survey within the counties. Adjustments to the child care market rates reflect the market place and provide access comparable to those families not receiving a child care subsidy.

The regulations recognize that there may be differences in the needs among districts. To the extent allowed by statute, the regulations provide districts with flexibility in designing their child care subsidy programs in a manner that will best meet the needs of their communities.

7. Small business and local government participation:

In accordance with federal regulatory requirements, OCFS conducted a telephone survey of a sample of regulated providers. Prior to conducting the telephone survey, a

letter was sent to all regulated child care providers to inform them that they might be included among the sample of providers called to participate in the market rate survey. A copy of the questions was also sent so that providers could prepare responses. A market research firm conducted the telephone survey in English and in Spanish, as needed, and had the resources available to assist providers in other languages, if needed. Rate data was collected from almost 5,020 providers and that information formed the basis for the updated market rates.

The regulatory changes were discussed with a workgroup of local districts, including rural districts, for advice on potential impact.