



# Office of Children and Family Services

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Commissioner

## Administrative Directive

<b>Transmittal:</b>	19-OCFS-ADM-09
<b>To:</b>	Local District Commissioners Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Administration
<b>Date:</b>	August 15, 2019
<b>Subject:</b>	<b>Extension of Maximum State Aid Rates for Foster Care Programs and Residential Programs for Committee on Special Education Placements – Effective April 1, 2019, through June 30, 2019</b>
<b>Suggested Distribution:</b>	Directors of Social Services Accounting Supervisors
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<b>Attachments:</b>	None
<b>Attachments Available Online:</b>	Rate charts are available on the Rate Information page of the OCFS website at the address below, and are updated as needed. <b>Link to internet site:</b> <a href="https://ocfs.ny.gov/main/rates">https://ocfs.ny.gov/main/rates</a>

**Filing References**

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law and Other Legal Ref.	Manual Ref.	Misc. Ref.
18-OCFS-ADM-20; 18-OCFS-ADM-21		18 NYCRR Part 427	SSL 398-a EL 4402 EL 4405	<i>Standards of Payment for Foster Care of Children – Program Manual</i>	03-OCFS-LCM-22; 04-OCFS-LCM-13; 05-OCFS-ADM-04 05-OCFS-LCM-18

**I. Purpose**

The purpose of the Administrative Directive (ADM) is to extend 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 programs for a limited period of time. The MSARs effective July 1, 2018, through March 31, 2019, issued in 18-OCFS-ADM-21, will continue to be in effect for the period **April 1, 2019, through June 30, 2019.**

**II. Background**

The legislative cost-of-living adjustment (COLA) program was first implemented in the State Fiscal Year (SFY) 2006-07 Budget, and continued by legislation enacted in subsequent budget years, most recently in the SFY 2015-16 Budget. The SFY 2019-20 State Budget Provisions specified in Chapter 57 of the Laws of 2019 amended Chapter 57 of the Laws of 2018 and suspended the COLA that was scheduled for April 1, 2019. Due to the COLA suspension, there are no changes in the MSARs for the balance of the 2018-19 rate year.

**III. Program Implications**

- A. All MSARs and CSE maintenance rates in effect for the period of July 1, 2018, to March 31, 2019, are extended for the balance of the rate year to June 30, 2019, based on the above referenced provisions in Chapter 57 of the Laws of 2019. **All rate policies and requirements of local departments of social services (LDSSs) previously specified for the 2018-19 rate year in 18-OCFS-ADM-21, dated October 22, 2018, are applicable to MSARs and CSE maintenance rates extended to June 30, 2019.**
- B. **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 composed of the MSAR effective July 1, 2018, for the institution programs, plus the 2017-18 medical per diem established by the New York State Department of Health (DOH). Upon determination of the New York State Division of the Budget (DOB), the 2018-19 medical per diem rates will be released.

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 New York Education Law and Social Services Law (SSL) brought about by passage of Chapter 62 of the Laws of 2003 provide that the school district of residence must reimburse the LDSS for 20 percent of the maintenance costs for such children. 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.

03-OCFS-LCM-22 and 04-OCFS-LCM-13 specified information regarding the procedures for implanting these statutory amendments.

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

Pursuant to Chapter 53 of the Laws of 2019, the revisions to the 10-month CSE maintenance reimbursement formula are **revised** as follows:

- a. For a child placed by a school district into a privately operated residential school or Special Act School District, outside of those located within a city having a population of one million or more:
  - The state share is 18.424 percent.
  - The local share is 43.152 percent.
  - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment remains 38.424 percent.
- b. For a child placed by a school district into a privately operated residential school or Special Act School District, located within a city having a population of one million or more:
  - The state share is 0.000 percent.
  - The local share is 43.152 percent.
  - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment remains 56.848 percent.
- c. For a child admitted to a state-operated school for the deaf or blind:
  - The state share is 46.06 percent.
  - The local share is 53.94 percent.

#### IV. Systems Implications

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

## V. Rate Consultations/Rate Adjustments

The purpose of issuing MSARs is to specify the New York State Office of Children and Family Services (OCFS)-approved maximum reimbursement program rates for state and federal claiming purposes, as well as to provide guidance to LDSSs in their contract negotiations with providers of foster care. MSAR payment requirements, pursuant to Section 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.

When an LDSS agrees to contract for a rate that is greater than the published MSAR, OCFS may be able to assist to the local district 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 in regard to 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 8 of the *Standards of Payment for Foster Care of Children Program Manual*). The LDSS should send requests for a rate consultation to:

Bryan B. Bagstad, Director  
 New York State Office of Children and Family Services  
 Bureau of Budget Management, Room 314 South  
 52 Washington Street  
 Rensselaer, NY 12144

- B. **A voluntary agency requesting a rate consultation** must use the web-based Statewide Standards of Payment (SSOP) system to submit the rate consultation request electronically. Pursuant to OCFS regulations, such requests must be received (in this case, electronically) within 30 days of the date a rate is issued.

**Note: Rate calculation policies specified in this ADM are not subject to consultation or appeal.**

## VI. Effective Date

This direction is effective as of the date of its issuance.

*/s/ Derek J. Holtzclaw*

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### Issued by:

Name: Derek J. Holtzclaw  
 Title: Deputy Commissioner for Administration  
 Division/Office: Administration