

Section 423.5 of Title 18 NYCRR is amended to read as follows:

(a) *General requirements.* A social services district will be reimbursed for [75] 65 percent of the costs of mandated, non-mandated, and community optional preventive services provided pursuant to section 409-a of the Social Services Law [to children and their families] when the following conditions are met:

(1) [such ]children and their families receiving such preventive services meet the client eligibility criteria as defined in sections 423.3 and 430.9 of this Title or a community optional preventive services program approved by the Office of Children and Family Services (“OCFS”) under subdivision (3) of section 409-a of the Social Services Law;

(2) the social services district receives approval of its county’s child and family services [multi-year service] plan pursuant to section 34-a of the Social Services Law;

(3) the social services district certifies that it will not be using these funds to supplant other state and local funds and that it will not submit claims for reimbursement for the same type and level of services that the district previously provided and claimed under any contract in existence on October 1, 2002 as other than child protective, preventive, independent living, or after care services or adoption administration and services, other than adoption subsidies provided pursuant to title 9 of article 6 of the Social Services Law and implementing regulations;

(4) for a district to receive an increase in funding for child protective, preventive, independent living, or after care services, or adoption administration

and services over the amount the district received for such services that were reimbursable in state fiscal year 2004-05:

(i) the amount of funds that the district expends on such services from its flexible fund for family services allocation and any flexible fund for family services funds transferred at the district's request to the title XX social services block grant must, to the extent that families are eligible therefore, be equal to or greater than the amount the district spent for such services that were reimbursed during state fiscal year 2004-05 with temporary assistance to needy families block grant funds for families eligible for emergency assistance to families and with temporary assistance to needy families block grant funds transferred to the title XX social services block grant; or

(ii) the district must increase the gross amount of such funds above the amount claimed for state fiscal year 2004-05, in which case, the increase in funding will only be available for 65 percent of the claims that exceed the gross amount claimed in state fiscal year 2004-05;

(5) beginning January 1, 2008, such preventive services, whether purchased or provided directly by the district, include performance or outcome-based provisions.

(i) For purposes of complying with this requirement, *performance* means quantifiable and verifiable interim changes in, or maintenance of, the conditions or behaviors of the target population resulting from the provision of services that indicate progress towards an outcome, and

outcome means the anticipated change in, or maintenance of, conditions or behaviors of a targeted population as a result of the provision of services.

(ii) In the absence of the required performance or outcome-based provisions, OCFS may limit up to 100% of a district's state reimbursement for preventive services expenditures related to any increases in the amount of the district's gross claims for such expenditures that are otherwise reimbursable during state fiscal year 2007-08 and thereafter that exceed the amount of its gross claims for the period October 1, 2005 through September 30, 2006 that were claimed through March 31, 2007. However, OCFS may determine, in its discretion, not to reduce a district's reimbursement in this manner if the district is able to demonstrate, in a form and manner determined by OCFS, that the absence of the required performance or outcome-based provisions is due to extenuating circumstances beyond the district's control including, but not limited to, the inability to amend a contract for the purchase of preventive services that was in effect on April 9, 2007 that extends past January 1, 2008.

[(3) the social services district expends an amount on child protective services equal to or greater than its child protective services maintenance of effort amount as published annually by the office based on expenditures and rate of child protective services reporting and indicators. In the event that the social services district does not meet its child protective services maintenance of effort amount, preventive services expenditures up to such an amount will be reimbursed as child protective services expenditures; and

(4) expenditures of the social services district are in excess of its title XX ceiling and total preventive services expenditures of such district exceed the preventive services maintenance of effort amount as specified in section 409-b of the Social Services Law unless otherwise specified in the State's annual aid to localities budget.]

(b) *In-kind or indirect services and donated funds.*

[(1) Up to one half of the social services district's total annual share of the cost of mandated preventive services may be met by in-kind or indirect services or by nontax levy funds, including, but not limited to, privately donated funds. However, this limitation does not apply to that amount equal to the total reimbursable preventive services expenditures, the local share of which was met by privately donated funds and subject to State reimbursement, during the State fiscal year ending March 31, 1981.

(2) A social services district's share of the costs of nonmandated preventive services provided pursuant to subdivision (2) of section 409-a of the Social Services Law or of the costs of community preventive services provided pursuant to subdivision (3) of section 409-a of the Social Services Law may be met in whole or in part by in-kind or indirect services or by nontax levy funds, including, but not limited to, privately donated funds.]

Claims for preventive services and independent living services submitted by a social services district for reimbursement may be comprised of in-kind, indirect services, and non-tax levy funds, including but not limited to privately donated funds, up to the same amount as the social services district's claims for such services during federal fiscal year 1998-99 were comprised of in-kind, indirect services and non-tax levy funds;

provided, however, that up to 17 ½ percent of a social services district's claims for preventive services and independent living services may be comprised of privately donated funds if the percentage of its claims comprised of privately donated funds was less than 17 ½ percent during federal fiscal year 1998-99. Federal reimbursement of such claims shall be available only to the extent permitted by federal law or regulations.

[(c) Nonmandated preventive services. Expenditures for nonmandated preventive services shall be subject to 50 percent State reimbursement, provided that the Legislature has appropriated sufficient funds for this purpose and that these expenditures are not reimbursed through title XX of the Social Services Act.

(d) Reimbursement by the department to local social services departments for day care, homemaker, housekeeper/chore, home management, transportation, and family planning as mandated preventive services shall not exceed 30 percent of Group I and II local department's and 15 percent of Group III and IV local department's total expenditures for mandated preventive services unless adjusted by a decline in foster care days as set forth in this paragraph. Groups I, II, III and IV as defined in section 679.2 of this Title and are as follows:

- (1) Group I. Social services districts having a caseload of less than 1,000 cases;
- (2) Group II. Social services districts having a caseload of 1,000, but less than 5,000 cases;
- (3) Group III. Social services districts having a caseload of 5,000, but less than 50,000 cases; and
- (4) Group IV. Social services districts having a caseload of 50,000 cases and over. Each local social services department's percentage will be increased by one percent for every

three percent decline in foster care days. Such percentage will be computed by the department annually for each Federal fiscal year, using the State fiscal year 1979-80 as a base year. This provision will become effective October 1, 1983.

(e) Reimbursement by the department to local social services departments for emergency cash, goods and shelter as preventive services shall not exceed three percent of such local department's total expenditures for mandated preventive services. Such reimbursement shall only be made for those expenditures not eligible for reimbursement under the Emergency Assistance to Needy Families with Children Program pursuant to Part 372 of this Title.]

(c) [(f)] Reimbursement by OCFS [the department] for foster care services, including casework contact requirements pursuant to section 441.21 of this Title and diligence of efforts requirements pursuant to section 430.12 of this Title may not be claimed as preventive services.

(d) [(g)] Reimbursement by OCFS [the department] for child protective services, including activities of receiving and investigating reports and monitoring shall not be claimed as preventive services.

(e) [(h)] Reimbursement by OCFS [the department] to local social services districts [departments] for preventive services expenditures shall be claimed on such forms as designated by OCFS [the department].

(f) [(i)] Notwithstanding any provision of this section, reimbursement by OCFS [the department] to local social services districts [departments] for preventive services expenditures shall not be made unless the local social services districts [departments]

explore and use other available funding sources including [emergency assistance to needy families with children and] title XIX of the Social Security Act where applicable.

(g) [(j)] Notwithstanding any provision of this section, reimbursement by OCFS [the department] to local social services districts [departments] for preventive services expenditures shall not be made if OCFS [the department] determines that such local districts [departments] are over-utilizing particular forms or types of preventive services or are not providing balanced preventive services programs based on the identified needs of children and families residing in such local districts [departments].

(h) Social services districts shall prepare and submit to OCFS information about compliance with this section in a form and manner and at the times specified by OCFS.