



Office of Children and Family Services

Kathy Hochul
Governor

52 WASHINGTON STREET
RENSSELAER, NY 12144

Suzanne Miles-Gustave, Esq.
Acting Commissioner

Administrative Directive

Transmittal:	23-OCFS-ADM-17
To:	Local Departments of Social Services Commissioners
Issuing Division/Office:	Division of Child Care Services
Date:	September 27, 2023
Subject:	Clarification on Temporary Changes and Non-Temporary Cessations for the Child Care Assistance Program
Suggested Distribution:	Social Services Directors Temporary Assistance Directors Child Care Assistance Supervisors Temporary Assistance Supervisors Child Care Assistance Staff
Contact Person(s):	Merideth Infantino, Bureau of Child Care Assistance, 518-402-3001 Merideth.Infantino@ocfs.ny.gov ocfs.sm.districtsupport.subsidy@ocfs.ny.gov
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-ADM-30 23-OCFS-ADM-05		18 NYCRR Part 415	45 CFR 98.21(a)(1)		

I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local social services districts (districts) of the policy for the New York State Child Care Block Grant Program regarding temporary changes, also referred to as temporary cessations, and to clarify the difference between temporary changes and non-temporary changes that would result in discontinuation of services for cases funded under the New York State Child Care Block Grant (NYSCCBG).

II. Background

Federal regulation 45 CFR 98.21(a)(1) states that during the authorized eligibility period, if the child met all of the requirements on the date of the most recent eligibility determination or redetermination, the child must be considered eligible and will receive services at least at the same level, regardless of a change in family income, if that family income does not exceed 85% of the state median income (SMI) for a family of the same size, or a temporary change in activity, which is further defined in 45 CFR

98.21(a)(1)(ii). Federal regulation 45 CFR 98.21(a)(1)(ii) states that a temporary change shall include, at a minimum, the following:

- (A) Any time-limited absence from work for an employed parent due to reasons such as need to care for a family member or an illness;
- (B) Any interruption in work for a seasonal worker who is not working between regular industry work seasons;
- (C) Any student holiday or break for a parent participating in training or education;
- (D) Any reduction in work, training or education hours, as long as the parent is still working or attending training or education;
- (E) Any other cessation of work or attendance at a training or education program that does not exceed three months or a longer period of time established by the Lead Agency;
- (F) Any change in age, including turning 13 years old during the eligibility period; and
- (G) Any change in residency within the state, territory, or tribal service area.

In [21-OCFS-ADM-30](#), *Changes to Child Care Subsidy Regulations: Parts 404 and 415*, the New York State Office of Children and Family Services (OCFS) informed districts of changes to Title 18 of the official compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR) Parts 404 and 415, regarding the provision of child care services funded under the NYSCCBG. Specifically, OCFS informed districts of the state's policy regarding when a non-temporary cessation in activity would result in case closure. This document is being provided to clarify what constitutes a temporary change and revision of the prior guidance is included herein.

III. Program Implications

Federal regulations require that there is no reduction in a child's authorized services during the eligibility period, regardless of temporary changes in the ongoing status of the child's parent as working or attending a job training or educational program. The following are common situations implicated by the requirements on temporary changes. Any situation identified as a temporary change is a situation where the change in circumstance is not a reason to discontinue assistance during an eligibility period:

Time-Limited Absence From Work

Federal regulations require that the child's authorization for child care services not be decreased while an employed parent or caretaker experiences any time-limited absence from work due to reasons such as an illness or the need to care for a family member. The amount of time the parent or caretaker is absent from work cannot be limited; however, the parent or caretaker must remain employed during the absence.

Interruption in Seasonal Work Between Regular Industry Seasons

Seasonal work is not specific to any one industry. A seasonal worker is one who works during certain times of the year. Federal law considers any interruption in work for a seasonal worker who is not working between regular industry work seasons to be a temporary change in work status. These changes are not subject to any specific time-based limitation if it falls between regular industry seasons. Examples of seasonal work include, but are not limited to, school staff, agricultural workers, and persons that work in construction.

Student Holiday/Break

Any student holiday or break in participation in an education or training program is considered temporary. This includes breaks and holidays that exceed three months if such break is scheduled by the institution, and the student continues to be enrolled. This includes, but is not limited to, breaks such as holidays, campus closures, and summer breaks.

Reduction in Activity

A temporary change includes any reduction in work hours, or attendance in a training or education program, provided that the parent is still working or attending such program. OCFS is rescinding its previous statement in 21-OCFS-ADM-30 that cases must be closed if a family fails to meet the definition of “engaged in work” for a period of three months or longer when hours are reduced but the family is still working or attending such program.

Non-Temporary Cessation

Any other cessation of work or attendance in a training or education program that is less than three months is considered a temporary change. Any cessation that exceeds three months is considered a non-temporary cessation and is subject to case closure. This includes no longer being employed or no longer attending a training or education program.

Any Change in Age, Including Turning 13 Years Old During the Eligibility Period

When a child, who is currently authorized for child care services, turns 13 years old; or turns 18 years old and is a child with special needs or is under court supervision; or turns 19 and is a child with special needs or is under court supervision who is a full-time student in a secondary school, or in an equivalent level of vocational or technical training, the child remains eligible through the end of the eligibility period. However, if a district elects to provide child care assistance for 24 months, child care assistance must be discontinued for a child when such child turns 14 years old; or turns 19 years old and is a child with special needs or is under court supervision; or turns 20 years old and is a child with special needs or is under court supervision who is a full-time student in a secondary school or in an equivalent level of vocational or technical training. Such children no longer meet the definition of eligible child and have already received at least a 12-month eligibility period as required by federal regulations.

Any Change in Residency Within the State

A change of residency within the state is considered a temporary change. 18 NYCRR section 415.4(d) states that the district that authorizes child care services under the NYSCCBG will remain the district with financial responsibility for the duration of the approved eligibility period. This applies to all child care assistance cases funded under the NYSCCBG. If a family in receipt of child care assistance no longer resides within New York state, the family is no longer eligible for child care assistance as this is considered a non-temporary change.

Initial Eligibility for Child Care Assistance to Seek Employment

Federal regulation 45 CFR 98.21(a)(2)(iii) allows for a family to be considered eligible for the Child Care Assistance Program (CCAP) based on the parent or caretaker seeking employment or engaging in job search activities. Federal law allows the option to end assistance after a minimum of three months if the parent or caretaker has still not found employment, although assistance must continue if the parent or caretaker becomes employed during the job search period. As such, child care assistance provided for a parent or caretaker to seek employment for a period of up to six months differs from the assistance provided when an individual experiences a change in employment, whether temporary or non-temporary. When a parent or caretaker in receipt of child care assistance becomes no longer employed, the child care assistance will continue for three months while the individual seeks new employment. If the individual is unable to obtain new employment within the three-month period, the change in employment is deemed a non-temporary change that results in discontinuation of the child care assistance. However, the individual could reapply for child care assistance as an individual seeking employment. In such cases, the period of time authorized under this eligibility criteria would be separate and apart from the three-month non-temporary change time period.

IV. Required Action

Districts must continue to provide child care assistance to families when the parent or caretaker is experiencing a temporary change in circumstances, provided the family income does not exceed 85% of the SMI. The district may verify that the change in circumstances is temporary, as defined herein. At redetermination, the district must determine whether the family is eligible based on the circumstances at that time.

Time-Limited Absence From Work

A parent or caretaker who is in receipt of child care assistance and is not working for any time-limited reason, including, but not limited to illness, the birth of a child or the need to care for a family member, as outlined above, remains eligible for CCAP for the entirety of the approved eligibility period. The district may verify that the parent or caretaker is still employed but must not impose excessive documentation requirements.

When a child is born or otherwise joins the family, districts must complete a full redetermination. If a district determines that a family's income does not exceed the applicable income threshold, the district must give the family a new 12-month eligibility period, or 24-month eligibility period if the district chooses this option in its CFSP, since the new child is programmatically eligible for a full eligibility period. If, prior to October 1, 2023, a district determines a family's income is above 300% of the state income standard and does not exceed 85% of the SMI, the district must add the child to the case and authorize child care services for the remainder of the current eligibility period. If the family's income is above 85% of the SMI, the case must be closed pursuant to 18 NYCRR section 415.2(d)(4).

Interruption in Seasonal Work Between Regular Industry Seasons

A parent or caretaker who meets the definition of a seasonal worker remains eligible for child care assistance for the duration of the authorized eligibility period unless the family meets one of the discontinuance criteria listed in 18 NYCRR section 415.2(d)(4). The district may verify that the seasonal worker is between regular industry seasons due to the season completing and not due to termination.

Student Holiday/Break

Districts must continue to provide child care assistance to families when the parent or caretaker is experiencing a temporary change due to a student holiday or break in participation in an education or training program. When such break is expected to exceed three months, the district may confirm continued enrollment in the institution.

Reduction in Activity

If the parent or caretaker met the definition of "engaged in work" at the time of the eligibility determination but experienced a reduction in hours that results in fewer hours than the definition of "engaged in work" during the authorized eligibility period, the district must not close the case unless the parent or caretaker ceases working completely for more than three months, or otherwise meets one of the criteria for discontinuance pursuant to 18 NYCRR section 415.2(d)(4). Districts must not reduce the level of hours authorized for child care assistance while the case remains open.

Non-Temporary Cessation

Any other cessation of work or attendance at a training or education program that does not exceed three months must be considered a temporary change. Districts must discontinue child care assistance for families experiencing any other cessation of work or attendance in an education or training program that exceeds three months, unless otherwise eligible for child care assistance. Districts must assess whether a family would otherwise be programmatically eligible for child care assistance when such family is facing discontinuance due to a non-temporary cessation.

Any Change in Age, Including Turning 13 Years Old During the Eligibility Period

When a child, who is currently authorized for child care services, turns 13 years old; or turns 18 years old and is a child with special needs or is under court supervision; or turns 19 and is a child with special needs or is under court supervision who is a full-time student in a secondary school or in an equivalent level of vocational or technical training, the district must continue to provide child care services through the end of the eligibility period, unless the family meets one of the criteria for discontinuance in 18 NYCRR section 415.2(d)(4). If a district elects to provide child care assistance for 24 months, child care assistance must be discontinued for a child when such child turns 14 years old; or turns 19 years old and is a child with special needs or is under court supervision; or turns 20 years old and is a child with special needs or is under court supervision who is a full-time student in a secondary school or in an equivalent level of vocational or technical training. In such cases, child care assistance must continue for any other eligible children in the case for the duration of the eligibility period. In an instance where an individual child is no longer eligible due to age, child care assistance will continue for the duration of the authorized eligibility period for any other eligible children in the family, as otherwise permissible.

Any Change in Residency Within the State

As stated in [23-OCFS-ADM-05](#), *Implementation of 24-Month Eligibility and Other Regulatory Changes*, when a family moves from one jurisdiction to another within the state during the authorized eligibility period, the district of origin must remain responsible for child care assistance throughout the authorized eligibility period for cases funded under the NYSCCBG, unless one of the criteria for discontinuance in 18 NYCRR section 415.2(d)(4) is met. This includes, but is not limited to, cases determined eligible when a child(ren) resides in another district due to Article 10 or foster care placement or for protective reasons. At the time of redetermination, the family must apply for child care assistance in the district in which they currently reside unless such care is needed for a child(ren) placed in foster care in a district other than the district that placed the child(ren). In such cases, the financial responsibility for the child care assistance remains with the district that placed the child(ren) for the duration of the placement.

Districts must immediately apply this policy to all open cases. Districts must review all cases closed within the last 30 days to determine if such cases were closed prematurely. If such cases have been found to be closed prematurely, districts must notify families of the opportunity to reopen their case without a new application being required.

Unless otherwise stated above, the district must reassess the family's status at the next eligibility redetermination to determine if the family is still eligible based on the family's circumstances at the time.

V. Effective Date

This ADM is effective upon issuance.

/s/ Nora K. Yates

Issued by:

Name: Nora K. Yates

Title: Deputy Commissioner

Division/Office: Division of Child Care Services