

Regulatory Impact Statement

1) Statutory Authority:

Chapter 56 of the laws of New York State of 2023 authorizes the New York State Office of Children and Family Services (OCFS) to promulgate rules and regulations, on an emergency basis, to implement the applicable statutory provisions.

Section 20(3)(d) of the Social Services Law (SSL) authorizes OCFS to establish rules, regulations, and policies to carry out OCFS's powers and duties under the SSL.

Section 34(3)(f) of the SSL authorizes OCFS to establish regulations for the administration of public assistance and care within the state.

Section 410(1) of the SSL authorizes a social services official of a county, city, or town to provide day care for children at public expense and authorizes OCFS to establish criteria for when such day care is to be provided.

Section 410-u of the SSL establishes the New York State Child Care Block Grant Program (NYSCCBGP).

Section 410-w of the SSL delineates which families may be eligible to receive child care assistance funded by the NYSCCBGP.

Section 410-u(2) and 410-w(1) and (3) of the SSL set the income eligibility threshold for the NYSCCBGP at 85% state median income.

Section 410-w(3-a) of the SSL allows social services districts to utilize a presumptive eligibility standard to provide child care assistance during the eligibility determination period under the NYSCCBGP and authorizes OCFS to issue guidance regarding the presumptive eligibility criteria to be used by districts.

Section 410-w(8) and 410-x(6) of the SSL prohibit social services districts from requiring families to contribute more than 1% of their income exceeding the federal poverty level as a family share under the NYSCCBGP.

Section 410-x(2) of the SSL allows OCFS to establish priorities for families that will be eligible to receive funding under the NYSCCBGP.

Section 410-x(9) of the SSL requires reimbursement for payment on behalf of children who are temporarily absent from child care for up to 80 days per year under the NYSCCBGP.

Section 410-x(8) of the SSL requires child care assistance payments under the NYSCCBGP to be in accordance with OCFS regulations.

2) Legislative Objectives:

The objectives of these amendments are to combat the statewide child care crisis by assisting families to expand eligibility for child care assistance, obtain affordable, reliable care for their children, standardize the Child Care Assistance Program (CCAP) across the state, and provide more stable reimbursement for child care providers.

3) Needs and Benefits:

SSL section 410-x(6) and 410-w(8) previously capped the NYSCCBGP family share at 10% of the family's income exceeding the federal poverty level. These provisions were revised to cap the family share at 1% of the family's income exceeding the federal poverty level. SSL section 410-u(2), 410-w(1), and 410-w(3) were revised to increase eligibility levels to 85% of the state median income, consistent with federal requirements. SSL 410-w(3-a) was added to allow for presumptive eligibility during the NYSCCBGP application period. SSL 410-x(9) was added to require reimbursement for up to 80 absences per year. SSL 410-x(2) was revised to remove local priorities and set-asides and instead allow OCFS to establish state priorities under the NYSCCBGP. OCFS must change relevant child care regulations to achieve compliance with these revisions.

This rule is necessary to implement practices that will comply with state and federal law, and to combat the statewide child care crisis that has continued to impact New York State since the

onset of the global pandemic. This rule will require districts to consistently and equitably prioritize how cases are opened for child care assistance, reimburse providers for up to 20 program closures, including closures for full-day professional development training for licensed or registered providers, per year and require fast-track eligibility determinations for families already in receipt of other services, as well as implement additional program integrity measures. The rule will greatly expand the number of families newly eligible for child care assistance and stabilize child care provider reimbursement.

4) Costs:

The NYSCCBGP is comprised of federal, state, and local funds. A portion of the block grant is allocated to social services districts and is used by the districts to provide child care assistance to families. The 2023-24 enacted state budget increased funding to the 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 and capping of family share will increase spending for local districts. This 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, which can be absorbed by the districts' child care block grant allocation. The state share is limited to the districts' child care block grant allocation. Finally, presumptive eligibility is a local option and not a requirement of the NYSCCBGP, but this district option may increase local spending in cases where the family is determined to be ineligible for child care assistance.

5) Local Government Mandates:

Social services districts must comply with increased eligibility, providing payment of up to 80 absences and 20 program closures, state priorities, adjunctive financial eligibility, removal of

certain types of income from the family's included eligibility income, and reduced family share. Additionally, each social services district must update its Child and Family Services Plan (CFSP) to reflect any changes that result from these regulatory changes.

6) Paperwork:

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 state median income, 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 may review their CFSP and make any additional amendments through submission of an amendment request to OCFS.

7) Duplication:

This rule does not duplicate state or federal requirements.

8) Alternatives:

There are no alternatives to the revisions that are required pursuant to federal and state law. Further amendments are being implemented to standardize practice throughout the state therefore no other alternatives were considered.

9) Federal Standards:

This rule is consistent with applicable federal requirements.

10) Compliance Schedule:

Districts must come into compliance on October 1, 2023.