

Subparagraph (vi) of paragraph (5) of subdivision (b) of section 404.5 of Title 18 NYCRR is amended to read as follows:

(vi) Public assistance or welfare payments include public assistance payments such as ADC, SSI (including state supplemental payments) and home relief. SSI (including state supplemental payments) received by any child(ren) in the child care services unit is not counted as income for the purpose of determining monthly gross income for child care assistance.

Subparagraphs (xix) and (xx) are amended and (xxi) is added to paragraph (6) of subdivision (b) of section 404.5 of Title 18 NYCRR to read as follows:

(xix) veterans' assistance payments made for covered birth defects to or on behalf of the adult or minor children of women Vietnam veterans in service in the Republic of Vietnam during the period beginning on February 28, 1961 and ending on May 7, 1975. Covered birth defects means any birth defect identified by the Veterans' Administration as a birth defect that is associated with the service of women Vietnam veterans in the Republic of Vietnam during the period on February 28, 1961 and ending on May 7, 1975, and that has resulted or may result in permanent physical or mental disability; [and]

(xx) disaster relief payments other than unemployment compensation; and

(xxi) SSI (including state supplemental payments) received by any child(ren) in the child care services unit for a family who is applying for or is in receipt of child care assistance.

Subdivision (e) is added to section 404.5 of Title 18 NYCRR to read as follows:

(e) A child care services unit is deemed financially eligible for child care assistance under the New York State Child Care Block Grant and Title XX of the Federal Social Security Act, without further investigation or verification, if the unit has been determined eligible for an

approved program, as specified by the office, with a financial eligibility threshold that is equal to or less than the limit set forth in Part 415.2(a) of this Title. The eligibility determination for child care assistance must be made within six months of the date of the eligibility determination for the other program.

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

(1) Families who are guaranteed child care services. A social services district must guarantee child care services to a family 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)...

(ii)...

(iii)...

Clause (d) of subparagraph (iv) of paragraph (1) of subdivision (a) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(d) the family has income at or below [300 percent of the applicable state income standard, provided the family income does not exceed]85 percent of the [s]State median income. This child care guarantee is available to eligible families for 12 months from the month after the family's eligibility for public assistance has terminated or ended. Families may ask for and begin to receive child care in any month during the 12-month period of the child care guarantee. The start date for eligibility may precede the date services were requested and cover any period during the 12 months of the guarantee.

Paragraph (2) of subdivision (a) of section 415.2 of Title 18 NYCRR is repealed and replaced as follows:

(2) Families who are eligible when funds are available. A social services district must provide child care services to a family eligible under any one of the subparagraphs of this paragraph, to the extent that the district continues to have funds available under either the district's allocation from the State Child Care Block Grant Program or any local funds appropriated for such program, subject to the Federal and State priorities set forth in subdivision (d) of this section.

(i) A family who has applied for or is receiving public assistance when such services are needed for an eligible child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by social services officials including orientation, assessment, or work activities defined in Part 385 of this Title.

(ii) A family receiving public assistance when such services are needed:

(a) for a child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district;

(b) for a parent or caretaker relative to participate in an approved activity in addition to their required work activity; or

(c) for a sanctioned parent or caretaker relative to participate in unsubsidized employment whereby the parent or caretaker relative receives earned wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law.

(iii) A family receiving public assistance or with income up to 85 percent of the State median income, when child care services are needed because the child's caretaker is:

(a) receiving services for victims of domestic violence, or is participating in a screening or assessment to receive services for victims of domestic violence;

(b) participating in an approved substance abuse treatment program, or is participating in a screening or assessment to determine the need for substance abuse treatment;

(c) in an emergency situation 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;

(d) a teenage parent attending high school or an equivalency program;

(e) physically or mentally incapacitated or has family duties away from home necessitating their absence;

(f) attending 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; or

(g) attending a four-year college or university program leading to a bachelor's degree provided:

(1) the program is reasonably expected to improve the earning capacity of the caretaker; and

(2) the caretaker can demonstrate their ability to successfully complete the course of study;

(h) experiencing homelessness, in accordance with section 725 of Subtitle VII-B of the McKinney-Vento Act.

(iv) A family with income up 85 percent of the State median income and child care services are needed:

(a) for the child's caretaker(s) to be engaged in work as defined in section 415.1(o)(1) of this Part;

(b) for the child's caretaker to actively seek employment as defined in section 415.1(p) of this Part for a period of up to six months, if the caretaker documents that they are currently registered with a New York State Department of Labor Division of Employment Services Office, provided that child care services will be available only for the portion of the day the family is able to document is directly related to the parent or caretaker engaging in such activities;

(c) for one of the child's caretakers to be engaged in work as defined in section 415.1(o)(1) of this Part and the child's other caretaker is physically or mentally incapacitated or has family duties away from home necessitating their absence; or

(d) for the child's caretaker to attend educational or vocational activities including the following secondary or post-secondary programs:

(1) a public or private educational facility providing a standard high school curriculum offered by or approved by the local school district;

(2) an education program that prepares an individual to obtain a New York State high school equivalency diploma;

(3) a program providing basic remedial education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the ninth month of the eighth grade level in those areas;

(4) a program providing literacy training designed to help individuals improve their ability to read and write;

(5) an English as a second language (ESL) instructional program designed to develop skills in listening, speaking, reading and writing the English language for individuals whose native or primary language is other than English;

(6) a training program which has a specific occupational goal and is conducted by an institution licensed or approved by the State Education Department other than a college or university;

(7) a prevocational skills training program such as a basic education and literacy training program; or

(8) a demonstration project designed for vocational training or other projects approved by the Department of Labor.

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 consecutive calendar months except as authorized under clause (g) of subparagraph (iii) of this paragraph, nor does it permit enrollment in more than one such program.

(e) for the child's caretaker to attend 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 they are 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.

(v) A family in need of child care services due to one of the following situations:

(a) a child has been placed in foster care and is residing in the home with a certified or approved foster parent. Such cases must be determined eligible without regard to income; and/or

(b) a family with an open child protective services case or a preventive services case with a child protective services component. Such cases must be determined eligible without regard to income.

Paragraph (3) of subdivision (a) of section 415.2 of Title 18 NYCRR is repealed.

Subdivision (b) of section 415.2 of Title 18 NYCRR is repealed and replaced as follows:

(b) To the extent that the social services district has made Title XX funds available for child care services, a family is eligible for child care services funded under Title XX of the Federal Social Security Act if the family meets one or more of the criteria set forth in subdivision (a) of this section or the child is in need of child care as a preventive service, provided that the social services district has listed such families as eligible families in the district's consolidated services plan or integrated county plan.

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

(d) Actions related to child care assistance [Priority populations and funding set asides.]

(1) Priority populations. When a social services district projects that allocated New York State Child Care Block Grant funds will be insufficient to open all eligible non-guaranteed cases, the district must prioritize families as outlined in this paragraph. Provided however that families in receipt of child care assistance as of September 30, 2023 who were identified as a priority population under a local social services districts' child and family services plan shall continue to be prioritized for such assistance, provided they meet all other applicable eligibility requirements for such assistance.

(i) [For child care services funded under the New York State Child Care Block Grant Program, each social services district must give priority to the following federally-mandated populations:]Federally mandated populations for families determined eligible under paragraph (2) of subdivision (a) of this section must be applied first and opened in the following order:

(a) families experiencing homelessness;

(b) families with very low income. Very low income is defined as an income level up to 300 percent of the [s]State income standard, provided the family income does not exceed 85 percent of the [s]State median income; and

([b]c) families with children who have special needs]; and

(c) families experiencing homelessness].

(ii) For child care services funded under the New York State Child Care Block Grant Program [and/or under title XX of the Federal Social Security Act], each social services district [may establish local priorities for child care services provided that the priorities provide eligible families with equitable access to child care assistance funds to the extent that these funds are available. Any local priorities must be set forth in the district's consolidated services plan or integrated county plan.]must give priority to the following State-mandated populations when a family has not been determined eligible under paragraph (1) of subdivision (a) of this section or has not been authorized for child care assistance as a federally mandated priority population, in the following order:

(a) families with income between 300 percent of the State income standard and up to 85 percent of the State median income when child care services are needed for the child's caretaker(s) to be engaged in work;[Local priorities cannot replace the federally mandated priorities.]

(b) families in which the child in need of child care assistance has an open child protective case or a preventive services case with a child protective services component;[Local priorities may be based on one or a combination of factors. Local priorities established under the child care block grant cannot be based on income level.]

(c) families in need of child care services for a child who has been placed in foster care and is residing in the home with a certified or approved foster parent;[Local priorities may not have the effect of limiting a caretaker's choice of any eligible child care provider or be based on a caretaker's choice of a child care certificate.]

(d) families with a teenage parent who is in need of child care assistance to attend high school or an equivalency program;

(e) families in which the child's caretaker is receiving services for victims of domestic violence or is participating in a screening or assessment to receive services for victims of domestic violence;

(f) families in which the child's caretaker is participating in an approved substance abuse treatment program, or is participating in a screening or assessment to determine the need for substance abuse treatment.

When the Federal and State priority populations have been opened and funds remain available, any other families determined eligible under paragraph (2) of subdivision (a) of this section must be opened based on the date of application. Remaining families may be placed on a waiting list.

(2) Reserved [Funding set-asides.

(i) Each social services district may set aside a portion of the district's New York State Child Care Block Grant allocation and/or its title XX allocation to serve one or more of the Federal and/or the district's local priority populations including families eligible for a child care guarantee; provided that the method of disbursement of funds to priority groups provides that eligible families within a priority group will receive equitable access to child care assistance funds to the extent that such funds are available.

(ii) Each funding set aside must be based on a 12-month period and must be described in the district's consolidated services plan or integrated county plan along with the rationale for the set aside amount based on the projected need for that population.

(iii) Within each 12-month period, the amount of the set aside for each particular priority population may be adjusted up or down by 10 percent without the prior written approval of the office. Each such adjustment to a set aside amount must be reported to the office within 30 days of the adjustment.

(iv) The prior approval of the office is needed for any adjustment in the amount of a set aside for a particular priority population which would exceed 10 percent of the amount for that set aside originally specified in the district's consolidated services plan or integrated county plan.]

(3) ...

(i) If a social services district has [set aside funds to serve one or more priority populations and]projected that all [of the]available funds [that are not set aside] are[projected to be] needed for open child care cases, the district may deny services to a family who [which]is not eligible for a child care guarantee [and which does not fall within the priority populations for the set-asides or]and place the family on a waiting list for [subsidies]child care assistance, if applicable.

(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 who[which] is not eligible for a child care guarantee [or]and place the family on a waiting list for [subsidies]child care assistance if established in the district's Child and Family Services Plan.

(iii) When a social services district has established a waiting list for child care assistance and determines that funds have become available to open new cases, such cases must be opened in the following order:

(a) eligible cases that meet the Federal priorities, in the order specified in subparagraph (i) of paragraph (1) of this subdivision;

(b) eligible cases that meet the State priorities in the order specified in subparagraph (ii) of paragraph (1) of this subdivision;

(c) remaining eligible cases must be opened based on the length of time on the waiting list, which must correspond with the date of application.

(4) ...

(i) ...

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) The child care assistance is provided[pursuant to 415.2(a)(1)(i)] during the [public assistance]application determination period and such application has been denied, unless the family is found otherwise eligible under this section;

(g) ...

(h) ...

(i) ...

(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. Once a social services district has committed all of the available funds[available to it, the social services district may discontinue funding to those families who have lower priorities in order to serve families with higher priorities. If no priorities are established and all funds are committed], case closings 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.

(5) ...

Paragraph (3) of subdivision (e) of section 415.3 of Title 18 NYCRR is amended to read as follows:

(3) The sliding fee scale developed by the social services district must be calculated by subtracting the State income standard, as defined in section 415.1(k) of this Part, for the specific family size of the eligible family from the annual gross income of the eligible family, multiplying

the remaining income by a factor of [at least one (1)] [but no more than 10]percent[, as selected by the social services district and included in the district's consolidated services plan or integrated county plan], and dividing the product by 52 to determine a weekly family share.[The same percentage factor must be used for all families receiving child care services that are required to pay an income-based portion of a family share.]

Paragraphs (3) through (5) of subdivision (a) of section 415.4 of Title 18 NYCRR are renumbered as paragraphs (4) through (6) and a new paragraph (3) is added as follows:

(3) A social services district may include in its Child and Family Services Plan the option to provide child care services to a family who has applied for such services during the eligibility determination period.

(i) When child care assistance is provided to a family who has a pending application and the family is determined eligible, the associated child care assistance case must be opened for the duration of the eligibility period. The social services district may use New York State Child Care Block Grant funding for the child care services provided from the date of the application.

(ii) When child care assistance is provided to a family who has a pending application and the application is withdrawn or denied, the associated services must cease. The social services district must use local funds to provide payment for the child care services that were provided during the application determination period.

Paragraph (4) of subdivision (a) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(4) Initial eligibility for child care assistance must be determined pursuant to the requirements of this Part, Part 404 of this Title and, where applicable, Part 385 of this Title. In

addition, required documentation is a [necessary]prerequisite to the determination of eligibility and must be retained.

Subparagraphs (ii) and (iii) of paragraph (9) of subdivision (c) of section 415.4 of Title 18 NYCRR are amended to read as follows:

(ii) ...

(a) upon the recommendation of a [f]Federal, [s]State, or local agency, when the agency has informed the social services district that [continued] payment[s] of such claims places the social services district at risk of making payments for services that were not provided in accordance with the applicable [state]regulations; or

(b) ...

(c) ...

(iii) The social services district may disallow payment for claims for services provided to any and all children receiving [a]child care [subsidy]assistance 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) of this Part]a provider is determined ineligible to receive child care assistance payment(s) after an administrative action as set forth in subdivision (h) of this section.

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

(1) In accordance with guidelines established by the [O]office, a social services district may refuse to allow a child care provider that is not in compliance with applicable regulations [promulgated by the Office,]or any approved additional requirements of the social services district, to receive payment for[provide subsidized] child care services to a child.

Clause (h) of subparagraph (ii) of paragraph (2) of subdivision (h) of section 415.4 of Title 18 NYCRR is amended to read as follows:

(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 receiving payment for[providing subsidized] child care services and/or require a repayment plan to recoup the overpayment.

Subdivision (b) of section 415.6 of Title 18 NYCRR is amended to read as follows:

(b) Reimbursement for payment on behalf of children who are temporarily absent from child care is subject to the following conditions:

(1) ...

(2) Reimbursement for absences from child care must be paid up to [24]80 days per year.

(3) Reimbursement for additional absences due to extenuating circumstances may be allowed on a case-by-case basis as determined by the office.[Reimbursement for absences from child care may be paid up to 80 days per year. The social services district must specify in

its Child and Family Services Plan whether it opts to make absence payments above 24 days and, if applicable, the total maximum number of absences and for which providers such payments will be made.]

(4) ...

(5) ...

Subdivision (c) of section 415.6 of Title 18 NYCRR is amended to read as follows:

(c) Reimbursement for payments to licensed or registered child day care providers or legally exempt group child care programs during program closures [also]is [allowable]subject to the following conditions:

(1) The social services district must[has opted to make such payments. If a social services district opts to make such payments, it may choose to] make[such] payments [either to those child care providers with which the social services district has a contract or letter of intent or] to all providers of [subsidized]child care services except for providers of informal child care. [The social services district must specify in its Child and Family Services Plan whether or not it opts to make such payments and, if applicable, for which providers such payments will be made.]

(2) The program closure is due to a State, Federal, [or nationally recognized]religious or cultural holiday, full-day professional development/training, or due to extenuating circumstances beyond the provider's control, including but not limited to:

(i)...

(ii)...

(iii)...

(3) Reimbursement is available only for children in receipt of [a]child care assistance [subsidy]who would otherwise be present at the child care program.

(4) Reimbursement is not available for a day the program is closed if the provider ordinarily charges the caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives [subsidized]child care assistance[services] from a different provider on the same day.

(5) Reimbursement for program closures must be paid up to 20 days per year. Provided however, program closures due to full day professional development training are only available to licensed and registered programs and are limited to two days per year[The maximum number of days allowable under this section is five per annum].

(6) ...