

I. Purpose

The purpose of this Administrative Directive is to advise you of the provisions of Chapter 542 of the Laws of 1988 and the related regulatory amendments to 18 NYCRR Parts 423 and 430. These provisions added housing services in the form of rent subsidy and other assistance as a mandated preventive service.

II. Background

The Child Welfare Reform Act of 1979 and the Department's implementing regulations established the requirements for the provision of preventive services to children and their families. Preventive services were designed to reduce the need for foster care and to facilitate the return of children in foster care to their families. The regulations specify the services to be classified as preventive services in accordance with Child Welfare Reform Act provisions. Prior to the enactment of Chapter 542 housing services in the form of rent subsidy and other assistance were not considered preventive services.

III. Program Implications

A. General:

Chapter 542 amended section 409-a of the Social Services Law to specifically define as a mandated preventive service "special cash grants in the form of rent subsidies, including rent arrears, or any other assistance sufficient to obtain adequate housing". Housing services, as the Department has designated this assistance, must be provided whenever a social service official determines that a lack of adequate housing is the primary factor preventing the discharge of a child or children from foster care. The new law limits the amount provided to any family to a maximum of \$300 per month for a maximum of three years. This assistance is to be provided in addition to any benefits, payments or services to which a family is entitled, including Public Assistance, Food Stamps and Medical Assistance, and will not effect the family's eligibility for those other entitlements.

Housing Services are to be provided as mandated preventive services only. Non-mandated, or optional, preventive services do not include housing services.

The Department is treating housing services as it does any other mandated preventive service, in relation to eligibility, method of provision and case recording requirements. This means that housing services must be provided upon the case manager's determination that the family meets the statutory eligibility requirements. Documentation regarding eligibility and provision of the service must be entered into the Uniform Case Record and

CCRS (Child Care Review System), and the service must be appropriately authorized in WMS.

The Department's existing requirements for case management and case planning for preventive services cases will, with one exception, apply to cases receiving housing services. The exception is that there are reduced preventive casework contact requirements for cases where preventive housing services are the only preventive service being provided (see Section 423.4(c)). Cases receiving housing services will be subject to applicable Utilization Review standards, including those regarding necessity of preventive services, as well as SSL 153-d case management standards, as are all mandated preventive services cases.

Note: Previously the Department's Utilization Review standards for the necessity of foster care required that reimbursement be withheld when placement was made or continued for the sole reason of inadequate housing (see section 430.10). Those standards have been revised (see new subdivision (e) of section 430.10) to exempt from withholding of reimbursement cases where foster care placement is continued for the reason of lack of adequate housing, provided that housing services are being provided or have been authorized.

The specific method of providing these housing services is vendor-restricted, i.e., payment must be made to the landlord, mortgage holder, exterminator, vendor or contractor and in purchase of service situations this required method must be spelled out in the purchase agreement. Where rent/mortgage arrears or rent subsidy is to be provided, the amount and duration will be determined pursuant to the instructions in section IV Required Action.

B. Public Assistance, Food Stamp and Medical Assistance Implications:

1. Public Assistance

Housing Services are not income or resources for public assistance purposes and are to be disregarded in determining need or amount of assistance.

Although housing services can cover the costs of the following items (up to the statutorily established maximums), if a family is determined eligible under any public assistance program for these same items, public assistance must be utilized first unless the use of Aid to Families with Dependent Children or Home Relief would result in an advance and recoupment situation:

- (a) rental or mortgage arrears when such arrears place the family at risk of losing the home
- (b) security deposits

- (c) essential repairs of rented or client owned property in order to eliminate a substantial risk to health and safety.
- (d) finders' or brokers' fees
- (e) household moving expenses
- (f) extermination fees where such are necessary to retain adequate housing.

Families in receipt of public assistance and Housing Services remain eligible for their shelter allowance (rent as paid up to the maximum).

2. Food Stamps:

Housing services are not to be counted as Food Stamp income. The amount of shelter costs paid as housing services cannot be allowed as a food stamp shelter expense.

3. Medical Assistance:

Housing services are to be considered as restricted income for M.A. purposes and therefore exempt in determining Medical Assistance eligibility in accordance with sections 360.28 and 362.16(a) of 18 NYCRR, Medical Assistance regulations.

IV. Required Action

- A. Identification of Eligible Clients: Local districts, foster care agencies and preventive services agencies serving families with children in foster care must assess the need for housing services as they conduct the required (re)assessments and service plans/reviews for the families they are serving.

Should a service provider, case worker or case planner for a particular case at any time become aware of a family's need for and potential eligibility for housing services, the case manager must be informed immediately and an assessment and plan (or plan amendment) and WMS authorization must be completed promptly so that housing services can be initiated, regardless of the regular schedule for formal (re)assessment and service plans/reviews.

In cases where the family's lack of adequate housing has already been determined by the case planner to be the primary reason that a child is remaining in foster care and this has been documented in the Uniform Case Record, the case must be brought to the attention of the case manager immediately and a plan amendment and authorization for housing services completed promptly.

B. Determination and Documentation of Eligibility:

1. Permanency Goal: A family will be considered eligible, and housing services must be provided, when the child(ren) is in foster care, the child(ren)'s goal is return to parent or relative or discharge to independent living and the following condition exists and is documented in the Uniform Case Record, as required by the new regulations in subdivision (e) of section 430.9.

a. When the goal is return to parent or relative, one of the following situations must exist and be documented.

(1) The child(ren) has been in foster care for thirty days or longer and the necessity of continued foster care placement is based primarily on the family's lack of adequate housing, or

(2) The child(ren) has been in foster care for any length of time and the family has moved to a new location since the placement. The new home is inadequate and the lack of adequate housing is the primary reason the child(ren) cannot be returned to the parent.

b. When the goal is independent living, both of the following conditions must exist and be documented:

(1) The child has been in foster care at least thirty days and, except for the inability to secure adequate housing, is prepared for discharge, and

(2) The child is under 18 years of age, as preventive services can be provided only until the child's 18th birthday.

2. Client Circumstances:

"Lack of adequate housing" is not specifically defined in law. For purposes of this policy, a homeless family or parent who temporarily resides in a shelter or hotel/motel lacks adequate housing, but so do many who reside "doubled up" with friends or relatives or in excessively crowded or unsafe conditions. In each case where housing services are to be provided, the Uniform Case Record must include an assessment and description of the housing situation, the reasons it is inadequate and the steps that will be necessary in order to obtain adequate housing.

The circumstances that constitute inadequate housing are spelled out in the new regulations in subdivision (e) of

section 430.9. One or more of these circumstances must exist and be documented in the Uniform Case Record:

- a. the family is homeless or is residing temporarily in a shelter, hotel/motel, or other temporary housing;
- b. the family is residing in its own home, in a room and board situation or in the home of friends or relatives and that by the addition of the child to be discharged to the family would exceed the capacity of such residence as specified in local laws, ordinances, or rules and regulations, would result in eviction or would create an unreasonable and unsafe degree of overcrowding as determined by the case manager;
- c. the family has a home, however rent or mortgage arrears places the family at imminent risk of losing the home;
- d. the family is residing in a building which is the subject of a vacate order; or
- e. the condition of the family's home poses a health and safety risk that would place the children to be discharged at imminent risk of harm.

The documentation in the Uniform Case Record must also include a description of the home that the family has moved into or will move into in order for the children to be returned, or if a home has not yet been located the type of home the family will need, in order to provide adequate housing for the child(ren) to be returned.

In no case will a temporary residence in a shelter, hotel/motel or other such emergency or transitional residential facility be considered adequate housing for purposes of authorizing and providing housing services.

In independent living situations the Uniform Case Record must include a description of the home that has been located or the type of home the child will need.

C. Authorization:

Housing services may be authorized and provided before the child is discharged. However, discharge (trial or final) must take place no later than two months after housing services are initiated and/or adequate housing is made available. If after two months, the child is still not discharged housing services must be terminated.

The Uniform Case Record must document the date of discharge from foster care or the circumstances preventing discharge and the resultant termination of housing services.

In all cases a determination must be made and approved by the case manager, as evidenced by the signature on the appropriate Uniform Case Record form, that if the family were to obtain adequate housing the child(ren) could be returned home, i.e., there would no longer be a need for foster care.

D. Provision of Housing Services:

Housing Services has been added to the list of "core" preventive services (see subdivision (b) of section 423.2), which means it must be available in each local social services district for each family identified as needing and eligible for the service. Hence each local district must provide this service to clients determined to be in need.

Housing Services are defined as rent subsidies, including rent arrears, or any other assistance sufficient to obtain adequate housing (refer to earlier listing of categories of "other assistance".) The total amount provided must not exceed \$300 a month for a maximum of three years.

The district or agency providing housing services must of course also provide any preventive casework counseling or other preventive services necessary to assist the family in preparing for the child's or children's return home, and to prevent a return to foster care.

1. Rent Subsidy: Calculation of amount of subsidy:

a. Families in receipt of Public Assistance:

If housing services are to include an ongoing rent subsidy for a family or child in receipt of Public Assistance, including families with income who receive partial public assistance, the amount is determined by subtracting the amount of the Public Assistance rent or shelter allowance for a family of that size (including the child(ren) in foster care who are returning home) from the amount of rent charged for an adequate home. The difference is to be paid as housing services, and should be adjusted upon reassessment and service plan review as circumstances change, up to a maximum of \$300 a month for a maximum of three years.

b. Families not in receipt of Public Assistance:

In cases where the family or child is not eligible for Public Assistance and/or is not receiving Public

Assistance the caseworker must first calculate the amount the family will be deemed able to pay. The housing services amount will then be the difference between the amount the family is deemed able to pay and the actual rent, with housing services not to exceed \$300 a month. The family, or child in an independent living, situation will be deemed able to pay: 10% of their gross monthly income or 30% of their gross monthly income after deducting \$40 for each dependent, any amount the family pays for child care of children under age 13 (only child care provided for the purpose of enabling the parent to work or to participate in vocational training or rehabilitation and only costs that are not otherwise reimbursed can be considered here).

For the purposes described in the paragraph above, the term "family" includes anybody who resides in the household to which the child will be discharged with the exception of a person who pays his or her own share of the rent, in that case the person's share will be deducted from the actual amount of the rent. The term "dependent" includes any member of the household, except the head of the household or spouse, who is under 18 years old, or who is disabled or who is a full-time student. This means that a child living independently would not be considered his/her own dependent.

2. Limits on total rent:

The regulations, in section 423.2(b)(16)(iii)(3) set limits on the amount of the actual rent of the home toward which rent subsidy may be paid. These amounts are subject to change. The Department will notify local districts and agencies via an information letter. The amounts are based on fair market value of housing in different areas of the State. The requirements is that the actual rent cannot exceed 150% of the following fair market values.

The fair market values are:

METROPOLITAN COUNTIES:

0 Bedrooms	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
Albany-Schenectady-Troy, NY				
COUNTY(IES): Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady				
309	371	438	551	613

Binghamton, NY					
	COUNTY(IES): Broome, Tioga				
279	335	396	489	549	
Buffalo, NY					
	COUNTY(IES): Erie				
282	342	403	504	563	
Elmira, NY					
	COUNTY(IES): Chemung				
282	342	403	504	565	
Glens Falls, NY					
	COUNTY(IES): Warren, Washington				
291	354	416	520	583	
Nassau-Suffolk, NY					
	COUNTY(IES): Nassau, Suffolk				
499	605	712	891	996	
New York, NY					
	COUNTY(IES): Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland				
375	455	535	671	751	
Niagara Falls, NY					
	COUNTY(IES): Niagara				
271	328	386	483	541	
Orange County, NY					
	COUNTY(IES): Orange				
372	452	531	664	744	
Poughkeepsie, NY					
	COUNTY(IES): Dutchess				
422	513	604	755	846	
Rochester, NY					
	COUNTY(IES): Livingston, Monroe, Ontario, Orleans, Wayne				
331	405	477	596	663	
Syracuse, NY					
	COUNTY(IES): Madison, Onondaga, Oswego				
292	349	409	511	573	
Utica-Rome, NY					
	COUNTY(IES): Herkimer, Oneida				
254	309	363	455	509	
Westchester					
472	572	673	842	942	

NON-METROPOLITAN COUNTIES:

	0 Bedrooms	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
Allegany	249	298	349	437	490
Cayuga	291	354	416	520	583
Chenango	288	349	411	514	575
Columbia	274	332	392	490	549
Delaware	267	326	383	478	536
Franklin	264	321	377	472	529
Genesee	271	328	387	483	541
Jefferson	284	345	406	507	569
Otsego	267	326	383	478	536
Schoharie	267	326	383	478	536
Seneca	291	354	416	520	583
Sullivan	288	362	414	506	578
Ulster	341	414	488	609	683
Yates	272	330	389	487	543

	0 Bedrooms	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
Cattaraugus	245	297	349	437	490
Chautauqua	261	318	374	468	523
Clinton	278	331	389	483	531
Cortland	298	362	427	534	598
Essex	265	321	377	472	529
Fulton	237	289	339	425	475
Hamilton	264	321	377	472	529
Lewis	284	345	406	507	569
St. Lawrence	271	328	387	483	541
Schuyler	274	332	392	490	549
Steuben	274	332	392	490	549
Tompkins	298	362	427	534	598
Wyoming	272	328	387	483	541

3. Arrears

If rent or mortgage arrears owed at the time of authorization for housing services will be covered, the arrears may be paid in a lump sum amount equal to no more than six months worth of housing services at the maximum amount of \$300, or \$1800. Arrears payments may be retroactive up to 6 months, as long as this maximum is not exceeded. This will result in the period of time the family is eligible for housing services being reduced commensurately. For example, the family who receives \$1800 for rent arrears is then eligible for only 30 more months of housing services at \$300 per month.

The amount of the arrears payment to be provided as a preventive housing service should be the difference between what is owed and what costs, if any amount, Public

Assistance will pay. There is no requirement to calculate the amount the family is able to pay. However, if the use of Public Assistance to pay the rent arrears will result in an advance and recoupment situation, then public assistance must not be used to pay the rent arrears.

4. Other Assistance

Housing services may include but are not limited to the following types of other assistance:

- a. security deposits
- b. essential repairs of rented or client owned property in order to eliminate a substantial risk to health and safety
- c. finders' and brokers' fees
- d. household moving expenses
- e. exterminator's fees where such are necessary to secure adequate housing

The cost of other assistance provided as preventive housing services should be the difference, up to the \$300 maximum, between what is owed and what Public Assistance will pay. There is no requirement to calculate the amount the family is able to pay. Because in many situations, initial costs may be higher, it is permissible to pay in a single month an amount equal to up to \$1800 or six months worth of housing services. This will result in the period of time the family is eligible being reduced commensurately.

As pointed out above, it is quite possible that for families in receipt of or eligible for a program of Public Assistance, including AFDC, HR or EAF, all or a portion of rent arrears and the items listed above could be paid with public assistance funds. In those cases the public assistance funds should be the first method chosen, unless it would result in an advance and recoup situation, with preventive dollars supplementing the public assistance dollars up to the maximum owed by the family or \$300 a month, whichever is lower. Therefore, once it is determined that a family is eligible for preventive housing services and that rent arrears or any of the other types of assistance might be reimbursable through Public Assistance the case manager must ensure that an application for Public Assistance is made within 10 days of the authorization for preventive housing services.

Whenever housing services are provided to a family who is in receipt of any Public Assistance, Food Stamps or Medical Assistance, the case manager must inform the appropriate local Public Assistance Food Stamp or Medical Assistance

office at the time the housing services are authorized, modified and at least 30 days prior to their termination. While the receipt of housing services will not affect a family's eligibility for Public Assistance, Food Stamps or Medical Assistance, it is important for those workers, and Public Assistance workers in particular to have the information for the purposes of determining the ability to use Public Assistance funds to cover some of the necessary expenses, ensuring that duplicative payments are not made, and working with the preventive services provider in preparing for termination of the preventive housing services.

5. Total Amount and Duration of Preventive Housing Services Assistance

The total amount provided as preventive housing services and claimed as a preventive cost, cannot exceed the equivalent of \$300 per month, or a total of \$10,800 per family, regardless of the number of children in foster care. In no case may a family receive preventive housing services for more than a total of three years.

E. Redetermination of Eligibility

The need for housing services, including the need for the specific type and amount being provided, must be reassessed at each reassessment and service plan/review, as required in section 423.2(b)(6)(vi) of the regulations. When rent subsidy is being provided, the family's need must be calculated as prescribed in the earlier sections of this directive, at each reassessment. When, as the result of the reassessment, the case manager determines that the family's needs have changed and the housing services should be modified, reduced, increased or terminated, the family must be so notified in writing no later than 30 days prior to the initiation of such action. The notice must advise the family of its right to request a fair hearing (see 423.4(m)(4)).

It will be necessary to terminate housing services regardless of whether or not the three-year period has expired, when any of the following changes occur (see 423.2(b)(16)(v)):

1. The child(ren) returns to foster care. The exception to the requirement to terminate housing services is when the child is returned to foster care for a period no longer than 30 days due to a parent service need related emergency. An example of such a situation might be the parent's hospitalization.
2. adequate housing is obtained and housing services are no longer necessary

3. it is determined the family is no longer financially eligible for housing services
4. the child(ren) is no longer residing in the home
5. the family moves out of State
6. the youngest child who was discharged from care as a result of the family's eligibility for housing services turns 18
7. the family moves to a different home and it is determined that housing services are not necessary because the new home is determined to be adequate.

When housing services are provided to a family in receipt of Public Assistance, Food Stamps or Medical Assistance, the preventive services case manager must inform the local public assistance, Food Stamp or Medical Assistance office at any time the housing services are reduced or modified and not later than 30 days prior to termination of the housing services.

F. District of Responsibility

There will be cases where families reside in a district other than the district having custody of the child(ren) in foster care, or when families move across district lines while they are receiving housing services. The following standards will apply:

1. When, at the time of initial eligibility determination, the child(ren) is in foster care and the family is residing outside the district having custody (but within New York State), it is the district with custody that will be responsible for determining eligibility for housing services and for providing housing services as long as eligibility continues.
2. When a family that is already receiving housing services moves out of the district that is providing such services (but within New York State), the responsibility of that district will terminate. The new district will be responsible for determining whether continued housing services are necessary and for providing the services as long as eligibility continues.

V. Systems Implications

SIS 89.4, dated February 24, 1989, contained the following system instructions fo WMS/CCRS:

A. WMS Purchase of Service

Purchase of Service Code type 27 (Preventive Housing Service) is

the appropriate code for this POS.

B. CCRS Coding

Child/Family service need 77 - Housing Services is available to districts to reflect the need for this Preventive Service in CCRS. Two new CCRS Activity Codes were added; R100 Start - Housing Services and R200 Stop - Housing Services. These new codes are to be entered on the Services Activity Log, Section 7 "Activity Code". There are no modifiers. Date of the R100 or R200 activity would be reflected in Section 2 "Date of Activity or Event".

Direct Service of Preventive Mandated (25) must be authorized for this purchase to be authorized. If the direct service is not authorized an error message P1-P7/989 will be produced (refer to WMS Error Guide).

No suffix code is necessary for this Purchase of Service. Use of any suffix code with this POS Service Type will produce error message P1-P7/489 (refer to WMS Error Guide).

The activity date for both R100 and R200 should be greater than or equal to the tracking start date (1010) but less than the track closed date (M999).

An R200 should be entered prior to the entry of any subsequent R100 activity.

C. BICS Claiming

Housing Services (WMS Service Type 27) will appear on the BICS Composites as Housing Improvements on the Schedule G (DSS-1372). Payments should be claimed on Line 9, Column 4 of the Schedule G of the RF-2A (DSS-1272A) claiming package.

VI. Effective Date

The effective date of this Administrative directive is May 31, 1990, retroactive to the December 15, 1988 effective date of Chapter 542.

Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services