



**New York State
Office of
Children & Family
Services**

November 16, 2004

Dear Director of Services:

The purpose of this letter is to update you on the status of the Title IV-E State Plan Amendment related to the Ninth Circuit Court of Appeals decision commonly referred to as the "Rosales" decision. The information and guidance on the "Rosales" decision was provided to districts in 03-OCFS-LCM-20.

George E. Pataki
Governor

John A. Johnson
Commissioner

The Office of Children and Family Services (OCFS) was notified by the Federal Administration for Children and Families (ACF) that the title IV-E State Plan Amendment filed by OCFS in September 2003 was disapproved. OCFS has filed an appeal to that decision.

In the interim, local departments of social services are encouraged to pursue Title IV-E claims under the provisions of 03-OCFS-LCM-20. Please be advised that the LCM required the LDSS discontinue this special claiming with payments made on or after October 1, 2004. This provision was made to assure the claims were not included in the federal Secondary Title IV-E Eligibility audit period in the event the appeal fails. Please be advised that given the revised date of the federal Secondary title IV-E Eligibility audit period, which is now scheduled to commence on October 1, 2005, the LDSS may continue to submit claims under the provisions of 03-OCFS-LCM-20 for payments made up through September 30, 2005.

Capital View Office Park

52 Washington Street
Rensselaer, NY 12144-2796

Districts are reminded that cases and payments found eligible pursuant to the provisions of the LCM must be handled through the provisions of the LCM, including the use of special claim project forms (LDSS-3922). The removal or "living with" policy that is the essence of the "Rosales" decision and the focus of the LCM is not approved policy for Title IV-E eligibility determinations. New placements into foster care must first have Title IV-E eligibility assessed under the provisions of the OCFS Child Welfare Eligibility Manual. If a child fails (or had previously failed), to meet the Title IV-E eligibility criteria, solely because of the living arrangements of the child at the time of removal from his/her home, districts can then apply the provisions of the "Rosales" decision project.

We will keep you apprised of further developments.

Sincerely,

s/s

Nancy W. Martinez, Director
Strategic Planning & Policy Development