

Summary of Substance

To implement statutory changes to Social Services Law (SSL) required by the 2023-2024 New York State budget and to further combat the child care crisis throughout New York State, the New York State Office of Children and Family Services (OCFS) proposes to amend the child care regulations as follows:

OCFS proposes to amend regulations to implement changes to SSL 410-u(2) and SSL 410-w(1) and (3) to expand the maximum income eligibility level under the New York State Child Care Block Grant Program (NYSCCBGP) from 300% of the state income standard to the federal maximum of 85% of the state median income. OCFS also proposes to change the income eligibility level for cases under Title XX of the Social Security Act to 85% of the state median income. OCFS further proposes to exclude Supplemental Security Income, including state supplemental payments, received by any child(ren) in the household from monthly gross income calculations for child care assistance.

OCFS proposes to implement the provisions of SSL 410-x(2) to remove local priorities and set-asides from regulation for cases funded under both the NYSCCBGP and Title XX. Families in receipt of child care assistance as of September 30, 2023, who were identified as a priority population under a local social services district's Child and Family Services Plan shall continue to be prioritized for such assistance, provided they meet all other applicable eligibility requirements for such assistance. OCFS proposes to amend programmatic eligibility categories for families that must be served when funds are available under the NYSCCBGP as well as allowable categories under Title XX. OCFS proposes to include, without regard to income or activity, 1) children placed in foster care and 2) children with an open child protective services case or a preventive services case with a child protective services component when child care assistance is needed to protect the child. OCFS also proposes to include families experiencing homelessness without further activity requirements. OCFS proposes to require all eligible families be provided child care assistance when funds are available under the NYSCCBGP, subject to federal and state priorities. For cases funded under the NYSCCBGP, OCFS also proposes to rank federal priorities as follows: 1) families experiencing homelessness, 2) families with very low income, defined as an income level up to 300% of the state income standard, provided the family income does not exceed 85% of the state median income, and 3) families with children who have special needs. OCFS also proposes to create state priorities to be prioritized in the following order after federal priorities, (1) families with income between 300% of the state income standard and up to 85% of the state median income for whom child care services are needed for the child's caretaker(s) to

be engaged in work, (2) 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, (3) certified or approved foster parent families with a child who has been placed in foster care residing in the home, (4) families with a teenage parent who is in need of child care assistance to attend high school or an equivalency program, (5) families where 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, and (6) families where 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. OCFS proposes to establish that all eligible cases that meet federal priorities must be opened first in the order prioritized in regulation, followed by state priorities, as prioritized in regulation, followed by any other eligible cases based on the date of application/length of time on the waitlist.

OCFS proposes to reduce the maximum family share percentage from 10% of the family's income over the federal poverty level to 1% of the family's income over the federal poverty level, pursuant to SSL 410-w(8) and 410-x(6).

OCFS proposes to implement presumptive eligibility in regulation pursuant to SSL 410-w(3-a). A social services district may include in its Child and Family Services Plan the option to provide child care assistance to a family that has applied for such services during the eligibility determination period. If the family is approved, the authorized child care will be reimbursed by the NYSCCBGP. If the family is deemed ineligible for the NYSCCBGP, local funds must be used to provide payment for the child care services authorized during the eligibility determination period.

OCFS proposes to increase reimbursement for absences from child care to be paid up to 80 days per child per provider per year in accordance with SSL 410-x(9). OCFS also proposes to add that reimbursement for additional absences due to extenuating circumstances may be allowed on a case-by-case basis, as determined by OCFS.

OCFS proposes to require reimbursement for program closures to licensed, registered, and enrolled legally exempt group programs for up to 20 days per provider per year, as needed. OCFS also proposes to expand situations for reimbursement for program closures to include religious or cultural holidays for all licensed, registered, and legally exempt group providers and full-day professional development training for licensed or registered providers.

OCFS proposes to implement adjunctive financial eligibility. An applicant will automatically be determined financially eligible for child care assistance, without further investigation or verification,

when the child care services unit has been determined eligible for an approved program with an eligibility threshold that is equal to or less than the limit for child care assistance and the determination for such service was made within six months of the eligibility determination for child care assistance.

OCFS proposes to allow districts to disallow payments for services provided when the provider is determined ineligible to receive child care assistance payment(s) after certain administrative actions. Additionally, districts may disqualify a provider from receiving payments for child care services and/or require a repayment plan to recoup the overpayment after determining that a provider submitted false claims.

OCFS proposes to update terminology used throughout the regulations.