



Office of Children and Family Services

Andrew M. Cuomo
Governor

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Sheila J. Poole
Commissioner

Administrative Directive

Transmittal:	21-OCFS-ADM-16
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Division of Administration
Date:	July 16, 2021
Subject:	Extension of Maximum State Aid Rates for Foster Care Programs and Residential Programs for Committee on Special Education Placements for Rate Year 2019-20 – Effective April 1, 2020, Through June 30, 2020
Suggested Distribution:	Directors of Services Accounting Supervisors
Contact Person(s):	Karen M. Williams, karen.williams2@ocfs.ny.gov
Attachments:	Rate charts are updated as needed and are available on the Rate Information page at https://ocfs.ny.gov/main/rates

Filing References (*check on these –be sure that are correct and there are no typos*)

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
19-OCFS-ADM-09; 19-OCFS-ADM-20		18 NYCRR Part 427	SSL-398a EL 4402 EL44	Standards of Payment for Foster Care of Children – Program Manual	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 extend the maximum state aid rates (MSARs) for foster care programs and in-state Committee on Special Education (CSE) maintenance rates for New York State Education Department (SED)-approved residential programs for a limited time, for rate year 2019-20. The MSARs effective July 1, 2019, through March 31, 2020, issued in 19-OCFS-ADM-20 and dated November 6, 2019, will continue to be in effect April 1, 2020, through June 30, 2020.

II. Background

The legislative cost-of-living adjustment (COLA) program was first implemented in the State Fiscal Year (SFY) 2006-07 Budget, and continued by legislation enacted in subsequent budget years, most recently in the SFY 2015-16 Budget. The SFY 2020-21 Budget Provision specified in Chapter 53 of the Laws of 2020 amended Chapter 57 of the Laws of 2019 and suspended the COLA that was scheduled for April 1, 2020. Due to this suspension of the COLA, there are no changes in MSARs for the balance of the 2019-20 rate year.

III. Program Implications

A. All MSARs and CSE maintenance rates in effect for the period of July 1, 2019, to March 31, 2020, are extended for the balance of the rate year to June 30, 2020, based on the above referenced provisions in Chapter 59 of the Laws of 2019. **All rate policies and requirements of local departments of social services (LDSSs) previously specified for the 2019-20 rate year in 19-OCFS-ADM-20, dated November 6, 2019, are applicable to MSARs, and CSE maintenance rates are extended to June 30, 2020.**

B. **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, 2019, for the institution program, plus the 2019-20 Medical Per Diem rates 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 Social Services Law (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.

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.

Pursuant to Chapter 56 of the Laws of 2020, the revisions to the 10-month CSE maintenance reimbursement formula are **revised** as follows:

- a. For a child placed by a school district into a privately operated residential school or special act school district,
 - state share is 0.000%,
 - local share is 43.152%, and

- the chargeable portion 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 or blind,
 - school district share is 50.00%, and
 - local share is 50.00%.

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 April 1, 2020, through June 30, 2020.

V. Systems Implications

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

VI. Rate Consultations/Rate Adjustments

The purpose of issuing MSARs is to specify the New York State Office of Children and Family Services (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.

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:

Bryan B. Bagstad, Director
New York State Office of Children and Family Services
Bureau of Budget Management, Room 314 South
52 Washington Street
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 April 1, 2020.

/s/ Derek J. Holtzclaw _____

Issued by:

Name: Derek J. Holtzclaw

Title: Deputy Commissioner for Administration

Division/Office: Division of Administration