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| LOCAL COMMISSIONERS MEMORANDUM |  
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DSS-4037EL (Rev. 9/89)

Transmittal No: 91 LCM-194

Date: October 25, 1991

Division: Family and Children  
Services

TO: Local District Commissioners

SUBJECT: Registration of Family Day Care Homes: Transfer of Providers

ATTACHMENTS: See Attachment 1 for List of Attachments (available on-  
line)

On October 22, 1991 Sections 1 and 2 of Chapter 750 of the Laws of 1990 became effective throughout the state except for public schools and in New York City. Chapter 750 repeals most of the present Section 390 of the Social Services Law (SSL) and creates a new Section 390 as well as amending Sections 390-b, 410-c, 410-r, and 424-a of the SSL. The regulatory structure of family day care is altered by initiating a statewide registration system with a strong emphasis on training and support services to replace the current dual system of state licensure and county certification. The purpose of this LCM is to advise social services districts of the impact of the implementation of registration on local policies and procedures related to their family day care program. In addition, the LCM provides procedures to facilitate the transfer of currently certified family day care providers, those in process of certification or renewal and new inquiries on or after October 22, 1991 into the registration system.

Amendments to Department regulations, Part 417 were filed on an emergency basis effective on October 22, 1991. Part 415 of Department regulations is being amended to conform with Part 417. The Department will assume responsibility immediately for the regulation of all family day care providers outside of New York City. Concurrently, the authority of upstate social services districts to certify family day care providers is repealed. Effective October 22, 1991, social service districts are no longer authorized to accept applications from individuals wishing to be family day care providers. Such individuals must be referred to the appropriate Bureau of Child Care Regional Office. (See Attachment F)

All certified and licensed family day care providers will be transferred into the registration system on October 22, 1991. Attachment A provides a copy of the notice of transfer which will be mailed by the Department to all certified and licensed family day care providers to notify them of the changes in the regulatory system.

The Department strongly encourages social services districts to assure the family day care providers with whom you have worked that you will continue to work with them in the delivery of child care services, even though the regulatory system has changed. In addition, social service districts need to make it clear to providers that the changes in the process of regulating family day care homes may not alter other aspects of local district involvement in the provision of day care, such as payment, referral of clients, etc.

#### TRANSFER OF CURRENT PROVIDERS

All family day care providers who are holders of certificates on October 22, 1991 will be transferred into the registration system. A letter of registration (Attachment B) will be mailed to all certificate holders listed on the day care provider file. Any additions to or deletions from the most current list should be reported through the established process of submitting a copy of DSS-1661 "Certificate to Provide Day Care for Children in a Family Home" to Joseph Capo, Bureau of Child Care by November 22, 1991.

The newly issued registration for each family day care provider will expire on the expiration date of the present certificate. Before the expiration of the registration, the family day care provider will need to make application for renewal. If the renewal is approved, it will be granted for a two-year period to those family day care providers who have completed the required 15 hours of training. Such providers will continue on the two-year cycle thereafter so long as they meet the requirements, including 15 hours of acceptable training during each two-year period.

Those family day care providers who have not completed the required training will be issued a one-year registration. Prior to renewal, the one-year registrants must complete the required training. They will then be granted a two-year registration and will continue on the two-year cycle so long as they meet all requirements, including training requirements.

In order to establish Department records, social services districts are responsible for forwarding documentation to the appropriate Bureau of Child Care Regional Office no later than November 22, 1991. The following transfer information is required:

- o A legible copy of the current certificate;
- o A legible copy of the most current application, either initial or renewal, whichever is applicable; and
- o for family day care homes with any pending complaint, a summary of the nature of the complaint and any associated information and documents.

Our prime concern in the process of transferring responsibilities and records must be to maintain our joint commitment to children and the continuity of our ongoing program for their care. If serious unresolved complaints are pending at the time of transfer, it is essential that social services districts call the appropriate Bureau of Child Care Regional Office Manager immediately, as well as forward the requested documentation.

All records, except for those renewals and applications which the social services district is responsible for completing, should be submitted together in one secure transmittal. It is important to identify clearly those applicants/providers whose application for renewal is in process and will be completed by the social services district. Attachment C, Transmittal Cover Sheet, may be used to identify clearly each provider's materials. All family day care provider records, including copies of the information transferred to the Child Care Regional Office, are to be maintained by the social services district in accordance with legal requirements for the maintenance of records.

TRANSFER OF PROVIDERS IN THE PROCESS OF RENEWAL AND APPLICATIONS IN PROCESS

Effective October 22, 1991, individuals inquiring about becoming family day care providers will have to be referred to the Regional Office for registration information. New applications and renewals which are already in process on October 22, 1991 should be handled using the following procedures:

- o If the application or renewal documentation has been received and a home visit to determine compliance has been made, the social services district will be responsible for continuing with the process until a determination that the provider is in compliance with applicable regulations is made\*. If the application or renewal is approved, Attachment C is to be completed and submitted to the Child Care Regional Office. If a decision is made that the application or renewal cannot be approved, the Child Care Regional Office should be contacted to discuss handling of the matter.
  
- o If the application or renewal has been received but a home visit to determine compliance has not been made, a letter is to be sent to the family day care provider explaining that the application or renewal documentation has been transferred to the Regional Office to be processed. Attachment D provides a model letter which social services districts may use for this purpose. When the application or renewal is received by the Regional Office, the family day care provider will be contacted and assisted in completing the process. If the social services district receives additional documentation subsequent to submission of the application or renewal, the material should be forwarded immediately to the Child Care Regional Office. All application or renewal information should be clearly identified by using Attachment C, Transmittal Cover Sheet.

\*Records of all applications or renewals in process should be submitted to the Child Care Regional Office no later than December 31, 1991, regardless of the status. The Department will assume responsibility for completion of these renewals.

At the time that registrations are issued to new family day care providers, the Department will send a copy of the registration to the social services district of the county in which such family day care providers are located. A similar procedure will be followed when a family day care home closes. In addition, the social services district will continue to receive an updated provider file on a monthly basis.

#### APPROVED CHILD CARE PROVIDERS

Department regulation 18NYCRR section 415.1(b) defines approved child care as "care provided to one or two children outside the child's own home in a home which is the personal residence of a provider who has been approved by the social services district as meeting the standards for family day care homes as contained in Part 417 of this Title." An approved child care provider must meet the same standards as a certified family day care provider, except that social services districts can not screen prospective approved child care providers against the State Central Register (SCR).

Such care is monitored by the social services district. Approved child care providers are paid up to the market rate for family day care providers. Some social services districts have used this category to provide child care services for programs which require the use of regulated child care providers.

The implementation of registration on October 22, 1991 will eliminate the category of approved child care. Although such providers are not required to register, they may register voluntarily. Approved child care providers who choose not to register must be considered to be informal child care providers. The maximum reimbursable rate of payment available will decrease when the market rates for informal child care are applied. In addition, informal child care providers are not eligible for reimbursement through some of the child care funding streams. Social services districts may be unable to continue to pay for the children currently receiving child care in the provider's home.

To prevent the interruption of child care services to families currently using an approved child care provider, the Department has developed a transitional period during which social services districts may continue to use approved child care providers for all child care programs. During this transitional period social services districts are encouraged to notify all approved child care providers of the changes in the regulatory system and the impact of registration on approved child care providers. In addition, the social services districts should inform approved child care providers of the appropriate steps to take in order to become registered family day care providers. Attachment E, Letter to Approved Child Care Providers, is a model letter which may be used by social services districts for this purpose. Attachment F, Bureau of Child Care Regional Offices provides a list of addresses where requests for information about registration should be directed.

If an approved child care provider chooses not to become a registered family day care provider, the social services district should send notification no later than March 1, 1992 that after March 15, 1992 the social services district will no longer be able to pay such provider as a regulated child day care provider. In addition, if any of the children in care are subsidized through a program which requires the use of a regulated child care provider, the approved child care provider should be notified that payment can not be made for the care of those children after March 15, 1992.

To ensure that approved child care providers who make application for registration receive priority processing, the social services district should send a list of its approved child care providers to the Regional Office Bureau of Child Care by November 22, 1991.

#### ADDITIONAL REQUIREMENTS

There are no additional requirements which must be imposed upon providers. However, where a social services district is subsidizing child day care, it may impose additional requirements upon the child day care providers. Such additional requirements and plan to monitor compliance are subject to the approval of the Department. The additional requirements imposed on child day care providers serving subsidized children:

- o must not contradict applicable Department regulations;
- o must not result in excessive or unreasonable additional cost to the child care provider;
- o must not be designed to discourage a particular child care provider or group of child care providers from serving subsidized children;
- o must not be used to prevent parents eligible for JOBS, Employment-Related, Transitional, At-Risk and Block Grant child care services from using the child care provider of their choice; and
- o must be able to be implemented easily by a majority of child day care providers.

The Department will not enforce local district requirements. The social services district must have a plan to monitor and enforce any additional requirements it imposes on child day care providers serving subsidized children. Such plans must:

- o specify who is responsible for monitoring and enforcement of the additional requirements;
- o identify the methods which will be used to monitor and enforce the additional requirements;
- o identify the time frames which will be used to monitor and enforce the additional requirements; and
- o specify any additional resources which the social services district will use or need to develop to monitor and enforce the additional requirements.

In order to monitor compliance, the social services district may make announced or unannounced inspections. If violations of applicable statutes or regulations or violations of any additional requirements are observed, the social services district must notify the Department immediately. The social services district must provide the Department with an inspection report regardless of whether violations are found.

Social services districts wishing to impose additional requirements on child day care providers serving subsidized children must submit a written request for Department review and approval. Department approval must be received before the social services district is authorized to impose, monitor or enforce such requirements. The written request must contain the following:

- o a clear statement of the proposed requirement;
- o a justification for the proposed requirement;
- o a discussion of the anticipated impact of the proposed requirement on the ability of the social services district to access slots for subsidized care;
- o a statement of projected costs of the proposed requirement to child day care providers; and
- o a plan to monitor compliance and enforce the proposed requirement.

Attachment G, Request for Approval of Additional Requirements, must be used to request Department approval of local requirements. Requests should be directed to:

Mr. Joseph Capo  
New York State Department of Social Services  
Bureau of Child Care  
40 North Pearl Street 11-B  
Albany, New York 12243

MAINTENANCE OF EFFORT

Statutory language regarding the maintenance of effort (MOE) is found in subparagraph (g) of paragraph (3) of Section 390 of the Social Services Law as amended by Chapter 750 of the Laws of 1990. It reads as follows:

"Individual local social services districts may alter their participation in activities related to arranging for, subsidizing, delivering and monitoring the provision of subsidized child day care provided, however, that the total participation of an individual district in all activities related to the provision of subsidized child day care shall be no less than the participation level engaged in by such individual district on the effective date of this section."

The MOE level for each social services district has been identified through a calculation of its child care expenditures (services and administrative) for the 1990 calendar year. To provide mandate relief, the same MOE level will apply for participation in the federal Child Care and Development Block Grant (CCDBG). The MOE levels for individual social services districts will be distributed with information regarding the CCDBG allocations.

Included in the calculation of expenditures is the amount utilized for purchase of services. While social services districts will no longer be contracting with outside agencies for regulatory functions, to the greatest extent possible, districts may want to redirect those resources to specialized services, targeted recruitment, or other supportive services that will strengthen the community's child care network.

CONTRACTING FOR SERVICES

The Department anticipates contacting individual social services districts and other child care agencies to discuss the possibility of contracting for the provision of some functions of the registration process. Such functions include:

- o inspections, including complaints, homes requesting to serve children who are school-aged, and those visits required to be made annually to at least 20 percent of the programs in operation;
- o technical assistance to prospective providers; and
- o training.

Current plans project that such contracts for the provision of some registration functions will become effective in early 1992.

The Department expects that social services districts will continue to provide training on the indicators of child abuse and maltreatment and the reporting process for all child care providers and the community on a regular basis. The Department will not contract with social services districts for the provision of such training.

DISTRICT'S RELATIONSHIP WITH PROVIDERS

Currently many social services districts have well developed systems of support for family day care providers with whom they regularly conduct business. Such support systems provide a variety of services to the family day care providers. Services include the provision of liability insurance, the coordination of the U.S.D.A. food reimbursement program, payment for the family day care provider's medical examination, training and casework services. The provision of these support services may be used as an incentive for family day care providers to contract with the social services district. The expenses incurred through the provision of support services can be applied toward meeting the MOE requirement.

CONTACT PERSON

If you have questions regarding the information contained in this LCM, please contact Barbara Fisher at the Bureau of Child Care at 1-800-342-3715, extension 4-9324 or dial direct at (518) 474-9324.

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Joseph Semidei  
Deputy Commissioner  
Division of Family and  
Children Services

ATTACHMENT 1  
LIST OF ATTACHMENTS

- Attachment A: Notice of Transfer to Registration (available on-line)
- Attachment B: Letter of Registration (available on-line)
- Attachment C: Transmittal Cover Sheet (available on-line)
- Attachment D: Notification of Transfer of Records (available on-line)
- Attachment E: Approved Child Care Provider Letter (available on-line)
- Attachment F: Bureau of Child Care Regional Offices (available on-line)
- Attachment G: Request for Approval of Additional Requirements (available on-line)



ATTACHMENT A  
NOTICE OF TRANSFER TO REGISTRATION

Provider Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

Registration Number: \_\_\_\_\_

Dear Provider:

In accordance with changes in Section 390 of the Social Services Law, effective October 22, 1991 your current permit or certificate to operate a family day care home will be replaced by a letter in accordance with system of registration administered through the New York State Department of Social Services.

The registration to operate will be valid through the period ending \_\_\_\_\_, which is the expiration date of your current permit or certificate. Your registration authorizes you to provide care for \_\_\_\_\_ children, ages \_\_\_\_\_ at Street Address, City. This registration must be renewed by the above expiration date if you choose to continue to provide day care. The revised Family Day Care Regulations, which will be sent to you under separate cover, will provide information on the requirements of registration.

We look forward to working together with you to provide healthy, safe and quality day care to the children placed in your family day care program. If you have any questions, please feel free to contact the Regional Licensing Office of the Bureau of Child Care which is responsible for your county.

Sincerely,

Joseph Semidei  
Deputy Commissioner

ATTACHMENT B

Dear :

Welcome to Family Day Care Registration! On the basis of your statements that you meet the requirements to become a family day care provider and the supporting information you have provided, your registration is accepted.

This letter verifies that you have registered to operate a Family Day Care home at the address below for the number of children and ages indicated. This registration is valid until the expiration date given below.

To maintain your registration, you must comply with the Family Day Care Registration regulations at all times. As a registered family day care provider you must assure parents access to their children at all times and must allow Department of Social Services staff to inspect the premises during the hours of operation. You are mandated to report any suspicion of child abuse or maltreatment involving children in your care. In addition, you must satisfy certain training requirements before the expiration of this registration. Information about training opportunities can be obtained from the Bureau of Child Care Regional Office.

We look forward to working together with you to provide healthy, safe and quality day care to the children placed in your home. If you have any questions, please feel free to contact your Bureau of Child Care Regional Office.

Sincerely,

(Signature)  
(Title)

FAMILY DAY CARE				
Reg #	Type	Expiration Date / /		
(Last Name)	(First Name) (Spouse)			
(Street)			Issue Date	/ /
(City)	(State)	(Zip)	Telephone ( ) -	
Exceptions Granted	Number of Children			
	Age From	To		

ATTACHMENT C  
TRANSMITTAL COVER SHEET

APPLICANT: \_\_\_\_\_ CERTIFICATE #: \_\_\_\_\_

COMPLETE THE SECTION BELOW WHICH APPLIES TO THE TRANSFER BEING TRANSMITTED.

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TRANSFER INFORMATION FOR THE FOLLOWING CATEGORIES MUST BE SUBMITTED BY  
NOVEMBER 22, 1991.

The following transfer information must be submitted:

- o Copy of the most current certificate;
- o Copy of the most current application; and
- o Summary of the nature of any pending complaint and associated information and documentation.

Check one:

\_\_\_\_\_ This provider is a holder of a current certificate which expires after 10/22/91 ("up to date").

\_\_\_\_\_ This provider is in the process of renewal but a home visit to determine compliance has not been made.\*

\_\_\_\_\_ This applicant is in process but a home visit to determine compliance has not been made.\*

\*In addition to the information listed above, partial documentation also should be transferred. When submitting partial documentation for a renewal or application, please use the back of this cover sheet to note what documents are not included in this transmittal. Additional comments may also be noted in this manner.

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TRANSFER INFORMATION FOR THE FOLLOWING CATEGORIES MUST BE SUBMITTED BY  
DECEMBER 31, 1991.

The following transfer information must be submitted:

- o Copy of the most recently expired certificate; and
- o Copy of the most current application.

Check one:

\_\_\_\_\_ This provider has met the requirements for renewal.

\_\_\_\_\_ This applicant has met the requirements for issuance of a FDC certificate.

Submitted by: \_\_\_\_\_ Phone: \_\_\_\_\_  
(title and work unit)

County: \_\_\_\_\_ Date: \_\_\_\_\_

ATTACHMENT D  
NOTIFICATION OF TRANSFER OF RECORDS

Dear Family Day Care Provider or Applicant:

Effective October 22, 1991 a new process called registration replaced the previous system of regulating family day care in New York State. As a result, the county department of social services is no longer authorized to certify family day care homes. All family day care providers must register in accordance with the registration system which is overseen by the New York State Department of Social Services.

Therefore, we are transferring your application and any documentation you have already submitted to the Bureau of Child Care Regional Office for processing. You will be contacted by a representative of that office to assist you in completing the registration process.

If you have questions about the registration process, or if you have not been contacted within 30 days, you may call the \_\_\_\_\_ Child Care Regional Office at \_\_\_\_\_.

Although we will no longer be issuing certificates to family day care providers, we will continue to provide a broad range of child care programs. We hope you will consider providing care to low income children and families who are subsidized by the county department of social services. We will contact you about this in the future and look forward to our continued partnership in providing child care services to children and families in our community.

Sincerely,

APPROVED CHILD CARE PROVIDER LETTER

Dear Approved Child Care Provider:

The purpose of this letter is to inform you of a new law which you should know about so that you can decide how you would like to continue in helping to meet the child care needs in your community.

Effective October 22, 1991 a new process called registration will replace the current system of regulating family day care in New York State. When registration began, the category of approved child care provider will be eliminated. Although this does not mean that you cannot care for children, it may mean that the county department of social services may not be able to continue to pay you for certain children receiving care in your home.

You will not be required to register in order to continue to provide care for one or two children but you may register voluntarily. Approved child care providers who are not registered by March 15, 1992 must be considered to be informal child care providers. As previously mentioned, this may mean that you cannot be paid for the care of some children currently in your home. In addition, the rate of payment for informal child care may be lower than what you are currently receiving.

We encourage you to become a registered family day care provider. As a registered family day care provider, you will continue to be paid at the rate established for regulated providers. In addition, you will be able to care for up to six children if you wish. In order to register you will need to attend an orientation which explains the rules for operating a family day care home and you will need to complete an application and informational packette. You will be told at the orientation meeting where you can get help completing the process.

The enclosed form is provided to help you begin the registration process. Send the completed form to the address indicated and more information regarding the process will be sent to you. Requesting this information does not commit you to anything. Please send for this information so you know more about the registration system and can begin the process if you wish.

If you have questions, please call \_\_\_\_\_, at \_\_\_\_\_.

Sincerely,

FAMILY DAY CARE REGISTRATION INFORMATION REQUEST

I am an approved child care provider and wish to learn more about the family day care registration system.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

COUNTY: \_\_\_\_\_

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

RETURN THIS FORM TO:

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES  
BUREAU OF CHILD CARE  
\_\_\_\_\_ REGIONAL OFFICE

ATTACHMENT F

BUREAU OF CHILD CARE  
REGIONAL OFFICES

REGION I

Ms. Carolyn Huffman  
Regional Day Care Manager  
NYS DSS  
BUFFALO REGIONAL OFFICE  
295 Main Street -- 8th fl.  
838 Ellicott Square Building  
Buffalo, NY 14203  
(716) 847-3828

REGION II

Ms. Ella Renckert  
Regional Day Care Manager  
NYS DSS  
ROCHESTER REGIONAL OFFICE  
259 Monroe Avenue -- 3rd fl.  
Monroe Square  
Rochester, NY 14607  
(716) 238-8531

REGION III

Ms. Margaret Pavlos  
Regional Day Care Manager  
NYS DSS  
SYRACUSE REGIONAL OFFICE  
351 South Warren Street - 5th fl.  
Syracuse, NY 13202  
(315) 428-4301

REGION IV

Ms. Mabel Leon  
Regional Day Care Manager  
NYS DSS  
ALBANY REGIONAL OFFICE  
330 Broadway -- 1st fl.  
Albany, NY 12243  
(518) 432-2763

REGION V

Ms. Judith Rollins  
Regional Day Care Manager  
NYS DSS  
METROPOLITAN REGIONAL OFFICE  
80 Maiden Lane -- 5th Floor  
New York, NY 10038  
(212) 804-1150

REGION VI

Ms. Frances Pena  
Regional Day Care Manager  
NYS DSS  
YONKERS REGIONAL OFFICE  
525 Nepperhan Avenue -- Room 205  
Yonkers, NY 10703  
(914) 376-8810

REGION VII

Ms. Cheryl Leftenant  
Acting Regional Day Care Manager  
HEMPSTEAD REGIONAL OFFICE  
NYS DSS  
175 Fulton Avenue  
Hempstead, NY 11550  
(516) 564-4990

REQUEST FOR APPROVAL OF ADDITIONAL REQUIREMENTS

DISTRICT: \_\_\_\_\_ DATE OF APPLICATION: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

1. PROPOSED REQUIREMENT(S):

2. JUSTIFICATION:

3. IMPACT ON DISTRICT'S ABILITY TO ACCESS SLOTS FOR SUBSIDIZED CARE:

4. PROJECTED COSTS TO CHILD DAY CARE PROVIDERS:



5. PLAN TO MONITOR AND ENFORCE:

A. Who (by title and work unit) is responsible for monitoring and enforcement of the additional requirement(s)?

B. Identify the methods which will be used to monitor and enforce the additional requirement(s).

C. Identify the time frames which will be used to monitor and enforce the additional requirements.

D. Specify any additional resources which the district will use or need to develop in order to monitor and enforce the additional requirement(s).

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Commissioner's signature

(date)