

A new subparagraph (18) is added to paragraph (a) of section 414.15 to read as follows:

(18) All school-age child care programs that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.

A new subparagraph (9) of paragraph (c) of section 415.4 is added and reads as follows:

(9)(i) The social services district shall allow, disallow, or defer a claim for reimbursement, submitted by an eligible provider to the social services district, for the purpose of providing child care services pursuant to this Part within 30 days of receiving such claim.

(ii) The social services district may defer a claim for reimbursement only in the following circumstances:

(a) Upon the recommendation of a federal, state, or local agency, when the agency has informed the social services district that continued payments of such claims place the social service district at risk of making payments for services that were not provided in accordance with the applicable state regulations, or

(b) After an initial review of the claim by the social services district revealed inaccuracies in the claim that warrant a more detailed review, or

(c) Upon notification of the existence of a pending criminal charge involving fraud.

(iii) The social services district may disallow payment for claims for services provided to any and all children receiving a child care subsidy for the time period in which:

(a) an enrolled provider is found by the Office to be operating or have operated a child care program, required to be licensed or registered with the Office, without obtaining such license or registration, or

(b) a licensed or registered provider is found by the Office to be operating or have operated over its licensed or registered capacity, or

(c) an enrolled informal provider is found by the Office to be caring or have cared for more children than the limits defined in section 415.1(h).

Paragraph (h) of section 415.4 is amended to read as follows:

(h)(1) A social services district may refuse to allow a child care provider that is not in compliance with this section and regulations promulgated by the Office, or any approved additional requirements of the social services district, to provide subsidized child care services to a child.

(2)(i) A social services district may disqualify a provider from receiving payment for child care services provided under the child care subsidy program if a provider:

(a) is criminally convicted of fraud;

(b) is found to be civilly liable for fraud;

(c) has voluntarily admitted to filing a false claim for reimbursement for child care services;

(d) has been disqualified from the Child and Adult Care Food Program, by the New York State Department of Health and/or its sponsoring agency, for submission of false information on the application, submission of a false claim for reimbursement or failure to keep required records;

(e) has failed to comply with the terms of a repayment plan with the social services district, or

(f) has a conviction of any activity that occurred in the past seven (7) years that indicated a lack of business integrity; or

(g) has been found by a social services district, after the social services district has conducted an administrative review in accordance with clause (ii) of this subparagraph, to have submitted a false claim(s) to a social services district for reimbursement.

(ii) An administrative review by a social services district must include the following:

(a) A review of the claims submitted to the social services district and any other information or documentation obtained by the social services district to determine the accuracy of the information contained in the claims; and if a social services district determines after such a review that a provider submitted inaccurate information in the claims, then a preliminary review report must be prepared by a social services district and sent to the child care provider that is the subject of the review for a response.

(b) A child care provider must be given 20 days, from the date the district sent the preliminary review report to respond to the report. A child care provider may respond in writing presenting evidence and arguments that the provider believes refute the findings of the preliminary review report, or may request a formal review by a social services district, which allows a provider, in person, to present evidence and arguments in support of his/her position.

(c) If no response from a provider is received by a social services district within 20 days from the date of the postmark of the preliminary review report, the report may be finalized by a social services district. A final report, issued under this subclause, may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(d) If a response from a provider is received by a social services district within 20 days from the date of the postmark of the preliminary report, the social services district must review and evaluate the response and may make appropriate changes based on the response from the provider, before issuing a final review report. Upon completion of the review, the social services district shall issue a final review report, such report must be sent to the child care provider that is the subject of the review.

(e) A child care provider, upon receipt of a final review report, must be given 10 days from the date of the postmark of the final review report to respond, and to request a formal review by the social services district. A final review report issued under this subclause, where a provider does not request a formal review within the 10-day specified timeframe, or does not provide a response that disproves the findings of said report, may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(f) A social services district, upon receipt of a request for a formal review by a provider found in a final review report to have submitted inaccurate claims, must conduct such a review within 30 days of receipt of the request.

(g) A social services district at a formal review must allow a provider, in person, to present evidence and arguments in support of the provider's position.

(h) A social services district, after a formal review and after reviewing the evidence and arguments supplied by a provider at a formal review must make a final determination of whether a provider submitted false claims. A final determination that a provider submitted false claims may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(iii) A provider who has been disqualified from receiving payment for child care services provided under the child care subsidy program by a social services district under clause (i) of this subparagraph is ineligible to receive such payments through any social services district for five years from the date of the disqualification, if such a provider made full restitution of any and all falsely obtained funds to the social services district. If such a provider did not make full restitution to a social services district, then the provider will remain ineligible to provide subsidized child care.

(iv) A social services district that disqualifies a provider from receiving a payment for child care services provided under the child care subsidy program must provide appropriate information concerning the disqualification to the appropriate regional office of the Office's Division of Child Care Services if the provider is a licensed or registered day care provider, or to the appropriate legally-exempt caregiver enrollment agency if the provider is a legally-exempt child care provider.

(3) In accordance with a plan approved by the Office, a social services district will have the right to make announced or unannounced inspections of the records and premises of any provider that provides care for subsidized children, including the right to make inspections prior to subsidized children receiving care in a home where the inspection is for the purpose of determining whether the child care provider is in compliance with applicable laws and regulations and any additional requirements imposed on such a provider by the social services district. A social services district must notify the Office immediately of any violations of regulations and must provide the Office with an inspection report documenting the results of such inspection.

(4) Nothing contained in this Part will diminish the authority of the local social services district from referring a matter to the appropriate district attorney or law enforcement agency.

A new section 415.12 is added and reads as follows:

Section 415.12 Eligible Provider Responsibilities

(a) An eligible provider that provides child care services to families receiving child care subsidies must comply with the following requirements:

(1) An eligible provider must operate their child care program in compliance the applicable Office regulations. Failure to operate in compliance with the Office regulations may result in the Office taking enforcement action pursuant to section 413.3 of this Title.

(2) An eligible provider, on a daily basis, must maintain current and accurate attendance records for each child showing the date of attendance with the time of arrival and departure. Full day absences must also be noted.

(3) An eligible provider must certify that all documentation and information provided to a social services district is accurate and true. Any false or fraudulent claims for payments by a provider may result in the deferral or disallowance of payment for such claims with a social services district, a referral to the Office for the revocation of a provider's registration or license, and/or referral for criminal prosecution.

(4) An eligible provider must not charge more for subsidized child care than the provider charges for non-subsidized care.

A new subparagraph (21) of paragraph (a) of section 416.15 is added and reads as follows:

(21) All group family day care homes that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.

A new subparagraph (21) of paragraph (a) of section 417.15 is added and reads as follows:

(21) All family day care homes that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.

A new subparagraph (19) of paragraph (a) of section 418-1.15 is added and reads as follows:

(19) All day care centers that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.

A new subparagraph (19) of paragraph (a) of section 418-2.15 is added and reads as follows:

(19) All small day care centers that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.