



Office of Children and Family Services

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Commissioner

Administrative Directive

Transmittal:	20-OCFS-ADM-11
To:	Commissioners of Social Services
Issuing Division/Office:	Division of Child Care Services
Date:	July 24, 2020
Subject:	Definition of Engaged in Work for Child Care Assistance
Suggested Distribution:	Directors of Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff
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Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
05-OCFS-ADM-03 19-OCFS-ADM-19		18 NYCRR Part 415.1(o)			

I. Purpose

The purpose of this Administrative Directive (ADM) is to inform local social services districts (LSSDs) of changes to Title 18 of the official compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR) Part 415, regarding the definition of “engaged in work” for the provision of child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act.

II. Background

The federal Child Care and Development Block Grant Act of 2014 (CCDBG) and changes to federal Child Care and Development Fund regulations include provisions to improve the quality and safety of child care programs. The New York State budget, signed into effect on April 1, 2019, included legislative authority for the New York State Office of Children and Family Services (OCFS) to implement federal requirements. To achieve compliance with CCDBG and support legislative changes, OCFS filed emergency regulations that became effective on September 25, 2019. These changes affected Parts 403, 404, 405, 406, 413, 414, 415, 416, 417, and Subparts 358-3, 418-1 and 418-2 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR). Among these regulatory changes, the definition of “engaged in work” in 18 NYCRR 415.1(o) was changed to require an individual who is not receiving public assistance to work an average of at least 20 hours per week, provided that there is no physical or mental incapacity that limits the person to working less than 20 hours per week, and earn wages at a level equal to or greater than minimum wage. The regulation was also changed to require an individual who is self-employed to work, on average, at least 20 hours per week and such self-employment must produce personal income greater than or equal to the minimum wage or have the potential for growth in earnings to produce such an income within one year. On February 7, 2020, the definition of “engaged in work” in 18 NYCRR 415.1(o) was amended to eliminate the minimum number of hours required to be worked by a foster parent as well as the minimum wage requirement for a foster parent to be eligible for assistance.

III. Program Implications

Effective February 7, 2020, 18 NYCRR 415.1(o) was amended in an effort to support foster parents in providing stability to children in foster care. For an individual who is a certified or approved foster parent and seeking child care services for a foster child, engaged in work means that the individual is working or self-employed, without regard to the number of hours worked and/or the amount of income earned or produced.

LSSDs must reevaluate all cases closed or denied on or after February 7, 2020, due to a certified or approved foster parent not meeting the definition of engaged in work. If any such closed or denied case meets the revised definition of engaged in work, and therefore should have remained open or been opened, then the LSSD must open the case and send appropriate written notice. LSSDs must pay for child care assistance retroactive to the date of closure or denial. LSSDs must maintain appropriate documentation in the case record to support the determination to approve or disapprove child care assistance.

IV. Systems Implications

None

V. Effective Date

The effective date of this release is upon issuance.

/s/ Janice M. Molnar, Ph.D.

Issued by:

Name: Janice M. Molnar, Ph.D.

Title: Deputy Commissioner

Division/Office: Division of Child Care Services