



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	21-OCFS-ADM-29
<b>To:</b>	Commissioners of Local Departments of Social Services Executive Directors of Voluntary Authorized Agencies (or other specific types of agencies)
<b>Issuing Division/Office:</b>	Administration
<b>Date:</b>	November 18, 2021
<b>Subject:</b>	<b>Maximum State Aid Rates for Foster Care Programs and Residential Programs for In-State Committee on Special Education Placements – Effective July 1, 2021, Through March 31, 2022</b>
<b>Suggested Distribution:</b>	Directors of Services Accounting Supervisors
<b>Contact Person(s):</b>	Karen M Williams (518) 486-3748, <a href="mailto:karen.williams2@ocfs.ny.gov">karen.williams2@ocfs.ny.gov</a>
<b>Attachments:</b>	A – MSARs for Foster Boarding Home Payments and Adoption Subsidies B – MSARs for Supervised Independent Living Programs C – Growth Factors Applied to Voluntary Foster Care Agency MSARs and CSE Maintenance Rates D – MSARs for Voluntary Foster Care Agencies E – In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed by OCFS F – In-State CSE Maintenance Rates for SED-Approved Residential Programs Licensed by Other New York State Agencies

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-ADM-06		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 this Administrative Directive (ADM) is to issue 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 Schools, effective July 1, 2021, through March 31, 2022.

Please note that all published MSARs and CSE Maintenance Rates remain in effect for payment and reimbursement until modified or deleted by the New York State Office of Children and Family Services (OCFS). A subsequent ADM will be published to specify rate revisions for the balance of Rate Year (RY) 2021-22, April 1, 2022, through June 30, 2022. At that time, local departments of social services (LDSSs) and voluntary agencies will be advised regarding rate changes and payment requirements for that period.

## II. Background

Annually, OCFS issues MSARs and CSE Maintenance Rates to LDSSs advising them of the annual rate methodology approved by the New York State Division of the Budget (DOB).

MSARs define the reimbursement limits for LDSSs in negotiating contracts with authorized foster care providers, pursuant to Social Services Law (SSL) §398-a and 18 New York State Codes, Rules and Regulations (NYCRR) Part 427. Pursuant to Section 398-a (2-a) of the SSL, LDSSs are required to pay no less than 100% of each OCFS-established congregate care rate as well as each administrative/services rate for a therapeutic, special needs, or emergency foster home program. The details of such minimum payment requirements are specified in 05-OCFS-ADM-04.

CSE Maintenance Rates, as published by OCFS, must be paid for children placed by local school districts into SED-approved residential schools, pursuant to Section 4402 and Section 4405 of Education Law.

## III. Program Implications (Rates effective July 1, 2021, through March 31, 2022)

A. **MSARs and In-State CSE Maintenance Rates for Group Care Programs:** The following policies are applicable to all such MSARs and In-State CSE Maintenance Rates, effective July 1, 2021:

1. **MSARs for Group Care Programs:** The following aggregate growth factors were used in the calculation of group care MSARs:
  - a. **Personal Services (PS):** The calculation of trended costs includes one-year growth factors of **2.0%** for 2021-22.
  - b. **Other-Than-Personal Service (OTPS):** The calculation of trended costs includes one-year growth factors of **2.6%** for 2021-22.
2. **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, 2021, for the institution program, plus the **2021-22 Medicaid Residual Rate** established by the New York State Department of Health (DOH).

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 Education Law and 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% 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.

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

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

- a. For a child placed by a Committee on Special Education into a privately operated residential school or special act school district, the following applies:
    - State share is 0.00%.
    - Local share is 43.152%.
    - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment is 56.848%.
  - b. For a child admitted to a state-operated school for the deaf and blind, not placed by a Committee on Special Education, the following applies:
    - State share is 0.00%.
    - Local share is 50.00%.
    - The portion chargeable to the child's school district of residence for the 10-month CSE maintenance payment is 50.00%.
3. **Program Classification Reviews:** Agencies seeking a change in the program classification of a congregate care program should contact OCFS using the contact information in this ADM.
4. **Capital Projects for Congregate Care Facilities Operated by Voluntary Agencies:** OCFS is continuing its capital rates policies, which would allow OCFS to include in the MSAR an add-on rate to specifically fund an approved capital project for a voluntary agency. Two funding mechanisms are potentially available to support these policies:
- a. The Dormitory Authority of the State of New York (DASNY) funding mechanism was authorized under Chapter 472 of the Laws of 2004 to finance capital projects in residential institutions, operated by private agencies for which OCFS establishes a maintenance rate. To implement Chapter 472, OCFS issued 05-OCFS-LCM-18, which specified the details of that mechanism and allowed for the submission of applications through January 31, 2006. The LDSS is required to pay the add-on rate as part of the MSAR payment for each child placed in a program that has a DASNY add-on rate, and state reimbursement is available net of any available federal funding for those costs that exceed the LDSS's foster care block grant allocation. State share is 46.06% and local share is 53.94%. This additional reimbursement is made available to each LDSS for eligible payments at the end of each State Fiscal Year (SFY) through the local district settlement process.
  - b. The Property Parameter Waiver (PPW) funding mechanism was also implemented in 05-OCFS-LCM-18 to support the same objectives as the DASNY mechanism, within the context of existing funding formulas for foster care or CSE maintenance. Reimbursement under the Property Parameter Waiver is limited to the foster care block grant, net of any available federal funding. For PPW proposals, applications may be submitted to OCFS for review.

- c. The instructions for capital project applications are available at <http://ocfs.ny.gov/main/rates/> in a separate section titled “Capital Project Applications for Congregate Care Facilities Operated by Voluntary Agencies.”

5. **Group Care Administration Parameter Funding for Family First Administration and Accreditation:** OCFS is continuing its policy to fully fund the administration parameter for group care settings. The federal Family First Prevention Services Act (FFPSA) of 2018 requires that voluntary agencies providing care and maintenance of children placed in group settings must be accredited by a federally recognized agency in order to be eligible for federal Title IV-E funding. In addition, voluntary agencies are required to obtain background checks on all staff working in group settings, including maintenance and administrative staff. This revision to administrative funding is intended to assist with these added costs.

The administrative parameter ratios under this policy do not change and remain at 21% of direct care and most property costs for programs up to 25 beds, and 17% for programs with 26 or more beds.

- B. **MSARs for Foster Boarding Home (FBH) Programs:** The following policies are applicable to all such rates associated with FBH programs, effective July 1, 2021:

1. **Administrative/Services Rates for Voluntary Agencies:**

- a. **Growth Factors for Administrative/Services Rates for Voluntary Agencies:** The following aggregate growth factors were used in the calculation of MSARs for the administrative/services rates for FBH programs:
- **PS:** The calculation of trended costs includes one-year growth factors of **2.0%** for 2021-22.
  - **OTPS:** The calculation of trended costs includes one-year growth factors of **1.7%** for 2021-22.
- b. **Property Cost Transfer Policy:** OCFS is continuing its policy of supporting an offset of an FBH program’s property overage with available growth that is not being used in the program’s administrative cost center. The offset is automatically calculated, which means that the MSAR reflects the application of the available administrative growth to an overage of property expenditures.

2. **Payments to Foster Parents:** OCFS policies effective July 1, 2021, regarding MSARs for “pass-through” payments for the foster parent components of the FBH program (including adoption subsidy payments) are as follows:

- a. **Basic Room and Board Payments to Foster or Adoptive Parents and KinGAP Guardians:** A growth factor of **3.25%** was applied to the MSARs for board and care payments to foster or adoptive parents and kinship guardians effective July 1, 2021, through March 31, 2022.

- b. **Clothing Allowance:** A growth factor of **3.25%** was applied to the MSARs for replacement clothing paid to foster or adoptive parents and kinship guardians effective July 1, 2021, through March 31, 2022.
  - c. **Diaper Allowance:** A growth factor of **3.25%** was applied to the MSARs for diaper payments paid to foster or adoptive parents and kinship guardians effective July 1, 2021, through March 31, 2022.
  - d. **Payments to Foster Parents for Emergency Placements:** The MSAR for this type of payment continues to be calculated as 200% of the currently effective MSAR for a non-special or non-exceptional child (i.e., 200% of the basic room and board payment rate that would apply to the child according to his/her age).
  - e. **AIDS Per Diem Add-On:** The \$15 AIDS per diem add-on continues to be effective July 1, 2021, for children with HIV/AIDS placed in regular FBH programs. Please note: The AIDS per diem add-on is specifically for regular FBH programs only and **should not** be charged for emergency, special medical or therapeutic FBH program care days. The treatment of the \$15 per diem revenue for rate setting purposes is as follows: revenue from the \$15 AIDS per diem add-on was subtracted from the allowable direct care costs for each FBH program, and the adjusted costs were compared with the direct care parameter to determine the rate base.
  - f. **Finder's Fee for Recruiting New Foster Homes:** OCFS is continuing the policy of allowing LDSSs to pay a voluntary finder's fee of up to \$200 to existing foster parents who recruit new foster parents. For detail information regarding how to apply this policy, please refer to Chapter 8, Section G, of the *Standards of Payment for Foster Care of Children Program Manual* at: <http://ocfs.ny.gov/main/rates/FosterCare/Manual/>.
- C. **Rate Stabilization for New Programs:** OCFS is continuing its rate stabilization policy for all new programs for which it is first using historical program expenses. There is a 10% margin of rate variance. This means that the first cost-based rate for a new program may not increase (or decrease) by more than 10% when compared to the prior year's budget-based rate.
- D. **Supervised Independent Living Programs (SILPs):** There is a **1.8%** overall increase from the 2020-21 final SILP MSARs for double occupancy SILPs, triple occupancy SILPs, and four- and five-bed mother/child SILPs effective July 1, 2021, through March 31, 2022.
- E. **CSE Maintenance Rates for Out-of-State Schools:** Annually, OCFS issues Out-of-State CSE Maintenance Rates for LDSSs based on rate information approved by other states and approved by SED. CSE Maintenance Rates issued by OCFS must be used by LDSSs as the basis for making CSE maintenance payments for children approved by SED for placement in out-of-state private residential schools. Issuance of and payment responsibilities for these rates are governed by Section 4405 of Education Law. These rates are not negotiable and must be paid as published. A separate ADM is issued by OCFS for Out-of-State CSE Maintenance Rates.

#### IV. Required Action

The rates noted in the attachments accompanying this ADM must be paid by the LDSS as directed by this ADM for the period of July 1, 2021, through March 31, 2022.

The purpose of issuing MSARs is to specify the 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.

#### V. Systems Implications

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

#### VI. Rate Consultations/Rate Adjustments

When an LDSS agrees to contract for a rate that is greater than the published MSAR, OCFS may be able to assist the LDSS 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 regarding 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 9 of the *Standards of Payment for Foster Care of Children Program Manual*). The LDSS should send requests for a rate consultation to:

Karen M Williams, Section Head  
Bureau of Budget Management  
New York State Office of Children and Family Services  
52 Washington St., Rm. 314 S.  
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.**

**VII. Effective Date**

This directive is effective July 1, 2021.

***/s/ Derek J. Holtzclaw***  
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**Issued by:**

Name: Derek J. Holtzclaw

Title: Deputy Commissioner for Administration

Division/Office: Division of Administration