



Office of Children and Family Services

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Administrative Directive

Transmittal:	23-OCFS-ADM-03
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Division of Child Welfare and Community Services
Date:	January 25, 2023
Subject:	Long-Stayer Reviews
Suggested Distribution:	Directors of Social Services Foster Care Supervisors Legal Staff Out of State Voluntary Agencies
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Attachments:	OCFS-5356 , <i>Qualified Residential Treatment Program Long-Stayer Review Form (Revised)</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-ADM-04 21-OCFS-ADM 17 21-OCFS-ADM-23	21-OCFS-ADM-32	18 NYCRR 405.3(d), 428.3, 428.6, 428.9, 430.11, 430.12, 431.8, 439.5, 441.25, and 443.2	Family First Prevention Services Act (FFPSA) of the Bipartisan Budget Act of 2018 (P.L. 115-123) 42 USC §675a Social Services Law (SSL) §409-h		

I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSS) and voluntary authorized agencies (VAs) of the process required for any child in foster care, placed in a Qualified Residential Treatment Program (QRTP) where the LDSS concludes that the child requires treatment at the QRTP level of care beyond the limited statutory time frames established under the federal Family First Prevention Services Act (FFPSA).

This ADM cancels 21-OCFS-ADM-32 and provides instructions regarding the Long-Stayer Review process, including:

- A revised OCFS-5356, Qualified Residential Treatment Program (QRTP) Long-Stayer Review Form
- System implications for CONNECTIONS Activities coding
- Post-Office of Children and Family Services determination process
- Reinforcement of requirement to submit documentation for all children placed in a QRTP based on the length of time the child is placed in a QRTP and not on Title IV-E funding eligibility
- Revised and enhanced CONNECTIONS tracking mechanisms
- Revised and clarified mandatory supporting documentation
- Clarified criteria for any additional Long-Stayer Review submission

II. Background

The federal Family First Prevention Services Act (FFPSA), enacted on February 9, 2018, made significant changes to Title IV-E of the Social Security Act with the intent of prioritizing family-based foster care over residential care by limiting federal reimbursement for certain congregate care placements. Additionally, FFPSA promotes preventive interventions that keep children and youth safely with their parents/caretakers or if necessary, and whenever possible, with relatives or others in their community.

III. Program Implications

All children placed in foster care must be placed in the most appropriate level of care, in the least restrictive and most home-like setting in which the child can be maintained safely and receive all services specified in their service plan (18 NYCRR 430.11).

The intent of the FFPSA is to prioritize family-based foster care over congregate care is realized through promotion of a higher quality of care for children in congregate care settings with identified treatment outcomes that focus on both the child and the child's family. Another goal of the FFPSA is to reduce lengths of stay and prevent reoccurrence of placement.

To reduce lengths of stay, FFPSA places an emphasis on limiting the duration of stays in congregate care settings, specifically QRTPs. There are now requirements for additional reviews and approvals based on length of stay thresholds for children in foster care placed in a QRTP. As set forth below, if extensions to the length of stay are necessary, it must be approved by the commissioner of the New York State Office of Children and Family Services (OCFS) or their designee.

FFPSA mandates in the case of any child who is placed in a QRTP for more than 12 consecutive months or 18 nonconsecutive months (or in the case of a child who has not attained age 13 for more than six consecutive or nonconsecutive months), the state agency shall submit to the secretary of the federal Department of Health and Human Services the signed approval of the head of the state agency for the continued placement of the child in that setting.¹

Regarding youth in the legal custody of OCFS who are placed in a QRTP, OCFS is responsible for managing the assessment and making any recommendation for continued placement of the youth in the QRTP. In such cases, it is anticipated that the applicable voluntary authorized agency and relevant LDSS will work with OCFS in the development of the assessment and recommendation for continued placement.

IV. Required Action

To prepare for children who may require consideration for an extension in QRTPs, LDSSs must create a local review process that comports with the time frames and requirements identified below and set forth in 18 NYCRR 439.5. Long-Stayer Reviews are required for **all** children placed in a QRTP on or after 9/29/21.

1. Monitor child's progress and length of stay in QRTPs

- a. LDSSs must be active, regular members of support/treatment team meetings for all children in foster care.
- b. LDSSs must assess and monitor all children's service needs, progress toward treatment goals, and plan for the children's permanency. With that, the LDSSs must monitor children's lengths of time in QRTPs based on the following thresholds, herein referred to as "threshold dates":
 - i. Any child placed in a QRTP younger than 13 at the time of placement who is in a QRTP for more than six consecutive or six nonconsecutive months
 - ii. Any child placed in a QRTP at age 13 or older at the time of placement who is in a QRTP for more than 12 consecutive or 18 nonconsecutive months

¹ 42 USC 675a(c)(5).

- c. OCFS has developed tracking mechanisms within CONNECTIONS to assist in these actions. Case managers, case planners, and case workers in a QRTP with a role in the stage will receive:
- An FFPSA Care Day Clock: regular email reminders generated for children placed in a QRTP; and
 - A password-protected monthly report that will contain children's information, resource information, and the number of days spent in the QRTP.

2. Develop a local review process and submit request for any potential extension

The purpose of the Long-Stayer Review is to assess whether the child has a treatment need that cannot be met at a lower level of care than a QRTP. NOTE: Lack of a placement option at a lower level of care is not justification for a child to remain in a QRTP.

- a. LDSSs with care and custody or custody and guardianship of the child must determine who will be responsible for completing the Long-Stayer Review. The individual(s) tasked with assessing and making the recommendations regarding the Long-Stayer Review must have access to the child and the child's records to assess the child's need. Each LDSS can develop a review protocol that fits its local needs. However, as outlined in 18 NYCRR 439.5, the review must
- i. be conducted by either
 - a Qualified Individual (QI) ² or
 - a local multidisciplinary team, which includes a licensed clinician that has been regularly serving the child (an example of this team could be a support/treatment team at the QRTP where the LDSS has representation).
 - ii. consider, at minimum,
 - an assessment of the strengths and needs of the child; and
 - a determination of the most effective and appropriate level of care for the child in the least restrictive setting, including whether the needs of the child can be met with family members or through placement in a foster family home, or a qualified residential treatment program or a qualified residential treatment program exception, consistent with the short-term and long-term goals for the child as specified in the child's permanency plan; and
 - develop a list of child-specific short and long-term mental and behavioral health goals.
- b. The LDSS's local review must evaluate each child placed in a QRTP for progress related to their goals (as stated in support/treatment plan) as well as barriers to achieving these goals. OCFS recommends that the team begin reviewing the child's record 30-days prior to the date necessary to submit the *Long-Stayer Review Form* (OCFS-5356) to OCFS (90-days prior to the child's threshold date as defined above).
- i. The local team must consider the same factors as required by section 409-h of SSL and 18 NYCRR 439.2, to determine the appropriateness of the child's continued placement in the QRTP. At a minimum, the team must review and consider the following required supporting documentation:
 - The initial QI assessment
 - The current evaluation used to recommend that the child remain in the QRTP
 - The most recent court orders including, but not limited to, the order on the motion for approval of placement in a QRTP

² More information on the QI can be found at: ocfs.ny.gov/main/policies/external/OCFS_2021/ADM/21-OCFS-ADM-17.pdf

- The support/treatment plan from the QRTP
 - The most recent Family Assessment and Service Plan (FASP)
 - Any other pertinent recent clinical/behavioral assessments or evaluations
 - Current clinical, residential, and permanency plan update
 - The child's Individualized Education Program (IEP) (if applicable)
 - Any recent incident reports
 - Any pertinent information contained in CONNECTIONS
- NOTE: If there is pertinent information contained within CONNECTIONS which the local team wants the OCFS Long-Stayer Review team to consider, the local team must note specifically where in CONNECTIONS the documentation is located (location, date, author, etc.).
- ii. The local team must make a recommendation as to the necessity of the child's continued placement in a QRTP. If the local review does not recommend a child's stay in a QRTP be extended, the LDSS must take the appropriate steps to place the child in a lower level of care. Failure to move the child will cause Title IV-E funding to be unavailable for those children who would have otherwise been eligible for Title IV-E reimbursement.
 - iii. When the local team recommends an extension for a child in a QRTP, the LDSS must identify a "lead reviewer" who will compile the Long-Stayer Review packet, which comprises the *Long-Stayer Review Form* (OCFS-5356) and all supportive documentation that provides evidence justifying the request for an extended stay at the QRTP level of care (minimum requirements as outlined above). The lead reviewer then sends the Long-Stayer Review packet to the LDSS commissioner or designee who must review and certify the recommendation of the local team, including the justification if the recommendation is to continue placement. The LDSS commissioner must then sign the *Long-Stayer Review Form* (OCFS-5356). The LDSS submits the Long-Stayer Review packet to OCFS (LSR@ocfs.ny.gov) no later than 60-days prior to each child's threshold date. The lead reviewer will be the primary point of contact for all communications between the LDSS and OCFS for that particular child.
 - iv. During the pendency of the Long-Stayer Review process (once the LDSS submits the form), the LDSS may provide new or supplemental information by updating the bottom portion of the *Long Stayer Review Form* (OCFS-5356) and resubmitting along with the new supporting documents.
 - v. OCFS may reach out to the lead reviewer for more information during the review process. The LDSS must be responsive to OCFS case-specific communication. The OCFS reviewers will provide timelines to the lead reviewer for the necessary follow-up information requested.
- c. OCFS can deny any *Long Stayer Review Form* submitted later than 60-days prior to that child's threshold date.
 - d. OCFS will consider any LDSS that does not submit a *Long-Stayer Review Form* and supporting documentation by 59 days prior to a child's threshold date to be out of compliance with 18 NYCRR 430.11 and 18 NYCRR 439.5. OCFS will send notice of non-compliance to the LDSS commissioner and request a corrective action plan indicating the actions that will be taken to submit timely Long-Stayer Reviews. The corrective action plan will be due to the appropriate OCFS regional office 30 days from the date of the notice of noncompliance.
 - e. OCFS will provide a final, formal decision regarding each request no later than five (5) calendar days prior to each child's threshold date, as defined above.
 - i. The OCFS commissioner or designee will make the final decision regarding a long stayer request for extension.

- ii. If OCFS approves a child to remain in a specific QRTP past their threshold date, Title IV-E reimbursement (if the child is otherwise eligible) will remain intact, and no further Long-Stayer Review will be necessary unless the child approaches the threshold date after one of the following occurs:
 - Exits foster care, reenters foster care and is placed in a QRTP
 - Moves from a specific QRTP to a lower level of care, and then is replaced into a different QRTP at a later date
 - Has an absence in excess of 90 days from a QRTP and, upon return, is placed in a different QRTP where a Long-Stayer Review has not already been completed
 - Experiences a movement to a different QRTP
 - iii. If OCFS does not approve a QRTP extension, the LDSS must immediately make efforts to move the child to an appropriate level of care.
 - If the child remains in the QRTP, Title IV-E reimbursement will cease as of the placement end date identified in the 60-day court review (L310 60-day court review code)
3. Once the OCFS final determination has been completed, the Long-Stayer Review team will transfer the completed Long-Stayer Review packet to the appropriate OCFS regional office for continued monitoring and follow-up.
 - a. If the OCFS final determination for a child was approved for continued placement in a QRTP, the LDSS must submit a permanency status review each month a child remains in a QRTP. The permanency status review must include updates on the progress or barriers regarding
 - i. clinical services,
 - ii. residential services, and
 - iii. permanency goal or moving to a lower level of care.
 - b. If the OCFS final determination for a child was denied for continued placement in a QRTP, the LDSS must provide documentation of the child moving to a lower level of care.

V. Systems Implications

A Q100 – Interim QRTP Long-Stayer Review code must be entered in CONNECTIONS Activities to record the local team’s recommendation. The Q100 Activity Date must be entered with the date the Interim QRTP Long-Stayer Review was completed. Modifier A of the Q100 is entered to record the local team’s recommendation. Selections for Modifier A are:

- P – QRTP Long-Stayer Review Approved
- NP – QRTP Long-Stayer Review Not Approved

Modifier B of the Q100 is entered to record the type of Long-Stayer Review the local team has completed. Selections for Modifier B area as follows:

- 6C – 6-Month Consecutive Review
- 6N – 6-Month Non-Consecutive Review
- 12C – 12-Month Consecutive Review
- 18N – 18-Month Non-Consecutive Review

Modifier C of the Q100 is entered to record the vendor ID of the QRTP placement

Note – If the Q100 is not entered, the system will not be able to match the specific vendor ID to the stay and extend Title IV-E (if eligible).

VI. Effective Date

Information contained in this release and the *Long-Stayer Review Form* becomes effective immediately upon release.

/s/ Lisa Gharthey Ogundimu, Esq.

Issued by:

Name: Lisa Gharthey Ogundimu, Esq.

Title: Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services