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

Transmittal No: 93 LCM-82

Date: July 15, 1993

Division: Services and
Community
Development

TO: Local District Commissioners

SUBJECT: SFY 1993/94 Cap on State Share of Foster Care Expenditures

ATTACHMENTS: A. Chart of Local District Foster Care Cap Allocations is
available on line

The purpose of this letter is to advise you of the Foster Care Reimbursement Cap amounts for all local social services districts as well as to provide additional information regarding the Cap. As you are aware, the 1993/94 state Budget required enactment of a cap on the state share of all Foster Care reimbursements to local districts in SFY 93/94.

The attached chart lists the individual cap amounts for each social services district. The Cap amounts for 1993/94 have been set on the same basis as those for 1992/93 using a more contemporary claim period. This year, however, there are two Cap amounts expressed. The higher amount includes a cost-of-living adjustment of 4% which was included for a six-month period. The Department will utilize the Cap amount without COLA until we are formally notified by your district of its intention to provide a COLA in 1993. In order for your Department to use the higher Cap amount, each local district which intends to grant cost-of-living adjustments to foster parents and recognize the 1993 rates for voluntary agencies must send a letter or a message by OFIS-Link to the program contact listed below, Mr. Santo Vivona.

Additional information regarding the Foster Care Cap is being provided in a question and answer format.

1. Question: What expenditures are included in the Foster Care Cap?

Answer: All state share Foster Care reimbursement claims which are paid during SFY 93/94 are included under the Cap. The major portion of these claims will be January '93 - December '93 maintenance and tuition, as well as IV-E and FNP-foster care administrative

expenditures for October '92 - September '93. It also includes adjustments for any prior period for these categories which were paid during SFY 93/94. This year, state share for Independent Living Services to children who do not meet the federal definition because they are 14 and 15 years of age, is included in the Foster Care Cap.

2. Question: Will the Foster Care Cost-of-Living Adjustments (COLA) effective as of July 1, 1993 be accommodated in the Cap?

Cost-of-living adjustments for foster care per diems are included in the Foster Care Cap up to a maximum of four percent effective July 1, 1993. However, COLA costs may not be claimed until October 1, 1993. To accommodate this, two sets of foster care rates will be promulgated; rates without a COLA adjustment effective July 1, 1993 and rates with COLA effective October 1, 1993 retroactive to July 1, 1993. Additional information on the periods of applicability for the COLA will be included in the Local Commissioners Memo which promulgates the State Aid Rates for voluntary agencies private schools and foster homes.

3. Questions: What expenditures are excluded?

Answer: Federal shares for all foster care costs as well as state share claims for Transitional Care, Committee on Special Education (CSE) placements, Adoption Assistance expenditures, and JD/PINS expenditures are not included in the Foster Care Cap allocations. For FY 93/94 there will be a separate cap for the expenditures incurred for JD/PINS children placed in voluntary agencies and local district foster homes. The Division for Youth is administering the JD/PINS Cap.

4. Question: Is the Cap a cash or a liability "cap"?

Answer: The Foster Care Cap is a cash cap. The Cap places a limit on the amount of state reimbursement available to Local Social Service Districts (LSSD's). Districts are eligible to continue to receive federal Title IV-E reimbursement regardless of whether they are under or over the Cap. For districts which exceed their Cap, the unpaid state share will be pended and paid in the next state fiscal year. Those state share payments will be charged against the then current year Foster Care Cap.

5. Question: Does the Cap allow for exceptions or waivers?

Answer: The statutory language allows the Department, subject to Division of Budget approval, to grant exceptions to the cap based upon circumstances arising out of natural disasters or other emergency or

unforeseen social or economic changes which have had substantial impact on a district's foster care caseload during the fiscal year. Waivers are not automatic, but subject to approval criteria. There is a very limited amount of funds available for this purpose. Districts which exceed their Foster Care Caps may also justify the excess as attributable (in whole or in part) to the cost of school property for certain Special Act School Districts funded through the Dormitory Authority as separately billed by the State Education Department.

6. Question: What factors will be considered in evaluating waiver requests?

Answers: The criteria for waivers are still being developed. Generally, we expect we will review:

- * changes in case load during the fiscal year including the basis for the change/increase framed in terms of natural disaster, other emergency or unforeseen social or economic changes
- * use (and commitment) of preventive service initiatives to avert foster care placement or speed discharge
- * use of alternative program models designed to support permanency goals and/or to reduce costs (i.e., Therapeutic Foster Care, Family Prevention (i.e., Homebuilder) projects, respite services, etc.)
- * local efforts to use other resources in a coordinated manner to meet the needs of families and at-risk children
- * FFP maximization efforts
- * participation in training and technical assistance sessions designed to reduce state and local costs
- * cooperation with efforts to improve claiming and cost allocation practices
- * emergency situations which directly impact upon placement practices
- * use of CPS post-indication services
- * local district efforts to speed adoption outcomes.

7. Question: What actions can be taken to avoid exceeding the Cap?

Answer: There exist a number of programmatic and administrative actions which can be implemented to assist a LSSD to remain under their Foster Care Cap. These actions include:

FEDERAL MAXIMIZATION

- * Maximize Title IV-E for new cases
- * Maximize EAF funding as appropriate
- * Maximize IV-E Administrative Reimbursement through proper SSRR/RMS Coding
- * Review SSI/Zebley Eligibility for new Child Welfare (CW) cases
- * Review existing Child Welfare cases under SSI/Zebley

PROGRAM SAVINGS/AVOIDANCE

- * Conduct case reviews of long-term cases/out of county placements
- * Review use of alternative placement options (i.e. Therapeutic FBH)
- * Review Intake/placement decision-making process
- * Examine and re-target as appropriate existing Preventive Service contracts/services
- * Review children in Adoption status to determine critical milestones for achieving finalization
- * Initiate more aggressive case review practices designed to promote discharge planning or more timely achievement of permanency goals
- * Utilize Risk Assessment implementation to assess placement practices

ADMINISTRATIVE ACTIONS

- * Review claiming practices within Children Services with the goal of improving reimbursement under other Federal or State programs
- * Conduct programmatic review of placement practices including DFY, group care, out of county care, etc.
- * Assess need for the Homebuilders program and apply for Start-up funding if available
- * Enlist the assistance and support of local Family Court Judges in speeding the adoption process
- * Convene a local task force designed to suggest and develop new methods to divert more costly placements, speed adoption processing, etc.

8. Question: What happens to any savings under the Cap?

Answer: Savings under the Cap are available for investment in initiatives which serve to promote foster care/adoption permanency outcomes or divert initial placements/replacements.

The state share savings can be used for 100 percent of the costs of a local initiative after the application of available federal funds. The program initiatives must expand or supplement existing services. The statutory language establishing the Cap as approved by the Legislature prohibits use of savings for local fiscal relief.

The State Department of Social Services will issue guidelines for the use of cap savings in August 1993. Generally, local districts will be asked to submit a brief description of their initiative including an anticipated assessment of impact. The Department is looking to approve all preventive services, adoption and permanency initiatives which assist in achieving the legislative intent.

9. Question: When can the savings be used?

Answer: Savings can be programmed into initiatives to achieve case load objectives in the current year or in the 1994-95 State Fiscal Year. Approval of a local initiative by the Department is required prior to the utilization of the savings. A county may elect, pending Department approval, to begin a new program initiative during the current state fiscal year in order to produce immediate savings. Alternatively, a local district can plan to implement the new initiative during the next fiscal year. In either case, state reimbursement for the combined foster care and new program initiative cannot exceed the cap amount.

Federal reimbursement will not be affected by the Cap and will be settled in the normal manner subject to the availability of Federal funds.

Any fiscal related questions regarding the Foster Care Cap should be directed to Roland Levie - Upstate at 1-800-342-3715, extension 4-7549 (OA USERID AX2060) or Marvin Gold - Metropolitan at (212) 804-1108 (OA USERID OFM270).

Any program-related questions regarding the Foster Care Cap should be directed to Santo Vivona of the Bureau of Resource Management by dialing 1-800-342-3715, extension 6-3438 (OA USERID AZ1440) or directly dialing (518) 486-3438. Please do not hesitate to call if we can be of any assistance in successfully implementing the Foster Care Cap in New York State.

Frank Puig
Deputy Commissioner
Division of Services and
Community Development

COUNTY	1993/94 CAP WITHOUT COLA	1993/94 CAP WITH ANNUALIZED COLA*
ALBANY	2,539,209	2,592,886
ALLEGANY	224,475	229,221
BROOME	2,304,022	2,352,728
CATTARAUGUS	710,414	725,432
CAYUGA	347,024	354,360
CHAUTAUQUA	944,478	964,443
CHEMUNG	732,507	747,992
CHENANGO	252,798	258,142
CLINTON	499,602	510,164
COLUMBIA	429,132	438,204
CORTLAND	500,678	511,262
DELAWARE	336,806	343,926
DUTCHESS	2,492,013	2,544,692
ERIE	6,388,864	6,523,921
ESSEX	153,313	156,553
FRANKLIN	128,960	131,686
FULTON	306,598	313,080
GENESEE	193,981	198,082
GREENE	350,291	357,696
HAMILTON	1,124	1,148
HERKIMER	325,114	331,987
JEFFERSON	514,650	525,529
LEWIS	209,184	213,606
LIVINGSTON	406,650	415,247
MADISON	468,575	478,481
MONROE	8,197,708	8,371,003
MONTGOMERY	184,043	187,933
NASSAU	5,297,174	5,409,154
NIAGARA	1,861,265	1,900,611
ONEIDA	2,352,905	2,402,644
ONONDAGA	4,903,313	5,006,966
ONTARIO	376,054	384,003

* The budget contains the equivalent of a 4% COLA (cost of living adjustment) for 1993. The second column contains the annualized effect of a COLA of approximately 4% for all agencies and foster parents. Intention to pay COLA will determine whether a district
