



Office of Children and Family Services

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Governor

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Administrative Directive

Transmittal:	23-OCFS-ADM-22
To:	Local Departments of Social Services Commissioners Voluntary Authorized Agencies Executive Directors
Issuing Division/Office:	Division of Child Welfare and Community Services Office of Strategic Planning and Policy Development
Date:	November 20, 2023
Subject:	Notification to Foster Parent of Foster Care Level of Care and Room and Board Rate Payment
Suggested Distribution:	Local Departments of Social Services Directors Voluntary Authorized Agencies Executive Directors Foster Care Supervisors Home Finding Supervisors
Contact Person(s):	See section VI.
Attachments:	OCFS-LDSS-7018 , <i>Notification of Foster Care Level of Care and Room and Board Rate Payment (Revised 10/2023)</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92-LCM-162	08-OCFS-ADM-03	18 NYCRR 427.6; 441.22 (j)(1); 443.2 (e)(3); 443.3 (j) & (p)	Social Services Law §22; Family Court Act §1089 (b)	Standards of Payment for Foster Care Chapter 8 (B-8)	

I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of recent updates made to the standardized procedure to notify foster parents of a child’s level of care determination and associated board rate payment, along with their right to appeal the determination and associated payment. The standardized procedure outlined in this ADM now includes the extraordinary rate (see 23-OCFS-ADM-21) and replaces the previous procedure set forth in 08-OCFS-ADM-03, which is now canceled.

II. Background

New York State Law¹ requires that the New York State Office of Children and Family Services (OCFS) set maximum payment rates to foster parents for the cost of room and board of children in foster homes. The payment rates identify the maximum amount of state and federal reimbursement that LDSSs can receive for such foster care costs.

There are four levels of room and board rate payments for a foster boarding home: basic, special, exceptional, and extraordinary. When a child enters foster care, the LDSS is responsible for determining the level of care based on the child's needs. Foster parents play a critical role in providing safe, temporary homes to children in foster care. Children who have been designated as satisfying the standards for a special, exceptional, or extraordinary level of care have greater needs. Therefore, foster parents caring for these children are paid a higher rate to provide the additional care and supervision that are needed. It is therefore incumbent upon the LDSS or VA to inform the foster parents of the child's foster board rate level and provide information that explains the conditions or circumstances that were assessed in designating the child's level of care as basic, special, exceptional, or extraordinary.

Additionally, foster parents must be informed of their right to a conference and their right to a fair hearing pursuant to section 22 of the Social Services Law if they disagree with the level of care designation. Therefore, notification to the foster parents allows LDSSs and VAs to meet this requirement by informing foster parents of their rights and providing them with the necessary information and opportunity to appeal the foster board rate level determination and associated foster care room and board payment decision.

III. Program Implications

Child Eligibility

In order to establish the foster board rate level at special, exceptional, or extraordinary, the child must meet the criteria for special, exceptional, or extraordinary foster care services found in 18 NYCRR 427.6 (c), (d), and (f). If the assessment determines the child meets one or more of the listed conditions or circumstances, a rate above the basic rate is warranted for the child.

A child may also be eligible for a higher foster board rate level of care if the child has a condition equivalent to one of the listed conditions for the special, exceptional, or extraordinary rate that is developed by the LDSS and approved by OCFS; or, concerning individual child specific requests, approved by OCFS within 60 days after approval by the LDSS.

Foster Parent Eligibility

In addition to the child in foster care meeting the requirements referenced above, for foster care payments to be made at a rate above basic, foster parents must also meet the criteria found in 18 NYCRR 427.6. LDSSs must determine if the foster parents have received necessary training or possess the necessary skills and experience and have demonstrated their ability to care for children with special, exceptional, or extraordinary needs. Additionally, foster parents must actively participate in ongoing agency training. The number of training hours that foster parents must complete annually is as follows:

- 4 hours (special)
- 5 hours (exceptional)
- 8 hours (extraordinary)

In addition, it must be determined that the foster parents actively participate in case conferences, and that the foster parents are able to provide intensive supervision and interpersonal relationships that are consistent with the child's therapeutic goals, including working with professionals involved in the child's

¹ Social Services Law (SSL) § 398-a.

treatment plan, such as physicians, nurses, social workers, psychologists, and psychiatrists. Such foster parents must also be able to accept assistance and guidance in caring for the child. See 18 NYCRR 427.6(e).

To be eligible for the extraordinary rate, foster parents must meet additional criteria that can be found in 18 NYCRR 427.6(f)(2).

Conferences/Fair Hearings

Page three of form OCFS-LDSS-7018 explains the foster parent's right to a conference and a fair hearing to review the foster board rate level determination, associated payment, and how to appeal this determination. The right to a fair hearing remains, regardless of whether the foster parents have requested a conference. Fair hearings must be requested within 60 days from the "notice date" at the top of the first page of the notice.

A foster parent is entitled to the following records related to the conditions or circumstances of a child in foster care who resides in their home:

- The comprehensive health history, current health status, and health care needs of the child.²
- Information about any disabilities, behavioral needs, school and educational background, and the child's relationship to their parents.³
- The most recent permanency hearing report with any court modifications.⁴

Since foster parents' access to such records is independent of a fair hearing request, the foster parents may already have received a copy of the records. In the event of a foster parent's request for records related to the fair hearing, the LDSS must either confirm that the foster parents have a copy of the records or provide a copy of the records to the foster parents for use at the fair hearing.

IV. Required Action

The foster board rate level must be set, and the notification form *Notification of Foster Care Level of Care and Board Rate Payment* (OCFS-LDSS-7018; revised 10/23) must be completed by the LDSS or VA and provided to the foster parents within 30 days of placement of a child in the foster home, or within 30 days of a change in the rate level for a child already placed in the foster boarding home. The date that the form is provided to the foster parents must be entered in the "notice date" field (top left of form). Notification is required in each instance when a child is placed in a new foster boarding home, including emergency placements, whenever a child in care is moved from an existing placement to a foster boarding home, and whenever the **rate level** changes for any reason, including for a child in foster care who remains in the same foster boarding home.

When entering the payment amount for the board rate on the form, only the discrete amount for the board rate associated with the designated rate level from the Benefit Issuance and Control System (BICS) rate table is to be included, along with the effective date. In addition to recording the rate level, a description of the qualifying condition or circumstance is to be recorded on the form.

The LDSS may delegate the responsibility for notification to the VA with which the child is placed if such arrangement is reflected in the Foster Care Model Contract in effect between the LDSS and the VA. Such arrangement must be included in the program narrative in Schedule A.⁵

² 18 NYCRR 441.22 (j)(1).

³ 18 NYCRR 443.2 (e)(3).

⁴ Family Court Act (FCA) § 1089(b).

⁵ See [21-OCFS-ADM-20](#), *Revised Model Contract for Purchase of Foster Care Services*.

Attached to this ADM is the form *Notification of Foster Care Level of Care and Board Rate Payment*, OCFS-LDSS-7018 (revised 10/23) that must be used for these purposes. A completed copy of the form must be placed in the foster parent's record as a means of verification that said notification has been sent as well as documented in the Foster and Adoptive Home Development (FAD) stage of CONNECTIONS, in FAD contacts. If record access is requested in conjunction with a request for a fair hearing, the documents listed in the Program Implications section of this ADM are to be promptly provided.

V. Additional Information

As a reminder, to pay Foster Care pass-through Level of Difficulty (LOD) rates at a rate higher than basic, an S200 activity must be entered on the child's Activities track in CONNECTIONS with the effective date of the LOD code.

- LOD 2 - Special
- LOD 3 - Exceptional
- LOD 5 - Extraordinary

An LOD of 2, 3, or 5 must be entered in the S200 Modifier A field or the payment amount for POS types 61 and 62 will default to the LOD 1 (Basic) rate. Modifiers are available but not required when an S200 for any LOD is entered.

The form can also be found on the OCFS website at ocfs.ny.gov/forms/.

VI. Contacts

Any questions concerning this release should be directed to the appropriate regional office in the OCFS Division of Child Welfare and Community Services:

Buffalo Regional Office – Amanda Darling (716) 847-3145

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Rochester Regional Office – Chris Bruno (585) 238-8201

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Close to Home & Detention – Donte Blackwell (212) 383-7261

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VII. Effective Date

This ADM is effective immediately.

/s/ Gail Geohagen-Pratt

Issued by:

Name: Gail Geohagen-Pratt

Title: Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services

/s/ Thomas R. Brooks, Esq.

Issued by:

Name: Thomas R. Brooks, Esq.

Title: Deputy Commissioner

Division/Office: Office of Strategic Planning and Policy Development