

Notice of Emergency Adoption

Office of Children and Family Services

(SUBMITTING AGENCY)

TEXT/SUBSTANCE AND ATTACHMENTS SUBMITTED: **E-MAIL** (nysregister@dos.state.ny.us)
 DISK

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice.

1. *Action taken:* Amemdmnt of Section 415.9 of 18 NYCRR.

2. *Effective date of emergency rule:*

Date of filing.

Other date (*specify*): _____

3. *History of emergency actions* (check all that apply):

This is the first time this emergency rule has been adopted.

This is the first or subsequent readoption of an emergency rule. Provide the I.D. No. and issue date of **ALL** prior emergency rules (attach additional sheet if necessary).

I.D. No. _____

Issue: _____

This rule was previously proposed for permanent adoption in the *Register* on: October 24, 2007
, under I.D. No. CFS-43-07-00012-P.

4. *Statutory authority under which the rule was adopted:*

Social Services Law, sections 20(3)(d), 34(3)(f), 410, and 410-x(4)

5. *This emergency rule is necessary for the preservation of:*

public health

public safety

general welfare

6. *The specific reasons underlying the finding of necessity, above, are as follows:*

The adoption of these regulations on an emergency basis is necessary for the preservation of the health, safety and welfare of children in need of subsidized child care services in this State. Section 410-x(4) of the Social Services Law requires that the market rates be sufficient to ensure equal access to eligible children to comparable day care available to children whose parents are not eligible to receive a subsidy. The current market rates were initially issued in October, 2005 and reflect rate data collected in 2005. Accordingly, the current rates are artificially low. The adjustments to the market rates are needed to address the escalating costs of providing child care services.

Continuing to maintain the existing rates could result in subsidized families losing their child care arrangements or being unable to find appropriate child care. As a result, such families could be forced to place their children in child care settings that are inappropriate or unsafe for their children, leave their children unsupervised, or leave their jobs or training programs. If they choose the latter option, the families may remain on public assistance for longer periods of time or return to public assistance. This would directly counter the overriding purpose of welfare reform to encourage families on public assistance to move into employment or training programs. Thus, the increases in the market rates are necessary to maintain and preserve the gains achieved for poor families under welfare reform. As a result of these regulations, public assistance recipients and other low income families will not have to decide between losing their employment income and placing their children in child care that is unsafe or inappropriate

Delaying the adoption of these regulations would be contrary to the public interest because it could result in children from public assistance or other low income families receiving unhealthy or unsafe child care, or in persons leaving jobs or training programs and returning to public assistance, to the detriment of the public welfare system. Further, the federal Administration for Children and Families has indicated that the New York State Child Care and Development Fund Plan cannot be approved unless child care market rates have been adjusted, based upon a market

rate survey, effective October 1, 2007. Unless new market rates become effective on that date, the State's ability to use over \$650 million in federal funds under CCDF and to transfer funds into CCDF for child care subsidies will be jeopardized. Therefore, it is necessary to adopt these regulations on an emergency basis.

7. *Subject of the rule:* Market rates for subsidized child care

8. *Purpose of the rule:* To update the market rates social services districts can pay for subsidized child care

9. *Terms of rule (SELECT ONE):*

- The full text of the rule is attached since it is under 2,000 words.
 A summary of the rule is attached since the full text of the rule is over 2,000 words.
 Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making].

10. *Type of notice:*

- This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less.
 This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to adopt the provisions of this emergency as a permanent rule, having previously published a notice of emergency/proposed; proposed rule making I.D. No. CFS-43-07-00012-P,
Issue of: October 24, 2007.
 This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to submit a notice of proposed rule making in the future.

11. *Emergency expiration date* (A first emergency rule is effective and enforceable for up to 90 days from the **date of filing**. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their **date of filing** UNLESS the agency specifies an earlier date). This rule expires:

- 90 days after filing (*specify*): _____
 60 days after filing (*specify*): _____
 Other (*specify date*): _____

➤ **A notice of proposed rule making must be published to adopt this rule permanently and before a first emergency rule can be readopted.**

12. *The text of the final rule and any required statements and analyses may be obtained from:*

Agency contact Public Information Office

Agency name NYS Office of Children and Family Services

Office address 52 Washington Street

Rensselaer, N.Y. 12144

Telephone (518) 473-7793

E-mail: _____

13. *Additional matter required by statute:*

- YES (include material required by statute).
 No additional material required by statute.

14. **Regulatory Impact Statement (RIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RIS contains:

- the full text of the RIS.
 a summary of the RIS.
 a consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. An RIS is **not** attached:

- because this rule is subject to a consolidated RIS printed in the *Register* under
I.D. No.: _____ ; issue date: _____ .

because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

but will be published in the *Register* within 30 days of the rule's effective date.

C. A **statement is attached** claiming exemption pursuant to SAPA §202-a (technical amendment).

15. Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RFA contains:

the full text of the RFA.

a summary of the RFA.

a consolidated RFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached:

because this rule is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____; issue date: _____.

because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

but will be published in the *Register* within 30 days of the rule's effective date.

16. Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RAFA contains:

the full text of the RAFA.

a summary of the RAFA.

a consolidated RAFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not** attached:

because this rule is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____; issue date: _____.

because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

but will be published in the *Register* within 30 days of the rule's effective date.

17. Job Impact Statement (JIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached JIS contains:

the full text of the JIS.

a summary of the JIS.

a consolidated JIS, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.

Continued . . .

17. C. A JIS is **not attached**:

- because this rule is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ ; issue date: _____.
- because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
- because this rule is submitted by the State Comptroller or Attorney General.
- but will be published in the *Register* within 30 days of the rule's effective date.

18. **Assessment of Public Comment**—required for second or subsequent readoptions (check applicable box).

- An assessment of public comment is attached (less than 2,000 words).
- An assessment of public comment is not attached because the rule is within the definition of SAPA §102(2)(a)(ii) [Rate Making].
- The agency received no public comment since publication of the last assessment of public comment.
- The agency received no public comment.

19. **Referenced material** (check one box):

- No information is being incorporated by reference in this rule.
- This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Toni G. Koweek Signature _____
 Address NYS Office of Children and Family Services
52 Washington Street
Rensselaer, N.Y. 12144
 Telephone (518) 402-3463 E-mail _____
 Date December 31, 2007

Please read before submitting this notice:

- Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
- Collate the original notice and attachments** as: (1) form; (2) text or summary of rule; and, **if any**, (3) regulatory impact statement, (4) regulatory flexibility analysis for small businesses and local governments, (5) rural area flexibility analysis, (6) job impact statement, (7) assessment of public comment. Submit the originals, as collated, **and ONE copy of that collated set**. When filing any type of agency adoption, also submit an original certification stapled to rule text — **and TWO copies of that set**.
- Mail or hand deliver hard copy of rule making package to:** Department of State, Division of Administrative Rules, 41 State Street, Suite 330, Albany, NY 12231-0001.
- E-mail text/substance and attachments to:** nysregister@dos.state.ny.us **or** attach a disk containing the text/substance and required material.