



Office of Children and Family Services

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DIVISION OF CHILD CARE SERVICES POLICY STATEMENT

17-1 Grace Period for Enrolling Children without Medical Records and/or Immunization Documentation

ID NUMBER: 17-1

TOPIC: Grace Period for Enrolling Children without Medical Records and/or Immunization Documentation

MODALITIES IMPACTED: All licensed/registered child care programs

APPLICABLE REGULATIONS: Title 18 of the New York State Code of Rules & Regulations §§:
416.11(a)(1-3) 417.11(a)(1-3) 418-1.11(a)(1-3)
418-2.11(a)(1-3) 414.15(c)(3)

CONTACT: Regional offices <http://ocfs.ny.gov/main/childcare/regionaloffices.asp>

EFFECTIVE: March 10, 2017

The purpose of this policy statement is to address a child care program's ability to enroll children who may not have current medical records and/or immunization documentation.

The recent reauthorization of the federal Child Care and Development Block Grant (CCDBG) and recently issued federal Child Care and Development Fund (CCDF) regulations mandate that states have requirements regarding the prevention and control of infectious diseases, including immunization, and establish a grace period developed in consultation with the state health agency that allows children experiencing homelessness and children in foster care to receive services while their families, including foster families, are taking any necessary action to comply with immunization and other health and safety requirements. Prior to the recent reauthorization of the CCDBG, the CCDF regulations provided states with flexibility to allow children (not limited to homeless and foster children) to receive child care services while their families were taking necessary action to comply with immunization requirements. In accordance with these earlier CCDF regulations, New York State already has a statutorily-established grace period that allows all children, not only those experiencing homelessness or those in foster care, to receive child care services

while their families take the necessary action to comply with immunization requirements. In order to comply with the federal requirement of establishing a grace period that allows a child to receive services while the family is taking necessary action to comply with other health and safety requirements, OCFS will allow programs to request a waiver of the regulatory requirement for obtaining a child's medical statement prior to attending the program.

More specifically, OCFS regulatory requirements to enroll a child in a child care program include: immunizations in accordance with the New York State Public Health Law (PHL); and submission of a written medical statement signed by a health care provider, verifying that a child is able to participate in child day care and currently appears to be free from contagious or communicable diseases.

With regard to the proof of immunization, Section 2164(7)(a) of the PHL prohibits a child care program from allowing a child to attend such program for more than 14 days without acceptable documentation of the child's immunization. However, the program may extend the 14-day period to not more than 30 days for a child coming from out of state or from another country, and the family can show a good faith effort to get the necessary documentation of immunization. Accordingly, pursuant to PHL Section 2164(7)(a), children are already permitted to attend a child day care program for a 14-day period, which may be extended up to 30 days in certain circumstances, while the family obtains acceptable documentation of the child's immunization.

With regard to the submission of a child's medical statement, the federal statutory and regulatory requirements provide that the grace period allow for a child to receive services while the family takes any necessary action to comply with immunization and other health and safety requirements. Accordingly, OCFS will allow programs to request a waiver of the regulatory requirement for obtaining a child's medical statement prior to attending the program. This will allow children to enroll in and participate in a child care program for up to a 14-day or 30-day grace period, consistent with the grace period established in PHL, without the submission of a medical statement.

Child care programs must not unduly delay the temporary enrollment of a child experiencing homelessness or a foster child. Programs may submit a request for a waiver of the applicable regulations regarding the medical statement to OCFS by completing OCFS form number OCFS-4887 (Request for Waiver). Upon OCFS approval of the waiver request, the program may temporarily enroll children if there is availability in the program and all other requirements are met with the exception of those items addressed in this policy. Once the waiver for the medical statement is approved and the child is temporarily enrolled and attending the child care program, the parent or foster parent of the child will have a grace period of no more than 14 calendar days from the date the program began to provide care for the child to submit to the program the child's required medical statement. The 14-day grace period can be extended to 30 days from the date the program began to provide care to the child, only in cases where the child is from out of state or another country and the parent or foster

parent has shown a good faith effort to get the necessary documentation, consistent with the NYS PHL standard established for the required immunization documentation.

At the conclusion of the 14-day or 30-day grace period, as applicable, if the parent or foster parent has not provided the program with the child's immunization and medical statement, the program may no longer permit the child to attend the program unless the parent (not a foster parent) furnishes the program with a written statement that the child is not immunized because of the parent's religious beliefs, or the parent or foster parent of the child who is missing one or more of the required immunizations furnishes the program with a written statement, signed by a physician licensed to practice medicine, that such immunizations may be detrimental to the child's health.

If a parent has questions about where to take a child for vaccines, the child care program will suggest the parent contact the local health department or the NYS Vaccines for Children (VFC) Program at 1-800-543-7468, which can help the parent find a VFC Program provider in the area. The Vaccines for Children (VFC) Program provides free vaccines to children whose parents need help paying for them. A child younger than 19 years of age is eligible for the VFC Program if he or she is uninsured, Medicaid-eligible, enrolled in the New York State Child Health Plus insurance program, underinsured (if they have health insurance that does not cover vaccines), or is an American Indian or Alaska Native. Child care programs should instruct parents to ask their doctor if he or she is a VFC Program provider. If their doctor is not a VFC provider or if the family has no doctor, the child care program will recommend that the parent take the child to one of the following places to get VFC vaccines: Local Health Department, Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC).

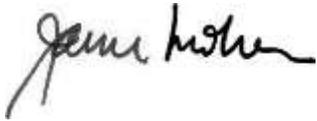
OCFS's use of the term "homeless" in this policy is consistent with the definition of "homeless children and youth" as defined in Section 725(2) of McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act which provides:

- the term homeless children and youths means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1) of the McKinney-Vento Act); and
- includes:
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C) of the McKinney-Vento Act);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

Approved by:

A handwritten signature in black ink, appearing to read "Janice Molnar". The signature is written in a cursive, flowing style.

Date: 3-10-17

Janice M. Molnar, Ph.D.
Deputy Commissioner