



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY DIRECTIVE #04-33-EMP

(This Policy Directive Replaces PD #02-44-EMP)

INAPPROPRIATE REFUSAL OF CHILD CARE

Date: 10/08/04	Subtopic(s): Child Care
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AUDIENCE

This policy directive is for JOS/Workers who process child care. It is informational for all others.

POLICY

Employable applicants/participants are required to participate in a work-related activity in order to receive public assistance. Child care must be in place before applicants/participants are assigned to work activities. If child care is needed, parents/guardians have the responsibility to locate a child care provider.

Any parent/guardian who refuses child care without good cause, after the JOS/Worker has provided a minimum of two licensed provider referrals with verified vacancies, will be given a work assignment.

BACKGROUND

Parents/guardians who are required to be engaged in work-related activities have the right to have their child(ren) placed with a child care provider fitting the following criteria:

- Appropriate – provider is available for the hours needed and able to provide care for the specific needs of the child(ren).
- Accessible – provider is located within a reasonable distance from the parent/guardian’s home and work. HRA/FIA considers “reasonable distance” to be travel time (driving or public transportation) of no more than one hour and fifteen minutes for a one-way trip from home to the child care provider. This excludes travel time to the work activity.

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call (718) 557-1313 then press 2 at the prompt followed by 765 or
send an e-mail to FIA Call Center

- Affordable – parents/guardians have enough money to pay a child care fee if required.
- Suitable – the physical and mental condition of the provider(s) and/or the physical condition of the facility are not detrimental to the welfare of the child(ren) and the facility is regulated.

Parents/guardians who can document that they are unable to locate a child care provider who meets the above criteria will be assisted by JOS/Workers to locate such care. Failure to document good cause for not choosing a provider and/or refusal to accept eligible providers without good cause will not exempt the applicant/participant from a work assignment.

REQUIRED ACTION

The JOS/Worker must initiate an Employability Plan (EP) in order to properly engage the applicant/participant in a required work activity. If child care is needed for the applicant/participant to comply with the work requirements, select one of the following **Care Type** indicators:

- **Care Type 1** licensed child care is in place at cost to HRA.
- **Care Type 2** informal child care is in place at cost to HRA.

Action Code **133T** (participants) or **933T** (applicants) will autopost in NYCWAY if either of these care types are selected.

- **Care Type 5** licensed child care is in place at no cost to HRA
- **Care Type 6** informal child care is in place at no cost to HRA.

Action Code **133O** (participants) or **933O** (applicants) will autopost in NYCWAY if either of these care types are selected. A comment will be required to indicate the specifics of the case.

In addition, if either of the above **Care Type** codes (**1, 2, 5** or **6**) is selected, the applicant/participant can be assigned to a work activity.

- **Care Type 3** child care is required and a provider and/or documentation must be supplied. With this selection there are two additional options to choose:
 - **Option #1:** select this option when the applicant/participant has to find a provider and submit the necessary documentation. NYCWAY will post either **133S** (participants) or **933S** (applicants), indicating Child Care Return Appointment – Provider Needed.

- **Option #2:** select this option when the applicant/participant indicates s/he has a provider but does not have the required documentation. NYCWAY will post either **133D** (participants) or **933D** (applicants), indicating Child Care Return Appointment – Documentation Needed

A return appointment is scheduled five to seven days after the initial appointment.

Selecting **Care Type 3** requires a return appointment to the Job Center (or to whomever is making the appointment). NYCWAY moves the JOS/Worker to the **Make Appointments** screen to schedule a return appointment. The return appointment must be scheduled five to seven days from the initial appointment. When the Child Care Return Appointment Form (**W-273NN**) is generated, the Worker must give a copy to the parent/guardian and scan and index a copy into the case record.

Required Documentation and Forms

The JOS/Worker must give the applicant/participant the Important Information about Child Care Notice (**LDSS-4647**) and the Child Care Provider Form (**W-273B**). These forms are part of a mandatory packet for all parent/guardians at the initial visit, regardless of whether child care is in place or not. The Child Care Information Packet also includes the following forms:

- | | |
|----------------|--|
| W-273D | How to Fill Out the Child Care Provider Form |
| W-273E | HRA Will Pay For Your Child Care |
| W-563 | Attention Working Parents |
| W-574EE | Child Care Fact Sheet and Planner |
| W-574FF | Proof of ID for Your Child Care Provider or “Babysitter” |
| W575AA | HRA Child Care Information Fact Sheet |
| W-575BB | How Child Care Providers Get Paid by HRA |

The parent/guardian is expected to secure a provider and furnish requested documentation by the return appointment date to ensure compliance and payment to the provider.

Return Appointment

Child Care Is Secured

If the applicant/participant keeps the appointment and returns with child care in place, the JOS/Worker must review the completeness of all required documentation and then update the EP with one of the following care types:

- **Care Type 1** – Licensed child care in place at cost to HRA
- **Care Type 2** – Informal child care in place at cost to HRA
- **Care Type 5** – Licensed child care in place, no cost to HRA
- **Care Type 6** – Informal child care in place, no cost to HRA

Note: Care Type 4 (Child Care Not Required) is only selected if the child(ren) in the household is 13 years of age or older.

The system will generate one of the following action codes indicating that the child care process is complete and the applicant/participant can be assigned to a work activity:

- **933T** (applicant) (Child Care Is In Place)
- **133T** (participant) (Child Care Is In Place)
- **933O** (applicant) (Child Care Not Required)
- **133O** (participant) (Child Care Not Required)

Child Care must be entered in ACCIS

In addition, when all of the information on the **W-273B** has been verified as complete, the JOS/Worker must ensure all child care information on the case is entered in ACCIS.

Child care is not secured

If the applicant/participant keeps the return appointment and is unsuccessful in finding suitable child care the JOS/Worker must:

- Determine why child care was not secured.
- Evaluate reason(s) to determine if they are substantial and/or legitimate difficulties for not securing care.
- Provide referrals to at least two licensed child care providers with vacancies. This information can be found in one of the following resource directories:

Give referrals for two (2) regulated providers after confirming availability.

- 2004 Directory of Child Care Services which lists licensed or registered providers from all New York City boroughs. Provider listings are organized by zip code and type of care. The Directory is available in all Job Centers and can also be accessed online through the FIAweb.
- The state-funded Child Care Resource and Referral Consortium at (888) 469-5999.
- Administration for Children’s Services (ACS) Contracted Slots. These slots and information on these providers are available through the Automated Child Care Information System (ACCIS). To search ACCIS for licensed programs and providers:
 - Click on the ACCIS icon
 - Click **F3** (search) function from menu, and
 - Click **Program Provider Search**

Note: The ACS contracted slots are time sensitive. Before a referral can be made, call the provider to ensure that slots are still open. Upon confirming availability, document the name and location of the available providers for the applicant/participant and keep a copy of the referral in the case record.

- Providers listed on the Child Care Appointment Confirmation and Contact List (**W-667C**), after confirming that vacancies for the child(ren) are available. The form includes a section for two referrals from the Worker, as well as a section for the parent/guardian to record his/her own referrals. A section is also provided for the parent/guardian to give reasons for not choosing the referrals, if they are not chosen.

2nd return appointment given

- After providing the referrals, schedule another return appointment within five to seven days by updating the EP and selecting **Care Type 3** on the **Child Care** screen.
- Emphasize again that the **W-667C** must be completed. Refusal to accept eligible providers without good cause will not excuse the parent/guardian from a work assignment. Refusing child care should be based on the criteria (appropriate, accessible, affordable and suitable) as described in Important Information About Child Care Notice (**LDSS-4647**).
- Remind the applicant/participant that the 60-month time limit on cash assistance still applies, even if the parent/guardian is temporarily excused from a work activity for good cause.
- Keep copies of all documents and referrals in the case record along with detailed comments.

Second Return Appointment

Child Care Not Secured by Second Return Appointment

If the applicant/participant keeps the return appointment but

- Fails to provide documentation that supports his/her claim that legally acceptable child care cannot be found, or
- Refused an eligible provider without good cause (if the JOS/Worker evaluates the reasons for refusal as being insufficient, the JOS/Worker should verify this with his/her supervisor),

the JOS/Worker must:

Care Type 7 referral code: Child Care is Refused

- Update the EP and change **Care Type 3** (Child Care Is Required) to **Care Type 7** (Child Care Is Refused). **Care Type 7** may only be entered if **Care Type 3** was previously entered for the case and after a return appointment has been kept. Action code **133R** (participants) or action code **933R** (applicants) will autopost in the system which signifies “Refused Child Care Referral Placement.”
- Assign the parent/guardian to a work activity.

Failed to Keep Return Appointment

If the applicant/participant fails to keep the return appointment the following infraction codes will autopost in NYCWAY one day after the return date, if no entry is made by a JOS/Worker.

- **91FR** (Applicants) Failure to return to child care return appointment. The case is placed on Income Support Action Request (ISAR) Worklist for the Worker to manually reject the application.
- **430K** (SNA participants) Failure to return to the mandatory child care return appointment. A conciliation letter will be generated. If good cause is not found, a public assistance (PA) sanction is initiated.
- **434A** (TANF participants) Failure to return to the mandatory child care return appointment. A conciliation letter will be generated. If good cause is not found, a PA sanction is initiated.
- **438N** (Sanctioned Cases) Failure to report to the mandatory child care return appointment. This action code will flag the sanctioned individual for further investigation by Bureau of Eligibility Verification (BEV). No further action is taken by the Worker.

Child care for children with special needs

Special Needs

Parents/guardians of a child under the age of six with special needs are exempt from participation in a work activity. In some cases, the parent/guardian of a school-age child over age six with special needs may be eligible for exemption from work activity.

The parent/guardian of a special needs school-age child must obtain documentation from a physician or licensed professional confirming that the child has special needs. In order for the parent/guardian to be considered for the child care exemption, the documentation must specify the following:

Exemptions

- Why child care is not recommended for the child and
- Why the parent must be available after school and/or during school breaks.

If, after the receipt of the documentation, it is determined that a child with special needs is eligible for child care, the JOS/Worker can assist the parent/guardian, who may need more specialized care and help in finding programs for child care, with the following resources:

Resources for special needs



- Licensed child care centers. All licensed child care centers must be capable of assisting children with special needs.
- Child Care Resource and Referral at (888) 469-5999.
- New York City Youthline at (800) 246-4646. Material from New York City Youthline can be obtained by contacting (212) 227-7007.
- Resources for Children with Special Needs, Inc. at (212) 677-4650.

These parents/guardians may need additional time to secure slots for specialized child care and should be granted such time on a case-by-case basis by the designated Child Care Liaison or other supervisory staff.

The **Special Needs** field on the **Child Care** screen must be checked **Y** to allow child care to be entered (**Care Types 1, 2, 5 or 6**) for any child over 13 through the age of 18.

PROGRAM IMPLICATIONS

Paperless Office System (POS) Implications

Workers at POS Centers can access NYCWAY to make entries and to review and print NYCWAY information related to the inappropriate refusal of child care by using the WMS plug  or by minimizing POS and clicking the NYCWAY icon on their desktop. Workers should then scan all non-POS-generated forms and notices signed by the applicant/participant into the electronic case record except Domestic Violence-related documents. A case comment must be entered for seeking child care or refusal of child care. Enter a case comment by clicking on the case comments icon  or pressing <ALT>M on the keyboard.

Workers at POS Centers will record child care expenses on the **Other Expenses** window at the “Has Child or Dependent Care Expenses?” question. POS will not budget any child care expenses entered. Workers must use ACCIS to budget any child care expenses.

Food Stamp Implications

When the actual child care expenses are more than the child care payment, the extra child care cost is counted as an out-of-pocket expense for Food Stamp budgeting. Parents/guardians who choose to forego the FIA payment by using an ineligible provider are entitled to a Food Stamp deduction for the out-of-pocket child care expense. Workers must determine how the parent/guardian will pay for the expense while participating in a work-related activity.

For applicants, failure to keep a return appointment will result in the case being denied. The case will be processed for a separate Food Stamp determination. For participants, failure to keep a return appointment will initiate the standard conciliation process and a PA sanction. Food Stamp eligibility will not be affected as a result of this sanction.

Medicaid Implications

There are no Medicaid implications.

LIMITED ENGLISH SPEAKING ABILITY (LESA) IMPLICATIONS

For Limited English Speaking Ability (LESA) applicants/participants, make sure to obtain appropriate interpreter services in accordance with Policy Directive 02-43-OPE.

FAIR HEARING IMPLICATIONS

Avoidance/Resolution

A parent who receives a conciliation letter for failing to comply with an assessment outcome, or fails to report to or cooperate with an assigned activity but now indicates a willingness to comply, can resolve the situation by finding an eligible child care provider and complying with work rules. Reporting on or before the scheduled date on the conciliation letter is the participant's option to avoidance/resolution of an issue before a Fair Hearing arises.

Conferences

If an applicant/participant comes to the Job Center and requests a conference, the Receptionist must alert the Fair Hearing and Conference (FH&C) Unit that the individual is to be seen by a FH&C Supervisor/AJOS I. If the individual calls the JOS/Worker directly, the Worker must tell him/her to go to the Receptionist and be referred to FH&C.

The FH&C Supervisor I/AJOS I will listen to, and evaluate, the applicant/participant's complaint regarding the denial, reduction or discontinuance. After reviewing the case record, and discussing the issue with the JOS/Worker and appropriate staff, the FH&C Supervisor I/AJOS I will make a decision. Remember that the FH&C Supervisor I/AJOS I is responsible for ensuring that further appeal by the participant through a Fair Hearing request is properly controlled and that appropriate follow-up is taken in all phases of the Fair Hearing process.

Evidence Packets

All evidence packets must include copies of the following items: a detailed History Sheet (**W-25**), the Important Information About Child Care (**LDSS-4647**), the Child Care Provider Contact List (**W-273J**), the Child Care Provider Form (**W-273B**), the Notice of Intent to Change Benefits: PA, FS, MA, and Services (**LDSS-4014A NYC/LDSS-4014B NYC**) and any evidence/documents provided by the parent/guardian supporting his/her claims that legally acceptable child care cannot be found.


REFERENCES

91 ADM-34
 18 NYCRR, Sec. 415.8 (c), (e), (f), (i)
 03-OCFS-LCM-19
 Consolidated Service Plan, 2004

RELATED ITEMS

PD #01-50-EMP
 PD #02-27-EMP

ATTACHMENTS

 Please use Print on Demand to obtain copies of forms.

W-667C Child Care Appointment Confirmation and Contact List (Rev. 10/8/04)
W-667C (S) Child Care Appointment Confirmation and Contact List (Spanish) (10/8/04)



Child Care Appointment Confirmation and Contact List

Parent's/Guardian's Name: _____ Case Number: _____

I understand that I must either be employed and/or participating in a work-related activity.

I understand that in order for me to obtain or to continue with employment and/or participating in a work-related activity, child care arrangements must be in place for my child(ren) who need(s) care. I will confirm these child care arrangements by keeping the following two child care appointments that were made for me.

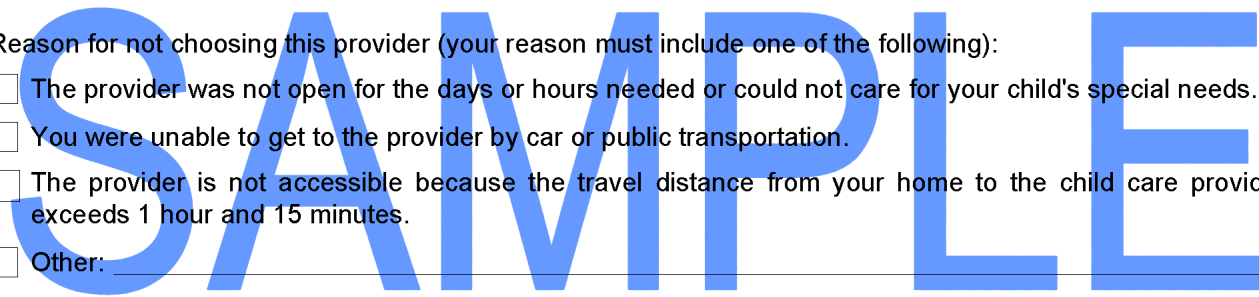
Provider Name (Worker-Referred)	Telephone Number	Appointment	
Provider Address (Worker-Referred)		Date	Time

PROVIDER: Please check availability of openings. Yes No

License No.: _____ Provider's Signature: _____

Reason for not choosing this provider (your reason must include one of the following):

- The provider was not open for the days or hours needed or could not care for your child's special needs.
- You were unable to get to the provider by car or public transportation.
- The provider is not accessible because the travel distance from your home to the child care provider exceeds 1 hour and 15 minutes.
- Other: _____



Provider Name (Worker-Referred)	Telephone Number	Appointment	
Provider Address (Worker-Referred)		Date	Time

PROVIDER: Please check availability of openings. Yes No

License No.: _____ Provider's Signature: _____

Reason for not choosing this provider (your reason must include one of the following):

- The provider was not open for the days or hours needed or could not care for your child's special needs.
- You were unable to get to the provider by car or public transportation.
- The provider is not accessible because the travel distance from your home to the child care provider exceeds 1 hour and 15 minutes.
- Other: _____

If I locate a provider on my own, I will write the name, address and telephone number of the provider on the form; in addition, I will have the provider sign the form.

Provider Name (Self-Referred)	Telephone Number	Appointment	
Provider Address (Self-Referred)		Date	Time

PROVIDER: Please check availability of openings. Yes No

License No.: _____ Provider's Signature: _____

Reason for not choosing this provider (your reason must include one of the following):

- The provider was not open for the days or hours needed or could not care for your child's special needs.
- You were unable to get to the provider by car or public transportation.
- The provider is not accessible because the travel distance from your home to the child care provider exceeds 1 hour and 15 minutes.
- Other: _____

Provider Name (Self-Referred)	Telephone Number	Appointment	
Provider Address (Self-Referred)		Date	Time

PROVIDER: Please check availability of openings. Yes No

License No.: _____ Provider's Signature: _____

Reason for not choosing this provider (your reason must include one of the following):

- The provider was not open for the days or hours needed or could not care for your child's special needs.
- You were unable to get to the provider by car or public transportation.
- The provider is not accessible because the travel distance from your home to the child care provider exceeds 1 hour and 15 minutes.
- Other: _____

I will accept one of the Worker-referred openings or seek other licensed or "legal" informal care so I can participate in my activity as noted above.

If I use regulated care, I understand I must also obtain all of the needed medical/immunization records so that my child(ren) can start as soon as possible.

I will provide a written explanation if I do not accept the two Worker-referred providers or am unable to locate a legal informal provider.

I understand that I have an appointment to bring back this form, the Child Care Provider Application and Voucher Form (W-273B), and other supporting documentation (if applicable) no later than _____ or risk being found ineligible for benefits. (return appointment date)

Parent's/Guardian's Signature _____

Date _____

JOS/Worker Signature _____

Date _____



Confirmación y Lista de Contacto de Cita de Cuidado Infantil

Nombre de Padre/Madre/Tutor: _____ Número del Caso: _____

Entiendo que debo estar empleado(a) y/o participando en una actividad relacionada con el trabajo.

Entiendo que para conservar mi empleo y/o seguir participando en una actividad relacionada con el trabajo, el cuidado de mis hijos debe haber sido previamente concertado. Además, confirmaré los arreglos de cuidado infantil en cuestión acudiendo a las siguientes dos citas de cuidado infantil que se han programado para mí.

Nombre del Proveedor (Asignado por Trabajador)	Número de Teléfono	Cita	
Dirección del Proveedor (Asignado por Trabajador)		Fecha	Hora

PROVEEDOR: Favor de marcar si hay espacio disponible. Yes No

Número de Licencia: _____ Firma del Proveedor: _____

Razón por la que no ha escogido a este proveedor (la razón tiene que incluir una de las siguientes):

- El proveedor no se encontraba disponible para los días u horas necesitadas o no podía atender las necesidades especiales de su hijo.
- Usted no pudo llegar hasta el proveedor mediante carro o transporte público.
- El proveedor no es accesible debido a que la distancia entre su casa y el proveedor de cuidado infantil excede 1 hora y 15 minutos.
- Otro: _____

Nombre del Proveedor (Asignado por Trabajador)	Número de Teléfono	Cita	
Dirección del Proveedor (Asignado por Trabajador)		Fecha	Hora

PROVEEDOR: Favor de marcar si hay espacio disponible. Yes No

Número de Licencia: _____ Firma del Proveedor: _____

Razón por la que no ha escogido a este proveedor (la razón tiene que incluir una de las siguientes):

- El proveedor no se encontraba disponible para los días u horas necesitadas o no podía atender las necesidades especiales de su hijo.
- Usted no pudo llegar hasta el proveedor mediante automóvil o transporte público.
- El proveedor no es accesible debido a que la distancia entre su casa y el proveedor de cuidado infantil excede 1 hora y 15 minutos.
- Otro: _____

Si localizo algun proveedor por mi cuenta proporcionaré el nombre, dirección y teléfono del proveedor en el formulario, además haré que el proveedor firme el formulario.

Nombre del Proveedor (Asignado por Usted Mismo)	Número de Teléfono	Cita	
Dirección del Proveedor (Asignado por Usted Mismo)		Fecha	Hora

PROVEEDOR: Favor de marcar si hay espacio disponible. Yes No

Número de Licencia: _____ Firma del Proveedor: _____

Razón por la que no ha escogido a este proveedor (la razón tiene que incluir una de las siguientes):

- El proveedor no se encontraba disponible para los días u horas necesitadas o no podía atender las necesidades especiales de su hijo.
- Usted no pudo llegar hasta el proveedor mediante carro o transporte público.
- El proveedor no es accesible debido a que el tiempo que toma llegar a su casa y desde el proveedor de cuidado infantil excede 1 hora y 15 minutos.
- Otro: _____

Nombre del Proveedor (Asignado por Usted Mismo)	Número de Teléfono	Cita	
Dirección del Proveedor (Asignado por Usted Mismo)		Fecha	Hora

Razón por la que no ha escogido este proveedor (la razón tiene que incluir una de las siguientes):

- El proveedor no se encontraba disponible para los días u horas necesitadas o no podía atender las necesidades especiales de su hijo.
- Usted no pudo llegar hasta el proveedor mediante carro o transporte público.
- El proveedor no es accesible debido a que la distancia entre su casa y el proveedor de cuidado infantil excede 1 hora y 15 minutos.
- Otro: _____

Aceptaré uno de los espacios disponibles de más arriba o buscaré otro cuidado autorizado o informal "legal" para poder participar en mi actividad como se indica más arriba.

Si utilizo cuidado reglamentado, entiendo que también debo obtener todos los expedientes médicos o de inmunización necesarios para que mis hijos puedan comenzar lo más pronto posible.

En caso de no aceptar a los dos proveedores asignados por el Trabajador, o de no poder conseguir a un proveedor informal ilegal, he de proporcionar una explicación al respecto por escrito.

Entiendo que tengo una cita para devolver este formulario, el Formulario de Solicitud y Comprobante del Proveedor de Cuidado Infantil (Child Care Provider Application and Voucher Form **[W-273B]**) y otros documentos justificativos (si corresponden) a más tardar el _____ (fecha de cita de regreso) o de lo contrario me arriesgo a que se me considere inelegible con respecto a beneficios.

Firma del Padre/Madre or Tutor

Fecha

Firma del JOS/Trabajador

Fecha