

## Regulatory Impact Statement

### 1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (Office) to establish rules, regulations and policies to carry out the Office's powers and duties under the SSL.

Section 34(3)(f) of SSL authorizes the Commissioner to establish regulations for the administration of public assistance and care within the State.

Section 410 of the SSL authorizes a social services official of a county, city or town to provide day care for children at public expense and authorizes the Office to establish criteria for when such day care is to be provided.

Title 5-C (sections 410-u through 410-z) of the SSL governs the New York State Child Care Block Grant (NYSCCBG). It includes provisions regarding the use of funds by local social services districts, the types of families eligible for services, the amount of local funds that must be spent on child care services, and reporting requirements. OCFS is required to specify certain NYSCCBG requirements in regulation. Section 410-w(1)(e) permits social services districts to provide child care subsidies to those families with incomes up to 200 percent of the state income standard that the social services district designates in its Child and Family Services Plan as eligible for child care assistance in accordance with criteria established by OCFS. Section 410-x(4) of the SSL requires the Office to establish, in regulation, the applicable market-related payment rate that will establish a ceiling for State and federal reimbursement for payments made under the NYSCCBG.

### 2. Legislative objectives:

The regulations support the legislative objectives underlying the child care subsidy programs to provide child care services to public assistance recipients and low income families when necessary to promote self-sufficiency and protect children. In addition, the regulations provide each social services district with greater local flexibility to provide child care services in the manner that best meets its needs during the current difficult fiscal times.

### 3. Needs and benefits:

The regulations address the federal requirement that one-time payments disbursed under the American Recovery and Reinvestment Act of 2009 (AARA) to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits and Veterans Disability Compensation or Pension Benefits be excluded as income for determining eligibility for any programs in receipt of federal funds.

The changes also address the expanded need for child care services by families affected by the extensive loss of jobs and employment opportunities resulting from the significant economic downturns of the state and national economies. The regulations benefit needy families by providing social services districts with an additional option to provide child care services to low-income families where the caretaker(s) is displaced from work and is participating in a training program needed to obtain employment in a new field. Social services districts may choose to provide subsidies to these dislocated workers so that they can obtain safe and affordable child care while they are retrained in skills that will enable them to rejoin the workforce in new employment.

Additionally, some districts have indicated that, in these difficult economic times, more families could be served without a negative impact on family access to child care if

the enhanced child care market rate for legally-exempt family and in-home child care providers was lowered. Currently, there are two child care market rates established for legally-exempt family and in-home child care providers. One, the enhanced market rate, based on a 75 percent differential applied to the child care market rates established for registered family day care. The 75 percent reflects an incentive to legally-exempt providers to pursue a minimum of ten hours of approved training. Two, the standard market rate, based on a 65 percent differential applied to the child care market rates established for registered family day care. The 65 percent applies to legally-exempt family and in-home child care providers that have not obtained ten hours of training annually.

These regulations establish the enhanced market rate for legally-exempt family and in-home providers at a 70 percent differential applied to the child care market rates established for registered family day care so that social services districts have an ability to serve more families. However, the regulations allow those social services districts that want to pay a higher enhanced market rate the option to pay up to 75 percent of the applicable registered family day care market rate: (i) for all legally-exempt family and in-home 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 .

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

#### 4. Cost:

It is not anticipated that these regulations will result in any additional costs to the State or social services districts. All the social services districts received their allocations for federal and State funds under the New York State Child Care Block Grant for State fiscal year 2009-10. These funds are available to each district and the district may choose to serve optional categories of eligible individuals with the funds allocated to them. Social services districts are required to provide child care services to the optional categories of low-income families only to the extent that they have funds available to provide such services. Some social services districts also received preliminary estimates of their allocations of the additional federal child care subsidy funds made available under AARA.

#### 5. Local government mandates:

All social services districts must not consider the one-time federal AARA payment when considering whether a family is eligible for services. In addition, a social services district that chooses to provide child care services to dislocated workers and/or to pay an enhanced market rate for legally-exempt providers of family child care or in-home child care above 70 percent of the registered family child care rate will have to amend the child care portion of its Child and Family Services Plan. If a district does not choose to pay 75 percent of the registered family child care rate for legally-exempt providers that are currently receiving the enhanced market rate, the district must send a notice of the change in the payment rate to the families receiving services from such providers.

#### 6. Paperwork:

A social services district that chooses to implement either of the new options provided under the regulations must submit an amendment to its Child and Family Services Plan. The Office has developed a template that a district may use if it chooses to amend its Plan.

7. Duplication:

The new requirements do not duplicate any existing State or federal requirements.

8. Alternatives:

The only alternative would be to not expand the delivery of child care services to needy families. This would adversely impact federal and State initiatives to support needy families affected by the recession and to stimulate the economy.

9. Federal standards:

The regulations are consistent with applicable federal regulations. The State remains in compliance with 45 CFR 98.43(a) and (b)(2) and (3) which require that the State establish payment rates that are sufficient to ensure equal access to comparable care received by unsubsidized families.

10. Compliance schedule:

These provisions must be implemented on the effective date of the regulations.