



# Office of Children and Family Services

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## Local Commissioners Memorandum

<b>Transmittal:</b>	24-OCFS-LCM-01
<b>To:</b>	Local Departments of Social Services Commissioners
<b>Issuing Division/Office:</b>	Division of Child Care Services
<b>Date:</b>	January 16, 2024
<b>Subject:</b>	<b>State Minimum Wage Increase and Its Effect Upon Child Care Assistance</b>
<b>Contact Person(s):</b>	Darci Primeau, Bureau of Child Care Assistance, 518-474-9095 <a href="mailto:Darci.Primeau@ocfs.ny.gov">Darci.Primeau@ocfs.ny.gov</a> <a href="mailto:ocfs.sm.districtsupport.subsidy@ocfs.ny.gov">ocfs.sm.districtsupport.subsidy@ocfs.ny.gov</a>
<b>Attachments:</b>	None

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (districts) that the increase in the state minimum wage, effective January 1, 2024, may affect a family's eligibility for child care assistance.

### II. Background

New York Labor Law § 652 authorizes increases to the New York state minimum wage. The latest increase will go into effect on January 1, 2024. Minimum wage requirements are specifically applicable to those employed in the following areas, pursuant to the New York Labor regulations in Title 12 of the Codes, Rules and Regulations of New York State (NYCRR) cited below:

- Building service industry (except janitors in residential buildings) – 12 NYCRR Part 141.1
- Miscellaneous industries and occupations – 12 NYCRR Part 142.1
- Hospitality industry – 12 NYCRR Part 146.1
- Farm workers (if cash paid to all employees on farm during preceding calendar year aggregated \$3,000 or more) – 12 NYCRR Part 190.1

However, there are different minimum wage rates for food service workers who receive tips.

The state minimum wage rates are scheduled to increase annually on January 1 until they reach \$17.00 per hour in New York City, Nassau, Suffolk, and Westchester counties and \$16.00 per hour for all other locations in the state. The scheduled increases vary by region as shown in the chart below, which is also available on the New York State Department of Labor's (DOL) website. Further information can be found at <https://dol.ny.gov/minimum-wage-0>.

Location	1/1/2024
New York City	\$16.00
Nassau, Suffolk and Westchester	\$16.00
Remainder of New York State	\$15.00

Additional information on the minimum wage rate schedule can be obtained by calling 1-888-4-NYSDOL (1-888-469-7365) or visiting <https://dol.ny.gov/>.

### III. Program Implications

For some families applying for or receiving child care assistance, the increase in the state minimum wage will result in additional income.

23-INF-07, *2024 State Minimum Wage Increase and the Effect on Temporary Assistance and Supplemental Nutrition Assistance Programs*, issued by the New York State Office of Temporary and Disability Assistance (OTDA) on December 12, 2023, covers the effects of the state minimum wage increase on families receiving temporary assistance (TA). Notwithstanding, consistent with guidance provided in [23-OCFS-ADM-05](#), *Implementation of 24-Month Eligibility and Other Regulatory Changes*, families in receipt of TA and child care assistance who subsequently lose their TA eligibility due to increased income will continue to receive child care assistance for the remainder of the authorized eligibility period unless the family income exceeds 85% of the state median income or other criteria for discontinuance prior to the end of the eligibility period is met under 18 NYCRR section 415.2(d)(4).

#### **Changes in Circumstances**

Title 18 of the NYCRR requires that all applicants for, and recipients of, child care assistance notify the district of changes in financial circumstances that put the family's income over 85% of the state median income; or changes in living arrangements, employment, household composition, child care provider or other circumstances that affect the family's need or eligibility for child care assistance.

However, as stated in [23-OCFS-ADM-05](#), families in receipt of non-TA child care assistance who subsequently experience increased income as a result of the minimum wage raise will continue to receive child care assistance for the remainder of the authorized eligibility period unless the family income exceeds 85% of the state median income or other criteria for discontinuance prior to the end of the eligibility period is met under 18 NYCRR section 415.2(d)(4).

#### **Child Care Assistance in Lieu of Temporary Assistance**

The increase in the state minimum wage also affects the required minimum gross earnings of families who receive child care assistance in lieu of TA. To be eligible for child care assistance in lieu of TA, an applicant/recipient must be otherwise eligible for TA and be employed. As such, the applicant/recipient must have gross earnings equal to, or greater than, the required number of work hours multiplied by the state minimum wage. The chart below provides the minimum gross earnings and minimum number of work hours for single-parent and two-parent households applying for, or receiving, child care assistance in lieu of TA by location.

The minimum gross earning amounts in row 1 are calculated based on the relevant minimum wage multiplied by 17.5 hours per week. The minimum gross earning amounts in row 2 are calculated based on the relevant minimum wage multiplied by 25 hours per week. The minimum gross earning amounts for the parent who is employed and earning minimum wage or more per hour, or is self-employed and earning at least the equivalent of the minimum wage per hour for families that fall into row 5, are calculated based on the relevant minimum wage multiplied by 17.5 hours per week.

The examples provided in the chart are intended to be representative of the point at which the minimum gross earnings, if applicable to the family, are met. The minimum wage of the county or state where the job is located, rather than the county of residence, applies when determining whether applicable minimum gross earnings are met. However, if a higher wage is established by federal law, such wage would apply when determining whether applicable minimum gross earnings are met.

<b>Minimum Gross Earnings and Minimum Work Hours for Eligibility for Child Care in Lieu of Temporary Assistance</b>				
	<b>Location/Minimum Wage</b>			<b>Minimum Work Hours</b>
	<b>New York City</b>  Minimum Wage \$16.00/hour	<b>Nassau, Suffolk, and Westchester</b>  Minimum Wage \$16.00/hour	<b>Remainder of New York State</b>  Minimum Wage \$15.00/hour	
<b>Family</b>	<b>Minimum Gross Earnings<sup>1</sup></b>			
<b>Row 1</b> <b>Single-parent family</b> when a parent is employed and earning minimum wage or more per hour <u>or</u> is self-employed and earning at least the equivalent of the minimum wage per hour.	\$280/week or \$1,213.00 per month	\$280/week or \$1,213.00 per month	\$262.50/week or \$1,137.50 per month	N/A
<b>Row 2</b> <b>Two-parent family</b> when both parents are employed and earning minimum wage or more per hour <u>or</u> are self-employed and earning at least the equivalent of the minimum wage per hour.	\$400.00/week or \$1,733.00 per month combined	\$400.00/week or \$1,733.00 per month combined	\$375.00/week or \$1,625.00 per month combined	N/A
<b>Row 3</b> <b>Single-parent family</b> when a parent is employed in a job exempt from minimum wage rules and earning less than minimum wage per hour.	N/A	N/A	N/A	17.5 hours per week
<b>Row 4</b> <b>Two-parent family</b> when both parents are employed in a job exempt from minimum wage rules and earning less than minimum wage per hour.	N/A	N/A	N/A	25 hours per week combined

<sup>1</sup> Use the following procedure to manually calculate minimum gross earnings: Per week: wage x hours worked. Per month: wage x hours worked x 4.333. Rounding: .01 to .24 round down to 0; .25 to .50 round up to .50; .51 to .74 round down to .50; .75 to .99 round up to the next .00.

<b>Minimum Gross Earnings and Minimum Work Hours for Eligibility for Child Care in Lieu of Temporary Assistance</b>				
	<b>Location/Minimum Wage</b>			<b>Minimum Work Hours</b>
	<b>New York City</b>	<b>Nassau, Suffolk, and Westchester</b>	<b>Remainder of New York State</b>	
	Minimum Wage \$16.00/hour	Minimum Wage \$16.00/hour	Minimum Wage \$15.00/hour	
<b>Family</b>	<b>Minimum Gross Earnings<sup>1</sup></b>			
<b>Row 5</b> <b>Two-parent family</b> when one parent is employed and earning minimum wage or more per hour <u>or</u> is self-employed and earning at least the equivalent of the minimum wage per hour,	\$280.00/week or \$1,213.00 per month	\$280.00/week or \$1,213.00 per month	\$262.50/week or \$1,137.50 per month	N/A
<b>and</b> one parent is employed in a job exempt from minimum wage rules and earning less than minimum wage per hour.	N/A	N/A	N/A	7.5 hours per week

Self-employed parents/caretaker relatives must meet the applicable gross earnings minimum. For parents/caretaker relatives in jobs that are exempt from minimum wage rules and earning less than minimum wage per hour, there is no applicable minimum gross earnings amount; such parents/caretaker relatives must only meet the applicable number of minimum work hours outlined above. For parents/caretaker relatives in jobs that are exempt from minimum wage rules and earning minimum wage or more per hour, or who are self-employed and earning at least the equivalent of the minimum wage per hour, there is no applicable number of minimum work hours; such parents/caretaker relatives must only meet the applicable minimum gross earnings amount outlined above. However, even when programmatic eligibility has been established, care can only be provided for such hours during which the caregivers are working, plus travel time between the child care provider and the site of employment. Additionally, to determine which requirements above apply, and whether they are met, each parent/caretaker relative must provide sufficient documentation to determine whether they are earning more or less than minimum wage per hour, and whether they are employed in a job exempt from minimum wage rules or are self-employed.

For more information regarding the eligibility requirements for child care in lieu of TA, please refer to [04-OCFS-ADM-01](#), *Guaranteed Child Care in Lieu of Temporary Assistance*; [05-OCFS-ADM-03](#), *Child Care Subsidy Program*; and [17-OCFS-INF-07](#), *Clarification on the Financial Eligibility Requirements for Transitional Child Care*.

As stated in [23-OCFS-ADM-17](#), *Clarification on Temporary Changes and Non-Temporary Cessations for the Child Care Assistance Program*, any reduction in work is considered a temporary change, as long as the parent is still working. For families in receipt of child care in lieu of TA who subsequently fail to meet the required minimum gross earnings amount and/or minimum work hours as specified above, the case will remain open and assistance unchanged, as long as the parent is still working. Districts cannot reduce the level of hours authorized while the case remains open. If the parent ceases working completely for more than three months, or meets other discontinuance criteria outlined in 18 NYCRR section 415.2(d)(4), the district must discontinue the case prior to the end of the eligibility period, unless the family is otherwise eligible for child care assistance. Districts must assess whether the family would

otherwise be programmatically eligible for child care assistance when facing discontinuance due to a non-temporary cessation.

#### **IV. Required Actions**

Due to the increase in the state minimum wage, districts must review child care assistance cases as outlined herein. Pursuant to 18 NYCRR Part 415, if family income exceeds 85% of the state median income, the case must be closed. Any income-based family share can only be decreased or remain stable during the authorized eligibility period. As outlined in [23-OCFS-ADM-05](#), the eligibility period applies to all cases funded under the New York State Child Care Block Grant (NYSCCBG), including TA cases, child care in lieu of TA cases, transitional child care cases and protective cases, even when the family's eligibility for other benefits or services ends and the associated case is closed. For more information about eligibility periods, redeterminations and the appropriate notices, please refer to the above-referenced Administrative Directive.

***/s/ Nora K. Yates***

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**Issued by:**

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Division/Office: Division of Child Care Services