



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY DIRECTIVE #09-38-OPE

(This Policy Directive Replaces PD #08-27-OPE)

IMPORTANT INFORMATION ABOUT CHILDCARE

Date: November 9, 2009	Subtopic(s): Childcare
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AUDIENCE

The instructions in this policy directive are for Job Opportunity Specialist (JOS)/Workers at Job Centers and information for all other staff.

REVISION TO THE ORIGINAL DIRECTIVE

This policy directive has been revised to inform staff that the Important Information about Childcare (**LDSS-4647**) form has been made obsolete. The New York State booklet titled What You Should Know About Your Rights and Responsibilities (**LDSS-4148A**) contains the information that was in the **LDSS-4647**.

POLICY

Under New York State Law, districts are required to inform applicants/participants that the benefits of custodial caretaker relatives with children under 13 years of age, or 13 years of age and older with a special need, cannot be reduced/terminated because of non-compliance with work requirements if they do not have appropriate, accessible, affordable, and suitable childcare.

BACKGROUND

The Department of Health and Human Services (DHHS) requires that applicants and participants be notified about their right to appropriate, accessible, affordable, and suitable childcare. This information is found in the State booklet **LDSS-4148A** which is included in the Cash Assistance (CA) application and recertification kits (**M-90c** and **M-90d** respectively).

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call 718-557-1313 then press 3 at the prompt followed by 1 or
send an e-mail to *FIA Call Center*

The **LDSS-4148A** informs parents of the childcare services available through the New York City Human Resources Administration (HRA) and the New York City Children's Services (ACS). The two childcare forms that should be provided during the childcare discussion with applicants/participants are:

- The City of New York Will Pay for Your Childcare ([CS-273E](#)), and
- Childcare Fact Sheet and Planner ([CS-574EE](#)).

See [M-90c](#) and [M-90d](#)

Forms **CS-273E** and **CS-574EE** are also included in the CA application kits and in the recertification kits for households with children. See the Cash Assistance Application Kit Forms (**M-90c**) and the Cash Assistance Recertification Kit Forms (**M-90d**).

REQUIRED ACTION

JOS/Workers are required to inform applicants/participants with children under 13 years of age or 13 years of age and older with a special need of their childcare rights and responsibilities at application, recertification and during any employment call-in. JOS/Workers must:

- discuss with the applicant/participant the full range of options available for childcare including group day care centers, private and fully-funded, family day care homes, neighbors, friends and relatives.
- encourage applicants/participants to consider licensed or registered care.
- ensure that the applicant/participant understands that while he/she may be temporarily excused from his/her work assignment due to a lack of childcare, he/she is not exempt from the 60-month time limit on Family Assistance (FA).
- discuss childcare rights with the applicant/participant.

The State booklet **LDSS-4148A** includes a section entitled Rights Regarding Childcare and a section entitled Responsibilities Regarding Childcare. The first section informs applicants/participants of their right to:

- choose the childcare provider;
- be excused from his/her work activity if he/she is unable to find childcare that is appropriate, accessible, affordable, and suitable; and
- a fair hearing if his/her CA is reduced or terminated.

Definitions of the terms "appropriate, suitable, and affordable" are found in the booklet. "Accessible" is defined on page 3 of this directive.

The second section informs applicants/participants of their responsibility to:

- follow up on all childcare provider referrals provided by the Worker.
 - inform the Worker of what has been done to locate a provider and ask for further assistance if necessary.
 - submit to the Worker in writing which providers were contacted, found unsuitable, and the reason why they were found unsuitable.
- stress to the applicant/participant his/her childcare rights and responsibilities as indicated in the booklet;
 - inform the applicant/participant that “accessible” childcare is defined as being within 1 hour and 30 minutes of total travel time from the applicant’s home to the work activity. This includes the time it takes to stop at the childcare provider/facility.

Reasonable distance for accessible childcare

If an applicant/participant states he/she does not need HRA/ACS to pay for childcare services:

See [PD #05-16-EMP](#) for information on indicating which type of care, if any, is needed when initiating the Employment Plan (EP).

- ask him/her to write “I do not need payment for care of my child(ren) at this time” on the Enrollment Form For Provider Of Legally-Exempt Family Childcare and Legally- Exempt In-Home Childcare Form ([OCFS-LDSS-4699](#)) or Enrollment Form for Provider Of Legally-Exempt Group Childcare Form ([OCFS-LDSS-4700](#)); and
- scan and index the form into the case file.

For applicants/participants in need of childcare services:

See [PB #09-93-OPE](#)

- Discuss the childcare provider’s rates;
- Offer the applicant/participant two choices of either registered or licensed providers that are appropriate, accessible, affordable, and suitable;
- Give him/her the Childcare Appointment Confirmation and Contact list (Form [CS- 667C](#)) and a childcare return appointment and continue with the childcare process as per current procedure;
- If the applicant/participant is temporarily excused from a work activity to seek childcare, inform him/her that Form **CS-667C** and other supporting documentation, if applicable, must be submitted to confirm he/she is continuing to attempt to locate childcare and is following-up on all new referrals; and

See [Employment Process Manual](#)

- Inform the applicant/participant that if he/she inappropriately refuses to accept a childcare provider that meets the appropriate, accessible, affordable, and suitable criteria, he/she will still be assigned to an engagement activity and must comply with that activity or be subject to a pro rata sanction.

PROGRAM IMPLICATIONS

Paperless Office System (POS) Implications

A case comment must be entered for seeking/refusing childcare in POS. Select the Make Case Comment activity from the Action menu in the Activities management window and make a case comment by clicking the next button on the Household Screen. The Case comments window will appear.

Food Stamp Implications

There are no FS implications.

Medicaid Implications

There are no Medicaid implications.

LIMITED ENGLISH SPEAKING ABILITY (LESA) AND HEARING-IMPAIRED IMPLICATIONS

For Limited English Speaking Ability (LESA) and/or hearing-impaired applicants/participants, make sure to obtain appropriate interpreter services in accordance with [PD #09-14-OPE](#) and [PD #08-20-OPE](#).

FAIR HEARING IMPLICATIONS

Avoidance/Resolution

When an individual claims a sanction has been imposed because he/she did not have access to appropriate, accessible, affordable, and suitable childcare, he/she is entitled to request a fair hearing.

Conferences

An applicant/participant may request and receive a conference with a Fair Hearing and Conference (FH&C) AJOS/Supervisor I at any time. If an applicant/participant comes to the Job Center requesting a conference, the Receptionist must alert the FH&C Unit that the individual is waiting to be seen. In Model Offices, the Receptionist at Main Reception will issue an FH&C ticket to the applicant/participant to route him/her to the FH&C Unit and does not need to verbally alert the FH&C Unit staff.

The FH&C AJOS/Supervisor I will listen to and evaluate any material presented by the applicant/participant, review the case file, and discuss the issue(s) with the JOS/Worker responsible for the case and/or the JOS/Worker's Supervisor. The AJOS/Supervisor I will explain the reason for the Agency's action(s) to the applicant/participant.

Should the applicant/participant elect to continue his/her appeal by requesting or proceeding to an already requested Fair Hearing, the FH&C AJOS/Supervisor I is responsible for ensuring that further appeal is properly controlled and that appropriate follow-up action is taken in all phases of the Fair Hearing process.

Evidence Packets

All relevant and complete evidence packets must include the **CS-273E**, **CS-547EE**, **CS- 667C**, **OCFS-LDSS-4699** and/or the **OCFS-LDSS-4700**, and any other documentation to support a decision.


REFERENCES

[99 LCM-19](#)
 SSL § 332-a, 341(6)(a), 410-w(3)

RELATED ITEMS

[Employment Process Manual](#)
[PB #09-93-OPE](#)

ATTACHMENTS

 Please use Print on Demand to obtain copies of forms.

LDSS-4647	Important Information about Childcare (Obsolete)
LDSS-4647 (S)	Important Information about Childcare (Spanish) (Obsolete)

Important Information about Child Care

If you are receiving Temporary Assistance and *need child care* in order to participate in work activities, please read this notice. It will tell you about your rights and responsibilities and about how to locate a child care provider.

Your Rights

Your ***cash assistance cannot be reduced or ended*** because you are not participating in work activities ***if*** the reason you are not participating is because ***you don't have appropriate, accessible, affordable and suitable child care.***

You have the ***right to receive information*** about how to locate a child care provider. This information could be provided in a number of ways.

- Your worker can give you the name and telephone number of a Child Care Resource and Referral Program or other similar program which can help you find a child care provider; or
- Your worker can give you a list with the name, address and telephone numbers of child care providers.

You have the ***right to choose*** the child care provider for your child. This could be a provider who is licensed or registered or it could be a relative, a friend of the family or a trusted neighbor.

If you are unable to find a child care provider on your own, your worker must provide you with ***two choices*** of child care providers. At least one of these choices must be a child care provider who is licensed or registered with the State of New York or with New York City Department of Health.

You have the ***right to be excused from your work activity*** if you have a child under 13 years of age and you are unable to find a child care provider that is ***appropriate, accessible, affordable and suitable.*** However, the time you are excused from your work activity will still count toward your 60 month limits of federally funded and cash Temporary Assistance.

- ***Appropriate*** means the provider is open for the hours and days needed for you to participate in your work activity, and is willing to care for your child(ren) including any special needs your child has.
- ***Accessible*** means that you are able to get to the provider by driving your own car or by public transportation and the provider is located within a ***reasonable distance*** from your home and work. Your worker must tell you what is considered a reasonable distance for your community.
- ***Unsuitable*** means the physical or mental condition of the provider or the physical condition of the home would be detrimental to the health or safety of your child(ren).
- ***Affordable*** means you have enough money to pay your share of the child care cost, if you are required to pay a share of the costs.

You have the ***right to request a fair hearing to appeal the decision to reduce or end your Temporary Assistance*** if you feel your worker made the wrong decision regarding your refusal to comply with your work activities due to a lack of child care.

Your Responsibilities

It is your responsibility to ***look for and choose*** a child care provider.

If you are unable to find a child care provider, ***you must do the following***.

1. ***Let your worker know*** what you have done to find a provider and ***ask for help*** in finding a provider.
2. ***Follow up on all referrals*** you are given by your worker or other programs that are helping you locate a provider. This means ***you must contact or visit all providers that you are referred to*** until you are able to choose a provider that is appropriate, accessible, suitable and affordable.
3. If you have contacted all providers and are still not able to choose any of these providers, ***you must let your worker know in writing which providers you contacted and when and why you did not choose any of these providers***. Your reasons 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 was not located within a reasonable distance from your home or work activity. Each social services district has a different meaning of "reasonable distance". The district must tell you what reasonable distance means in your district.
 - Friends, relatives or neighbors you considered or contacted were unsuitable.
4. If you show that you are unable to locate a provider, your worker ***must offer you a choice of two providers***. At least one of these choices must be a child care provider who is licensed or registered with the State of New York or New York City Department of Health. You must choose one of these providers or show why they are not appropriate, accessible, affordable or suitable.
5. ***You must continue to look*** for a child care provider and follow up on all referrals during the time you are excused from your work activity.
6. If you cannot show that you were unable to locate a provider and that the two choices of providers offered to you were not appropriate, accessible, affordable, or suitable, then your Temporary Assistance cash grant will be reduced if you fail to participate in your work activity.

I have read and understand the above information.

Client's Name

Date

Información Importante acerca del Cuidado de Niños

Si usted está recibiendo Asistencia Temporal y necesita cuidado de niños o cuidado infantil para poder participar en actividades laborales, por favor lea esta notificación. Este aviso le dará a conocer sus derechos y sus responsabilidades; también le proveerá información sobre cómo localizar a un(a) proveedor(a) de cuidado de niños.

Sus Derechos

Su ***asistencia en efectivo no puede ser reducida o cancelada*** debido a que usted no está participando en actividades laborales si la razón por la que usted no está participando se debe a que ***usted no cuenta con un(a) proveedor(a) de cuidado infantil conveniente, accesible, razonable en costo y apropiado.***

Usted tiene el derecho de recibir información acerca de cómo localizar a un(a) proveedor(a) de cuidado infantil. Esta información se le puede proveer de varias maneras.

- Su trabajador(a) puede darle el nombre y el número de teléfono de un Programa de Recursos y Referencias de Cuidado Infantil u otro programa similar que le puede ayudar a encontrar un(a) proveedor(a) de cuidado infantil; o
- Su trabajador(a) puede darle una lista con el nombre, la dirección y los números de teléfono de proveedores de cuidado infantil.

Usted tiene el ***derecho de escoger*** al/a la proveedor(a) de cuidado infantil adecuado(a) para su niño(a). Éste o ésta podría ser un(a) proveedor(a) licenciado(a) o registrado(a), o podría ser un familiar, un(a) amigo(a) de la familia o un(a) vecino(a) de confianza.

Si usted no puede encontrar a un proveedor(a) de cuidado infantil por su cuenta, su trabajador(a) debe proveerle ***dos selecciones*** de proveedores de cuidado infantil. Por lo menos una de esas selecciones debe ser un(a) proveedor(a) de cuidado infantil licenciado(a) o registrado(a) con el Estado de Nueva York o con el Departamento de Salud de la Ciudad de Nueva York.

Usted ***tiene el derecho de ser excusado(a) de su actividad laboral*** si usted tiene un(a) hijo(a) de 13 años o menos y usted no puede encontrar a un(a) proveedor(a) de cuidado infantil que sea conveniente, accesible, razonable y apropiado. Sin embargo, el tiempo que usted está excusado de su actividad laboral todavía contará hacia su límite de 60 meses de Asistencia Temporal federal o en efectivo.

- ***Conveniente*** significa que el/la proveedor(a) opera durante las horas y los días que necesita para que usted participe en su actividad laboral, y está dispuesto(a) a cuidar a sus hijos y proveer servicios para cualquier necesidad que su hijo(a) pueda tener.
- ***Accesible*** significa que usted puede llegar al lugar de trabajo del/de la proveedor(a) manejando su propio automóvil o por transportación pública, y que el/la proveedor(a) está localizado(a) dentro de una distancia razonable de su hogar y trabajo. Su trabajador(a) debe darle a conocer la distancia que se considera razonable en su comunidad.
- ***Razonable*** significa que usted tiene suficiente dinero para pagar su porción del costo de cuidado infantil, si se le requiere que pague una porción del costo.
- ***Inapropiado(a)*** se refiere a la condición física o mental del proveedor(a) o la condición física del hogar que sería detrimental para la salud o seguridad de su(s) hijo(s).

Usted tiene el ***derecho de solicitar una audiencia imparcial para apelar la decisión de reducir o cancelar sus beneficios de Asistencia Temporal*** si usted cree que su trabajador(a) tomó una decisión incorrecta con respecto a la falta de cumplimiento de sus actividades laborales debido a la carencia de cuidado infantil.

Sus Responsabilidades

Es su responsabilidad **buscar y escoger** a un(a) proveedor(a) de cuidado de niños o cuidado infantil.

Si usted no puede encontrar a un(a) proveedor(a) de cuidado infantil, usted debe hacer lo siguiente:

1. Hacerle saber a su trabajador(a) lo que usted ha hecho para encontrar a un(a) proveedor(a), y pedirle ayuda para encontrar a un(a) proveedor(a).
2. Llamar a todas las referencias que su trabajador(a) le ha provisto o llamar a otros programas que están ayudándole a conseguir a un(a) proveedor(a). Esto significa que usted debe ponerse en contacto o visitar a todos los proveedores a los que usted ha sido referido hasta que usted pueda escoger un(a) proveedor(a) conveniente, accesible, razonable y apropiado.
3. Si usted se ha contactado con todos los proveedores y todavía no puede escoger a algún proveedor(a), usted debe hacerle saber a su trabajador(a) por escrito sobre los proveedores que usted contactó, y por qué usted no escogió a alguno de estos proveedores. Sus razones deben incluir uno de lo siguiente:
 - El proveedor(a) no estaba abierto durante los días y las horas que yo necesitaba o no podía cuidar a su hijo(a) con necesidades especiales.
 - Usted no podía llegar al proveedor(a) por automóvil o por transporte público.
 - El proveedor(a) no estaba localizado dentro de una distancia razonable de su hogar o de su actividad laboral. Cada distrito de servicios sociales tiene una descripción diferente de lo que representa una “distancia razonable.” El distrito debe decirle qué representa una distancia razonable en su distrito.
 - Los amigos, familiares o vecinos que usted consideró o con los que se puso en contacto no eran apropiados.
4. Si usted demuestra que no puede localizar a su proveedor(a), su trabajador(a) debe ofrecerle una selección de dos proveedores. Por lo menos una de estas selecciones debe ser un(a) proveedor(a) de cuidado con licencia o registrado con el Estado de Nueva York o con el Departamento de Salud de la Ciudad de Nueva York. Usted debe escoger uno de estos proveedores o explicar por qué éstos no son convenientes, accesibles, razonables o apropiados.
5. Usted debe continuar buscando a un proveedor(a) de cuidado infantil y debe llamar a todas las referencias durante el tiempo en el que usted ha sido excusado de su actividad laboral
6. Si usted no puede demostrar que usted no pudo localizar a un(a) proveedor(a) y que las dos selecciones de proveedores que se le ofreció no fueron convenientes, accesibles, razonables o apropiadas entonces sus beneficios de Asistencia Temporal en efectivo serán reducidos si usted no logra participar en su actividad laboral.

He leído y comprendo la información citada anteriormente.

Nombre del Cliente

Fecha