

Regulatory Flexibility Analysis for Small Business and Local Governments

1. Effect on Small Businesses and Local Governments:

There are approximately 17,000 licensed/registered child care programs (including New York City group day care centers) and 9,000 enrolled legally exempt child care programs, the majority of which are small businesses, and 58 social services districts in New York State affected by this rule.

2. Compliance Requirements:

The New York State Office of Children and Family Services (OCFS) will complete a blanket amendment, which will be posted to the Child and Family Services Plan (CFSP) page on the OCFS website to reflect the family income eligibility level up to 85% of the state median income (SMI), the statewide family share of 1%, the requirement for reimbursement of up to 80 absences and 20 program closures, and the removal of the district option to designate families eligible for child care assistance. Districts must send appropriate notices to affected families and providers to notify them of the new family share percentage. Districts must also review and amend all provider contracts to ensure that the contracts reflect the 80 paid absences and 20 program closures. If necessary, districts must notify providers of the maximum number of allowable paid absences through written notice.

3. Professional Services:

There are no new professional services anticipated to be required because of this rule.

4. Compliance Costs:

The 2023-24 enacted state budget increased the funding for the Child Care Assistance Program (CCAP). The expansion of eligibility, the implementation of state priorities, the restructuring of eligibility categories, the increase in absences, the requirement to reimburse for program closures, including closures for full-day professional development training for licensed or registered providers, and capping of family share will increase spending for local districts. The increase in funding to the CCAP will allow the districts to implement these regulatory changes.

Expanded eligibility is also expected to increase the number of applications received by districts, which may place additional administrative costs on the district. However, while this rule will increase the number of applicants for child care assistance, the reduction of redundant documentation will reduce the administrative burden of processing cases. Additionally, system changes are being made to assist districts with potential recordkeeping increases. To further reduce administrative burden, OCFS will complete a blanket amendment, which will be posted to the CFSP page on the OCFS website to reflect the family income eligibility level up to 85% of the SMI, the statewide family share of 1%, the requirement for reimbursement of up to 80 absences and 20 program closures, and the removal of the district option to designate families eligible for child care assistance. There are no new professional services anticipated as a result of this rule. Neither social services districts nor child care providers should have to hire additional professional staff to implement these regulations. The OCFS Division of Child Care Services will be available to assist with questions. Finally, presumptive eligibility is a local option and not a requirement of the New York State Child Care Block Grant Program, but this district option may increase local spending in cases where the family is determined to be ineligible for child care assistance.

5. Economic and Technological Feasibility:

There are no new requirements that will impact economic and/or technological feasibility.

6. Minimizing Adverse Impact:

OCFS believes there will be no adverse impact on child care programs. In fact, a positive impact on programs is anticipated in that reimbursement for child care is expected to be more stable. At least 1,759 licensed and registered child care providers closed during the height of the pandemic between March 2020 and June 2021, with more closings since. OCFS believes that this rule will help combat the statewide child care crisis that has continued to impact New York State since the onset of the global pandemic. This rule will make many families newly eligible for child care assistance and stabilize child care provider reimbursement.

OCFS believes the impact on districts will be nominal, as all mandates can be claimed as part of its child care block grant allocation. There will be no additional costs associated with program integrity measures and case opening procedures.

Reimbursement for program closures is only available for children who would otherwise be present at the child care program. 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 child care assistance from a different provider on the same day. As such, in most situations the costs associated with this would be accounted for at determination. Adjunctive financial eligibility will reduce costs by reducing workloads when determining eligibility.

Regarding expanded eligibility, cases are only required to be opened when funds are available and are reimbursed at 100% for families not receiving Temporary Assistance (TA), which accounts for approximately 75% of all cases. For the remaining TA cases, districts are already required to meet its maintenance of effort (MOE) each federal fiscal year, and the 25% local share of TA cases is applied toward meeting that amount. This rule would thus only increase local costs to districts on TA cases when the district's local share exceeds its MOE. The average child care assistance payment per child per month for the first quarter of FFY 2023 was \$875. For TA families, the local share would equal approximately \$219 per child per month or \$2,628 per child per year. With these approximations, only four districts are projected to meet their MOEs solely through the 25% local share. Of the remaining districts, 47 are projected to have the 25% local share total less than half of their MOE.

7. Small Business and Local Government Participation:

OCFS has conducted calls and met with stakeholders. Child care providers have expressed the need for further ongoing stabilization and support for expanded reimbursement for absences. Many social services districts have also expressed a need for change in documentation requirements at application. OCFS has met with a social services district that has piloted

presumptive eligibility with positive results. OCFS will provide guidance, technical assistance, and outreach to those that are impacted by this rule. Specifically, in accordance with State Administrative Procedure Act 202-b(6), OCFS will notify social services districts through the issuance of an Administrative Directive and assist those districts that need to update their CFSP to reflect changes to eligibility. OCFS will also post this information on the OCFS website, including contact information for questions on this rule and the email address of the regulations' mailbox (regcomments@ocfs.ny.gov) to provide public comments.