

ADMINISTRATIVE DIRECTIVE

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES
40 North Pearl Street
Albany, New York 12243
Cesar A. Perales, Commissioner



TRANSMITTAL NO: 88 ADM-13

DATE: April 1, 1988

DIVISION: Family and Children's Services

TO: Commissioners of Social Services
Directors of Authorized Agencies

SUBJECT: Establishing Supervised Independent Living Programs (SILP) for Foster Children

SUGGESTED DISTRIBUTION: Child Welfare Staff
Voluntary Agency Child Care Staff
Accounting Supervisors
Staff Development Coordinators

CONTACT PERSON: Questions relating to programmatic aspects of this release should be addressed to the appropriate Regional Office of the Division of Family and Children's Services, as follows: Fred Cantlo, Regional Director, Metropolitan Regional Office, (212) 488-3485; John O'Connor, Regional Director, Albany Regional Office, (518) 432-2751; Linda Brown, Acting Regional Director, Buffalo Regional Office (716) 847-3145; Frank Petrus, Regional Director, Rochester Regional Office, (716) 238-8200; Jack Klump, Regional Director, Syracuse Regional Office, (315) 428-3235. Any fiscal questions concerning rate setting should be directed to Mr. Joseph A. Della Rocca, Bureau of Resource Management, 1-800-342-3715, extension 3-1496.

I. Purpose

The purpose of this release is to advise you of the promulgation of more flexible regulations for voluntary agencies and local social services districts who desire to establish supervised independent living programs (SILP's). The

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Department Regs.	Social Services Law and Other Legal References	Manual References	Miscellaneous Reference
82 ADM 71	82 ADM 71	430.11 (d) (5) (i) (a) 430.11 (d) (5) (ii) 605.2 (c) (4) (viii) (a) 441.2 447.7 447.8 430.11 (i)	20 (3) (d) 34 (3) (f) 153 (1) 374-b 398-a (2)		

previous regulations, 18 NYCRR Part 449 and Administrative Directive, 82 ADM 71 have been repealed in order to support the creation of new independent living programs. The regulations which were filed on February 1, 1988 and this administrative directive contain flexible programmatic requirements, waiver provisions and funding for expanded supervised independent living programs.

The Department will issue a letter of approval to voluntary agencies and local districts who submit appropriate applications to enact the agency's overall program. Each individual SILP unit/apartment will be a type of agency operated boarding home (AOBH) that will allow a maximum capacity of three children per unit and will require its own operating certificate.

In addition, this directive describes the manner for reimbursing costs associated with the SILP.

II. Background

The Department has recognized the need for increased services to prepare children to live independently in the community after discharge from foster care. The new independent living services required by the Department to prepare foster children to be self sufficient are identified in the Department's recently released independent living regulations 18 NYCRR 430.12(f), 430.13(g) and the soon to be released related administrative directive.

The Department seeks to further support the preparation of foster children to live independently by enabling the more rapid establishment of a type of independent living experience through the SILP. The program will support the creation of independent living structures in apartments or homes that will more closely approximate the type of living quarters the children will be residing in after they are discharged.

Under the previous regulations, Part 449, the SILP beds were considered part of the group care program from which the child was transferred. Therefore, the SILP beds were part of the group care facility in determining overall capacity. They required that a bed be kept open in the group care facility until the child was discharged from the SILP. In some cases, especially small group care programs, this caused a financial hardship to the agencies because they were incurring costs for two beds but were only able to bill for one bed.

Under the revised regulations, the SILP expenses incurred will be reported separately. The Department has developed a maximum state aid rate for these programs based on double or triple occupancy and geographic location (See attachment A). The expenses allowed in the rates will be adjusted each year by the appropriate cost of living percentage. As with any cost of living adjustment in rate setting systems, they are subject to the availability of governmental funding and the approval of the State Division of the Budget.

The downstate and upstate designations are the same as those used in the model budgets rate setting system. The local districts included in the downstate area are: New York City, Nassau, Suffolk, Westchester, Orange, Putnam and Rockland.

III. Program Implications

A. Overview of SILP Regulations

The major requirements identified in the regulations 18 NYCRR 447.7 are paraphrased and identified below with explanations provided for those requirements that are not self explanatory. Additional information is provided regarding the application process and the schedule of allowances under the standard of payment system in the required action section.

Each voluntary agency or local department operating a SILP must meet the following requirements:

- Children must be at least 16 years of age in order to participate in the program but cannot remain in the program after their twenty-first birthday. (Programs desiring to operate a "teen and infant" SILP where there would be a young child should apply under the waiver provisions identified in Section B of this release.)
- Children participating in a SILP will have to have a permanency planning goal of independent living.
- Prior to placement in the program the child must have been in care for ninety consecutive days immediately preceding the placement in the program or have been in the care and custody or the custody and/or guardianship of the local commissioner in a status of trial discharge. Youth in trial discharge status who need to be replaced in a foster care may depending upon his/her circumstances be a good candidate for a SILP.

Children can only remain in a SILP while they remain in the care and custody and/or guardianship of the local commissioner.

- The independent living program may be situated in a house or apartment owned or rented by the agency.

A capacity of two or three is recommended for individual SILP units. Single occupancy SILPS may in certain instances be approved, and would receive 50% of the allocation for two children as specified in Attachment A of this administrative directive. However, permission to expand the occupancy to four as in the case of two teen mothers and their two children, should be addressed through the waiver process identified in Section B. Funding for such a program will be provided on a case by case basis.

- Supervision of children participating in the program shall be by qualified staff who are identified by the agency to supervise children in the agency's independent living programs.

Allowances have been provided in establishing the payment schedule for supervision that will support social work salaries at a ratio of one social worker for every ten children. Wherever possible, social workers should be utilized to supervise children in independent living programs, supplemented by child care staff as necessary.

Staff designated to provide supervision must visit each child in the unit an average of twice per week during each 90 day period. A minimum of one visit per month is mandatory. It is anticipated that early in the program, during preparation for discharge and when the child is having problems more intensive visiting may be required. During these visits the staff should evaluate the progress and problems each child is encountering and be primarily responsible for advocating or for providing services aimed at resolving these problems.

- Children living in a SILP must be of the same sex unless the district decides to place siblings of the opposite sex together by utilizing the waiver process described in Section B, below.
- At the time of each child's admission to the independent living program a discharge plan shall be developed for the child with an anticipated date of discharge 6 to 12 months after admission. A child may only remain in care beyond 12 months if such child is involved in a vocational training or educational program that would have to be discontinued if the child left the SILP and establishes his/her own residence. The total time in placement that the child may remain in a SILP in these instances may not exceed 18 months.
- Before any child cared for by a voluntary agency is placed in a SILP the local social services district which has custody of the child must give prior written approval to the voluntary agency.
- Supervised independent living programs must be in compliance with all provisions of State and local laws, ordinances, rules and regulations concerning health, safety and non discrimination.

Voluntary agencies and local social services districts who operate a SILP are required to offer a complete range of independent living services as specified in 430.12(f) including opportunities in the areas of employment, vocational training, use of community referral agencies, job search and home management skills such as budgeting, shopping, cooking and cleaning.

During the time the child is in care, supervision and counseling must be provided by agency social work and child care staff based on the individual needs of the child in care. In addition to the services provided by the SILP, the child should have access to all services provided by the voluntary agency/local district operating the SILP on an as needed basis.

B. Waiver to the Provisions of the Requirements of the Supervised Independent Living Regulations

The Department seeks to encourage the development of new programs and the retention of existing independent living programs which do not meet all of the requirements identified above but which will satisfy the objectives of the program and meet the spirit of the requirements. The Department will consider requests to waive any of the provisions of these regulations which would restrict the development of appropriate programs (18 NYCRR 447.8). Agencies that presently operate existing SILP must comply with the provisions of the regulations until waiver requests are approved.

Requests for waivers must include the particular requirement(s) to be waived, the reason why the requirement cannot be met and where applicable a substitute procedure that would achieve the same service/protections as the waived regulation.

Waivers will not apply to statutory mandated requirements and the Department will not approve a waiver request if the health or safety of the child(ren) would be adversely affected by such waiver.

C. Resident's Bill Paying Responsibility During Participation in the SILP

An important skill to be developed during the child's stay in the SILP will be budgeting/money management. This skill relates directly to the development of a household budget, food shopping and bill paying activity. Consideration should be given where possible to arrangements where the child is responsible for paying bills and later receives reimbursement from the agency.

D. Reimbursement of the Costs of SILP

Effective upon issuance of this directive, agencies will stop billing for SILP services at the periodic rate paid for the child in the related group care facility. Services for SILP will be billed and paid at the negotiated per diem amount up to the maximum set by the Department in the attachment to this directive. The amount paid will be based on the occupancy level certified for the facility in the county in which it is located. The rate covers all costs previously replaced by the group care per diem for maintenance or, if the child has been placed in a foster boarding home program operated by a voluntary agency, the administrative per diem and pass through payments to foster parents. The medical per diem rate will continue for children placed in this program. Department regulations concerning reimbursable absences will also remain in effect.

E. The Application Process for Obtaining a Letter of Support to Operate/Continue Operation of a Supervised Independent Living Program.

1. Each voluntary agency and local department of social service that applies for a letter of approval in accordance with 18 NYCRR Section 447.7(a) to operate an independent living program must provide the following information to the appropriate regional office:

- number of children to be served in each SILP unit/apartments and number of anticipated units/apartments;

- program narrative that includes the services that will be provided to each youth including type of youth to be served and selection process to be utilized for youth entering the program;
- staffing plan that identifies the type of staff and staffing ratios;
- proposed budget that details personnel and non personnel costs on forms required by the Department. In developing the budget the financial allowance schedule described in Attachment A should be utilized as a guideline for establishing maximum costs; and
- requests for regulation waiver should include reason for waiver and benefit expected. The waiver request should detail, where applicable, the substitute procedure that would achieve the same service/protection as the waived regulation.

Existing supervised independent living programs should contact the appropriate regional office director to identify if additional program or fiscal information is necessary in order to comply with the requirements identified above. Operating Certificates for each existing SILP unit will have to be obtained through the regional offices (see section 3 below for details).

2. Maximum State Aid Rates for SILP

	<u>Double Occupancy Per Diem</u>	<u>Triple Occupancy Per Diem</u>
Upstate	56.25	52.43
*Downstate	66.71	60.79

These will be the maximum state aid rates used for reimbursing the costs of children served in supervised independent living programs based on size and location. The rates are the absolute maximums to be paid for these services. Attachment A represents the examples of SILP program costs. Agencies will be allowed to spend in ways other than those expressed in the examples to reflect their particular needs consistent with program regulations.

3. Application for Operating Certificates for Each SILP Unit/Apartment

Each SILP Unit/Apartment will require its own operating certificate. Districts/Agencies requesting operating certificates must provide information as specified in 18 NYCRR 477.3 to the appropriate regional office.

- * Downstate includes New York City, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

V. Required Action

A. Voluntary agencies and local departments of social service that currently operate a SILP must contact the appropriate regional office regarding the issuance of new letters of approval and operating certificate(s) for their existing programs and any program modification that would be required to conform to the new regulations. All agencies desiring to initiate or expand an existing SILP should conform to the program application process described in E above.

B. Effective the date of this directive agencies which currently operate SILP's will stop billing for SILP services at the per diem foster care rate and begin billing at the SILP per diem rate. Placement designation on CCRS must be changed accordingly.

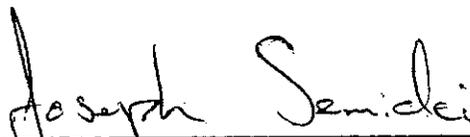
C. Voluntary agencies and local social services districts shall submit fiscal and program data to the Department in accordance with the provisions of Part 427 of Department regulations. While cost based reimbursement is not being utilized initially, cost data is expected to allow consideration for such an approach in the future and to provide a better basis for the continuance of a refined rate system.

VI. Additional Information

The regulations supporting the SILP are attached. Also, SILP rate examples are listed in Attachment A.

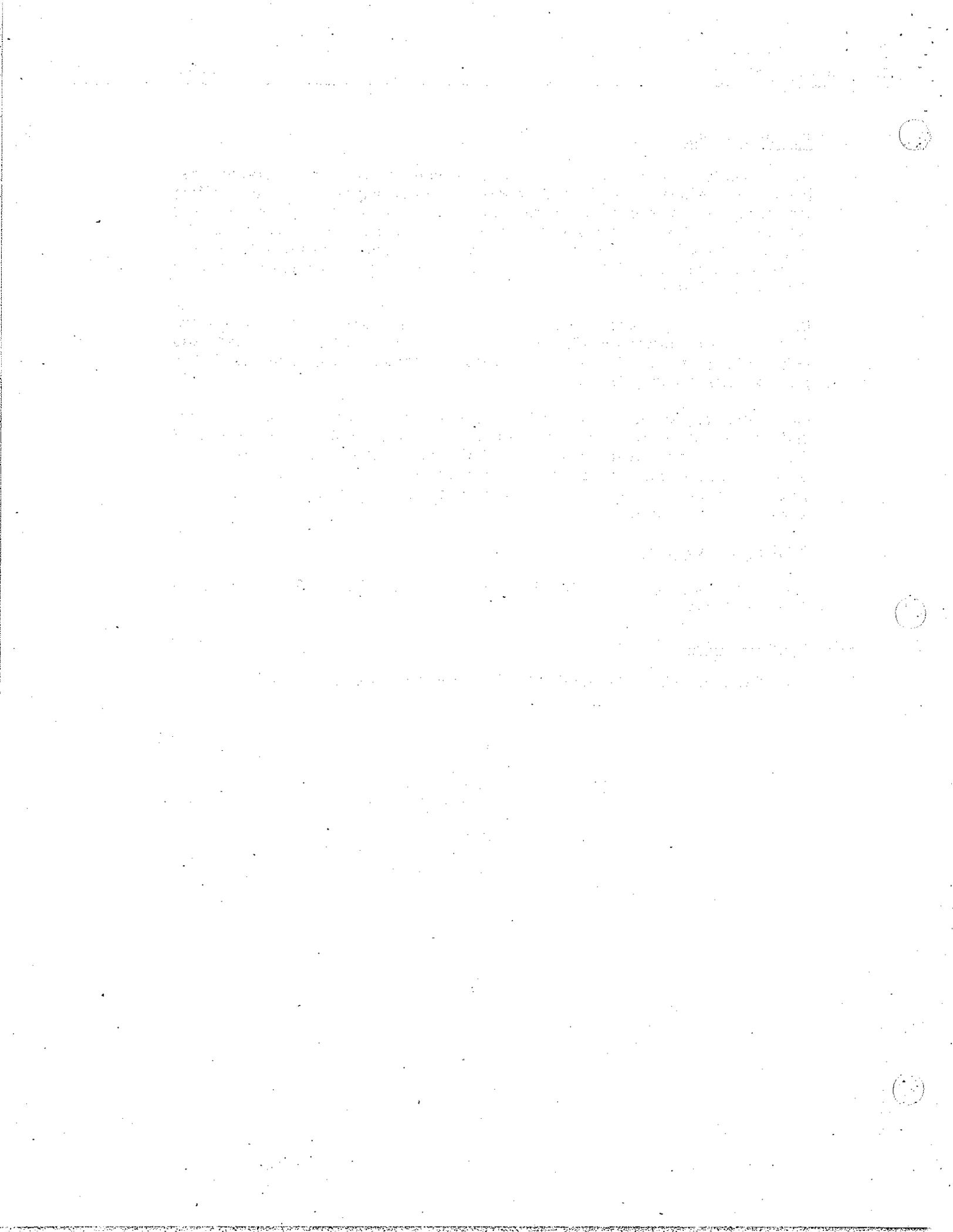
VII. Effective Date

The effective date of the administrative directive is April 1, 1988.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children's Services

Attachments



ATTACHMENT A

SILPDOUBLE OCCUPANCY RATE BUDGET CALCULATION

<u>TYPES OF EXPENSES</u>	<u>DOWNSTATE</u>		<u>UPSTATE</u>	
	<u>Monthly Budget</u>	<u>Per Person Per Day</u>	<u>Monthly Budget</u>	<u>Per Person/Per Day</u>
RENT	\$ 750	\$ (12.30)	\$ 500	\$ (8.20)
FOOD	420	(6.89)	420	(6.89)
CLOTHING	114	(1.87)	114	(1.87)
RESIDENT ALLOWANCE	300	(4.92)	180	(2.95)
SOCIAL WORKER (1 to 10)	452	(7.41)	452	(7.41)
SUPERVISOR (1 to 4)	140	(2.30)	140	(2.30)
TRANSPORTATION AND WORKER	74	(1.21)	74	(1.21)
TELEPHONE	65	(1.07)	65	(1.07)
UTILITIES	80	(1.31)	55	(.90)
SUPPLIES (towels, Blankets, Etc.)	20	(.33)	20	(.33)
EQUIPMENT (Pots, Pans, Silverware, etc.)	29	(.48)	29	(.48)
SUB TOTAL OF EXPENSES	\$2,444	\$ (40.09)	\$2,049	\$(33.61)
DEPRECIATION	\$ 31	\$ (.51)	\$ 31	\$(.51)
FINDERS FEES	62	(1.02)	62	(1.02)
ADMINISTRATION @ 21%	513	(8.41)	430	(7.05)
	\$3,050*	\$(50.03)	\$2,572*	\$(42.19)
FEE FOR SERVICE RATES AT 75% UTILIZATION	\$3,050	\$(66.71)	\$2,572	\$(56.25)

* This represents total monthly costs per apartment which is shared equally by each resident

* Downstate includes New York City, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam.

SILP

TRIPLE OCCUPANCY RATE BUDGET CALCULATION

<u>TYPES OF EXPENSES</u>	<u>DOWNSTATE</u>		<u>UPSTATE</u>	
	<u>Monthly Budget</u>	<u>Per Person Per Day</u>	<u>Monthly Budget</u>	<u>Per Person Per Day</u>
RENT	\$ 900	\$ (9.84)	\$ 600	\$ (6.56)
FOOD	630	(6.88)	630	(6.88)
CLOTHING	171	(1.87)	171	(1.87)
RESIDENT ALLOWANCE	450	(4.92)	270	(2.95)
SOCIAL WORKER	679	(7.42)	679	(7.42)
SUPERVISOR	210	(2.30)	210	(2.30)
TRANSPORTATION AND WORKER	111	(1.21)	111	(1.21)
TELEPHONE	75	(.82)	75	(.82)
UTILITIES	100	(1.09)	75	(.82)
SUPPLIES	30	(.33)	30	(.33)
EQUIPMENT	39	(.43)	39	(.43)
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SUB TOTAL OF EXPENSES	\$3,395	\$(37.11)	\$2,890	\$(31.59)
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DEPRECIATION	\$ 39	(.43)	39	(.43)
FINDERS FEES	61	(.67)	61	(.67)
ADMINISTRATION @ 21%	675	(7.38)	607	(6.63)
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	\$4,170*	\$(45.59)	\$3,597*	\$(39.32)
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FEE FOR SERVICE RATES AT 75% UTILIZATION	\$4,170	\$(60.79)	\$3,597	\$(52.43)

* This represents total monthly costs per apartment which is shared equally by each resident

* Downstate includes New York City, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam.

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f), 153(1), 374-b and 398-a(2) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Sections 430.11(d)(5)(i)(a) and (c), 430.11(d)(5)(ii), 430.11(i) and 605.2(c)(4)(viii)(a), add Sections 447.7 and 447.8 and repeal Part 449 of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective twenty-one days after filing with the Secretary of State.

Dated: February 1, 1988

Signed: Cesar A. Perales
Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on February 1, 1988 amending Sections 430.11(d)(5)(i)(a) and (c), 430.11(d)(5)(ii), 430.11(i) and 605.2(c)(4)(viii)(a), adding Sections 447.7 and 447.8 and repealing Part 449 of the Official Regulations of the State Department of Social

Services, being Title 18 NYCRR,
the express terms of which were
published in the New York State
Register on August 5, 1987.

Dated: February 1, 1988

Signed: Cesar A. Peralta

Commissioner

Clauses (a) and (c) of subparagraph (i) of paragraph (5) of subdivision (d) of section 430.11 are amended to read as follows:

(a) is at least 16 years of age and (1) has been in the care of the authorized agency operating the program three months before entering foster care for at least 90 consecutive days during the period immediately preceding the date on which the child entered the program or (2) is in the care and custody of a social services official but has been discharged from foster care on a trial basis at the time that the child entered the program;

(c) will be discharged from care within 12 months after placement in the program and has an established service plan for discharge; a child in a supervised independent living program may be discharged from care within 18 months after placement in the program if it is determined that the child would be unable to complete a vocational training or educational program if the child was discharged from the program to an alternative address within 12 months after placement in the program.

Subparagraph (ii) of paragraph (5) of subdivision (d) of section 430.11 is amended to read as follows:

(ii) Documentation. The first uniform case record form required after placement of the child in the program [shall] must show that the child [is] was at least 16 years of age and [has been] was in [the care of the authorized agency at least three months before placement] foster care for at least 90 consecutive days during the period immediately preceding the date on which the child was placed in supervised independent living, or was in the care and custody of a social services official but had been discharged from foster care on a trial basis at the time the child entered such program, that he or she

has a permanency planning goal of discharge to independent living, and that the anticipated discharge date is no later than 12 months after the placement of the child in supervised independent living, unless the child will be unable to complete a vocational training or educational program if the child was discharged from the supervised independent living program to an alternative address. In such instances the discharge date must be no later than 18 months after the child entered the program and documentation must be provided that details why the child would be unable to continue in the vocational/educational program if the child was discharged to an alternative address.

Subdivision (i) of section 441.2 is amended to read as follows:

(i) Agency boarding home means a family-type home for the care and maintenance of not more than six children operated by an authorized agency, in quarters or premises owned, leased or otherwise under the control of such agency, except that such a home may provide care for more than six brothers and sisters of the same family. Agency boarding home also means a supervised independent living unit which cares for not more than three children who reside in the community, separate from the agency's other dwellings. Supervised independent living programs are described in section 447.7 of this Title.

Sections 447.7 and 447.8 are added to read as follows:

447.7 Supervised independent living. (a) Supervised independent living is a type of agency operated boarding home program whereby children under the supervision of an authorized child care agency are allowed to live on their own in the community. Such

programs are intended to provide a transitional experience for children for whom the plan of care is discharge from care to their own responsibility. In a supervised independent living program, the child will live in a unit separate from the rest of the agency dwellings. A supervised independent living unit may house no more than three children. Before an authorized agency may operate a supervised independent living program, the agency must have received a letter of approval to operate such a program from the department. Each individual supervised independent living unit will be a type of agency operated boarding home which requires its own operating certificate.

(b) Regulations. Except as set forth in paragraph (9) of this subdivision, the regulations contained within this Part which govern the operation of agency operated boarding homes also apply to the operation of supervised independent living programs. In addition, the following requirements also apply to supervised independent living programs.

(1) Children who participate in the supervised independent living program must be at least 16 years of age and not more than 21 years of age;

(2) Such children must have been in a foster care placement for at least 90 consecutive days during the period immediately preceding the date on which the child entered a supervised independent living program or must have been in the care and custody or guardianship and custody of a social services official and been discharged from foster care on a trial basis in accordance with the provisions of section 430.12(f)(4) of this Title;

(3) An independent living program may occupy a house or apartment, rented or owned by the agency;

(4) No more than three children may live in each independent living unit;

(5) The supervision of children participating in a supervised independent living program must be performed by designated staff member(s) of the agency who are qualified to perform such function; staff member(s) so designated must visit and consult with each child in a supervised independent living program at least an average of twice per week during each 90 day period. A minimum of one visit per month is mandatory;

(6) If two or more children live together in the same unit, they must be of the same sex unless the district decides to place siblings of the opposite sex together by utilizing the waiver process identified in section 447.8;

(7) Upon admission to a supervised independent living program, a discharge plan must be developed for the child with a projected discharge date from six to 12 months after admission. Such plan can be extended to 18 months if the child is unable to complete a vocational training or educational program if discharged to an alternative address;

(8) Each supervised independent living program must have facilities that will enable children to prepare meals;

(9) Supervised independent living programs are exempt from the following provisions of section 447.2 of this Part: paragraphs (1) and (2) of subdivision (a); paragraphs (2) and (14) of subdivision (b) and paragraphs (2), (4) and (8) of subdivision (d);

(10) Prior to the transfer of a foster child to a supervised independent living program, the local district which has

care and custody or custody and guardianship of the child must give written approval; and

(11) Supervised independent living programs must be in compliance with all provisions of State and local laws, ordinances, rules and regulations concerning health, safety and non-discrimination.

(c) (1) Prior to placing children in supervised independent living units, each authorized agency which operates such units must submit to the department for approval a written plan which sets forth the agency's proposed staff-to-child ratios for such units. No child may be placed in supervised independent living units until the department has approved an authorized agency's staff-to-child ratio plan for such units.

(d) (1) Reimbursement for approved supervised independent living programs authorized to operate pursuant to this section will be provided on a basis and in a manner as determined by the department.

(2) Agencies operating supervised independent living programs must submit fiscal and program data to the department in accordance with the provisions of Part 427 of this Title.

447.8 Waivers. (a) In order to encourage the development of appropriate programs which will enable foster children to live on their own in the community, a waiver of the provisions of this Part may be granted by the department to authorized agencies which propose to operate or which operate supervised independent living programs. Such waiver may be granted only after an authorized agency has submitted to the department a plan which describes the operation or proposed operation of the agency's supervised independent living program and the department has approved the plan.

(b) Authorized agencies which operate supervised independent living programs must comply with the provisions of section 447.6 of this Part until the department has approved the agencies' waiver plans.

(c) Authorized agencies which do not operate supervised independent living programs but propose to do so and which submit waiver plans to the department pursuant to this section may not operate until such plans are approved.

Part 449 is repealed.

Clause (a) of subparagraph (viii) of paragraph (4) of subdivision (c) of section 605.2 is amended to read as follows:

(a) up to 30 days of absence for children residing in a group home, group residence, agency boarding home, institution or approved residential school for the handicapped prior to the hospitalization; and

(Deleted material [bracketed]; new material underlined.)