



Office of Children and Family Services

Kathy Hochul
Governor

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Administrative Directive

Transmittal:	23-OCFS-ADM-10	
To:	Local Department of Social Services Commissioners Authorized Voluntary Agencies Executive Directors	
Issuing Division/Office:	Division of Administration	
Date:	June 5, 2023	
Subject:	Maximum State Aid Rates for Foster Care Programs and In-State Committee on Special Education Placements – Effective April 1, 2023, Through June 30, 2023	
Suggested Distribution:	Services Directors Accounting Supervisors	
Contact Person(s):	Karen M. Williams: (518) 486-3748 or karen.williams2@ocfs.ny.gov	
Attachments:	A	<i>MSARs for Foster Boarding Home Payments and Adoption Subsidies</i>
	B	<i>MSARs for Supervised Setting Programs</i>
	C	<i>MSARs for Voluntary Foster Care Agencies</i>
	D	<i>In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed by OCFS</i>
	E	<i>In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed by Other New York State Agencies</i>
Attachments Available Online:	Rate Charts are available on the Rate Information page of the OCFS website at the address below, and are updated as needed: https://ocfs.ny.gov/main/rates	

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
22-OCFS-ADM-16		18 NYCRR Part 427	SSL-398-a EL 4402 EL 4405	Standards of Payment for Foster Care of Children Program Manual	03-OCFS-LCM-22 04-OCFS-LCM-13 05-OCFS-ADM-04 05-OCFS-LCM-18

I. Purpose

The purpose of this Administrative Directive (ADM) is to issue the maximum state aid rates (MSARs) for foster care programs and in-state committee on special education (CSE) maintenance rates for State Education Department (SED)-approved residential schools, effective April 1, 2023, through June 30, 2023.

Please note that all published MSARs and CSE maintenance rates remain in effect for payment and reimbursement until modified or deleted by the New York State Office of Children and Family Services (OCFS).

II. Background

MSARs define the reimbursement limits for local departments of social services (LDSSs) in negotiating contracts with authorized foster care providers, pursuant to Social Services Law (SSL) §398-a and 18 New York State Codes, Rules and Regulations (NYCRR) Part 427. Pursuant to §398-a (2-a) of the SSL, LDSSs are required to pay no less than 100% of each OCFS-established congregate care rate as well as each administrative/services rates for a therapeutic, special needs or emergency foster home program.

Chapter 56 of the Laws of 2022 amended Social Services Law (SSL) §398-a by adding subdivision 2-c. Pursuant to the amendment, LDSSs are required to pay the OCFS established MSAR for children in regular, therapeutic, special needs, and emergency foster boarding homes as follows:

- LDSSs paying 100% of the MSAR as of 7/1/22 are required to continue to do so.
- For those districts paying less than 100% of the MSAR as of 7/1/22, the rate must be increased by no less than one half of the difference between their 7/1/2022 rate and the MSAR.
- Subsequently, effective 7/1/23 all districts shall pay at least 100% of the MSAR published by OCFS for the applicable rate year.

CSE maintenance rates, as published by OCFS, must be paid for children placed by local school districts in SED-approved residential schools, pursuant to sections 4402 and 4405 of Education Law.

III. Program Implications

A. **MSARs and In-State CSE Maintenance Rates:** The following information applies to all MSARs and in-state CSE maintenance rates, effective April 1, 2023:

1. **MSARs for Group Care Programs:** The following aggregate growth factors were used in the calculation of the group care MSARs:
 - a. **Personal Service (PS)** The calculation of trended costs includes two-year growth factors of 5.1% and the state fiscal year (SFY) 2023-24 Legislative cost-of-living adjustment (COLA) of 4.0%.
 - b. **Non-Personal Service (NPS)** The calculation of trended costs includes two-year growth factors of 7.7% and the SFY 2023-24 Legislative COLA of 4.0%.
2. **In-State CSE Maintenance Rates:** The in-state CSE maintenance rates for special act school districts and on-campus schools affiliated with Article 81 institutions are comprised of the MSAR effective April 1, 2023, for the institution program, plus the 2022-23 medical residual rate established by the New York State Department of Health (DOH). The LDSS where the child is a

legal resident is responsible for the 10-month CSE maintenance payment in the first instance. Changes in the Education Law and SSL were brought about by the passage of Chapter 62 of the Laws of 2003. Pursuant to the 2003 amendments, the local school district placing the child will be responsible for the 10-month CSE tuition payment and a portion of the 10-month CSE maintenance payment. The LDSS is not responsible for either the maintenance or tuition payments for CSE summer school placements.

OCFS policy releases 03-OCFS-LCM-22 and 04-OCFS-ADM-13 specified information regarding the procedures for implementing these statutory amendments.

CSE maintenance rates for children placed by local school districts are not negotiable and must be paid as published.

- a. For a child placed by a CSE into a privately operated residential school or special act school district:
 - State share is 0.00%.
 - Local share is 43.152%.
 - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment is 56.848%.
 - b. For a child admitted to a state-operated school for the deaf and blind, not placed by a CSE:
 - State share is 0.00%.
 - Local share is 50.00%.
 - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment is 50.00%.
3. **Program Classification Reviews:** Agencies seeking a change in the program classification of a congregate care program should contact OCFS using the contact information listed in this ADM.
 4. **Capital Projects for Congregate Care Facilities Operated by Voluntary Agencies (VAs):** OCFS is continuing its capital rates policies, which would allow OCFS to include in the MSAR an add-on rate to specifically fund an approved capital project for a voluntary agency. Two funding mechanisms are potentially available to support these policies:
 - a. The Dormitory Authority of the State of New York (DASNY) funding mechanism was authorized under Chapter 472 of the Laws of 2004 to finance capital projects in residential institutions operated by private agencies for which OCFS establishes a maintenance rate. To implement Chapter 472, OCFS issued 05-OCFS-LCM-18, which specified the details of that mechanism and allowed for the submission of applications through January 31, 2006.

Regarding approved DASNY-financed projects, the LDSS is required to pay the add-on rate as part of the MSAR payment for each child placed in a program that has a DASNY add-on rate, and state reimbursement is available net of any available federal funding for those costs that exceed the LDSS's foster care block grant allocation. State share is 46.06% and local share is 53.94%. This additional reimbursement is made available to each LDSS for eligible payments at the end of each SFY through the local district settlement process.

- b. The Property Parameter Waiver (PPW) funding mechanism was also implemented in 05-OCFS-LCM-18 to support the same objectives as the DASNY mechanism within the context of existing funding formulas for foster care or CSE maintenance. For PPW proposals, applications may be submitted to OCFS for review.

The instructions for capital project applications are available at <https://ocfs.ny.gov/main/rates> in a section titled “Capital Project Applications for Congregate Care Facilities Operated by Voluntary Agencies.”

5. **Group Care Administration Parameter Funding for Family First Administration and Accreditation:** OCFS is continuing its policy to fully fund the administration parameter for group care settings. The federal Family First Prevention Services Act (FFPSA) of 2018 requires that VAs providing care and maintenance of children placed in group settings must be accredited by a federal recognized agency to be eligible for reimbursement of federal Title IV-E funds. In addition, VAs are required to obtain background checks for all staff working in group settings, including maintenance and administrative staff. This revision to the administrative parameter is intended to assist with these additional costs. The administrative parameter ratios under this policy do not change and remain at 21% of direct care as well as most property costs for programs up to 25 beds and 17% for programs with 26 or more beds.
- B. MSARs for Foster Boarding Home (FBH) Programs:** The following is applicable to all rates associated with FBH programs, effective April 1, 2023:
1. **Administrative/Services Rates for the Voluntary Agencies:** The following aggregate growth factors were used in the MSAR calculation of the FBH programs:
 - a. **Personal Service (PS):** The calculation of the trended costs includes two-year growth factors of 5.1% and the SFY 2023-24 Legislative COLA of 4.0%.
 - b. **Non-Personal Service (NPS):** The calculation of trended costs includes two-year growth factors of 8.3% and the SFY 2023-24 Legislative COLA of 4.0%.
 2. **Property Cost Transfer Policy:** OCFS is continuing its policy of supporting an offset of a foster boarding home’s program property overage with available growth that is not being used in the program’s administrative cost center. The offset is calculated by the web-based Statewide Standards of Payment (SSOP) application, which means the MSAR reflects the application of the available administrative growth to the offset of property expenditures.
 3. **Payments to Foster Parents:** OCFS policies effective April 1, 2023, regarding MSARs for “pass-through” payments for the foster parent components of the FBH program (including adoption subsidy payments) are as follows:
 - a. **Care and Maintenance Payments to Foster or Adoptive Parents and KinGAP Guardians:** A growth factor of 4.0% is applied to the MSARs for care and maintenance payments to foster or adoptive parents and kinship guardians effective April 1, 2023, through June 30, 2023.

- b. **Payments to Foster Parents for Emergency Payments:** The MSAR for this type of payment continues to be calculated at 200% of the currently effective MSAR for a non-special or non-exceptional child (i.e., 200% of the care and maintenance payment rate that would apply to the child according to age).
 - c. **AIDS Per Diem Add-On:** The \$15 AIDS per diem add-on continues to be effective April 1, 2023, for children with HIV/AIDS placed in regular FBH programs. Please note: the AIDS per diem add-on is specifically for regular FBH programs only and should not be charged for emergency, special medical or therapeutic FBH program care days. The treatment of the \$15 per diem revenue for rate-setting purposes is as follows: revenue from the \$15 AIDS per diem add-on was subtracted for the allowable direct care costs for each FBH program, and the adjusted costs were compared with the direct care parameter to determine the rate base.
 - d. **Finder's Fee for Recruiting New Foster Homes:** OCFS is continuing the policy of allowing LDSSs to pay a voluntary finder's fee of up to \$200 to existing foster parents who recruit new foster parents. For detailed information regarding how to apply this policy, please refer to Chapter 8, Section G, in the *Standards of Payment for Foster Care Children Program Manual* at <https://ocfs.ny.gov/main/rates/assets/docs/SOP-Program-Manual.pdf>.
4. **Rate Stabilization for New Programs:** OCFS is continuing its rate stabilization policy for all new programs for which it is first using historical program expenses. There is a 10% margin of rate variance. This means that the first cost-based rate for a new program may not increase or decrease more than 10% when compared to the prior year's budget-based rate.
 5. **Supervised Setting Programs:** The SFY 2023-24 Legislative COLA of 4.0% is applied to the April to June 2023 supervised setting for single occupancy, double occupancy, triple occupancy, four- and five-bed mother/child SILPs and college dorm rates.
 6. **CSE Maintenance Rates for Out-of-State Schools:** Annually, OCFS issues out-of-state CSE maintenance rates for LDSSs based on rate information approved by other states and approved by SED. CSE maintenance rates issued by OCFS must be used by LDSSs as the basis for making CSE maintenance payments for children approved by SED for placement in out-of-state private residential schools. Issuance of and payment responsibilities for these rates are governed by Section 4405 of Education Law. These rates are not negotiable and must be paid as published. A separate ADM is issued by OCFS for out-of-state CSE maintenance rates.

IV. Required Action

The rates noted in the attachment accompanying this ADM must be paid by the LDSSs as directed by this ADM for the period April 1, 2023, through June 30, 2023.

The purpose of issuing MSARs is to specify the OCFS-approved maximum reimbursement program rates for federal and state claiming purposes as well as to provide guidance to LDSSs in their contract negotiations with providers of foster care. MSAR payment requirements, pursuant to §398-a (2-a) of the SSL, prohibit LDSSs from paying less than the MSAR per diem established by OCFS for each congregate care rate and for each administrative/services rate for a therapeutic, special needs or emergency foster home program operated by a voluntary agency, as specified in 05-OCFS-ADM-04.

MSAR payment requirements, pursuant to §398-a (2-c) of the SSL, mandate LDSSs to pay

the OCFS established MSAR for children in regular, therapeutic, special needs and emergency foster boarding homes as follows:

- LDSSs paying 100% of the MSAR as of 7/1/22 are required to continue to do so.
- For those districts paying less than 100% of the MSAR as of 7/1/22, the rate must be increased by no less than one half of the difference between their 7/1/22 rate and the MSAR.

V. System Implications

Existing procedures for processing MSAR payments and reimbursing claims will continue to be applicable.

VI. Rate Consultations/Rate Adjustments

When an LDSS agrees to contract for a rate that is greater than the published MSAR, OCFS may be able to assist the LDSS and/or the voluntary agency in developing a program intensification request to increase the MSAR.

OCFS regulation 18 NYCRR 427.9 allows the LDSS and/or the voluntary foster care agency to request a rate consultation regarding a promulgated MSAR as follows:

- A. **An LDSS requesting a rate consultation** must submit the request in writing. All such requests must be received by OCFS within 30 days of the date a rate is issued (as specified in 18 NYCRR 427.9 and in Chapter 9 of the *Standards of Payment for Foster Care Children Program Manual*). The LDSS should send requests for a rate consultation to:

Karen M. Williams, Principal Accountant
 Bureau of Budget Management
 New York State Office of Children and Family Services
 52 Washington Street, Room 314 S
 Rensselaer, NY 12144

- B. **A voluntary agency requesting a rate consultation** must use the web-based SSOP application to submit the rate consultation electronically. Pursuant to OCFS regulations, such requests must be received electronically within 30 days of the date a rate is issued.

VII. Effective Date

This directive is effective as of April 1, 2023.

/s/ Sharon Devine

Issued by:

Name: Sharon Devine

Title: Deputy Commissioner

Division/Office: Division of Administration

Attachment A**Maximum State Aid Rates for Foster Boarding Home Payments and Adoption Subsidies
2022-23 Rate Year (April 1, 2023, through June 30, 2023)****Maximum State Aid Rates for Payments to Foster Parents and for Adoption Subsidies**

	Age 0 – 5		Age 6 – 11		Age 12 and Over	
	Monthly Amount	Per Diem	Monthly Amount	Per Diem	Monthly Amount	Per Diem
Metro *	1,069.00	35.15	1,260.00	41.42	1,279.00	42.05
Upstate	930.00	30.58	1,108.00	36.43	1,120.00	36.82

	Monthly Amount	Per Diem
Special Children	2,007.00	65.98
Exceptional Children	3,042.00	100.01

Maximum State Aid Rates for Payments to Foster Parents for Emergency Placements

Maximum State Aid Rate is 200% of the MSAR for a Non-Special or Non-Exceptional Child.

* Metro includes the following districts: New York City and Nassau, Rockland, Suffolk and Westchester counties.

Attachment B**Maximum State Aid Rates for Supervised Setting Programs (SSPs)
2022-23 Rate Year (April 1, 2023, through June 30, 2023)****Community Setting Placements and Single Occupancy MSARs**

	Per Diem
Downstate *	\$156.95**
Upstate	\$130.53**

Double Occupancy MSARs

	Per Diem
Downstate *	\$154.92**
Upstate	\$127.80**

Triple Occupancy MSARs

	Per Diem
Downstate *	\$142.72**
Upstate	\$121.24**

Four-Bed Mother/Child MSARs

	Per Diem
Downstate *	\$128.85**
Upstate	\$110.56**

Five-Bed Mother/Child MSARs

	Per Diem
Downstate *	\$123.63**
Upstate	\$106.65**

College Dorm Setting

	Per Diem
Downstate *	\$65.09**
Upstate	\$41.19**

* Downstate includes the following districts: New York City and Nassau, Orange, Putnam, Rockland, Suffolk and Westchester counties.

** Maximum state aid rates are calculated at 75% utilization.

Attachment C

**Maximum State Aid Rates for Voluntary Foster Care Agencies
2022-23 Rate Year (April 1, 2023, through June 30, 2023)**

Rate charts are available on the Rate Information page of the OCFS website, at the address below, and are updated as needed.

<https://ocfs.ny.gov/main/rates/>

Attachment D

**In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed by OCFS
2022-23 Rate Year (April 1, 2023, through June 30, 2023)**

Rate charts are available on the Rate Information page of the OCFS website, at the address below, and are updated as needed.

<https://ocfs.ny.gov/main/rates/>

Attachment E

**In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed
by Other New York State Agencies
2022-23 Rate Year (April 1, 2023, through June 30, 2023)**

Rate charts are available on the Rate Information page of the OCFS website, at the address below, and are updated as needed.

<https://ocfs.ny.gov/main/rates/>