

## **Regulatory Changes Related to 24-Month Eligibility**

Subdivision (b) of section 415.1 of Title 18 NYCRR is amended to read as follows:

(b) *Eligible child* means a child who resides with a caretaker [which]who meets the program and financial eligibility requirements for the particular type of child care services and who:

(1) is under 13 years of age at the time of eligibility determination. For child care services provided under the New York State Child Care Block Grant Program, a child who turns 13 years of age remains eligible for assistance through the end of the eligibility period or until the child reaches 14 years of age, unless otherwise eligible under paragraph (2) or (3) of this subdivision. For child care services provided under title XX of the Federal Social Security Act or provided as child protective services or preventive services [under]other than under the New York State Child Care Block Grant Program, a child who turns 13 years of age during a school year may continue to receive child care services through the end of that school year; or

(2) is under 18 years of age at the time of eligibility determination[;] and is a child with special needs, as defined in subdivision (c) of this section, or is a child under court supervision. For child care services provided under the New York State Child Care Block Grant Program, a child who turns 18 years of age remains eligible for assistance through the end of the eligibility period or until the child reaches 19 years of age, unless otherwise eligible under paragraph (3) of this subdivision:

- [(i) is a child with special needs as defined in subdivision (c) of this section; or
- (ii) is under court supervision;] or

(3) is under 19 years of age [,]and is a full-time student in a secondary school, or in an equivalent level of vocational or technical training, and[:] is a child with special needs as defined in subdivision (c) of this section, or under court supervision. For child care services provided under the New York State Child Care Block Grant Program, a child who turns 19 years of age remains eligible for assistance through the end of the eligibility period or until the child reaches 20 years of age.

- [(i) is a child with special needs as defined in subdivision (c) of this section; or
- (ii) is under court supervision.]

Paragraph (1) of subdivision (a) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(1) Families [which]who are guaranteed child care services. A social services district must guarantee child care services to a family [which]who meets the criteria set forth in any subparagraph of this paragraph regardless of whether the social services district has any State or Federal funds available under this program to pay for all or a portion of such costs. In accordance with subdivision (d) of this section, a district may set aside funds and/or establish priorities for families eligible for a child care guarantee.

- (i) A social services district must guarantee child care services to a family who has applied for or is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or

caretaker relative(s) to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 18 NYCRR Part 385. The guarantee applies to all[of the] eligible children of the parent(s) or caretaker relative(s) regardless of the child's status as part of the public assistance filing unit. When child care assistance is provided to a family who has a pending application for public assistance pursuant to this subparagraph, and such application is denied, the associated child care assistance case must be closed, regardless of the eligibility period, unless the family is determined otherwise eligible for child care assistance.

(ii) A [local]social services district must guarantee to applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child care assistance in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this section, an eligible applicant for, or recipient of, public assistance benefits and who is employed, includes a person whose gross earnings equal, or are greater than, the required number of work hours times the State minimum wage. Recipients of child care assistance under this section who are no longer eligible for public assistance benefits[,] shall be eligible for transitional child care described in subparagraph (iv) of this paragraph as if they had been recipients of public assistance.

(iii) A social services district must guarantee child care services to a family [which]who is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

(iv) ...

(a)...

(1) ...

(2) ...

(b) the family received public assistance in at least three of the six months immediately preceding the case closing; or, for a family [which]who chose child care in lieu of public assistance, the family received child care in lieu of public assistance and was eligible for public assistance in at least three of the six months immediately preceding their ineligibility for public assistance; and

(c) the family includes an eligible child [that]who is under the age of 13 who needs child care services in order to enable the child's parent(s) or caretaker relative(s) to be engaged in work as defined in section 415.1(o)(1) of this Part; and

(d)...

Clause (c) of subparagraph (v) of paragraph (2) of subdivision (a) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(c) for the child's caretaker(s) to attend educational or vocational activities as defined in section 415.2(a)(3)(viii)(b) or section 415.2(a)(3)(iv).

Notwithstanding the potential for some of these educational or vocational training programs to allow for the eventual attainment of a bachelor's degree or like certificate of completion for a four-year college program, this regulation does not permit the renewal of such educational or vocational training program enrollment for any additional period in excess of 48[30] consecutive calendar months except[as for] those programs defined in section 415.2(a)(3)(iv), nor does it permit enrollment in more than one such program; or

Paragraph (3) of subdivision (a) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(3) Families [that]who are eligible if funds are available under this program and if the social services district has listed such families as eligible in the district's consolidated services plan or integrated county plan. A social services district must provide child care services for an eligible child as defined in section 415.1(b) of this Part to a family eligible under this paragraph, to the extent that the district continues to have funds available under either the district's allocation for the State Child Care Block Grant Program or any local funds appropriated for such program subject to any priorities and set asides established pursuant to subdivision (d) of this section, provided the social services district has listed such families as eligible families in the district's consolidated services plan or integrated county plan:

(i)...

(ii)...

(iii)...

(a)...

(b)...

(c) in an emergency situation [of short duration]including, but not limited to, cases where the caretaker's absence from the home for a substantial part of the day is necessary because of extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters, or providing chore/housekeeper services for an elderly or disabled relative.

(iv) a family is receiving public assistance or has income up to 300 percent of the state income standard, provided the family income does not exceed 85 percent of the state median income, and child care services are needed for the child's caretaker to attend [a two- year program other than one with a specific vocational sequence leading to an associate's degree or a certificate of completion, or ]a four-year college or university program leading to a bachelor's degree provided:

(a) ...

(b) ...

(v) a family is receiving public assistance or has income up to 300 percent of the state income standard, provided the family income does not exceed 85 percent of the state median income, and child care services are needed for the child's caretaker to attend a two-year degree granting program at a community college, a two-year college, or an undergraduate college leading to an associate degree or certificate of completion within a determined time frame which must not exceed 48 consecutive calendar months;

(vi)...

(vii)...

(viii) ...

(a) ...

(b) ...

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) [a two-year full-time degree granting program at a community college, a two-year college, or an undergraduate college with a specific vocational goal leading to an associate degree or certificate of completion within a determined time frame which must not exceed 30 consecutive calendar months;

(7)] ...

([8]Z) ...

([9]g) ...

(c) a program to train workers in an employment field that currently is or is likely to be in demand in the near future, if the caretaker documents that he or she is a dislocated worker and is currently registered in such a program, provided that child care services are only used for the portion of the day the caretaker is able to document is directly related to the caretaker engaging in such a program. For the purposes of this provision, a dislocated worker is any person who: has been terminated or laid off from employment; has received a notice of termination or layoff from employment that will occur within six months of such notice; or was self-employed but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

Notwithstanding the potential for some of these educational or vocational training programs to allow for the eventual attainment of a bachelor's degree or like certificate of completion for a four-year college program, this regulation does not permit the renewal of such educational or vocational training program enrollment for any additional period in excess of [30]48 consecutive calendar months except as authorized under subparagraph (iv) of this paragraph, nor does it permit enrollment in more than one such program.

(ix[viii]) ...

Subdivision (c) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(c) A social services district must provide recipients of services funded under the New York State Child Care Block Grant with such services for [at least]12 or 24 months, except as provided in Section 415.2(d)(4).

Subparagraph (ii) of paragraph (3) of subdivision (d) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(ii) A social services district that has not established set asides must open a new case for an eligible family if the district has sufficient funding available to provide child care services to that family for the 12-month eligibility period, or the 24-month eligibility period for cases funded under the New York State Child Care Block Grant if the district opts in its Child and Family Services Plan to authorize child care assistance for 24 months, at the time the family is determined to be eligible. If the district does not have sufficient funding available because all of the available funds are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee or place the family on a waiting list for subsidies.

Paragraph (4) of subdivision (d) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(4) [Case closings]Discontinuance of services prior to the end of the eligibility period.

(i) For New York State Child Care Block Grant funds, a social services district must provide services to recipients for the duration of the [12-month]eligibility period unless:

(a) ...

(b) ...

(c) ...

(d) The recipient has been convicted of or voluntarily admitted to fraudulently receiving child care assistance;[or]

(e) The recipient certified and attested to false information on the application for child care assistance and/or enrollment form or any attachment thereto[.];

(f) The child care assistance is provided pursuant to subparagraph (a)(1)(i) of this section during the public assistance application determination period and such application has been denied, unless the family is found otherwise eligible under this section;

(g) A child determined eligible pursuant to 415.1(b)(1) of this Part turns 14 years of age;

(h) A child determined eligible pursuant to 415.1(b)(2) of this Part turns 19 years of age; or

(i) A child determined eligible pursuant to 415.1(b)(3) of this Part turns 20 years of age.

(ii) For Title XX funds, the case must be closed when the child turns 13 years of age, except that a child who turns 13 years of age during a school year may continue to receive child care services through the end of that school year. Q[once a social services district has committed all of the funds available to it, [either through set asides approved in the district's consolidated services plan or integrated county plan and/or because all of the available funds are projected to be needed for open child care cases,] the social services district may discontinue funding to those families [which are not eligible for a child care guarantee that] who have lower priorities in order to serve families with higher priorities. If no priorities are established [beyond the federally-mandated priorities] and all funds are committed, case closings [for families which are not eligible under a child care guarantee and are not a federally-mandated priority] must be based on the length of time in receipt of services. The length of time used to close cases may be based either on the shortest or longest time receiving child care services but must be consistent for all families. The social services district must specify in its consolidated services plan or integrated county plan whether case closings will be based on the shortest or longest length of time receiving child care services.

Paragraph (1) of subdivision (b) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(1) Continuing eligibility for child care services must be redetermined every 12 months, or 24 months for cases funded under the New York State Child Care Block Grant if the district opts in its Child and Family Services Plan to authorize child care assistance for 24 months, and when case factors indicate that redetermination could be beneficial to the family by reducing family share or increasing [subsidy] the amount of child care assistance; provided, however, that a social services district may not require the submission of a new application merely because the applicant is no longer eligible for public assistance or no longer eligible for a child care guarantee. The district must establish procedures to enable families to keep their child care services without interruption as long as the families remain eligible for such services including procedures to transfer families from one unit of the district to another when necessary.

Paragraph (3) of subdivision (c) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(3) The child care services provided must be reasonably related to the hours of employment, education or training of a child's caretaker, as applicable, and permit time for delivery and pick-up of the child. In the event the caretaker is no longer engaged in their approved activity during the [12-month] eligibility period, the child care services must continue unless the recipient family has experienced a non-temporary cessation in work or attendance at a training or education program or experienced other circumstances set forth in 415.2(d)(4). Child care services must be provided, if needed, to enable an employed caretaker who works non-traditional hours to obtain up to eight hours of sleep if they have a child who is under the age of 6 and not in school for a full day. Child care services may be provided, if needed, to enable other employed caretakers who work

non-traditional hours to obtain up to eight hours of sleep if the social services district indicates in its Child and Family Services Plan that it will provide such services.

Subparagraph (i) of paragraph (9) of subdivision (c) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(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]21 calendar days of receiving such claim.

Subdivision (d) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(d) *Jurisdiction*

(1) When a family [which is guaranteed] in receipt of child care services under the New York State Child Care Block Grant moves from one social services district to another social services district within the State, [the new social services district of residence is responsible for paying for the family's child care services beginning with the second full month that the family lives in that district, provided the family continues to be eligible for guaranteed child care services. T] the former social services district is obligated to continue to pay for the [guaranteed]authorized child care services [during the month the family moves to the other district and the first full month following the month the family moved]for the duration of the eligibility period.

(2) For cases funded under Title XX, the social services district in which the family resides will be responsible for child care services. [Notwithstanding paragraph (1) of this subdivision, if a social services district continues to have responsibility for providing public assistance benefits for a family which has moved to another district, such as when the parent(s) or caretaker relative(s) is required to attend a substance abuse program located in another district, the district which is responsible for the public assistance benefits remains responsible for all child care services needed for any child(ren) of that parent(s) or caretaker relative(s) who moves to live with, or be near, the parent(s) or caretaker relative(s).

(3) When a child(ren) is placed in foster care in a social services district outside of the district where the child(ren) resided at the time of placement, and the foster family needs child care services for the foster child(ren) and the foster family is eligible to receive such services pursuant to section 415.2(a) of this Part, the district that has financial responsibility for the foster child(ren) will be responsible for providing child care services for the foster child(ren).

(4) For all other families not described by paragraph (1), (2) or (3) of this subdivision, the social services district where a family resides will be responsible for providing child care services.]

Clauses (g) and (h) of subparagraph (i) of paragraph (2) of subdivision (h) of section 415.4 of Title 18 NYCRR are amended to read as follows:

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

(h) has failed to comply with the terms of a repayment plan for grant programs administered by the Office.

Subparagraph (iii) of paragraph (2) of subdivision (h) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(iii) A provider who has been disqualified from receiving payment for child care services provided under the child care [subsidy]assistance program by a social services district or the Office under subparagraph (i) of this paragraph 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 or the Office. If such a provider did not make full restitution to a social services district or the Office, then the provider will remain ineligible to provide subsidized child care and ineligible for future grant opportunities offered by the Office.

Paragraph (11) of subdivision (i) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(11) An applicant for child care services who has not repaid past overpayments for previous child care services must agree to, and comply with, a plan to make full repayment of such overpayments as a condition of being eligible for new child care services if such overpayments [that]resulted from:

(i) ...

(ii) [from ]child care services fraud by the applicant or member(s) of the applicant's family unit who was a parent or caretaker and responsible for such fraudulent activity[must agree to, and comply with, a plan to make full payment of such overpayments as a condition of being eligible for the new child care services].

Section 415.10 of Title 18 NYCRR is amended to read as follows:

(a) A social services district may request a waiver of any non-statutory provision of this Part. The waiver must be described in the social services district's consolidated services plan or integrated county plan and must be approved by the [o]Office prior to implementation.

(b) A social services district must submit a waiver request to the Office in writing. The written request must include:

(1) the specific regulation for which a waiver is sought;

(2) the reason the waiver is necessary; and

(3) a description of what will be done to achieve or maintain the intended purpose of the regulation.

Paragraph (2) of subdivision (g) of section 415.13 of Title 18 NYCRR is amended to read as follows:



(2) No more than two children may be in care for more than three hours simultaneously per day, except when the provider is a relative within the third degree of consanguinity of the parents or stepparents of all children in care. [Relatives within the third degree of consanguinity of the parent(s) or stepparent(s) of the child include: the grandparents of the child; the great-grandparents of the child; the great-great grandparents of the child; the aunts and uncles of the child, including spouses of the aunts and uncles; the great aunts and great-uncles of the child, including the spouses of the great-aunts and great uncles; the siblings of the child; and the first cousins of the child, including spouses of the first cousins.]

Subparagraph (iii) of paragraph (9) of subdivision (c) of section 404.1 of Title 18 NYCRR is amended to read as follows:

(iii) [no less often than every 12 months,]when redetermining the eligibility of income-eligible recipients pursuant to 404.1(d)(2) of this Title, except those individuals specified in clause (d)(2)(ii)(b) of this section.

Paragraph (2) of subdivision (d) of section 404.1 of Title 18 NYCRR is amended to read as follows:

(2) ...

(i) Programmatic eligibility must be redetermined [periodically but not less frequently than]every 12 months, or 24 months for cases funded under the New York State Child Care Block Grant if the district opts in its Child and Family Services Plan to authorize child care assistance for 24 months, including State charge recipients of post-institutional service planning (PISP) who are receiving only follow-up visits as specified in paragraphs (a)(1)-(4) of section 313.2 of this Title. However, programmatic eligibility must be redetermined not less frequently than every six months for recipients of foster care services for children. The requirements regarding the periodic redetermination of programmatic eligibility as set forth in this section do not supersede or otherwise affect the requirements concerning the development, periodic review, and update and implementation of services plans or the client eligibility and monitoring activities for child care services as set forth in Part 415 of this Title or for protective services for adults as set forth in Part 457 of this Title.

(ii) ...

(a) every 12 months, or 24 months for cases funded under the New York State Child Care Block Grant if the district opts in its Child and Family Services Plan to authorize child care assistance for 24 months, for an income-eligible individual in receipt of services;

(b)...

(c)...

(d)...

This subparagraph does not apply to a child or minor in receipt of adoption assistance or to a recipient of social group services for senior citizens. This subparagraph also does not apply to recipients of public assistance, including Emergency Assistance to Families (EAF), or medical assistance; provided, however, that the continuing eligibility of such recipients for services must be verified every 12 months by use of an online inquiry or appropriate system production reports in those social services districts where the public assistance, medical assistance and services components of the welfare management system have been installed. In all other social services districts, verification of continuing eligibility for such recipients must occur every 12 months and must be documented in the case record and signed by the caseworker and case supervisor.