



# Office of Children and Family Services

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## Local Commissioners Memorandum

<b>Transmittal:</b>	16-OCFS-LCM-03
<b>To:</b>	Local District Commissioners Director of Services Child Care Unit Supervisors Temporary Assistance Unit Supervisors
<b>Issuing Division/Office:</b>	Division of Child Care Services
<b>Date:</b>	February 26, 2016
<b>Subject:</b>	<b>30-Day Client Notification for Child Care Subsidy and Revised Client Notices</b>
<b>Contact Person(s):</b>	Michael Miller, Division of Child Care Services, (518) 408-3395 or <a href="mailto:Michael.Miller@ocfs.ny.gov">Michael.Miller@ocfs.ny.gov</a>
<b>Attachments:</b>	A: OCFS-LDSS-4779 Approval of Your Application for Child Care Benefits B: OCFS-LDSS-4780 Denial of Your Application for Child Care Benefits C: OCFS-LDSS-4781 Notice of Intent to Change Child Care Benefits and Family Share Payments D: OCFS-LDSS-4782 Notice of Intent to Discontinue Child Care Benefits E: OCFS-LDSS-4783 Delinquent Family Share F: OCFS-LDSS-4784 Approval of Your Redetermination for Child Care Benefits G: OCFS-LDSS-4785 Approval of Your Transitional Child Care Benefits H: OCFS-4773- Child Care Eligibility Re-Determination Coming Due I: OCFS-LDSS-7009 Notice of Child Care Overpayment
<b>Attachment Available Online:</b>	Original forms are available on the OCFS <i>intranet</i> only, at: <a href="http://ocfs.state.nyenet/admin/Forms/">http://ocfs.state.nyenet/admin/Forms/</a> Sample forms are available on the OCFS internet at: <a href="http://ocfs.ny.gov/main/documents/docsChildCare.asp">http://ocfs.ny.gov/main/documents/docsChildCare.asp</a>

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to advise local departments of social services (LDSSs) that on August 13, 2015, the Governor signed into law Chapter 144 of the Laws of 2015, which included language to repeal and revise certain provisions of the Social Services Law (SSL) regarding notification to families receiving child care assistance.

This LCM also informs LDSSs of several revised client notices that must be used by LDSSs to provide notifications to families about actions related to their child care subsidy benefit as required by Sections 34-a(9) and 410-w(8) of the SSL and Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Parts 358, 404, and 415.

## II. Background

A January 28, 2015, letter to LDSS commissioners notified the LDSSs of a new subdivision (9) that was added to Section 34-a of SSL, which took effect on January 1, 2015. This provision specified the amount of notice an LDSS must provide to the New York State Office of Children and Family Services (OCFS) when the LDSS plans to lower eligibility levels or increase its co-payment multiplier with regard to child care assistance.

An August 18, 2015, letter to LDSS Commissioners notified the LDSSs that on August 13, 2015, Chapter 144 of the Laws of 2015 repealed and replaced subdivision (9) of Section 34-a of the SSL with a new subdivision (9), and also added a new subdivision (8) to Section 410-w of the SSL regarding notification to families receiving child care assistance.

## III. Program Implications

The first relevant change pursuant to Chapter 144 of the Laws of 2015 repeals subdivision (9) of Section 34-a of the SSL and replaces it with a new subdivision (9), retroactive to January 1, 2015. The requirements created by this change were imposed on LDSSs pursuant to 14-OCFS-LCM-01. The new subdivision (9) in conjunction with 14-OCFS-LCM-01 requires that an LDSS proposing an amendment to the child care portion of its Child and Family Services Plan (CFSP) that reduces eligibility or increases the family share percentage for child care services must:

- (i) no later than the first day the public notice appears in a newspaper pursuant to Section 34-a(3) of the SSL or the OCFS regulations, as applicable, prominently post on the LDSS's website a notice of the proposed amendment to the CFSP describing the categories of families whose cases will be impacted; and
- (ii) at the time the public notice is submitted to the newspaper for publication, provide a copy of the notice to OCFS.

The newly enacted Section 34-a(9) also requires that if an LDSS implements its process for closing child care cases, as set forth in its approved CFSP, due to the LDSS determining that it cannot maintain its current caseload because all of the available funds are projected to be needed for open cases, the LDSS must:

- (i) no later than the first day the LDSS begins to send individual client notices to impacted families in accordance with SSL 410-w(8), prominently post a notice on its website stating that the LDSS is implementing the child care case closing process set forth in its approved CFSP and describing the categories of families whose cases will be closed; and

- (ii) immediately provide a copy of such notice to OCFS.

OCFS will prominently post the notices received pursuant to SSL Section 34-a(9) on its website.

The other relevant change made pursuant to Chapter 144 of the Laws of 2015 added a new subdivision (8) to Section 410-w of the SSL, effective July 1, 2015. This new provision requires an LDSS to provide at least a 30-day written notice to all families whose eligibility for child care assistance or family share percentage will be impacted by:

- the LDSS implementing a plan amendment to the child care portion of its CFSP either as part of an annual plan update or through a separate plan amendment process, where such amendment reduces eligibility for, or increases the family share percentage of, families receiving child care services, or
- the LDSS implementing the process for closing child care cases as set forth in the LDSS's approved CFSP, due to the LDSS determining that it cannot maintain its current caseload because all of the available funds are projected to be needed for open cases.

While LDSSs are encouraged to provide families with as much notice as possible of an action that will impact their child care subsidy benefit, this statutory change does not require a 30-day notice prior to denying benefits or issuing a discontinuance notice because the client is over income or is no longer engaged in their approved activity. For these actions, an LDSS is only required to provide a minimum 10-day notice to the affected families.

#### **IV. Revised Client Notices**

LDSSs were previously notified in 13-OCFS-LCM-04, dated April 18, 2013, of the requirement to provide client notification to applicants of child care subsidy benefits funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX. This LCM replaces 13-OCFS-LCM-04, and revises the client notices issued with that release and the two client notices issued after 13-OCFS-LCM-04 (OCFS-LDSS-4784 Approval of Your Redetermination and OCFS-LDSS 4785 Approval of Your Transitional Child Care Benefits).

Minor changes have been made to the first page of the client notices, and the fair hearing information has been reorganized and written in easy-to-understand language.

If an LDSS wishes to use local equivalents of the required forms listed in this LCM, such forms must be approved by the OCFS's Division of Child Care Services (DCCS) prior to their use by the LDSS. Any previously approved local equivalents of the client notices must be revised and resubmitted for approval to DCCS prior to their continued use by the LDSS.

The revised forms described below meet the standards for timely and adequate notice in accordance with 18 NYCRR §§358.-2.2 and 358-2.23. Two copies of the notice

should be sent so that applicants/recipients can use one copy to request a fair hearing and retain one for their records.

**Attachment A: OCFS-LDSS-4779 (Rev.9/15) Approval of Your Application for Child Care Benefits** must be used by the LDSS when an application for child care benefits has been approved. The LDSS must show how the family share was calculated in the family share portion of the form and indicate in the child care benefits portion of the form if the child care benefits will be paid to the parent or provider. The effective dates of the child care benefits must also be included on the notice.

**Attachment B: OCFS-LDSS-4780 (Rev.9/15) Denial of Your Application for Child Care Benefits** must be used by the LDSS when an application for child care benefits has been denied at initial application. The LDSS must select one or more of the denial reasons listed on the form. Below is the list of denial reasons and the information that must be provided.

- **The family's income for their family size exceeds 200 percent of the State Income Standard (SIS).** The LDSS must indicate the family's monthly gross income, the family's size, and the maximum SIS for the family's size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income, and what the maximum SIS monthly income is for the family's size.
- **The family did not provide all of the required documentation.** The LDSS selects this denial reason if the family failed to provide the required documentation. The LDSS must specify what documentation the family failed to provide that led to the denial of benefits.
- **The family is not programmatically eligible.** The LDSS selects this denial reason if the reason for care is not allowed under New York State SSL or regulations, or if the LDSS has not included this category of family in its CFSP. The LDSS must cite the applicable statutory or regulatory reference and inform the applicant as to why the family's reason for care cannot be approved.
- **Due to insufficient funding, the LDSS is not opening cases.** The LDSS selects this denial reason if it has been determined that it only has sufficient funding to maintain its current caseload. At a fair hearing, the LDSS must be prepared to present supporting documentation confirming that the LDSS does not have sufficient funding to open cases for all eligible families. Supporting documentation includes, but is not limited to, the relevant allocation LCM, ceiling reports, spreadsheets showing monthly claims and available funds, and the approved child care section of its CFSP along with the plan approval letter.
- **Due to insufficient funding, the LDSS can only open cases up to a percentage (determined by the LDSS) of the State Income Standard.** The LDSS selects this denial reason if it has determined that there are insufficient funds to open cases for all eligible families. The LDSS must specify what its local priority level is for the monthly gross income standard, compared to the family's monthly gross income for the family's size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income and what its priority level is for the monthly gross income standard for its family size. At a fair hearing, the LDSS must be prepared to present

documentation supporting its determination that it does not have sufficient funding to provide child care benefits to all eligible families. Supporting documentation includes, but is not limited to, the relevant allocation LCM, ceiling report, spreadsheets showing monthly claims and available funds, and the approved child care section of its CFSP along with the plan approval letter.

- **Other.** The LDSS selects this option when none of the options listed above apply. The LDSS must inform the applicant of the reason for the denial of his/her application. The LDSS may select this option when it denies child care services to a family that has a child with special needs who needs child care. The LDSS must describe why, in sufficient detail, a family with a special needs child needing child care was not eligible for child care benefits.

**Attachment C: OCFS-LDSS-4781 (Rev. 9/15) Notice of Intent to Change Child Care Benefits and Family Share Payments** must be used by the LDSS when there is a change in family share due to an increase or decrease in the family's income, child care provider, and/or authorization of benefits. The LDSS must give the family a minimum of a 30-day notice when they intend to increase the family share percentage; all other changes require that an LDSS provide a minimum of a 10-day notice prior to taking the action.

**Attachment D: OCFS-LDSS-4782 (Rev. 9/15) Notice of Intent to Discontinue Child Care Benefits** must be used by the LDSS when it intends to end the child care benefit. The LDSS must give the family a minimum of a 30-day notice when it intends to reduce eligibility by amending its CFSP or implements the process for closing child care cases as described in either its approved CFSP or the annual plan update. LDSSs are encouraged to provide families with as much notice as possible; however, the LDSS must still provide a minimum 10-day notice when denying a child care benefit because the client is over income or no longer engaged in their approved activity.

The LDSS must select one or more of the closing reasons listed on the form. Below is the list of closing reasons and the information that must be provided.

- **The family's income for their family size exceeds 200 percent of the SIS.** The LDSS must indicate the family's monthly gross income and the maximum SIS for its family size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income and specify what the maximum SIS monthly income is for its family size.
- **The family did not provide all of the required documentation.** The LDSS selects this denial reason if the family failed to provide the required documentation. The LDSS must specify the documentation the family failed to provide that led to the denial of benefits.
- **The family is not programmatically eligible.** The LDSS selects this denial reason if the reason for care is not allowed under SSL or New York State regulations, or if this category of family was not included in the LDSS's CFSP. The LDSS must inform the applicant as to why the family's reason for care cannot be approved. If the denial is based on SSL or New York State

regulations, the LDSS must cite the statutory or regulatory requirement in the reason for denial.

- **Due to insufficient funding, the LDSS is not able to serve all eligible families.** The LDSS selects this closing reason if it has projected that it does not have sufficient funding to maintain its current caseload. The LDSS must specify its income priority level for the monthly gross income standard for the family's size compared to the family's monthly gross income. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income, and indicate the LDSS's priority level for the monthly gross income standard for the family's size. At a fair hearing, the LDSS must be prepared to present documentation showing that the LDSS does not have sufficient funding to provide child care benefits to all eligible families. Supporting documentation includes, but is not limited to, the relevant allocation LCM, ceiling reports, spreadsheets showing monthly claims and available funds, and the approved child care section of its CFSP along with the plan approval letter.
- **Other.** The LDSS selects this option when none of the options listed above apply. The LDSS must inform the recipient why their child care case is closing. The LDSS may select this option when it discontinues child care services to a family needing child care for a child with special needs. The LDSS must describe, in sufficient detail, the reason a family with a child with special needs needing child care will no longer be eligible for child care benefits.

**Attachment E: OCFS-LDSS-4783 (Rev. 9/15) Delinquent Family Share** must be used by the LDSS when a family has been delinquent in paying its family share.

**Attachment F: OCFS-LDSS-4784 (Rev. 9/15) Approval of Your Redetermination for Child Care Benefits** must be used by the LDSS when an application for child care benefits has been approved at redetermination. This new client notice provides recipients of child care benefits with the option of choosing to have aid continuing.

**Attachment G: OCFS-LDSS-4785 (Rev 9/15) Approval of Your Transitional Child Care Benefits** must be used by the LDSS when a family has been approved for transitional child care benefits. The LDSS must show how the family share was calculated in the family share portion of the form and indicate if the child care benefits will be paid to the parent or provider in the benefits portion of the form. The effective dates of the child care benefits must also be included on the notice. This new client notice provides recipients the option to choose to have aid continuing; this notice also eliminates the need to send the OCFS-LDSS-4781 Notice of Intent to Change Child Care Benefits and Family Share Payments to inform the client that they must now pay a family share.

**Attachment H: OCFS-4773 (Rev. 3/13) Child Care Eligibility Re-Determination Coming Due** may be used by the LDSS to notify the family that the re-determination of their programmatic and financial eligibility is coming due. The form advises the family what documentation is needed to re-determine the family's eligibility.

**Attachment I: OCFS-LDSS-7009 (Rev. 9/15) Notice of Child Care Overpayment** must be used when it has been determined that a child care overpayment to a recipient or former recipient has occurred. The LDSS must include: the amount of the overpayment, the reason the overpayment occurred, and a repayment plan agreement.

#### VI. Access to Client Notices Forms

The client notices are available in English and Spanish on the OCFS intranet site at <http://ocfs.state.nyenet/admin/Forms/> and will soon be available in Chinese, Russian, Creole, Korean, and Italian.

The client notices are available in English and Spanish through the Child Care Time and Attendance System (CCTA). LDSSs are encouraged to use the client notices through CCTA as most of the information will auto-fill, decreasing the staff time needed to complete the forms.

Hard copies of the client notices will be available 30 days from the release of this LCM.

#### VII. Effective Date

The change repealing Section 34-a(9) of the SSL and adding a new Section 34-a(9) became effective January 1, 2015.

The change adding subdivision (8) to Section 410-w of the SSL became effective on July 1, 2015.

LDSSs must begin using the revised client notices immediately.

*/s/ Janice M. Molnar Ph.D.*

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**Issued By:**

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Deputy Commissioner  
Division of Child Care Services