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Empire Justice Center

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Joint Legislative Public Hearings on 2016-2017 Executive Budget Proposal

Human Services

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I. INTRODUCTION

My name is Susan Antos and I am a Senior Attorney in the Albany office of Empire Justice Center. On behalf of my colleagues, I'd like to thank you for the opportunity to testify today about the Executive Budget as it pertains to human services.

Empire Justice Center is a statewide legal services organization with offices in Albany, Rochester, Westchester and Central Islip (Long Island). Empire Justice provides support and training to legal services and other community based organizations, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low income individuals, as well as classes of New Yorkers in a wide range of poverty law areas including health, public assistance, domestic violence and SSI/SSD benefits.

My testimony today will span three agencies: the New York State Office for the Aging, the Office of Children and Family Services, and the Office of Temporary and Disability Assistance, and discuss:

- 1. An increase in funding for the Managed Care Consumer Assistance Program;**
- 2. Continued investment in the Disability Advocacy Program;**
- 3. Expanded categorical eligibility for SNAP benefits;**
- 4. Increased fuel and shelter allowances;**
- 5. An elimination of asset limit tests for public assistance eligibility;**
- 6. An increased investment in the child care and development block grant by \$190 million to maintain slots; and**
- 7. Prioritizing the distribution of scarce child care dollars to working families.**

II. OFFICE FOR THE AGING

A. Invest a Total of \$1.962 million in the Managed Care Consumer Assistance Program (MCCAP)

The Managed Care Consumer Assistance Program (MCCAP), a statewide initiative run through the New York State Office for the Aging (NYSOFA), provides seniors and people with disabilities critical assistance in accessing Medicare services and reducing health care costs. We are grateful that the Executive Budget provides ongoing funding for MCCAP at its current level, \$1.767 million. However, given that the funding has been at a reduced level for several years, we are asking that the Legislature provide additional funds to get MCCAP funding to its 2008-2009 level of \$1.962 million. This additional investment will return the program to capacity and respond to the increased demand for Medicare navigation assistance brought about by a growing aging population and changes in the health care delivery and insurance landscape.

The six MCCAP agencies partner with NYSOFA, the New York State Department of Health (DOH) and the Center for Medicare and Medicaid Services (CMS) to provide training, technical support and assistance to local Health Insurance Information Counseling and Assistance Program (HIICAP) offices

and other nonprofit organizations working directly with Medicare consumers across New York State. Additionally, MCCAP agencies work directly with consumers to provide education, navigational assistance, legal advice, informal advocacy and direct representation in administrative appeals. We serve clients in their communities and provide services in their native languages; consumers also increasingly reach us via internet and our telephone helplines, as well as through our educational materials and referrals from HIICAPs.

Now is a critical time to shore up funding for MCCAP. As the aging population increases, so does the number of Medicare beneficiaries in New York who need MCCAP's assistance in understanding and accessing their health benefits. In the last year, MCCAP continued its work helping individuals maximize their benefits under the highly complex Medicare Part D program, as well as assisting dual eligibles and other Medicare beneficiaries with health care access issues besides Part D. In addition, MCCAP has responded to a range of new needs that have resulted from the changing health care landscape. For example, MCCAP has fielded a high volume of calls from new Medicare beneficiaries in need of assistance transitioning from Qualified Health Plans, Marketplace Medicaid and Medicaid Managed Care plans. These transitions, which are necessary because Medicare beneficiaries are, for the most part, excluded from Marketplace products and Medicaid Managed Care, can seriously disrupt care continuity if not navigated carefully.

Recommendation: We urge the Legislature to negotiate with the Executive to increase MCCAP funding by \$195,000 for a total investment of **\$1.962 million**.

III. OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

A. Restore and Build Upon the Investment in the Disability Advocacy Program (DAP)

For thirty-two years and counting, the Disability Advocacy Program (DAP) has been helping low income disabled New Yorkers who were cut off or denied federal SSI/SSD benefits. Through June 2015, DAP providers, who work in every part of the state:

- Assisted over 215,000 disabled New Yorkers.
- Helped put over \$746 million in retroactive benefits in their hands to be spent in local economies.
- Generated over \$212 million in federal funds paid back to New York State and the counties.
- Saved at least \$283 million in avoided public assistance costs.

Consistently successful in at least 75% of all cases, DAP services help stabilize people's incomes, which in turn helps to stabilize housing, health and quality of life overall. **For every dollar invested in DAP, at least \$3 is generated to the benefit of New York's state and local governments.**

In last year's final budget, the DAP program was funded at \$7.26 million, which included an additional investment of \$2 million from the State Legislature over the Executive Budget allocation. With this investment, combined with the previous year's funding increase, DAP providers have been able to enlarge their base of attorneys and paralegals, and adjust staffing patterns to handle the increase in capacity. The funding increases have allowed DAP providers around the state to increase staffing capacity by at least 24 additional DAP advocates and has resulted in an initial 22.86% increase in the number of DAP cases opened since 2012-2013. However, despite this progress, the demand for DAP services remain high. Providers estimate that they still turn away at least one person for every individual served. Each low income individual with a disability we cannot serve is left without representation and without an attorney to navigate the complex Social Security Administration process.

Thus, while DAP is once again funded in the Executive Budget at \$5.26 million, that funding level is far from where it needs to be to come close to responding to the demand for DAP services. Clearly, without at least a restoration of the \$7.26 million funding level, DAP providers will be unable to sustain the gains that have been made in staffing and number of cases opened in the past year, let alone be able to tackle the substantial unmet need across the state.

Recommendation: Given the increased investment from the State Legislature last year, and the evidence of increased capacity, we are asking the Legislature to once again invest in DAP to restore last year's level of funding and invest a total of \$3 million to bring statewide funding to a total of \$8.26 million. The additional funding will go a long way toward further stabilizing the long term future of DAP services and will allow providers to continue to chip away at the unmet need for services.

B. Expand Categorical Eligibility for SNAP Benefits

Empire Justice Center strongly supports the Governor's proposal to expand categorical eligibility for SNAP benefits (formerly known as the Food Stamp program). Raising the income limit to 150% of the federal poverty level for earned income households will make this critical food support available to hundreds of thousands of working families who cannot currently access SNAP. This proposal, which can be implemented by utilizing an existing federal option, is a sound choice for both fiscal and policy reasons. Because SNAP benefits are federally funded, these benefits will bring millions of dollars in food purchasing power into New York for newly eligible households. The availability of SNAP benefits to these working families and individuals will provide a much needed support for households whose housing, transportation or utility costs are going up without any relief in sight.

Recommendation: support the Governor's proposal.

C. Increase Fuel and Shelter Allowances

As discussed in our recent report, released in December 2015, "Turn Up the Heat: It's Time to Raise New York's Shelter and Fuel Allowances,"¹ there is nothing more central to the concept of meeting basic needs to stabilize people's lives than ensuring that families and individuals can live in safe, decent, stable housing. But as has been widely reported, the number of New Yorkers who now live in

housing that is unsafe or overcrowded, or who are homeless - staying in shelters or on the street - continues to increase to record-breaking levels. **New York's rate of homelessness is more than double the national average.** In fact, New York saw the greatest increase in homelessness in the nation from 2013 to 2014, a shameful trend that saw no signs of abating in 2015 and through the New Year.²

Being homeless harms families and compromises the future of New York's children. Stable housing is crucial for the overall mental and physical health of families, especially for a child's optimal development and educational success.³ "Homeless children have worse physical health, are less likely to have a regular source of medical care, and are more likely to use emergency rooms," as compared with other children who live in stable housing.⁴

The Governor announced a bold and progressive agenda for reducing future homelessness in New York in his State of the State Address. While Empire Justice fully supports the important role that affordable housing plays in stabilizing families and communities, New Yorkers in crisis cannot afford to wait – they need solutions now. Building new, affordable housing is an essential component to fighting homelessness, but **it is equally important to address the drastic disconnect between the cost of decent housing and the allowances provided to public assistance recipients to pay for housing.** New York State has some of the most expensive housing in the nation, yet the shelter portion of the public assistance grant (known as the "shelter allowance") has not remotely kept pace with relentless rental cost increases. For households forced to rely on public assistance as their source of income, the current benefit sets people up to become homeless and contributes to the trauma and chaos faced by low income families in our state on a daily basis, and ensures that tax payers end up footing the bill in other, more costly ways.

In "Turn up the Heat," we compared the allowable shelter grant given to a family on public assistance with "Fair Market Rents" (FMR) established by the Federal Department of Housing and Urban Development as a measure of the inadequacy of the shelter allowance.⁵ For example, in Albany County, the monthly FMR for a one-bedroom unit is \$823, while the maximum shelter allowance for a household of three is \$309 per month, or about 38% of the FMR. In Erie County, the one-bedroom FMR is \$626, while the shelter allowance for a household of three is \$301, or about 48% of the FMR. Finally, in Dutchess County, the FMR for one bedroom is \$1,036, and the shelter allowance for three is \$292—just over 28% of the FMR. **There is no county in New York where the shelter allowance provides enough money to cover even half of the Fair Market Rent.** For many poor New Yorkers living in more expensive locations, such as the New York City suburbs, the grant rarely amounts to even one third of the FMR, which is a measure of the cost of decent, but modest housing.

Further, for those households who pay for heat separately from their rent, which is the case in many areas outside New York City and its suburbs, there is an additional allowance to pay for heating. **The heating allowance has not been raised since it was created in 1987, nearly 30 years ago. Over that time, the cost of heating oil has quadrupled and natural gas heat has doubled.** Households receiving public assistance for basic needs, even if they receive an additional heat allowance, have been pushed further into poverty over time in New York because their entire grant is subsumed by their housing cost. And typically that isn't even enough to cover their housing.

As illustrated by Ms. V, the inevitable consequence of these miniscule heating and shelter allowances is that households in need in New York State have little or no chance of retaining decent housing, and are thrust into crisis by a system purported to be the safety net. Families are forced to divert the part of their welfare grant designated for basic needs like clothing and transportation to attempt cover their rent, and even then are still at risk of being forced to live in overcrowded, substandard, even illegal housing in order to keep a roof over their heads. There are 120,000 homeless students in our State's public schools, a number that increased by a third from 2009 to 2014, and it is many of these most vulnerable students who are most affected by these overlapping gaps in assistance.

The paradox in this situation is that, while families on public assistance are unable to afford sufficiently heated, stable housing with their welfare grant, the **local counties are required to pay exponentially more to house these same families when they become homeless.** Emergency housing is extremely expensive. New York State's homeless shelter system costs the state over \$1 billion dollars annually.⁶ In 2008, Orange County estimated that "the average cost of providing services to a homeless family... equaled \$157 per day (\$4,710 per month)."⁷ The 2008 Fair Market Rent for a one-bedroom unit in Orange County was \$901 per month, and for two bedrooms was \$1,103. So, providing a family with sufficient rent for decent, stable housing would have cost less than one-quarter of the cost of placing them in emergency housing. It's startling to consider the cost savings and vastly improved quality of life for low income families that reasonable shelter and heating allowances would offer so many households.

Emergency housing and services for the homeless are essential, but the long term solution rests in enabling low income households to secure and

Client Story: Ms. V

Ms. V is a 58 year old woman living in the Capital Region. She has a long work history as an administrative assistant, but the lagging job market has been a barrier to consistent employment in the past few years, forcing her to move from one temporary job to another. Ms. V's apartment costs \$575 per month and she pays separately for her heat. When her Unemployment Insurance benefits ran out in the autumn of 2014, she was forced to apply for help from the local Department of Social Services (DSS). Her total public assistance grant was only \$425 per month and included both her heating and shelter allowances, which the DSS sent directly to her landlord. After four months of receiving public assistance, Ms. V received a utility shut off notice. She had received a single HEAP payment, but still owed \$421.99. Ms. V returned to the DSS to apply for help keeping her utilities on, and the DSS paid the outstanding balance on her utility account, but incorrectly put Ms. V into a repayment agreement for the utility assistance that further reduced her monthly welfare grant. Now, one year later, Ms. V's landlord is threatening to evict her for nonpayment of the full rent. Because of the inadequacy of the heating and fuel allowances available to Ms. V, she is now teetering on the brink of homelessness – which will make securing stable, long-term employment exponentially more difficult.

retain decent, permanent housing on a workable budget.

Recommendations:

- As a down payment, New York must increase the shelter allowance to at least 50% of regional Fair Market Rents to bring a modicum of stability to the lives of the poorest New Yorkers, and reduce the costly and cumulative harm that is the unavoidable result of homelessness. This down payment will be a critical step toward truly meeting the housing needs of families and individuals living on welfare.
- Increase the fuel for heating allowance to an amount commensurate with the market rate after 28 years. Going forward, OTDA should be required to reassess the market rates on a regular basis, not to exceed once every five years, and increase the fuel for heating allowance accordingly.
- Implement an immediate moratorium on local district's recoupment of energy-related payments from ongoing public assistance cases because of the long-standing inadequacy of the public assistance grant in meeting fuel and utility costs, until such time as the fuel for heating grant is increased.

D. Eliminate Asset Limit Tests for Public Assistance Eligibility: 529 College Savings Accounts, Retirement Accounts and Vehicles

As explained in more detail in our recent report "Driven into Poverty: How New York's Asset Tests Keep People Poor,"⁸ we strongly support the elimination of all asset tests so that low income individuals and families can build enough wealth to create a path out of poverty.

Individuals and families are not eligible for public assistance (PA) if the household has liquid resources that exceed \$2,000, or \$3,000 for those over 60 years of age. In principle, asking applicants to use all available resources before turning to government assistance appears financially responsible. In practice, however, exhausting resources creates a scenario in which families in crisis are even more vulnerable to prolonged periods of public dependence. A growing body of research shows that accumulating assets is the key to ending cycles of poverty, and that requiring individuals and families to divest themselves of resources as a condition of eligibility actually undermines the goal of temporary assistance. Since 1996, eight states (Alabama, Colorado, Hawaii, Illinois, Louisiana, Maryland, Ohio and Virginia) have eliminated asset tests, recognizing that families need to have savings to address emergencies and decent cars to get to work.⁹ These States reported minimal to no corresponding change in their public assistance caseload, and often cited administrative savings as part of the rationale for eliminating the tests.

Currently, New York State does not consider the value of certain assets when determining an applicant's eligibility for public assistance. Examples of assets that are already excluded from New York State's asset limit test are payments from the Earned Income Tax Credit (EITC) and certain Individual Development Accounts.¹⁰ New York State does, however, count the value of a primary vehicle if it exceeds \$4,560 (\$9,300 if the car is used to work or look for work) and retirement savings when

determining whether a person has available resources. If the excess value of a vehicle, or the value of the retirement accounts, exceeds the resource level of \$2,000, the family will be disqualified from receiving public assistance.

Eliminating all asset tests for public assistance programs would bring the eligibility requirements more in line with those of the Supplemental Nutrition Assistance Program (SNAP). For most families in New



Antone Lupica was disabled and unable to work after forty years working as a plumber and contractor. Mr. Lupica applied for public assistance while his application for federal disability benefits was pending – a process that often takes several years. He had saved money in an IRA for his retirement, but upon applying for public assistance he was told that he would have to spend down the IRA before he would be eligible, and so he did. Now on SSD, he is living on less than \$1,000 a month, driving a steadily deteriorating car, and having trouble making ends meet. Retaining the IRA would have left him a cushion for urgent expenses like car repair, and made him more financially stable. Instead, as his car, furnace, and other basic household items fall into disrepair, his ability to respond to these emergencies will become harder and harder, creating a multiplying spiral of hardship.

York, there is no asset test required for SNAP eligibility.¹¹ This means a family can receive SNAP benefits in times of hardship without having to surrender everything else – retirement accounts, education savings, and any cars – that they have worked hard to accumulate in an effort toward long term financial stability. By lifting the asset tests for SNAP benefits, New York made an empowering advance to promote financial security, and the State should continue this promising trend in its public assistance programs. Since many families apply for public assistance and SNAP benefits at the same time, New York could create administrative efficiencies in the application process by aligning the asset tests of these two programs.

Retirement Accounts: For many workers, an Individual Retirement Account (IRA) is the only retirement plan they have. Deposits into IRAs are deductible from income for both federal and state tax purposes. If a withdrawal is made before a person reaches the age of 59 ½, the withdrawal is taxable and there is a penalty of 10% of the value of the IRA unless the withdrawal is used for the purchase of a home, college tuition, or certain medical or health expenses. When a working person loses his or her job, it makes no sense to undercut the person’s retirement savings as a condition of eligibility for public assistance. Particularly with President Obama’s initiative creating myRA accounts to encourage saving for retirement among people who don’t have access to a retirement savings plan at their job or lack other options to save, it makes no sense to require the liquidation of retirement accounts as a condition of eligibility for public assistance.

Vehicles: A person with reliable access to a car will be twice as likely to find a job as someone without, and four times as likely to remain employed.¹² New York’s Office of Temporary and Disability Assistance acknowledges that “[r]eliable transportation is a critical need to enable individuals to work,” and states in Local Commissioners Memorandum 12 LCM-11 that “[t]ransportation continues to play a critical role in enabling parents to engage in work preparation activities, and to seek, accept and maintain employment so they are better able to provide financially for their families.” New York State law cruelly requires a family to sacrifice, or significantly downgrade a vehicle, in order to qualify for public benefits, thereby taking away a reliable car – one of the best means to escape poverty, especially in rural and suburban areas. The auto resource rule in New York excludes one car per household with a fair market value up to \$4,650. If that car is used for work purposes, then the fair market value can be as much as \$9,300. If a family’s car exceeds the resource limit, their only options are to sell the car or to downgrade it for one of a lower value. As a practical matter, if there is an outstanding lien that exceeds the car’s fair market value, selling the car is impossible. In that instance, even if the family could sell the car, they would be left with an outstanding debt to the lienholder and no reliable transportation. Penalizing families for maintaining reliable transportation is counterproductive to promoting self-sufficiency; automobiles should not be considered resources for eligibility purposes.

The Auto Resource Rule Punishes Disabled New Yorkers

<p>Non-Disabled Applicant who uses car to look for work</p>	<p>Owens \$8,500 Car</p> 	<p>Earns \$9,300 work exemption</p> 	<p>APPROVED</p> <p>\$800 negative car value</p>
<p>Disabled Applicant who cannot use car to look for work</p>	<p>Owens \$8,500 Car</p> 	<p>Earns \$4,650 non-work exemption</p> 	<p>DENIED</p> <p>\$3,850 excess car value</p> 

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New York’s two tiered eligibility rule for vehicles creates an inequity that constitutes unlawful discrimination under the Americans with Disabilities Act (ADA).¹³ A disabled public assistance applicant unable to work is a “qualified individual with a disability” under the ADA, and each Social Services District is a “public entity.”¹⁴ The ADA requires that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”¹⁵ If disabled applicants were not disabled, they would be able to work or look for work, and would then be eligible for public assistance. Therefore, New York’s two tiered eligibility levels make otherwise qualified individuals ineligible because of their disability.

The U.S. Department of Justice places an affirmative obligation on Social Services Districts to prevent this kind of disability discrimination. The Federal Regulations state that “[a] public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program or

activity.”¹⁶ By applying one exemption standard to disabled applicants, and another to non-disabled applicants, the two-tiered auto resource test discriminates against individuals with disabilities who would otherwise be eligible for services. New York must immediately eliminate or equalize the auto resource rule, to assure compliance with the ADA.

Recommendation: New York should join the eight other states that have abolished resource limits for public assistance. At a minimum, New York State should exclude retirement accounts, as well as one car of any value per each licensed driver from the asset limit tests for public assistance. In addition, the law should make clear that when assets are taken into account for purposes of public assistance eligibility, Social Services Districts should determine the asset’s equity value.

IV. OFFICE OF CHILDREN AND FAMILY SERVICES

Child Care

The Child Care and Development Block Grant Act (CCDBG), signed into law by President Obama in November, 2014, re-authorizes the Child Care and Development Fund (CCDF) through FY 2020, and contains many important health, safety, and quality initiatives. The new law recognizes the importance of high quality care to child development, and imposes a number of requirements that support continuity of care and increase the safety and quality of New York’s child care for working families and their children. These improvements come at a cost. New York must increase its investment to meet these new standards if it is going to maintain funding for the families currently served by the child care subsidy program. An analysis of what the law requires and why increased investment is needed follows:

- Part I identifies those areas where investments will need to be made to comply with the health and safety provisions of the federal law. The New York State Division of the Budget has estimated that the cost of implementing these requirements is \$90 million dollars.
- Part II analyzes the statutory and regulatory changes that will have to be made to comply with the sweeping programmatic changes that are required by the federal law. These changes are required as a condition of continued CCDBG funding and expand eligibility to assure continuity of care. If New York is to implement these changes without a loss of subsidy slots, an investment of an additional \$100 million will be required.
- Part III presents a recommendation to maximize the use of subsidy dollars by exempting public assistance recipients with a child under the age of one from the public assistance work requirements.

A. INVEST \$190 MILLION TO IMPLEMENT CCDBG REQUIREMENTS WITHOUT LOSS OF SLOTS

The attached estimate prepared by the Office of Children and Family Services (OCFS) and the Division of Budget indicate the costs of implementing just the criminal background checks, inspections, and training required by the federal law will exceed \$90 million annually. New York expects to receive just over \$14 million from the federal government to implement the law, and the Governor's budget adds \$10 million for implementation. This is not enough.

As set forth in part B, below, in addition to the health and safety requirements, the reauthorized federal CCDBG requires a 12 month eligibility period (regardless of change in income unless income goes over 85% of State Median Income); a phase out of eligibility if at certification the family is at or above 200% of poverty, portability of subsidies among counties, mandatory paid absences (now a county option), and guaranteed child care for homeless families. DOB has not put a number on this, but without massive investment it is clear that meeting these new requirements will take subsidies from families unless a significant increased investment is made. An additional \$100 million is a conservative estimate

i. **At Least \$90 Million is needed for New York to Comply with the Health and Safety Requirements of the CCDBG.**

The CCDBG:

- o *Requires that all licensed and legally-exempt providers submit to criminal background checks from the FBI, National Sex Offender Registry, state criminal and sex offender registry (in each state the applicant has resided for the past five years), the child abuse and neglect registry (in each state the applicant has resided for the past five years), and the National Crime Center. This new requirement is a significant expansion on current law, as New York State currently only requires background checks for licensed providers. In New York there are more than 220,000 regulated and legally exempt providers, as well as household members over the age of 18 that will be required to be checked at a cost of \$101.45 per person.*

Additionally, FBI fingerprinting checks are not currently required for providers in New York State. An additional 265,000 people will need to submit to background checks from New York State's sex offender registry alone, not including other checks now required.

The estimated cost to New York State for this is **\$24-\$28 million dollars.**

- o *Requires that New York State conduct annual, unannounced full inspections of all providers, including legally exempt providers. Currently only 20% of the 47,000 legally exempt providers who receive subsidies are inspected every year. Taking effect no later than November 19, 2016, the law also requires that the ratio of licensing inspectors must be maintained at sufficient levels to support regular inspections. The new law requires 25,000 additional inspections per year at a cost of **\$34 million.***

- *Imposes new professional development requirements for all child care providers.* The law requires a mandatory pre-service orientation and ongoing health and safety training for all child care staff, in ten topic areas, including first aid and Cardiopulmonary Resuscitation (CPR). The estimated cost of providing just the first aid/CPR is \$125 per person. The estimated additional cost for these training requirements is **\$28 million dollars**.

Without increased funding, the new law will mean a loss of care for nearly 21,000 children statewide who are currently being served. Empire Justice Center joins Winning Beginning New York in asking for an investment that will allow the state to implement federal regulations without a loss of slots, and which will add new slots for unserved children.

ii. An Additional \$100 Million and Multiple Statutory Changes are Needed to Comply with the New Programmatic Requirements of the CCDBG.

The \$90 million required to implement the health and safety requirements without a loss of slots does not take into account the cost of implementing the following programmatic requirements of the federal law. The cost of these requirements will also require a loss in slots unless they are fully funded at \$100 million.

- **Twelve Month Eligibility Period**

The federal law at 42 USC 9858c(c)(2)(N) requires a minimum period of 12 month eligibility for a child care subsidy regardless of changes in income (unless income exceeds 85% of SMI) [98.21(a)(1)(i)]¹⁷ and regardless of a temporary change in work (including time-limited, family, parental or sick leave, interruptions in seasonal work, student breaks, reduction in work or education hours, cessation of work or training that does not exceed three months) [98.21(a)(1)(ii)]. The proposed federal regulations also state that copayments may not be increased during that 12 month eligibility period, but may be reduced if the family self-reports a reduction in income. [98.21(a)(3)].

OCFS says in its proposed state plan that it will be seeking statutory authority to make this change. [OCFS plan at 3.3.1, pp. 65-67].¹⁸

Recommendation: To comply with federal law, New York must amend the Social Services Law to require a minimum eligibility period of 12 months regardless of changes in income (unless income exceeds 85% of SMI), or temporary changes in work or training (including but not limited to time-limited, family, parental or sick leave, interruptions in seasonal work, student breaks, reduction in work or education hours, AND cessation of work or training that does not exceed three months).

Recommendation: The Social Services Law must also be amended to state that copayments may not be increased above the amount set when eligibility was determined until the next 12 month redetermination, and that copayments may be decreased if the family reports a reduction in income.

- **Graduated Phase-Out of Assistance**

The CCDBG requires that families be recertified annually. When a family recertifies and has income over the state eligibility standard, but below 85% of state median income, the state must provide a graduated phase out of assistance. This can be done by providing assistance for a specific period of time before termination, or establishing an “exit threshold,” such as allowing families to stay on child care assistance until they reach 85% of SMI. In New York, 85% of SMI for a family of three is \$5021 per month, and 200% of poverty, the current highest eligibility level, is \$3348. [OCFS plan at pp.56, 70].

The OCFS plan states that OCFS will propose legislation to amend the Social Services Law to comply with this CCDBG requirement, but does not indicate what choices will be made. [OCFS plan at § 3.1.5 at p.56].

Recommendation: To comply with federal law, New York must amend the Social Services Law to provide families whose income exceeds the local district eligibility standard at recertification, with a phase out of assistance. We recommend that families be permitted to remain eligible for a subsidy for 12 months or until the family income exceeds 85% of state median income, whichever occurs first.

- **Changes in Residency Across Counties**

The 12 month eligibility requirement of the CCDBG means that child care will need to be continued regardless of whether a family moves to another county within the state. The proposed federal regulations underscore the need for addressing this issue, stating that children shall be considered eligible and will continue to receive child care services regardless of a change of residency within the state. 98.21(a)(1)(ii)(G). This is not an issue for most states, which have state administered child care programs.

However, in New York, this will be a significant change because individuals lose eligibility when they move from a district, and must reapply in their new district of residence. As the attached fair hearing illustrates (FH#7155859Y), it can be a shocking revelation for low income families that move to be closer to their work, or to take advantage of affordable housing that the move has cost them their child care subsidy. In this fair hearing, the Appellant, a single mother with a disabled child, and working full time, moved to Schenectady County believing that her child care subsidy would simply be continued from her prior county of residence. Instead, she was required to go to the end of the wait list, causing her to fall behind in her rent and utilities as she struggled to pay for child care on her own.

Adopting this change will require significant administrative adjustments in New York. There are only five other county administered states in the country where families who move to a new county lose their subsidies. In three of those states subsidies are protected across counties in some circumstances: if the move is in a metropolitan area encompassing a number of counties (Colorado), if the move is to a county that falls within the jurisdiction of the same multi-county workforce development board (Texas), or if the move is to a county that is in the same Early Learning Coalition as the former county of residence (Florida).¹⁹ In Minnesota, subsidies are continued for two months after the move.²⁰

In Colorado, options that are being considered to cover the cost of a subsidy for a family that moves within the 12 month period are: 1) requiring the county that authorizes the family at the beginning of an eligibility period to continue to pay for the subsidy throughout the eligibility period (as they should already be budgeting for a 12-month period of care), or 2) having the state hold back a portion of the allocation annually that is usually distributed to counties to later reimburse those counties that have clients move in from another county to cover the unbudgeted costs of an already-eligible family.²¹

This doesn't address what happens at redetermination in the new county where there may be a wait list or a different income-eligibility threshold, but it mitigates the issue of 'within-eligibility period' moves. Also, in a state like New York, we will have to determine the copayment that will apply when the family moves to a new county if the counties have different copayment amounts. This challenge is not affecting all of the other county administered states. For example, Florida and Colorado have uniform copayment schedules across the state.²²

Recommendation: New York should amend the Social Services Law to require that the county that authorizes the family at the beginning of a 12 month eligibility period continue to pay for the subsidy throughout the eligibility period and until the next recertification period begins, even if the family moves. Given the new 12 month eligibility rule, the counties should already be budgeting for a 12-month period of care. Alternatively, subsidies for families that move could be paid for by an earmarked allocation in the state budget that is usually distributed to counties to later reimburse those counties that have clients move in from another county to cover the unbudgeted costs of an already-eligible family.

Recommendation: The parent copayment shall remain the same as the county from which the parent has moved, until recertification, when the copayment multiplier in the new county will apply. If there is a state earmarked allocation to fund inter-district moves, and the multiplier in the new county is smaller, the parent multiplier in the new county of residence will apply.

- **Homeless Families**

The CCDBG requires states to place greater emphasis on serving homeless families and children. Specifically, the federal law requires that after establishing initial eligibility, states must allow a grace period for homeless children to provide documentation, particularly with respect to immunizations; provide training to child care providers regarding services and supports for homeless children; and to conduct outreach to homeless families. 42 USC 9858c(c)(2)(I)(i)(I); (c)(2)(O)(i), (c)(3)(B)(i). The OCFS plan proposes to comply with the federal law by:

- Making changes in the Social Services Law to comply with CCDBG standards;
- Expand the definition of protective services to include homelessness, thereby making homeless families eligible for child care even if they are not receiving public assistance;
- Provide an enhanced subsidy rate to providers serving homeless children, with a minimum floor and a DSS option to go up to 15% over market rate;
- Provide homeless families with a 90 day grace period to comply with documentation requirements, so that placement is immediate;

- Require CCR & Rs to do outreach to homeless families in shelters, motels, and campgrounds or areas known to have doubled up families, to help those families access child care. [OCFS plan at 3.2.2, pp-62-65].

We are pleased to see that OCFS plans to expand the definition of protective services to include families experiencing homelessness. We recommend that the Social Services Law be amended to make clear that, by doing so, all children who are homeless will be afforded a child care guarantee, regardless of whether their parents are engaged in work activities or receive other services. We do not want any stakeholders to misinterpret the plan as requiring families who are homeless to receive child protective services or meet any other requirements in order to be eligible for child care.

The proposed federal regulations list a number of situations where copayments can be waived (below poverty level, children receiving protective services), and allows states to establish their own “other criteria” to waive copayments. 98.45(k)(4). The commentary to the regulations specifically mentions that this flexibility may be of help vulnerable homeless families. 80 Fed Reg. 80515. The OCFS plan does not expressly address the payment of copayments by homeless families.

We recommend that child care copayments be waived for homeless families. The need to eliminate copayments for all homeless families is critical. Families who are homeless are often struggling to provide basic necessities for their children and may need to make significant contributions to the cost of their care in a homeless shelter. This makes it very difficult for them to accumulate enough income to move out of shelter. Therefore, assistance with child care will help alleviate homelessness.

Recommendation: New York should amend the Social Services Law to provide that:

- Homeless families must be given categorical eligibility and priority for child care subsidies, regardless of whether they are working, looking for work, looking for housing, or engaged in other services;
- Copayments should be waived for homeless families;
- The enhanced rate for child care for homeless families should not be a local option;
- The enhanced rate for the payment of child care for homeless families should be uniform across the state.

● **Payment For Absences**

The federal law requires that a state’s provider payment practices support the fixed cost of child care by delinking payment rates from occasional absences. 42 USC 9858c(c)(2)(S)(ii). The proposed federal regulations at 98.45(m) allow states to do this by paying providers by enrollment rather than by attendance; providing full payment as long as a child attends 85% of the time; or providing full payment so long as the child has no more than five or fewer absences in a four week period.

The OCFS plan notes that 50 out of 58 counties already pay for absences. [OCFS plan at 4.5.1, 4.5.2. pp.87-90]. However, the representation masks the fact that thirty-five of those districts will only pay for absences if the provider has a contract with the district.²³ Many districts pay their contracted providers at a rate below market rate, meaning that the provider has to make a difficult decision

balancing whether to be paid less, but compensated for absences, or paid more and not be compensated for absences.

OCFS has acknowledged that it will need to establish regulations requiring that all districts pay for a minimum number of absences for regulated providers. We recommend that this protection be put in statute.

Recommendation: New York should amend the Social Services Law to require that, just as for private pay families, payment should be based on enrollment rather than attendance. Alternatively, we suggest that the legislature pass A.6568 (Rosa)/S.5009 (Felder), which requires districts to pay for at least 12 absences in a six month period to provide some modicum of economic stability for child care providers.

- **Fluctuations in Earnings**

The CCDBG says that states must take into account irregular fluctuations in earnings. 42 UCS 9858(c)(2)(N)(i)(II). The OCFS plan reports that New York is in compliance with this requirement already because New York averages income for a period of not less than one or more than three months, and permits averaging between 3-6 months if income fluctuates significantly. [OCFS plan at 3.1.6, p. 58]

The proposed federal regulation at 98.21(c) says that “states must ensure that temporary increases in income, including temporary increases that result in monthly income exceeding 85% of SMI, do not effect eligibility or family copayments.” The commentary to the proposed federal regulations (p. 80486) permits 12 month income averaging. This is consistent with the new 12 month eligibility period, and also allows states to disregard short term overtime pay and receipt of income which is not indicative of a permanent increase in income.

Recommendation: New York should amend the Social Services Law to adopt the more generous 12 month income averaging provision permitted by federal law, and disregard short term overtime pay which is not indicative of a permanent increase in income.

- **Definition of Special Needs Child**

Federal law requires that children with special needs be given priority in the provision of child care services. The new federal law provides a definition of “special needs child” that is clear and comprehensive. 42 UCS 9858n(4) and proposed regulation 98.2. We commend the commitment that OCFS has made to improve the administration and coordination of care to special needs children, by working with advocates, unions, staff from non-profit centers, and pediatricians to revise the very outdated administrative directive at 91 ADM-34, setting for state policy on payment for children with special needs. The definition of a special needs child in the state plan [OCFS Plan at 1.4.1, p.19; 3.1.1 (b), p. 52 and 3.2.1(a), p. 62] does not conform to the new definition in federal law. New York State’s definition of a special needs child currently in regulation at 18 NYCRR 415.1(c) needs to be revised to conform to the new federal definition. This can be done by statute or regulation.

Recommendation: New York should amend the Social Services Law and/or regulations to define special needs child to be consistent with federal law.

- **Market Rate**

The CCDBG permits states to establish payment rates using an alternative methodology other than a market rate survey, such as a cost estimation model. 42 USC 9858C(c)(4)(B)(i),(ii). New York State has indicated in its plan that it will utilize a market rate survey. [OCFS Plan at 4.2, pp 78-81]. New York should maintain rates sufficient to support quality care, and consider restoring payment rates to the 75th percentile of market rate. The federal regulations discourage states from setting reimbursement rates below the 75th percentile and will require states that do so to demonstrate that the lower rate will allow CCDF families to purchase care that is of comparable quality to care that is available to families with incomes above 85% of SMI. 80 Fed,Reg. 80514.

Additionally, New York should explore the use of an alternate method of setting payment rates which takes into account the complexities of child care financing, particularly the effect that increased rates only work if there is full enrollment; and that the tuition paid by small centers (under 100 children), which constitute the majority of centers in New York State, find it increasingly difficult to meet high quality standards at the current market rates.

The Provider Cost of Quality Calculator (PCQC) is a new, easy-to-use, dynamic web-based tool that calculates the cost of quality-based on site-level provider data.²⁴ The tool helps state policymakers understand the costs associated with delivering high-quality early care and education. The tool can demonstrate whether there is a gap between the cost of providing quality services and the revenue sources available to support a program. Knowing the size of the gap at different quality levels for various provider types can inform the design of financial support and incentive packages.

The PCQC is useful to States that have a Quality Rating and Improvement System (QRIS) and to States that want to understand the cost of operating a particular type of quality program, such as prekindergarten. The tool can model the cost of quality for any jurisdiction (state, county, city). A user can manage and share multiple scenarios and provider profiles, and store and print reports. Several states, including Washington, Rhode Island, and Ohio have used the PCQC to develop a set of dynamic models to estimate the cost of operating early learning programs at various levels of quality consistent with the state's QRIS.²⁵

Recommendation: New York should set its payment rates in statute at the 75th percentile of market rate.

Recommendation: New York should fund a cost modeling study that will support the development an alternative method of setting payment rates that will support high quality infant and toddler care and quality care for 3-5 year olds.

- **Equal Access – Child Care Copayments**

The commentary to the proposed federal regulation state that to assure equal access to child care, child care must be affordable, and recommends that parent copayments do not exceed 7% of household income. 80 Fed.Reg. 80515. The OCFS plan states that in New York copayments are affordable because the state regulation limits copayments to 35% of income over poverty. [3.4.5, p.73]. As set forth more fully below, a 35% copayment is not an affordable copayment, especially for families over 150% of poverty. In twenty-two counties in New York State, families pay 17.5% of their income at 200% of poverty. As indicated by attached chart A, for lower income families the percentages are slightly better, but even families at 150% of poverty pay nearly 12% of their income if they reside in counties with 35% multipliers.

As indicated at page 71-72 of the proposed New York State plan [OCFS Plan at 3.4, pp 69-73] , and the attached chart B, only five counties have parent copayments that are at or below 7.5% for families at 200% of poverty.

This disparity exists because of the Office of Children and Family Services (OCFS) regulation at 18 NYCRR 415.3 [e] [3] sets forth the formula for calculating copayment amounts that gives social services districts total discretion to choose a multiplier between 10% and 35% that is then applied to the family's income above the state income standard (the equivalent of the federal poverty level) to determine the household's copayment amount. The result is that the larger the multiplier chosen by the county, the smaller the child care benefit received by the family. The inequity in the child care benefit offered to similarly situated families (same family size, same income) varies by as much as 300% depending on the county in which a family resides.

The inequity is vast across New York. As indicated by the attached chart B, in

- three social services districts parents pay 10% of their income over the poverty level as their child care copayment;
- three districts parents pay 15% of their income over poverty;
- twelve districts, parents pay 20% of their income over poverty;
- fourteen districts, parents pay 25% of their income over poverty;
- one district parents pay 27% of their income over poverty;
- two districts, parents pay 30% of their income over poverty; and
- twenty-two districts, parents pay 35% of their income over poverty.

It's time to address this inequity. Despite clear guidance in New York's Social Services Law 410-x(2)(a) requiring that families be provided "equitable access" to child care funds, and that parent copayment should be "based upon the family's ability to pay" SSL 410-x(6), this standardless formula has been in place, unchanged, since at least June 29, 1987, when the New York State Department of Social Services, the OCFS predecessor agency, directed all social services districts to adopt the methodology by June 1, 1988.

A bill sponsored by Assemblywoman Titus and cosponsored by fifteen other Assemblymembers (A.4207), would ameliorate these inequities by providing that no family could be required to pay more than 10% of their gross income for child care. This bill still permits counties to choose their multiplier, but it imposes a second step in the copayment calculation – if the resulting number exceeds 10% of the family’s gross income, the copayment is adjusted downward to that number. New York City actually implemented such a cap from 2007-2009,²⁶ but ended up adjusting the cap upward from 10% to 12% in May 2009²⁷ and then to 17% in 2011,²⁸ rendering the cap essentially meaningless.

Recommendation: New York should amend the Social Services Law to adopt the language in A.4207.

- **Eliminate Local District Options**

OCFS has proposed a number of positive improvements in the administration of child care subsidies, but has chosen to make them local district options. Among them are:

- provide an enhanced subsidy rate to providers serving homeless children, with a minimum (unspecified) floor and a DSS option to go up to 15% over market rate (§§ 3.3.2 and 4.6.2 pp. 64 and 94);
- allow three months of child care for families engaged in job search, with a local option to go to six months; (§§ 3.3.2 and 4.6.2 pp. 64 and 94);
- require a minimum enhanced rate for payment of child care during non-traditional hours, with a minimum rate of 5% and a local option to go to 15%. (§§ 3.3.2 and 4.6.2 pp. 64 and 94).

Recommendation: The Social Services Law should be amended to assure that these positive changes are applied statewide.

Overall Recommendation: IF NEW YORK IS TO IMPLEMENT THESE CHANGES WITHOUT A LOSS OF SUBSIDY SLOTS, AN INVESTMENT OF AN ADDITIONAL \$100 MILLION WILL BE REQUIRED.

- iii. **Prioritize Distribution of Scarce Child Care Dollars to Working Families: Exempt Parents of Very Young Children from the Welfare Work Rules when there is not Enough Funding to Serve All Eligible**

Last year the New York State Assembly introduced A.1805 (Titus), which would have prioritized the use of child care funds to eligible parents who were employed by allowing unemployed parents on public assistance to choose a one year work exemption in social services districts where there was not enough funding to serve all eligible working families. Had the bill passed the Senate (S.5176 [Avella]), more low income working families would have subsidies today. This is because allowing one parent on public assistance to choose an exemption frees up three slots for working families. The details of that calculation are explained below.

Every year OCFS allocates the funding in the New York State Child Care Block Grant (NYSCCBG) to local social services districts according to a formula that is based on the average level of annual child care claims for the last five years, which is then reduced if the county has unspent roll-over child care block

grant funding exceeding a certain percentage from the prior years.²⁹ The allocations which go to each district are not sufficient to serve all eligible families. The decisions regarding who to serve is in part determined by the law, which guarantees child care to certain categories of families, and in part based on district option. With respect to those families who are not guaranteed child care, OCFS allows districts to prioritize the use of their remaining limited funds in the county plan which is filed with OCFS.

Three categories of families are guaranteed a child care subsidy:

- those on public assistance;
- those under 200% of poverty who have left public assistance in the prior year for work or because of increased child support; and
- those who are eligible for public assistance but choose only to receive a child care subsidy.

Between 2009 and 2014, the number of children on public assistance in New York State increased by over 10,000, from 288,972 to 299,378,³⁰ while public funding for subsidies declined. Since funding for child care has increased only \$30 million since 1999, there is not enough funding to provide child care for children on public assistance and continue to serve the same number of eligible working families. The cost of an additional 10,000 slots, is approximately \$72 million. When funds run out, the families that do not have a guarantee – working families with incomes under 200% of poverty who have not been on public assistance in the prior year – who are most likely to lose their subsidies. In Suffolk County nearly 2,000 children with working parents lost their subsidies when the county lowered eligibility to 100% of poverty in late 2012. Because the cost of child care often consumes a higher percentage of family income than rent or a mortgage,³¹ most of these families were immediately thrown into financial crisis.

The system is further strained because the public cost of a subsidized child care slot, averaging \$7,200 per year, is entirely paid with public funds when the recipient of a subsidy is on public assistance.³² Public assistance recipients are required to participate in work programs as a condition of receiving assistance and are guaranteed child care subsidies to make it possible for the parent to work. Currently, under state statute and regulation, public assistance recipients are exempt from the work activities requirement only until their children are 3 months old.³³ After that, they are required to participate in work activities while their child attends fully-subsidized child care. Although there is evidence that work activities such as job search and work experience programs result in little or no economic gain for these families,³⁴ New York State prioritizes spending its limited child care dollars to support these activities when there is not enough funding to support low income working families with real jobs.

Working families with incomes over the poverty level, on the other hand, contribute to the cost of their subsidized child care by making copayments. For a low income working family, the state pays only part of the cost of child care, not the whole cost of care as they would for a family receiving public assistance. Specifically, a working family is expected to pay a percentage of the income they earn over the poverty level toward child care. The county then pays the difference between the family share and the actual cost of care, up to the market rate established by OCFS.

Cost Analysis:

Each Infant Slot from an Exempted Public Assistance Parent Creates Three Slots for Working Families

As indicated in the table below, the funding that fully supports one infant slot for a working public assistance recipient with subsidized child care would actually fund three slots for working families, because the cost is shared between the government and low income families.³⁵ For example, in Erie County, infant care costs the county \$9,100 per year for a public assistance recipient, but a child care subsidy for a working family with a preschool age child will cost the county only \$3,645. This means that the amount of money saved by Erie County from one public assistance family that does *not* require full-time infant care can be allocated to pay for child care subsidies for 2.5 working families in need of preschool aged care, or 2.3 working families in need of infant care. In Broome County and a multitude of other smaller and predominately rural counties, the savings from one less public assistance household in need of infant care would fund 3.7 child care subsidies for working families of preschool aged children.³⁶

The Assembly bill addressed this issue by shifting child care dollars that are being spent on welfare recipients in programs like job search and workfare to low income working families with real jobs. This was done by amending §410-x of the social services law to maximize and target child care subsidies to low income working families who are employed when local districts are unable to provide subsidies to all who are eligible. Specifically, the bill provided that when a social services district does not have sufficient funding to serve all eligible working families under 200% of poverty,³⁷ the district must offer a twelve month work exemption to welfare recipients who are personally providing care for a child less than one year of age.

We estimate that this cost neutral action will make a total of \$5.38 million in child care dollars, currently being used to support child care assistance for welfare recipients, available to provide child care subsidies to parents who are employed. In addition, we estimate an additional \$3.96 million in administrative savings through the elimination of the connected work program expenses (e.g. expense of the workfare or soft skills program). **Total funds freed up would be \$9.34 million.** A detailed chart explaining this cost savings appears below.

Those dollars will be stretched even further because working families have copayments and welfare recipients do not. As a result, each child care slot transferred from a welfare recipient will generate 2.4 slots for a working parent. In addition, by reducing the amount of administrative time spent coordinating job search and workfare activities, local districts would see savings in administrative costs statewide.

We need to protect the jobs of low income working families! New York is facing a crisis of insufficient funding for child care subsidies for the working poor which undermines their ability to stay in the work force and off welfare. Reintroducing and passing this will free up the subsidized child care funding necessary to help maintain and expand slots for working families.

Comparison of Public Funding of Child Care Costs for Public Assistance (PA) and Working Families: High Family Share Counties³⁸					
	Suffolk³⁹	Erie⁴⁰	Broome⁴¹	Orange⁴²	NYC⁴³
Annual cost: full-time infant care	\$14,300	\$9,100	\$7,800	\$10,400	\$9,100
Annual cost: full-time preschool aged care	\$13,000	\$8,840	\$7,280	\$9,880	\$7,800
For each infant of a PA family, the county pays the full cost of care.	\$14,300	\$9,100	\$7,800	\$10,400	\$9,100
Working families contribute to their child care costs by paying a % of their income above the poverty level.	30%	35%	35%	35%	35%
Annually, a working family contributes to the cost of care:	\$4,452.75	\$5,194.88	\$5,194.88	\$5,194.88	\$5,194.88
For each infant of a working family, the county pays	\$9,847.25	\$3,905.13	\$2,605.13	\$5,205.13	\$3,905.13
The cost of one fully subsidized PA infant slot will purchase this many infant slots for a working family	1.45	2.33	2.99	2.00	2.33
For each preschool child of a working family, the county pays	\$8,547.25	\$3,645.13	\$2,085.13	\$4,685.13	\$2,605.13
The cost of one fully subsidized PA infant slot will purchase this many pre-school slots for a working family	1.67	2.50	3.74	2.22	3.49

Recommendation: Prioritize the use of child care funds to eligible parents who are employed by allowing unemployed parents on public assistance to choose a one year work exemption in social services districts where there was not enough funding to serve all eligible working families.

Thank you once again for the opportunity to testify today. Please feel free to contact me should you have any questions.

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¹ See <http://www.empirejustice.org/assets/pdf/publications/reports/turn-up-the-heat/turn-up-the-heat-report.pdf>.

² The increase in homelessness is reported in National Alliance to End Homelessness, "The State of Homelessness in America, 2014," and in U.S. Department of Housing and Urban Development, "The 2014 Annual Homeless Assessment Report to Congress" October 2014. Regarding the continuing rise in homelessness in 2015, see, for example, Hansi Lo Wang, "New York City Struggles to Keep up with High Homeless Numbers," an NPR report, August 2015.

³ See, for example, Hannah Emple, *Stable Housing is Unequivocally Good for Children and Families*, Children Health Watch, 2012; Maya Brennan, Patrick Reed, and Lisa A. Sturtevant, *The Impacts of Affordable Housing on Education: A Research Summary*, Center for Housing Policy, November 2014; Rebecca Cohen, *The Impacts of Affordable Housing on Health: A Research Summary*, Center for Housing Policy, May 2011.

⁴ National Law Center on Homelessness & Poverty, *Beds and Buses: How Affordable Housing Can Help Reduce School Transportation Costs* at 4, September 2011.

⁵ The FMR is "the 40th percentile of gross rents for typical, non-substandard rental units occupied by recent movers in a local housing market." It is thus a rent level for decent, modest housing.

⁶ Governor Andrew Cuomo, State of the State and Budget Address (January 13, 2016). Available online at <http://www.governor.ny.gov/news/video-transcript-built-lead-governor-cuomos-2016-state-state-and-budget-address>

⁷ Orange County Department of Social Services, "Proposal for Revised Shelter Supplement," 2008.

⁸ A full copy of the report can be found on our website at

<http://www.empirejustice.org/assets/pdf/publications/reports/asset-tests-report-driven-into-poverty-how-new.pdf>.

⁹ Assets & Opportunity Scorecard, Lifting Asset Limits in Public Benefit Programs, Corporation for Enterprise Development, available at <http://scorecard.assetsandopportunity.org/2014/measure/lifting-asset-limits-in-public-benefit-programs>.

¹⁰ New York Soc. Servs. Law § 131-n.

¹¹ Except for households in which any member has been disqualified from receiving assistance due to an Intentional Program Violation or other sanction. Office of Temporary and Disability Assistance, Administrative Directive, 07 ADM-09, December 14, 2007, available at <https://otda.ny.gov/policy/directives/2007/ADM/07-ADM-09.pdf>.

¹² Rolf Pendall, *How Access to Cars Could Help the Poor*, The Atlantic: Citylab, April 1, 2014, available at <http://www.citylab.com/commute/2014/04/why-poor-still-need-cars/8769/>.

¹³ Americans with Disabilities Act, 42 U.S.C. § 12132.

¹⁴ 42 U.S.C. § 12131(1)(B).

¹⁵ 42 U.S.C. § 12132.

¹⁶ 28 CFR § 35.130(b)(8). The regulation does provide an exception when "such criteria can be shown to be necessary for the provision of the service, program, or activity being offered." *Id.*

¹⁷ All federal regulatory citations are to the proposed regulations implementing the CCDBG and can be found at 80 Fed. Reg. 80 Fed. Reg. 80465 (12/24/2015).

¹⁸ OCFS has promulgated a proposed plan advising the federal government how it will implement the new law. That plan can be found at: [http://ocfs.ny.gov/main/childcare/stateplan/FFY%202016-2018%20Draft%20Child%20Care%20Development%20Fund%20\(CCDF\)%20Plan.pdf](http://ocfs.ny.gov/main/childcare/stateplan/FFY%202016-2018%20Draft%20Child%20Care%20Development%20Fund%20(CCDF)%20Plan.pdf)

¹⁹ Florida has 31 Early Learning Coalitions and 67 Counties. 1/21/16 e-mail from Phyllis Kalifeh, Ed.D, President and CEO, The Children's Forum, Tallahassee, Florida. On file at Empire Justice.

²⁰ Minnesota DHS Policy Manual §8.2 . available at

http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=ccap_0812

²¹ 1/21/16 email from Bill Jaeger, Vice President, Early Childhood Initiative, Colorado Children's Campaign. On file with Empire Justice.

²² 1/23/16 e-mail from Phyllis Kalifeh, Ed.D, President and CEO, The Children's Forum, Tallahassee, Florida; 2/1/16 e-mail from Lauren Heintz, Policy Specialist, Clayton Early Learn (Denver, Co.) Both e-mails are on file at Empire Justice.

²³ Betterley, et. al. *Still Mending the Patchwork, A Report Examining County by County Inequities in Child Care Subsidy Administration in New York State*, Empire Justice Center (2014), available at <http://www.empirejustice.org/assets/pdf/publications/reports/still-mending-the-patchwork/still-mending-the-patchwork.pdf>

²⁴ Available at:

<https://www.ecequalitycalculator.com/Login.aspx?ReturnUrl=%2f&AspxAutoDetectCookieSupport=1>

²⁵ See: <http://www.earlychildhoodfinance.org/finance/cost-modeling>

²⁶ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County312.pdf>

²⁷ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County310.pdf>

²⁸ <http://www.ocfs.state.ny.us/main/childcare/plans/New%20York%20County/New%20York%20County305.pdf>

²⁹ According to 13-OCFS-LCM-06, the allocation for SFY 2013-14 “ reflects each LDSS’s proportionate share of the block grant funds based on the average level of annual child care claims for the FFY 2007-08 through FFY 2011-12. Rollover of unspent NYSCCBG funds is taken into account for those LDSSs that meet the following two criteria:

- If the LDSS’s FFY 2011-12 rollover into FFY 2012-13 is more than 15 percent of its FFY 2011-12 NYSCCBG claims; AND
- The LDSS’s FFY 2011-12 rollover amount exceeded 75 percent of its FFY 2010-11 rollover amount. For any LDSS meeting both of these criteria, the base allocation is first reduced by an amount equal to 40 percent of the rollover amount from FFY 2011-12 into FFY 2012-13 (but not to exceed the five-year-average-claim base allocation).

The statewide allocation reduction is then redistributed among LDSSs as follows. For LDSSs whose FFY 2011-12 NYSCCBG claims exceeded the sum of their SFY 2013-14 base allocations (as adjusted) and FFY 2011-12 rollover amounts, the amount of allocation reduction is redistributed on a pro-rated basis, proportionate to counties’ share of the total excess claims. The sum of each LDSS’s five-year-average-claim base allocation, allocation reduction and redistribution is its final SFY 2013-14 allocation.” 13-OCFS-LCM-06, *New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2013-2014*, NYS OFFICE OF CHILDREN & FAMILY SERVICES (May 29, 2013), available at

http://www.ocfs.state.ny.us/main/policies/external/OCFS_2013/LCMs/13-OCFS-LCM-06%20%20New%20York%20State%20Child%20Care%20Block%20Grant%20Subsidy%20Program%20Allocations%20for%20State%20Fiscal%20Year%202013%20-%202014.pdf (last accessed April 4, 2014).

³⁰ Compare Office of Temporary and Disability Assistance Monthly Caseload Statistics Annual Summary from 2008 when the average number of recipients on Temporary Assistance was 510,160, including 288,972 children, *Temporary and Disability Assistance Statistics, Table A-5* (Dec. 2008), available at <http://otda.ny.gov/resources/caseload/2008/2008-12-stats.pdf> (last accessed April 4, 2014), with the Monthly Caseload Statistics Annual Summary from 2014 when the monthly number of recipients on Temporary Assistance was 565,859 and the number of children on Temporary Assistance was 299,378, *Temporary and Disability Assistance Statistics, Table A-5* (Dec. 2013), available at <http://otda.ny.gov/resources/caseload/2013/2013-12-stats.pdf> (last accessed April 4, 2014).

³¹ See Diana M. Pearce, *The Self-Sufficiency Standard for New York State 2010*, CENTER FOR WOMEN’S WELFARE, UNIVERSITY OF WASHINGTON SCHOOL OF SOCIAL WORK (June 2010), available at <http://www.fiscalpolicy.org/SelfSufficiencyStandardForNewYorkState2010.pdf> (last accessed April 4, 2014).

³² Average cost of subsidized care per child provided by OCFS. E-mail from Janice Molnar, Office of Children and Family Services to Susan Antos, dated 10/07/13 (on file with the author) .

³³ N.Y. SOC. SERV. LAW § 410-w(3); 18 NYCRR § 385.2(b)(7).

³⁴ D.Greenberg, V Deitch & G. Hamilton, *Welfare toWork Program:Benefits and Costs: A Synthesis of Research*, pp. ES-4, ES-11 (MDRC, February, 2009). Available at: http://www.mdrc.org/sites/default/files/full_611.pdf (last accessed May 2, 2014) .

³⁵ These calculations are conservative because the average cost of a subsidy includes the costs for a fully subsidized slot of an family on public assistance and the cost of a slot of a working family that has a copayment.

³⁶ In the accompanying chart, the estimate of child care slots for working families that can be leveraged from a public assistance infant care slot was calculated by dividing the cost of one full-time infant care slot, fully paid for by the county, by the county’s share of child care costs for a working family with a child in a full-time preschool or infant care program. The market rates are separated into five distinct geographical groups and a representative county was highlighted in each of these geographical groups. The calculation was run separately for each of the five different market rate groups at two different levels—to see how many working family infant care slots can be funded from one public assistance infant slot, and how many working family preschool slots can be funded from one public assistance infant slot because the cost of care is different between different age groups. Infant care is the most expensive level of care, and preschool aged care is the most commonly used category of care. Because the number we used as the cost per slot is actually the average cost spent on public assistance and non-public assistance families, it is actually likely that each public assistance infant slot will purchase more slots than are indicated in our conservative calculations.

³⁷ The most recent information available indicates that New York City as well as, Cattaraugus, Cayuga, Chemung, Cortland, Dutchess, Fulton, Greene, Madison, Niagara, Ontario, Orange, Oneida, Livingston, Monroe, Schoharie, Suffolk, Washington, and Wayne Counties are not able to serve all eligible working families.

³⁸ Calculation conducted using market rates effective April 1, 2014 and copay percentages as of March 7, 2014. Family share and county share calculations are based on a household of three earning \$34,632.50 (175% of the 2014 state income standard/federal poverty level in effect as of June 1, 2014). The type of child care assumed for this calculation were the weekly rate for a registered family day care in two different age categories: infant (0-1.5 years), and preschool (3-5 years).

³⁹ Suffolk County lies in market rate group 1, with other downstate sub-urban counties. Group 1 includes Nassau, Putnam, Rockland, Suffolk and Westchester Counties.

⁴⁰ Erie County lies in market rate group 2, with other upstate urban and more expensive rural counties. Group 2 includes Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins and Warren Counties.

⁴¹ Broome County lies in market rate group 3, with other upstate rural and small counties. Group 3 includes a total of 38 counties: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming and Yates.

⁴² Orange County lies in market rate group 4, with other upstate high cost counties. Group 4 is made up of Albany, Dutchess, Orange and Ulster Counties.

⁴³ Market rate group 5 is solely comprised of the five boroughs of New York City.

Child Care and Development Block Grant (CCDBG) Act of 2014 New York State Impacts

The Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law by President Obama in November 2014. The New York State Office of Children and Family Services (OCFS) and the Division of the Budget (DOB) have generated estimates of the cost of compliance with the requirements of the reauthorization bill.

Without additional resources from the Federal government to implement the many new provisions of the law, the following costs will fall on states, local governments and child care providers:

Health & Safety Requirements: approximately \$90 million

- **Background Clearances: \$24 million to \$28 million**
 - In New York there are more than 220,000 regulated and legally-exempt providers as well as household members over the age of 18 that would be required to have a background check at a cost of \$101.45 per person.
 - The CCDBG Act requires providers be checked against a variety of databases including FBI fingerprinting, National Crime Information Center, National Sex Offender Registry, State criminal and sex offender registry, and child abuse and neglect registries in each state a provider or household member has resided in over the past 5 years.
- **Licensing and Regulatory Compliance: \$34 million**
 - The CCDBG Act requires annual, unannounced full inspections of all facilities, including legally-exempt providers. New York would be required to conduct more than 25,000 additional inspections each year.
- **Training and Professional Development: \$28 million**
 - The CCDBG Act includes a requirement for mandatory pre-service/orientation and "ongoing" Health and safety training for all child care staff in ten topical areas, including to First Aid/ Cardiopulmonary Resuscitation (1st Aid/CPR). In New York the cost of 1st Aid/CPR classroom training is estimated at \$125 per person.

Subsidy Program Impacts

- Without additional Federal funding, the new subsidy requirements (i.e. 12-month eligibility redetermination period and the graduated phase out of families leaving the subsidy program) may put states in the position of closing intake, or even closing active cases, to implement the new subsidy requirements.
- According to the Federal Office of Child Care only 17% of children in families who are eligible for CCDF subsidy receive it nationwide and, therefore, impacts to the subsidy program will further hinder states' ability to serve low-income working families.

**STATE OF NEW YORK
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**

REQUEST: October 19, 2015

**AGENCY: Schenectady
FH #: 7155859Y**

In the Matter of the Appeal of
[REDACTED]

from a determination by the Schenectady County
Department of Social Services

:
:
:
:
:
:
:

**DECISION
AFTER
FAIR
HEARING**

JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on December 7, 2015, in Schenectady County, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[REDACTED]

For the Social Services Agency

Kevin Backus, Fair Hearing Representative;
Kathleen Garbarini, Principal Examiner

ISSUE

Does the Commissioner have jurisdiction to review the Agency's Annual Plan Update to its Child and Family Services Plan by which the Appellant was placed on a waiting list for child care assistance?

FINDINGS OF FACT

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. On February 5, 2015, the New York State Office of Children and Family Services Deputy Commissioner of the Division of Child Care Services approved the Agency's Annual Plan Update to its Child and Family Services Plan. Per such update, the Agency determined to

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establish a waiting list for families whose cases were closed because the county did not have sufficient funds to maintain the current caseload.

2. On March 24, 2015, the New York State Office of Children and Family Services Director of Child Care Subsidy verified that the Agency may have applicants for child care assistance complete a screening form with financial information but need not accept applications for persons on a waiting list.

3. On April 6, 2015, the Agency began a waiting list for individuals seeking child care assistance.

4. On September 25, 2015, the Appellant completed a Waitlist Screening Form for Child Care Assistance seeking child care for her son, [REDACTED].

5. On October 19, 2015, the Appellant requested this fair hearing.

APPLICABLE LAW

Subdivisions (a), (b) and (f) of 18 NYCRR Section 358-3.1 provide as follows:

(a) An applicant or recipient has the right to challenge certain determinations or actions of a social services agency or such agency's failure to act with reasonable promptness or within the time periods required by other provisions of this Title, by requesting that the OAH provide a fair hearing. The right to request a fair hearing cannot be limited or interfered with in any way.

(b) If you are an applicant or a recipient of assistance, benefits or services you have a right to a fair hearing if:

(1) your application has been denied by a social services agency, or you have agreed in writing that your application should be withdrawn but you feel that you were given incorrect or incomplete information about your eligibility for the covered program or service; or

(2) a social services agency has failed to:

(i) determine your eligibility for a covered program or service with reasonable promptness or within the time periods required by other provisions of this Title;

(ii) issue or adjust your cash grant;

(iii) issue or adjust your SNAP benefits; or

(iv) authorize medical care or services for you; or

(3) your public assistance, medical assistance, SNAP benefits or services have been discontinued, suspended or reduced, or your public assistance, medical assistance or SNAP benefits have been increased; or

(4) the method or manner or form of payment of all or part of your public assistance grant has been changed, a restricted payment is being made or is being continued or a medical assistance authorization is restricted; or

(5) you object to the payee selected for a restricted payment; or

(6) your public assistance, medical assistance, HEAP or services are inadequate; or

(7) although there has been no change in the amount of your public assistance grant, medical assistance spenddown or SNAP benefits, you wish to challenge the social services

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agency's determination that the amount of one of the items used in the calculation of your public assistance grant, medical assistance spenddown or SNAP benefits has changed; or

(8) your request for restoration of any SNAP benefits lost less than one year prior to the request for restoration has been denied; or you do not agree with the amount of SNAP benefits restored or any other action taken by the social services agency to restore such benefits; or

(9) your SNAP benefits have been reduced, suspended or cancelled as a result of an order issued by the United States Food and Nutrition Service to reduce allotments because the requirements of states participating in the SNAP Program will exceed appropriations; however, in such case you have the right to a fair hearing only if you believe that your benefit level was computed incorrectly under Federal rules, or that Federal rules were misapplied or misinterpreted; or

(10) you are aggrieved by a mass change in the SNAP Program; or

(11) within a certification period, the amount of your SNAP benefits is inadequate and you have made the request for a fair hearing within such certification period; or

(12) your application for SNAP benefits has been denied or your SNAP benefits have been reduced or discontinued due to a determination that you are not exempt from SNAP Program work requirements and that you have failed to comply with work registration or employment and training requirements. You may request a fair hearing to review such determination including the determination of exemption status, the type of requirement imposed, or a social services agency's refusal to make a finding of good cause for failure to comply with such requirements if you believe that the finding of failure to comply was improper; or

(13) you are required to participate in a service, except when required to do so by court order; or

(14) you are an applicant for or a recipient of public assistance and you object to a social services agency determination that you are not exempt from work program requirements or to the determination that you are not work-limited as provided by section 385.2 of this Title; or

(15) you object to the amount deducted from your initial payment of supplemental security income as reimbursement of public assistance; or

(16) the amount you are being charged for a service has been increased and such increase is not based on a change in the fee or family share schedule; or

(17) you disagree with the amount of a claim for the overpayment of public assistance or the over-issuance of SNAP benefits, except if the amount of such claim has already been determined in accordance with Part 359 or 399 of this Title, by an administrative disqualification hearing, a waiver for an administrative disqualification hearing, a court determination or a disqualification consent agreement; or

(18) you are a recipient of medical assistance and you have reached a utilization threshold and your application for an exemption from or increase to such threshold has been denied; or

(19) you are participating in a work-related program or activity under Part 385 of this Title and you have a complaint regarding the calculation of your hours of participation in work experience or in work experience as part of community service; or

(20) you have been denied a waiver of public assistance program requirements under section 351.2(l) of this Title or an extension of such waiver has been denied or such waiver has been terminated or modified.

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(f) As an applicant or recipient you do not have the right to a fair hearing in all situations. For example, you do not have a right in the following situations:

(1) the Department of Health has discontinued payment to the medical facility in which you are or had been residing because the facility has been decertified from participation in the Medical Assistance Program; or

(2) your physician has ordered a change in the level of care being provided to you; or

(3) a utilization review committee has ordered a higher level of care; or

(4) the sole issue involving your receipt of medical assistance is a Federal or State law requiring an automatic change which adversely affects some or all recipients; or

(5) you are complaining about the amount of any lien taken by a social services agency;

or

(6) a local social services agency has demanded restitution, in accordance with the provisions of section 104 or 106-b of the Social Services Law, of public assistance paid, other than by a reduction of the public assistance grant; or

(7) you are complaining about the amount of a child support payment which is passed through to you; or

(8) your services have been discontinued as a result of a court order, or the court order which required the provision of services has expired; or

(9) you are a member of a class of public assistance recipients for whom either State or Federal law requires an automatic grant adjustment, unless the reason for your appeal is the incorrect computation of your grant; or

(10) you are a foster family care services recipient, a foster family caregiver, or a respite caregiver pursuant to section 505.29 of this Title, and a sponsoring agency terminates the foster family caregiver's or the respite caregiver's authority to provide foster family care services or a social services district or the Office of Children and Family Services or the Department of Health terminates its contract with a sponsoring agency; or

(11) you have been sent a request for contact notice in order to verify or clarify information during your SNAP certification period; or

(12) you have been sent a notice of missed interview informing you that you have missed a scheduled SNAP eligibility or recertification interview and advising you that it is your responsibility to reschedule the interview.

Office regulations at 18 NYCRR 415.2 govern eligibility for child care services. This section provides, in part, as follows:

Eligibility. The following families are eligible for child care services under the specified child care programs when such care is not otherwise available from a legally responsible relative or caretaker of the child in need of services and the care is a necessary part of a plan for self-support. For two-parent or two-caretaker families, each parent or caretaker must meet one of the eligibility criteria set forth in this subdivision.

- (a) **New York State Child Care Block Grant program.** A family will be eligible for child care services under the New York State Child Care Block Grant program, if the family meets one or more of the following criteria:

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- (1) Families which are guaranteed child care services. A social services district must guarantee child care services to a family which meets the criteria set forth in any subparagraph of this paragraph regardless of whether the social services district has any State or federal funds available under this program to pay for all or a portion of such costs. In accordance with subdivision (d) of this section, a district may set aside funds and/or establish priorities for families eligible for a child care guarantee.
 - (i) A social services district must guarantee child care services to a family who has applied for or is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 18 NYCRR Part 385. The guarantee applies to all of the eligible children of the parent(s) or caretaker relative(s) regardless of the child's status as part of the public assistance filing unit.
 - (ii) A local social services district must guarantee to applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child care subsidies in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this section, an eligible applicant for, or recipient of, public assistance benefits and who is employed, includes a person whose gross earnings equal, or are greater than, the required number of work hours times the state minimum wage. Recipients of child care subsidies under this section who are no longer eligible for public assistance benefits, shall be eligible for transitional child care described in subparagraph (iv) of this section as if they had been recipients of public assistance.
 - (iii) A social services district must guarantee child care services to a family which is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.
 - (iv) A social services district must guarantee child care services for a period of up to 12 consecutive months after the month in which a family's public assistance case closed or, for those who chose child care in lieu of public assistance, the month after the family is no longer financially eligible for public assistance, provided:
 - (a) the case closed or the family became financially ineligible for public assistance due to:

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- (1) increased income from either employment or child support;
or
 - (2) the family voluntarily ending assistance and their income is no longer within public assistance standards; and
- (b) the family received public assistance in at least three of the six months immediately preceding the case closing; or, for a family which chose child care in lieu of public assistance, was eligible for public assistance in at least three of the six months immediately preceding their ineligibility for public assistance; and
 - (c) the family includes an eligible child that is under the age of 13 who needs child care services in order to enable the child's parent(s) or caretaker relative(s) to be engaged in work as defined in section 415.1(o)(1) of this Part; and
 - (d) the family has income at or below 200% of the applicable State income standard.

This child care guarantee is available to eligible families for 12 months from the month after the family's eligibility for public assistance has terminated or ended. Families may ask for and begin to receive child care in any month during the 12 month period of the child care guarantee. The start date for eligibility may precede the date services were requested and cover any period during the 12 months of the guarantee.

- (2) Families that are eligible when funds are available. A social services district must provide child care services to a family eligible under any one of the subparagraphs of this paragraph, to the extent that the district continues to have funds available under either the district's allocation from the State Child Care Block Grant program or any local funds appropriated for such program subject to any priorities and set asides established pursuant to subdivision (d) of this section.
 - (i) A family which has applied for or is receiving public assistance when such services are needed for an eligible child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by social services official including orientation, assessment, or work activities defined in 18 NYCRR Part 385.
 - (ii) A family receiving public assistance when such services are needed for a child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

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- (iii) A family receiving public assistance when child care services are necessary:
 - (a) to enable a teenage parent to attend high school or an equivalency program; or
 - (b) for the child to be protected because the child's parent(s) or caretaker relative(s) is physically or mentally incapacitated or has family duties away from home necessitating his or her absence.
- (iv) A family with income up to 200 percent of the State income standard when the family is at risk of becoming dependent on public assistance and child care services are needed:
 - (a) for the child's caretaker(s) to be engaged in work as defined in section 415.1(o)(1) of this Part; or
 - (b) to enable a teenage parent to attend high school or an equivalency program.
- (3) Families that are eligible if funds are available under this program and if the social services district has listed such families as eligible in the district's consolidated services plan or integrated county plan. A social services district must provide child care services for an eligible child as defined in section 415.1(b) of this Title to a family eligible under this paragraph, to the extent that the district continues to have funds available under either the district's allocation for the State Child Care Block Grant program or any local funds appropriated for such program subject to any priorities and set asides established pursuant to subdivision (d) of this section, provided the social services district has listed such families as eligible families in the district's consolidated services plan or integrated county plan:
 - (i) A family receiving public assistance when child care services are necessary for a parent or caretaker relative to participate in an approved activity in addition to their required work activity.
 - (ii) A family receiving public assistance when child care services are necessary for a sanctioned parent or caretaker relative to participate in unsubsidized employment whereby the parent or caretaker relative receives earned wages at a level equal to or greater than the minimum amount required under federal and State labor law.
 - (iii) A family receiving public assistance or with income up to 200% of the State income standard when child care services are needed for the child to be protected because the child's caretaker is:

- (a) participating in an approved substance abuse treatment program, or in screening for or an assessment of the need for substance abuse treatment;
 - (b) homeless or receiving services for victims of domestic violence and needs child care in order to participate in an approved activity, or in screening for or an assessment of the need for services for victims of domestic violence; or
 - (c) in an emergency situation of short duration including, but not limited to, cases where the caretakers absence from the home for a substantial part of the day is necessary because of extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters, or providing chore/housekeeper services for an elderly or disabled relative.
- (iv) A family is receiving public assistance or has income up to 200% of the State income standard and child care services are needed for the child's caretaker to attend a two year program other than one with a specific vocational sequence leading to an associates degree or a certificate of completion, or a four year college or university program leading to a bachelors degree provided:
- (a) the program is reasonably expected to improve the earning capacity of the caretaker;
 - (b) the caretaker is and continues to participate in non-subsidized employment whereby the caretaker works at least 17 hours per week and earns wages at a level equal to or greater than the minimum amount required under federal and State labor law while pursuing the course of study; and
 - (c) the caretaker can demonstrate his or her ability to successfully complete the course of study.
- (v) A family with an open child protective services case when it is determined on a case-by-case basis that such child care is needed to protect the child.
- (vi) A family with income up to 200% of the State income standard when child care services are needed for the child to be protected because the child's caretaker is physically or mentally incapacitated or has family duties away from home necessitating his or her absence.

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- (vii) A family with income up to 200% of the State income standard when child care services are needed for the child's caretaker to participate in one of the following activities provided such activity is an allowable activity set forth in the social services district's consolidated services plan or integrated county plan and the district determines that the activity is a necessary part of a plan for the family's self-support.

Paragraph (r) of 18 NYCRR 415.1 defines "office" as the New York State Office of Children and Family Services.

Regulations at 18 NYCRR Section 415.2(d)(3) pertain to the local districts' ability to maintain waiting lists for child care assistance:

(i) If a social services district has set aside funds to serve one or more priority populations and all of the available funds that are not set aside are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee and which does not fall within the priority populations for the set asides or place the family on a waiting list for subsidies.

(ii) A social services district that has not established set asides must open a new case for an eligible family if the district has sufficient funding available to provide child care services to that family at the time the family is determined to be eligible. If the district does not have sufficient funding available because all of the available funds are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee or place the family on a waiting list for subsidies.

Regulations at 18 NYCRR Section 415.4(e)(4) and (6) state that 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 that the total participation of an individual district in all activities related to the provision of subsidized child day care must be no less than the participation level engaged in by such individual district on the effective date of this section, to be determined based on a review of expenditures for the calendar year January 1, 1990 through December 31, 1990. Each social services district must submit a child care services plan to the office for approval as part of the district's multi-year consolidated services plan or integrated county plan and any annual implementation reports, in the form and manner and at the times required by the office. A social services district must implement its child care services programs in accordance with the child care services plan approved by the office.

DISCUSSION

It is noted at the outset that the Appellant's fair hearing request was characterized by the Office of Administrative Hearings as a possible denial of child care. The Agency Representatives (ARs) contended that the Appellant's fair hearing request should be characterized as an "adequacy" issue rather than a denial because the Agency has taken no action to deny the Appellant's application for child care assistance. The ARs stated that, in February 2015, the Agency projected that there would not be sufficient funding to cover expenditures in the child care assistance program through the end of the year. In support of their testimony, the

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ARs presented certified financial records demonstrating that the Agency was expected to exceed expenditures under the New York State Child Care Block Grant program in the amount of \$776,988. Per information provided by the New York State Office of Children and Family Services, the Agency determined to amend its Child and Family Services Plan to reflect the option to provide a waiting list for persons seeking child care assistance whose cases had previously closed due to the Agency's inability to financially maintain the current caseload. The Agency's Annual Plan Update was approved by New York State Office of Children and Family Services on February 5, 2015. In support of their testimony, the ARs presented the 2015 Annual Plan Update to the Agency's Child and Family Services Plan and a February 5, 2015 letter from New York State Office of Children and Family Services Deputy Commissioner of the Division of Child Care Services to approve the 2015 Annual Plan Update. On April 6, 2015, the Agency began a waiting list for new applicants seeking child care assistance. The ARs stated that, upon the Appellant's request for child care assistance on September 25, 2015, she was advised to complete a Waitlist Screening Form for Child Care Assistance and was placed on the Agency's waiting list. The ARs noted that the Appellant is number 231 out of 274 clients on such waiting list. The ARs also presented an Agency letter which notifies all child care assistance applicants that:

"Based on the most recent review of expenditures in the day care program we have projected that we will not have sufficient revenues to support the number of children currently being served in the program. For this reason we are not accepting any new applications for the subsidized low income program. We have established a waiting list procedure that goes into effect with this action. If you wish to place your name on the wait list please complete the screening form and return it to the front desk."

The Appellant testified that she relocated from ██████ County, where she was previously in receipt of child care assistance, to Schenectady County on July 1, 2015. The Appellant stated that she initially believed that her child care assistance case would simply transfer to Schenectady County and was unaware of the requirement to reapply for such assistance. The Appellant stated that she received a letter of denial of child care services due to lack of funding. The Appellant stated that she is frustrated over the Agency's lack of funding for child care assistance because she is a single mother of a ██████ disabled child and must work full-time Monday through Friday each week. The Appellant stated that she is currently paying out-of-pocket for child care expenses in the amount of \$290.00 per week. She stated that she is falling behind in her other expenses, such as rent and utilities, to ensure that her son is in receipt of adequate daycare while she works. The Appellant testified that she has written letters to local senators and organizations seeking assistance in this matter but has not been provided with a resolution to the issue.

The ARs rebutted that the Agency has not issued a denial notice to the Appellant. The Appellant reviewed the notice she had received and conceded that the denial notice was issued by ██████ County Department of Social Services.

The Commissioner does not have jurisdiction to review the Agency's Annual Plan Update to its Child and Family Services Plan by which the Appellant was placed on a waiting list

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for child care assistance. The Commissioner's subject matter jurisdiction in fair hearings is limited to the above mentioned circumstances as set forth in 18 NYCRR 358-3.1. The facts and circumstances alleged in the case at bar fall beyond the subject matter parameters for a fair hearing. Here, the Agency has not made a determination for review with regard to the Appellant's request for child care assistance but has placed the Appellant on a waiting list per the terms of the Annual Plan Update approved by the New York State Office of Children and Family Services. Inasmuch as the Agency has not made a determination regarding the Appellant's programmatic eligibility for child care assistance, there is no issue for review by the Commissioner.

DECISION

The Commissioner does not have jurisdiction to review the Agency's Annual Plan Update to its Child and Family Services Plan by which the Appellant was placed on a waiting list for child care assistance.

DATED: Albany, New York
01/06/2016

NEW YORK STATE OFFICE OF
TEMPORARY AND DISABILITY ASSISTANCE

By



Commissioner's Designee



COPAYMENT DISPARITIES BY COUNTY FOR A FAMILY OF THREE WITH AN INCOME OF \$40,180/year
(200% of poverty)

COUNTY	COUNTY MULTIPLIERS	ANNUAL/WEEKLY FEE
In Cattaraugus, Livingston and Steuben counties	parents pay 10% of their income over the poverty level for a child care subsidy	this means they pay \$2009 per year, or \$38.63 per week (5% of their income)
In Franklin and Oswego County	parents pay 15% of their income over the poverty level for a child care subsidy	this means they pay \$3014 per year, or \$57.95 per week (7.5% of their income)
In Allegany, Cayuga, Chautauqua, Clinton, Columbia, Essex, Nassau, Niagara, Ontario, Putnam, Saratoga, Suffolk and Tompkins counties	parents pay 20% of their income over the poverty level for a child care subsidy	this means they pay \$4018 per year, or \$77.27 per week (10% of their income)
In Albany, Broome, Chemung, Delaware, Hamilton, Jefferson, Lewis, Madison, Oneida, Rockland, Schuyler, St. Lawrence, Ulster, Warren, Washington and Wayne counties	parents pay 25% of their income over the poverty level for a child care subsidy	this means they pay \$5023 per year, or \$96.59 per week (12.5% of their income)
In Westchester County	parents pay 27% of their income over the poverty level for a child care subsidy	this means they pay \$5424 per year, or \$104.31 per week (13.5% of their income)
In Dutchess, and Otsego counties	parents pay 30% of their income over the poverty level for a child care subsidy	this means they pay \$6006 per year, or \$115.50 per week (15% of their income)
In Chenango, Cortland, Erie, Fulton, Genesee, Greene, Herkimer, Monroe, Montgomery, New York City, Onondaga, Orange, Orleans, Rensselaer, Schenectady, Schoharie, Seneca, Sullivan, Tioga, Wyoming and Yates counties	parents pay 35% of their income over the poverty level for a child care subsidy	this means they pay \$7031.50 per year, or \$135.22 per week (17.5% of their income)

CHART B



Child Care Copayments as a Percentage of Household Income 2015

[effective 6/1/15-5/30/16 (05 OCFS INF-2)]

Eligibility %		FPL (100%)		125%		140%		150%		167%		175%		200%		225%		250%		275%				
Annual Income	Multiplier	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income			
\$11,770.00	\$0.00	\$0.00	0.0%	\$14,712.50	\$16,478.00	\$17,655.00	\$19,655.90	\$20,597.50	\$23,540.00	\$26,482.50	\$29,425.00	\$32,367.50												
10.0%	\$0.00	\$294.25	2.0%	\$470.80	2.9%	\$588.50	3.3%	\$788.59	4.0%	\$882.75	4.3%	\$1,177.00	5.0%	\$1,471.25	5.6%	\$1,765.50	6.0%	\$2,059.75	6.4%	\$2,354.00	7.5%	\$2,648.25	9.0%	
15.0%	\$0.00	\$441.38	3.0%	\$706.20	4.3%	\$882.75	5.0%	\$1,182.89	6.0%	\$1,324.13	6.4%	\$1,765.50	7.5%	\$2,206.88	8.3%	\$2,648.25	9.0%	\$3,089.63	9.5%	\$3,531.00	10.0%	\$4,413.75	12.7%	
20.0%	\$0.00	\$588.50	4.0%	\$941.60	5.7%	\$1,177.00	6.7%	\$1,577.18	8.0%	\$1,765.50	8.6%	\$2,206.88	10.7%	\$2,942.50	11.1%	\$3,631.00	12.0%	\$4,413.75	15.0%	\$5,149.38	15.9%	\$6,179.25	19.1%	
25.0%	\$0.00	\$735.63	5.0%	\$1,177.00	7.1%	\$1,471.25	8.3%	\$1,971.48	10.0%	\$2,366.77	12.9%	\$2,648.25	12.9%	\$3,631.00	15.0%	\$4,413.75	16.7%	\$5,296.50	18.0%	\$6,179.25	19.1%	\$7,209.13	22.3%	
30.0%	\$0.00	\$882.75	6.0%	\$1,412.40	8.6%	\$1,765.50	10.0%	\$2,366.77	12.0%	\$2,648.25	12.9%	\$3,631.00	15.0%	\$4,413.75	16.7%	\$5,296.50	18.0%	\$6,179.25	21.0%	\$7,209.13	22.3%			
35.0%	\$0.00	\$1,029.88	7.0%	\$1,647.80	10.0%	\$2,059.75	11.7%	\$2,760.07	14.0%	\$3,089.63	15.0%	\$4,119.50	17.5%	\$5,149.38	19.4%	\$6,179.25	21.0%	\$7,209.13	22.3%					

*Child only families are those where the care giver is not financially responsible for the child, such as if a child lives with a grandparent who has custody or guardianship but has not adopted the child.

Eligibility %		FPL (100%)		125%		140%		150%		167%		175%		200%		225%		250%		275%				
Annual Income	Multiplier	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income			
\$15,930.00	\$0.00	\$0.00	0.0%	\$19,912.50	\$22,302.00	\$23,895.00	\$26,603.10	\$27,877.50	\$31,860.00	\$35,842.50	\$39,825.00	\$43,807.50												
10.0%	\$0.00	\$398.25	2.0%	\$637.20	2.9%	\$796.50	3.3%	\$1,067.31	4.0%	\$1,194.75	4.3%	\$1,593.00	5.0%	\$1,991.25	5.6%	\$2,389.50	6.0%	\$2,787.75	6.4%	\$3,186.00	7.5%	\$3,584.25	9.0%	
15.0%	\$0.00	\$597.38	3.0%	\$955.80	4.3%	\$1,194.75	5.0%	\$1,600.97	6.0%	\$1,792.13	6.4%	\$2,389.50	7.5%	\$2,986.88	8.3%	\$3,584.25	9.0%	\$4,181.63	9.5%	\$4,779.00	10.0%	\$5,374.38	12.7%	
20.0%	\$0.00	\$796.50	4.0%	\$1,274.40	5.7%	\$1,593.00	6.7%	\$2,134.62	8.0%	\$2,389.50	8.6%	\$3,186.00	10.7%	\$3,982.50	11.1%	\$4,779.00	12.0%	\$5,575.50	12.7%	\$6,372.00	15.0%	\$7,168.50	15.9%	
25.0%	\$0.00	\$995.63	5.0%	\$1,593.00	7.1%	\$1,991.25	8.3%	\$2,669.28	10.0%	\$3,089.63	10.7%	\$3,982.50	12.5%	\$4,978.13	13.9%	\$5,973.75	15.0%	\$6,969.38	15.9%	\$7,965.00	18.0%	\$8,960.63	19.1%	
30.0%	\$0.00	\$1,194.75	6.0%	\$1,911.60	8.6%	\$2,389.50	10.0%	\$3,201.93	12.0%	\$3,584.25	12.9%	\$4,779.00	15.0%	\$5,973.75	16.7%	\$7,168.50	18.0%	\$8,363.25	18.0%	\$9,558.00	21.0%	\$10,752.75	22.3%	
35.0%	\$0.00	\$1,393.88	7.0%	\$2,230.20	10.0%	\$2,787.75	11.7%	\$3,736.59	14.0%	\$4,181.63	15.0%	\$5,575.50	17.5%	\$6,969.38	19.4%	\$8,363.25	21.0%	\$9,757.13	22.3%					

Child Care Copayments as a Percentage of Household Income 2015

[effective 6/1/15-5/30/16 (05 OCFS INF-2)]

Family size = 3		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility %	FPL (100%) Annual Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
	\$20,090.00	\$25,112.50	125%	\$28,126.00	140%	\$30,135.00	150%	\$33,550.30	167%	\$35,157.50	175%	\$40,180.00	200%	\$45,202.50	225%	\$50,225.00	250%	\$55,247.50	275%
Multiplier	Yearly Copay	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$0.00	\$502.25	2.0%	\$803.60	2.9%	\$1,004.50	3.3%	\$1,346.03	6.0%	\$1,506.75	4.3%	\$2,009.00	5.0%	\$2,511.25	5.6%	\$3,013.50	6.0%	\$3,515.75	6.4%
15.0%	\$0.00	\$753.38	3.0%	\$1,205.40	4.3%	\$1,506.75	5.0%	\$2,019.05	6.0%	\$2,260.13	6.4%	\$3,013.50	7.5%	\$3,766.88	8.3%	\$4,520.25	9.0%	\$5,273.63	9.5%
20.0%	\$0.00	\$1,004.50	4.0%	\$1,607.20	5.7%	\$2,009.00	6.7%	\$2,692.06	8.0%	\$3,013.50	8.6%	\$4,018.00	10.0%	\$5,022.50	11.1%	\$6,027.00	12.0%	\$7,031.50	12.7%
25.0%	\$0.00	\$1,255.63	5.0%	\$2,009.00	7.1%	\$2,511.25	8.3%	\$3,365.08	10.0%	\$3,766.88	10.7%	\$5,022.50	12.5%	\$6,278.13	13.9%	\$7,533.75	15.0%	\$8,789.38	15.9%
30.0%	\$0.00	\$1,506.75	6.0%	\$2,410.80	8.6%	\$3,013.50	10.0%	\$4,038.09	12.0%	\$4,520.25	12.9%	\$6,027.00	15.0%	\$7,533.75	16.7%	\$9,040.50	18.0%	\$10,547.25	19.1%
35.0%	\$0.00	\$1,757.88	7.0%	\$2,812.60	10.0%	\$3,515.75	11.7%	\$4,711.11	14.0%	\$5,273.63	15.0%	\$7,031.50	17.5%	\$8,789.38	19.4%	\$10,547.25	21.0%	\$12,305.13	22.3%

Family size = 4		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility %	FPL (100%) Annual Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
	\$24,250.00	\$30,312.50	125%	\$33,950.00	140%	\$36,375.00	150%	\$40,497.50	167%	\$42,437.50	175%	\$48,500.00	200%	\$54,562.50	225%	\$60,625.00	250%	\$66,687.50	275%
Multiplier	Yearly Copay	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$0.00	\$606.25	2.0%	\$970.00	2.9%	\$1,212.50	3.3%	\$1,624.75	4.0%	\$1,818.75	4.3%	\$2,425.00	5.0%	\$3,031.25	5.6%	\$3,637.50	6.0%	\$4,243.75	6.4%
15.0%	\$0.00	\$909.38	3.0%	\$1,455.00	4.3%	\$1,818.75	5.0%	\$2,437.13	6.0%	\$2,728.13	6.4%	\$3,637.50	7.5%	\$4,546.88	8.3%	\$5,456.25	9.0%	\$6,365.63	9.5%
20.0%	\$0.00	\$1,212.50	4.0%	\$1,940.00	5.7%	\$2,425.00	7.1%	\$3,249.50	8.0%	\$3,637.50	8.6%	\$4,850.00	10.0%	\$6,062.50	11.1%	\$7,275.00	12.0%	\$8,487.50	12.7%
25.0%	\$0.00	\$1,515.63	5.0%	\$2,425.00	7.1%	\$3,031.25	8.3%	\$4,061.88	10.0%	\$4,546.88	10.7%	\$6,062.50	12.5%	\$7,578.13	13.9%	\$9,093.75	15.0%	\$10,609.38	15.9%
30.0%	\$0.00	\$1,818.75	6.0%	\$2,910.00	8.6%	\$3,637.50	10.0%	\$4,874.25	12.0%	\$5,456.25	12.9%	\$7,275.00	15.0%	\$9,093.75	16.7%	\$10,912.50	18.0%	\$12,731.25	19.1%
35.0%	\$0.00	\$2,121.88	7.0%	\$3,395.00	10.0%	\$4,243.75	11.7%	\$5,686.53	14.0%	\$6,365.63	15.0%	\$8,487.50	17.5%	\$10,609.38	19.4%	\$12,731.25	21.0%	\$14,853.13	22.3%

Child Care Copayments as a Percentage of Household Income 2015

[effective 6/1/15-5/30/16 (05 OCFS INF-2)]

Family size = 5		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility % Annual Income	FPL (100%) Yearly Copay	% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income	
		Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$28,410.00	\$35,512.50	2.0%	\$1,136.40	2.9%	\$1,420.50	3.3%	\$1,903.47	4.0%	\$2,130.75	4.3%	\$2,841.00	5.0%	\$3,551.25	5.6%	\$4,261.50	6.0%	\$4,971.75	6.4%
15.0%	\$0.00	\$1,065.38	3.0%	\$1,704.60	4.3%	\$2,130.75	5.0%	\$2,855.21	6.0%	\$3,196.13	6.4%	\$4,261.50	7.5%	\$5,326.88	8.3%	\$6,392.25	9.0%	\$7,457.63	9.5%
20.0%	\$0.00	\$1,420.50	4.0%	\$2,272.80	5.7%	\$2,841.00	6.7%	\$3,806.94	8.0%	\$4,261.50	8.6%	\$5,682.00	10.0%	\$7,102.60	11.1%	\$8,523.00	12.0%	\$9,943.50	12.7%
25.0%	\$0.00	\$1,775.63	5.0%	\$2,841.00	7.1%	\$3,551.25	8.3%	\$4,758.68	10.0%	\$5,326.88	10.7%	\$7,102.60	12.5%	\$8,878.13	13.9%	\$10,663.75	15.0%	\$12,429.38	15.9%
30.0%	\$0.00	\$2,130.75	6.0%	\$3,409.20	8.6%	\$4,261.50	10.0%	\$5,710.41	12.0%	\$6,392.25	12.9%	\$8,523.00	15.0%	\$10,663.75	16.7%	\$12,784.50	18.0%	\$14,915.25	19.1%
35.0%	\$0.00	\$2,485.88	7.0%	\$3,977.40	10.0%	\$4,971.75	11.7%	\$6,662.15	14.0%	\$7,457.63	15.0%	\$9,943.50	17.5%	\$12,429.38	19.4%	\$14,915.25	21.0%	\$17,401.13	22.3%

Family size = 6		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility % Annual Income	FPL (100%) Yearly Copay	% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income		% of Income	
		Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$32,570.00	\$40,712.50	2.0%	\$1,302.80	2.9%	\$1,628.50	3.3%	\$2,182.19	4.0%	\$2,442.75	4.3%	\$3,257.00	5.0%	\$4,071.25	5.6%	\$4,885.50	6.0%	\$5,699.75	6.4%
15.0%	\$0.00	\$1,221.38	3.0%	\$1,954.20	4.3%	\$2,442.75	5.0%	\$3,273.29	6.0%	\$3,664.13	6.4%	\$4,885.50	7.5%	\$6,106.88	8.3%	\$7,328.25	9.0%	\$8,549.63	9.5%
20.0%	\$0.00	\$1,628.50	4.0%	\$2,605.60	5.7%	\$3,257.00	6.7%	\$4,364.38	8.0%	\$4,885.50	8.6%	\$6,514.00	10.0%	\$8,142.50	11.1%	\$9,771.00	12.0%	\$11,399.50	12.7%
25.0%	\$0.00	\$2,035.63	5.0%	\$3,257.00	7.1%	\$4,071.25	8.3%	\$5,455.48	10.0%	\$6,106.88	10.7%	\$8,142.50	12.5%	\$10,178.13	13.9%	\$12,213.75	15.0%	\$14,249.38	15.9%
30.0%	\$0.00	\$2,442.75	6.0%	\$3,908.40	8.6%	\$4,885.50	10.0%	\$6,546.57	12.0%	\$7,328.25	12.9%	\$9,771.00	15.0%	\$12,213.75	16.7%	\$14,666.50	18.0%	\$17,099.25	19.1%
35.0%	\$0.00	\$2,849.88	7.0%	\$4,198.60	9.2%	\$5,699.75	11.7%	\$7,637.57	14.0%	\$8,549.63	15.0%	\$11,399.50	17.5%	\$14,249.38	19.4%	\$17,099.25	21.0%	\$19,949.13	22.3%

Child Care Copayments as a Percentage of Household Income 2015

[Effective 6/1/15-5/30/16 (05 OCFS INF-2)]

Family size = 7		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility %	FPL (100%)	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
Annual Income	\$36,730.00	\$45,912.50		\$51,422.00		\$55,095.00		\$61,339.10		\$64,277.50		\$73,460.00		\$82,642.50		\$91,825.00		\$101,007.50	
Multiplier	Yearly Copay	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$0.00	\$918.25	2.0%	\$1,469.20	2.9%	\$1,836.50	3.3%	\$2,460.91	4.0%	\$2,754.75	4.3%	\$3,673.00	5.0%	\$4,591.25	5.6%	\$5,509.50	6.0%	\$6,427.75	6.4%
15.0%	\$0.00	\$1,377.38	3.0%	\$2,203.80	4.3%	\$2,754.75	5.0%	\$3,691.37	6.0%	\$4,132.13	6.4%	\$5,509.50	8.6%	\$6,886.88	8.3%	\$8,264.25	9.0%	\$9,641.63	9.5%
20.0%	\$0.00	\$1,836.50	4.0%	\$2,938.40	5.7%	\$3,673.00	6.7%	\$4,921.82	8.0%	\$5,509.50	8.6%	\$7,346.00	10.0%	\$8,886.88	10.7%	\$11,019.00	12.0%	\$12,856.50	12.7%
25.0%	\$0.00	\$2,295.63	5.0%	\$3,673.00	7.1%	\$4,591.25	8.3%	\$6,152.28	10.0%	\$6,886.88	10.7%	\$9,182.50	12.5%	\$11,478.13	13.9%	\$13,773.75	15.0%	\$16,069.38	15.9%
30.0%	\$0.00	\$2,754.75	6.0%	\$4,407.60	8.6%	\$5,509.50	10.0%	\$7,382.73	12.0%	\$8,264.25	12.9%	\$11,019.00	15.0%	\$13,773.75	16.7%	\$16,528.50	18.0%	\$19,283.25	19.1%
35.0%	\$0.00	\$3,213.88	7.0%	\$5,142.20	10.0%	\$6,427.75	11.7%	\$8,613.19	14.0%	\$9,641.63	15.0%	\$12,856.50	17.5%	\$16,069.38	19.4%	\$19,283.25	21.0%	\$22,497.13	22.3%

Family size = 8		125%		140%		150%		167%		175%		200%		225%		250%		275%	
Eligibility %	FPL (100%)	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
Annual Income	\$40,890.00	\$51,112.50		\$57,246.00		\$61,335.00		\$68,286.30		\$71,557.50		\$81,790.00		\$92,002.50		\$102,225.00		\$112,447.50	
Multiplier	Yearly Copay	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income	Yearly Copay	% of Income
10.0%	\$0.00	\$1,022.25	2.0%	\$1,635.60	2.9%	\$2,044.50	3.3%	\$2,739.63	4.0%	\$3,066.75	4.3%	\$4,089.00	5.0%	\$5,111.25	5.6%	\$6,133.50	6.0%	\$7,155.75	6.4%
15.0%	\$0.00	\$1,533.38	3.0%	\$2,453.40	4.3%	\$3,086.75	5.0%	\$4,109.45	6.0%	\$4,600.13	6.4%	\$6,133.50	8.6%	\$7,666.88	8.3%	\$9,200.25	9.0%	\$10,733.63	9.5%
20.0%	\$0.00	\$2,044.50	4.0%	\$3,271.20	5.7%	\$4,089.00	6.7%	\$5,479.26	8.0%	\$6,133.50	8.6%	\$8,178.00	10.0%	\$9,666.88	10.7%	\$12,267.00	12.0%	\$14,311.50	12.7%
25.0%	\$0.00	\$2,555.63	5.0%	\$4,089.00	7.1%	\$5,111.25	8.3%	\$6,849.08	10.0%	\$7,666.88	10.7%	\$10,222.50	12.5%	\$12,778.13	13.9%	\$15,333.75	15.0%	\$17,889.38	15.9%
30.0%	\$0.00	\$3,066.75	6.0%	\$4,906.80	8.6%	\$6,133.50	10.0%	\$8,218.89	12.0%	\$9,200.25	12.9%	\$12,267.00	15.0%	\$15,333.75	16.7%	\$18,400.50	18.0%	\$21,467.25	19.1%
35.0%	\$0.00	\$3,577.88	7.0%	\$5,724.60	10.0%	\$7,155.75	11.7%	\$9,588.71	14.0%	\$10,733.63	15.0%	\$14,311.50	17.5%	\$17,889.38	19.4%	\$21,467.25	21.0%	\$25,045.13	22.3%