

CERTIFICATION OF AN EMERGENCY RULE
OFFICE OF CHILDREN AND FAMILY SERVICES

I, William T. Gettman, Jr., Executive Deputy Commissioner of the Office of Children and Family Services (OCFS), hereby certify that the attached amendments to section 415.9 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York were duly adopted by me and are effective when filed with the Secretary of State.

These amendments were adopted pursuant to the provisions of sections 20(3)(d), 34(3)(f), 410(1) and 410-x(4) of the Social Services Law, and in accordance with Chapter 436 of the Laws of 1997 which transferred certain functions, powers, duties and obligations of the former Department of Social Services to OCFS under which the Commissioner of OCFS may promulgate regulations on an emergency basis necessary to carry out the purposes of the agency.

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 (CCDF) 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 Temporary Assistance to Needy Families funds into CCDF for child care subsidies will be jeopardized. Therefore, it is necessary to adopt these regulations on an emergency basis.

Dated: December 31, 2007

William T. Gettman, Jr.
Executive Deputy Commissioner