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Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
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Commissioner

Administrative Directive

Transmittal:	08-OCFS ADM-03
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	May 6, 2008
Subject:	Notification to Foster Parent of Foster Care Level of Care and Room and Board Payment
Suggested Distribution:	Directors of Services Foster Care Supervisors Home Finding Supervisors
Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office Buffalo Regional Office – Mary Miller (716) 847-3145 Mary.Miller@ocfs.state.ny.us Rochester Regional Office – Linda Kurtz (585) 238-8201 Linda.Kurtz@ocfs.state.ny.us Syracuse Regional Office – Jack Klump (315) 423-1200 Jack.Klump@ocfs.state.ny.us Albany Regional Office – Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us Spring Valley Regional Office – Pat Sheehy (845) 708-2498 Patricia.Sheehy@ocfs.state.ny.us NYC Regional Office – Patricia Beresford (212) 383-1788, ext. 4708 Patricia.Beresford@ocfs.state.ny.us Native American Services – Kim Thomas (716) 847-3123 Kim.Thomas@ocfs.state.ny.us
Attachment:	OCFS-LDSS-7018: Notification of Foster Care Level of Care and Room and Board Payment
Attachment Available Online:	Yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	SSL & Other Legal Ref.	Manual Ref.	Misc. Ref.
92-LCM-162		18 NYCRR 427.6; 441.22 (j)(1); 443.2 (e)(3); 443.3 (j) & (p)	SSL Section 22 FCA 1089 (b)	Standards of Payment for Foster Care Chapter 8 (B-8)	

I. Purpose

The Office of Children and Family Services (OCFS) is issuing this Administrative Directive (ADM) to provide Local Departments of Social Services (LDSS) and voluntary authorized agencies with a standardized procedure to notify foster parents of the rate level and amount of the foster care room and board payment they are to receive for each individual foster child placed with them. The rate level and amount of foster care room and board payment must be set and the notification form must be completed by the LDSS or voluntary authorized agency and sent to the foster parents within 30 days of placement of a child in their home. Additionally, this notification informs the foster parents of their right to a conference, the right to a fair hearing to appeal a foster care level of care and associated room and board payment decision, and how to avail themselves of these rights.

II. Background

Foster parents play a critical role in providing safe, temporary homes to children entrusted to their care. It is therefore incumbent upon the LDSS or voluntary authorized agency to inform the foster parent(s) of the level of care determination and associated foster care room and board payment rate that will be paid for the care they provide each child, and where the payment rate is above the normal rate, a description of the child's qualifying condition or circumstance that requires payment at a rate above the normal rate. The Program Manual: Standards of Payment for Foster Care of Children requires that all foster parents and applicants must be advised of the requirements for designating children as special and exceptional and for receiving the higher payments for providing such care. The information must be included in the foster parent manual required by 18 NYCRR 443.3 (j). Certified and approved foster parents must be reimbursed for each child for whom they provide foster care in accordance with 18 NYCRR 443.3 (p) and 427.6.

Additionally, the foster parents must be informed of their right to a conference and their right to a fair hearing to appeal a foster care level of care and associated room and board payment rate decision, pursuant to Section 22 of the Social Services Law. Notification of the level of care determination and associated foster care room and board payment rate affords foster parents the opportunity to appeal the level of care determination and associated foster care room and board payment rate decision.

III. Program Implications

In order to establish a level of care and pay a foster care room and board rate at the special or exceptional rate, two separate requirements must be met. The first of these two requirements relates to the eligibility of the child and the second relates to the eligibility of the foster parents.

- The Child

The LDSS, or voluntary agency, if so designated by the LDSS, must assess each foster child to determine if the child has any of the conditions or circumstances that qualify for special or exceptional rate in accordance with 18 NYCRR 427.6(c) and (d). If the

assessment determines the child meets one of the listed conditions or circumstances, a rate above the normal rate is warranted for the child. If it is determined that the child has a condition *equivalent to* one of the listed conditions for special or exceptional rate, then the higher rate is appropriate only if: the equivalent condition has been approved by the local commissioner of the LDSS *and* a list of equivalent conditions has been prior approved as eligible by OCFS; or approved by OCFS within 60 days of approval by the local commissioner.

- The Foster Parent

In order for foster care payments to be made at a rate above normal, staff must determine if the foster parents have received the necessary training or possess the necessary skills or experience in accordance with 18 NYCRR 427.6(e) (2) and (3), as follows: have demonstrated their ability to care for foster children with special or exceptional conditions through past training and experience in nursing, special education, child care or the completion of or participation in special training provided by an authorized agency or other relevant training and experience; and actively participate in agency training for foster parents of *not less than four hours per year* in the case of providers of *special* foster care services and *not less than five hours per year* in the case of providers of *exceptional* foster care services.

In addition, in accordance with 18 NYCRR 427.6(e) (4) and (5), staff has determined that the foster parents can actively participate in case conferences; and that the foster parents are able to provide the intensive supervision and interpersonal relationships that are consistent with the child's therapeutic goals, including working with professionals involved in the child's treatment plan, such as physicians, nurses, social workers, psychologists and psychiatrists.

Conferences/Fair Hearings

The reverse side of form LDSS-7018 explains the foster parents' right to a conference and a fair hearing to review the level of care determination and associated foster care room and board rate to be paid and how to appeal this determination. The right to a fair hearing remains, regardless of whether the foster parents have requested a conference. Fair hearings must be requested within 60 days from the "notice date" at the top of the first page of the notice.

A foster parent is entitled to the following records related to the conditions or circumstances of the foster child in his or her care:

- the child's comprehensive health history, current health status and documentation of the health care needs of the foster child, pursuant to 18 NYCRR 441.22 (j)(1);
- documentation of the child's handicaps or behavior problems, school and educational experiences and the relationship of the child with the child's birth parents, pursuant to 18 NYCRR 443.2 (e)(3); and

- the most recent permanency hearing report for the child, with any court modifications, pursuant to Section 1089 (b) of the Family Court Act.

Since a foster parent's access to such records is independent of a fair hearing request, the foster parent may already have received a copy of the records. In the event of a foster parent's request for records related to the fair hearing, the LDSS must either confirm that the foster parent has a copy of the records or provide a copy of the records to the foster parent for use at the fair hearing.

IV. Required Actions

The rate level and amount of foster care room and board payment must be set and the notification form "Notification of Level of Care and Foster Care Room and Board Payment" (OCFS-LDSS 7018; revised 04/08) must be completed by the LDSS or voluntary authorized agency and mailed to the foster parents within 30 days of placement of a child in the foster home, or within 30 days of a change in the rate level for a child already placed in the foster boarding home. The mailing date is to be entered in the "notice date" field (top, left of form). Notification is required in each instance when a child is placed in a new foster boarding home, including emergency placements; whenever a foster child is moved from an existing placement to a foster boarding home; and whenever the *rate level* changes for any reason, including for a foster child who remains in the same foster boarding home. When entering the "*Amount of foster care room and board payment is \$* " on the form, only the discrete amount for room and board associated with the designated rate level from the Benefit Issuance and Control System (BICS) rate table is to be included, along with the effective date.

In addition to recording the rate level, a description of the qualifying condition or circumstance is to be recorded on the form.

Furthermore, the LDSS is required to send this notification to all foster parents who currently have foster children placed in their homes for whom such notification had not been previously provided. Such notification must be sent at the time of the next foster parent recertification or re-approval, or within 30 days of any *rate level* change, whichever is earlier. The LDSS may delegate the responsibility for notification to the voluntary authorized agency with which the child is placed, if such arrangement is reflected in the Model Contract in effect between the LDSS and the voluntary authorized agency. Such arrangement must be included in the program narrative that is attached as Schedule A.

Attached to this ADM is the form "Notification of Foster Care Level of Care and Room and Board Payment" that must be used for these purposes. A completed copy of the form must be placed in the foster parent(s) record as a means of verification that said notification has been sent and also documented in the foster parents' CONNECTIONS FAD record, in FAD contacts. If record access is requested in conjunction with a request for a fair hearing, the documents listed in the Program Implications section of this ADM are to be promptly provided.

V. Additional Information

As a reminder, in order to pay at a rate higher than normal, the activity S200 must be recorded in the Child Care Review Service (CCRS) activity subsystem with a code 2 (Special) or a code 3 (Exceptional) in the Modifier A field, or the payment amount will be defaulted to code 1 (Normal).

Form LDSS-7018 can be ordered by following the directions below:

INSTRUCTIONS: Fill out form (*ocfs-4627*) completely and **keep one copy** for your files. **Send 2 copies** to the resource distribution center to be processed. Please allow at least 2 weeks for the order to be filled. You will receive a copy of this form when your completed order is shipped. If forms or publications are back ordered, you will be notified on that form.

If you are filling this form out by hand, *please print clearly*.

Mail your order to:
Resource Distribution Center
11 Fourth Avenue
Rensselaer, NY 12144-2629

You can also order this form by leaving a message on the forms hotline, 518-473-0971.

The form will also be posted on the Intranet at <http://sdssnet5/ocfs/admin/forms>; if you print it from the Intranet, be sure to make all copies double sided, prior to providing the form to foster parents.

VI. Effective Date

This Administrative Directive is effective immediately.

/s/ Nancy W. Martinez

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

NOTIFICATION OF FOSTER CARE LEVEL OF CARE AND ROOM and BOARD PAYMENT

NOTICE DATE:		NAME AND ADDRESS OF LOCAL SOCIAL SERVICES DISTRICT OR VOLUNTARY AUTHORIZED AGENCY:		
CASE NUMBER	CHILD'S CIN NUMBER			
FOSTER PARENT'S NAME AND ADDRESS				
		To Request a Conference	()	-
		To Request Record Access Once a Fair Hearing has been Requested	()	-
OFFICE NO.	UNIT NO.	WORKER NO.	UNIT OR WORKER NAME	TELEPHONE NO.

Listed below is the level of care determination and the rate of room and board payment that will be made to you on behalf of the foster child placed in your care. The effective date is listed below.

Name of child _____ Date of placement of the child in your foster home ____ / ____ / ____

Level of care and rate of foster care room and board payment:

The rate of the foster care room and board payment for your foster child is based on the level of care determination checked below (normal, special or exceptional). If you disagree with the level of care determination checked below for your foster child, you have a right to appeal the decision by using the procedures listed on the reverse of this form. You are entitled to a new notice if the level of care determination for your foster child (normal, special or exceptional) is changed.

Normal – The child has no diagnosed physical or mental condition requiring special or exceptional care, although he or she may have problems relating to neglect, maltreatment, or lack of care.

Special – The child has a pronounced physical condition certified by a physician as requiring a high degree of physical care; OR is awaiting a family court hearing on a Person in Need of Supervision (PINS) or Juvenile Delinquency (JD) petition or has been adjudicated as a PINS or JD; OR has been diagnosed by a qualified psychiatrist or psychologist as moderately developmentally disabled, emotionally disturbed, or with a behavior disorder requiring a high degree of supervision; OR is a refugee or Cuban/Haitian entrant and is unable to function successfully because of factors related to that status; OR entered foster care directly from inpatient hospital care within the past year. {Note: Four hours of training required annually}

Exceptional – The child requires 24-hour-a-day care by a qualified nurse or someone supervised by a qualified nurse or physician, as certified by a physician ; OR has severe behavior problems involving violence and has been certified by a qualified psychiatrist or psychologist as requiring a high level of individual supervision in the foster home; OR has been diagnosed by a qualified physician as having severe mental illness, severe developmental disabilities, brain damage or autism; OR has been diagnosed by a physician as having AIDS or HIV-related illness (up to one year if child tests positive for HIV and then subsequently test negative for HIV). {Note: Five hours of training required annually}

Amount of foster care room and board payment is \$ _____ per day, effective ____ / ____ / ____ .

The actual rate you will receive may be different than the rate listed above. The rate amount may change over time due to circumstances other than the foster child's level of care determination. These rate amounts may change due to the foster child's age, state rate changes and other changes allowed by law.

For special and exceptional rates, the child's qualifying condition or circumstance is identified as: _____

The regulation that governs the special and exceptional rate setting process is 18 NYCRR 427.6.

YOU HAVE THE RIGHT TO APPEAL THIS DECISION. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION.

Worker Signature/Date:

Supervisor Signature/Date:

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
NOTIFICATION OF FOSTER CARE ROOM and BOARD PAYMENT
CLIENT/FAIR HEARINGS COPY

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made an incorrect decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the conference number on the first page of this notice or by sending a written request to us at the address listed at the top right of the first page of this notice. This number is used only for asking for a conference. **It is not the way you request a fair hearing.** If you ask for a conference, you are still entitled to a fair hearing. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: If you believe that the above action is incorrect, you may request a State fair hearing by:

- (1) **Telephoning:** (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL.)
Statewide Toll-Free **1-800-342-3334 Fair Hearing Requests and Inquiries, OR**
- (2) **Writing:** By sending a **completed** copy of this notice to Office of Temporary and Disability Assistance, Office of Administrative Hearings, , P.O. Box 1930, Albany, New York 12201-1930. **Please keep a copy for yourself. OR**
- (3) **FAX:** Your fair hearing request to (518) 473-6735. **OR**
- (4) **Email:** Form: <http://www.otda.state.ny.us/oah/forms.asp>

In Person Walk-in Location for New York City: 14 Boerum Place, First Floor Brooklyn (near Jay St./Borough Hall)
330 West 34th Street, Third Floor Manhattan (by Penn Station/34th St.)

Please include the following information when requesting a Fair Hearing:

Child's name -----	Child's date of birth -----/-----/-----	Child's case number -----
The birth mother's name -----	Local social services district or voluntary agency name -----	

I want a fair hearing. The Agency's action is incorrect because:

Signature of Foster Parent: _____

Date _____

YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, receipts, medical bills, medical verification, letters, etc. that may be helpful in presenting your case.

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:

To help you get ready for the hearing, you have a right to look at certain portions of your foster child's case file. If you call or write to us, we will provide you with free copies of the pertinent documents which we will give to the hearing officer at the fair hearing.

If you want copies of the pertinent documents from your foster child's case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed. To ask for documents or to find out how to look at the pertinent documents in your foster child's case file, please contact the Record Access telephone number listed on the first page of this notice.

INFORMATION:

If you want more information about your foster child's case, how to ask for a fair hearing, how to see relevant records, or how to get additional copies of documents, call us at the telephone numbers listed on the first page of this notice, or write to us at the address printed on the first page of this notice.