Guidance for Local Department of Social Services and Voluntary Authorized Agencies Regarding Changes in Regulatory Requirements for Tuberculosis Testing

Dear Commissioners, Chief Executive Officers, and Executive Directors:

The Office of Children and Family Services (OCFS) is providing this guidance to Local Departments of Social Services (LDSS) and Voluntary Authorized Agencies (VAs) to apprise you of changes to OCFS regulations as they pertain to requirements for Tuberculosis (TB) testing. These regulatory changes remove the requirement that a prospective foster or adoptive parent or an individual seeking employment in an OCFS licensed institution or group home obtain a TB test as part of the initial application or, in some instances, the renewal process. OCFS has assessed that this regulatory change balance the need to protect the general welfare of children in foster care within New York State while eliminating unnecessary barriers to selecting appropriate adults to care for children. Please review the following guidance and share with pertinent staff.

The regulatory changes were filed by OCFS on an emergency basis on May 28, 2020 and took effect on that date.

Requirements for Completion of an Adoption Home Study
Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, paragraph (2) of subdivision (c) of section 421.16 of Part 421 has been amended to remove existing regulatory provisions which require tuberculosis screening and/or tuberculin testing, including chest x-rays as a requirement for all members of a household for:

- Approval of the applicant as an adoptive parent

The amended 18 NYCRR 421.16(c)(2) now requires:

- The completion of LDSS 5183D of a physical examination conducted not more than one year preceding the date of the application for approval as an adoptive parent by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the members of the household’s general health,
- The report indicates the absence of communicable disease, infection, or illness or any physical or mental condition(s) which might pose a risk to the health and safety of an adopted child,
• Or that the presence of any identified affliction does not pose a risk to the health and safety of an adopted child

If the adoptive applicant is or has been a foster parent, and the agency which certified, licensed or approved the foster parent has a completed medical report (5183D) on the foster family in its records, the foster family medical report will satisfy this requirement, if the medical report was completed within the past year.

Receipt of the report and review of the report in satisfaction of the above requirements must be documented in CONNECTIONS.

Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, paragraph (16) of subdivision (b) of section 443.2 of Part 443 has been amended to remove existing regulatory provisions which require tuberculosis screening and/or tuberculin testing, including chest x-rays as a requirement for all members of the household for:

• Initial certification or approval of the foster home (18 NYCRR 443.2)
• Renewal of the certification or approval of the foster home (18 NYCRR 443.10)

The amended 18 NYCRR 443.2(b)(16) now requires:

• That a medical report form LDSS 5200D must be filed with the agency either prior to or after acceptance for a home study.
• The completion of the home study required by this Part must be conditioned upon the submission of an acceptable medical report form 5200D.
• The medical report form must cover a physical examination of the applicant(s) conducted not more than one year preceding the date that the application is submitted to an authorized agency and must include:
  o That the report was conducted by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the members of the foster family’s general health.
  o The report indicates the absence of communicable disease, infection or illness or any physical or mental conditions which might affect the proper care of children
  o Or that the presence of any identified affliction does not pose a risk to the health and safety of children

Receipt of the report and review of the report in satisfaction of the above requirements must be documented in CONNECTIONS.

Requirements for Initial Employment of All Staff and Annual Reexamination of Food Handlers and Staff with Direct Contact with Children Cared for in Residential Foster Care Programs that are Operated as Child Caring Institutions

Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, paragraph (2) of subdivision (e) of section 442.18 of Part 442 has been amended to remove existing
regulatory provisions which require an intradermal tuberculin test, including chest X-rays involving all persons seeking employment in a child caring institution licensed by OCFS and annually for food handlers and staff with direct contact with children cared for in the institution.

The amended 18 NYCRR 442.18(e)(2) now requires:

- A report of physical examination conducted no later than twelve months from the date of application by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the individual's general health
- The report indicates the absence of communicable disease, infection, or illness or any physical or mental condition(s) which might affect the proper care of children,
- Or that the presence of any identified affliction does not pose a risk to the health and safety of children

Food handlers and staff having direct contact with children must be reexamined annually in a similar manner. The results of the health examination shall be reviewed by the medical director, who shall certify in writing fitness for employment. Such certification shall be retained by the agency and kept available for inspection. The medical director may, at their discretion, require blood tests and such other tests as medically indicated.

**Requirements for Initial Employment and Annual Reexamination of Food Handlers and Staff Caring for Children Cared for in Residential Foster Care Programs that are Operated as Group Homes**

Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, paragraph (3) of subdivision (c) of section 448.3 of Part 448 is amended and has the following requirements for food handlers and staff caring for children employed in a group home licensed by OCFS:

- A report of physical examination conducted no later than twelve months from the date of application by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the individual's general health,
- The report indicates the absence of communicable disease, infection, illness or any physical or mental condition(s) which might affect the proper care of children,
- Or that the presence of any identified affliction does not pose a risk to the health and safety of children

Food handlers and staff having direct contact with children in a group home must be reexamined annually in a similar manner.
OCFS has issued a number of updated guidance as it pertains to changes in regulatory requirements for child welfare. These guidance documents have been disseminated to the field via email. They are collectively listed on the OCFS website and can be accessed by following the attached link: https://ocfs.ny.gov/main/news/covid-19/guidance.php. You are strongly encouraged to visit the website to review guidance documents so you are able to determine and implement any needed policies, procedures, and/or practice changes in response to such guidance.

Thank you for the work you do every day and for your ongoing dedication to the children and families of New York State.

Sincerely,

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Deputy Commissioner
Division of Child Welfare and Community Services