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Local Commissioners Memorandum

Transmittal:	09-OCFS-LCM-11
To:	Local District Commissioners
Issuing Division/Office:	Strategic Planning and Policy Development Administration
Date:	July 16, 2009
Subject:	Funding for Prevention of Detention and Residential Placement for Youth at Risk of Entering the Juvenile Justice System or Becoming a PINS
Contact Person(s):	See Page 6
Attachments:	Attachment A: Comparable Counties
Attachment Available Online:	Yes

I. Purpose

The purpose of this memorandum is to advise local departments of social services (LDSSs) of the availability of approximately \$9,799,519 in Temporary Assistance for Needy Families (TANF) funding to initiate or continue program modifications and/or services for the purpose of preventing detention use and out-of-home placement in the juvenile justice system for prospective or adjudicated Juvenile Delinquents (JDs) and Persons in Need of Supervision (PINS).

II. Background

Part E of Chapter 57 of the Laws of 2005 established requirements concerning the provision of diversion services to prospective PINS (and their families) for the purpose of avoiding the need to file a petition or direct the detention of the child. In addition, Part DD of Chapter 57 of the Laws of 2008 established additional requirements regarding detention for JDs, including the following:

- The court shall not direct detention unless available alternatives to detention, including conditional release, would not be appropriate;

- Any finding directing detention shall state the facts and reasons for such finding;
- If the court makes a finding that detention is necessary, the court may consider electronic monitoring, where applicable, as a condition of release, if it would reduce the substantial probability that the youth would not return to court on the return date, or the serious risk that the youth may, before the return date, commit an act that if committed by an adult would constitute a crime.

There is little evidence that detention or residential placement of prospective or adjudicated JDs or PINS youth results in better long-term outcomes for such youth. In fact, there is mounting evidence that the deeper a youth gets in the juvenile justice system, the more likely he/she will have subsequent involvement with either the juvenile or adult justice system. At the same time, detention services are quite expensive, and the use of alternatives such as respite and crisis counseling may be less costly and, more importantly, may avert expensive long-term costs such as out-of-home placement in some instances. While detention and residential placement are necessary in certain circumstances, viable community options are essential in order to provide alternatives to detention and residential placement. Additionally, disproportional representation of African-American and Latino youth increases as youth become further involved in the juvenile justice system. Statewide data from the New York State Division of Criminal Justice Services show that minority children are arrested twice as often as white children, are six times likelier to be detained awaiting trial, and are five times more likely to be confined to custody.

III. Available Funding and Eligibility Requirements

In total, there is \$9,799,519 in TANF funding available in SFY 2009-10 for the purpose of providing effective alternative, non-residential services to youth (and their families) alleged to be, or at very high risk of becoming a JD or PINS, without regard to income.

Allowable services include, but are not limited to:

- Substance abuse and mental health counseling;
- Services to divert youth at risk of placement in detention programs;
- Services to reduce the length of placement of youth receiving detention services; and
- Preventive and other supportive services to alleged or adjudicated PINS 16 and 17 years of age.

These services may be provided without regard to the family's income, thereby eliminating the need to determine the family's financial eligibility. However, all such services must be related to TANF Purpose 3 – Reduction of Out-of-Wedlock Pregnancy. Pregnancy prevention may be bolstered in a variety of ways, all of which may be components of these in-home services and intervention strategies. For example, pregnancy prevention can be supported by keeping youth in school,

increasing educational achievement, obtaining or maintaining employment, expanding independent living skills, counseling and building self-esteem. Youth and family members receiving these funded services must be citizens or qualified immigrants. In cases involving U.S. citizens, an attestation of citizenship is sufficient. However, for cases involving qualified immigrants, documentation of that status must be secured. Districts may refer to the OCFS *Eligibility Manual for Child Welfare Services, Appendix B, "Immigration Status List"* for definitions of qualified immigrants and acceptable documentation.

These funds may only be used for TANF allowable activities. Activities that are not allowable under TANF and, therefore, may not be supported with these funds include medical services, educational services, and assistance.

Given the amount of available funds, and using the Monitoring Analysis Profiles (MAPS) comparable groupings (see Attachment A), the following guideposts are offered as to the maximum amount that an LDSS is likely to receive: Group 1 (large volume, excluding NYC) -- \$253,905; Group 2 (medium volume) -- \$159,251; Group 3 (small volume) -- \$87,620; and NYC -- \$2,495,088. Please note that these amounts are estimates, and actual amounts allocated will depend upon the number of LDSSs applying, the requested amounts, the approaches proposed, and OCFS's assessment of the anticipated productive use of the funding.

IV. Applying for Funding

LDSSs must apply for these funds by submitting a program description to the applicable OCFS Regional Office by August 17, 2009. Minimally, the following areas must be contained in the program description:

- For programs supported from previous year funds, a discussion of the level of achievement of performance outcomes established for SFY 2008-09 funding of programs/services targeted for prevention of detention and residential placement.
- An analysis that shows the neighborhoods/communities from which the greatest number of youth are detained and/or placed into the juvenile justice system and a description of how the proposed service and/or program modification will reduce the number of youth being detained and/or placed into residential programs from such neighborhoods/communities.
- An analysis of the extent to which there is racial or ethnic disproportionality in relation to the detention and residential placement of youth within the county and, where such disproportionality of a significant size is found, a description of how the proposed service and/or program modification is intended to reduce such disproportionality.
- Performance outcomes for SFY 2009-10 program(s) that will be funded, including an estimate that quantifies the anticipated reduction in detention care days and/or juvenile justice residential placement with OCFS (or foster care).
- A description of the demonstrated effective program(s) that will be used. If a service or program modification has not been demonstrated to be effective in the

past, justification of why such strategy is proposed to be used/continued must be provided.

VI. Other Related SFY 2009-10 Budget Actions

In addition to the \$9,799,519 in TANF funds discussed above, LDSSs also have the flexibility to use their SFY 2009-10 Flexible Fund for Family Services (FFFS) to support the prevention of detention and residential placement and related services. As in past years, all the services provided to this population will be related to Temporary Assistance for Needy Families (TANF) Purpose 3 – Reduction of Out-of-Wedlock Pregnancy, thereby making such funds available without regard to income. The amount of FFFS funds that LDSSs may use for detention and residential placement prevention and related services is not fixed. As a result, Services and Finance administrative staff are urged to work together to evaluate the LDSS's overall services needs and the best use of the various funding streams that would support the prevention of detention and juvenile justice residential placements within the overall Services budget.

State Child Welfare Services funding is available at 63.7 percent reimbursement to LDSSs for those detention and placement prevention services that are provided as mandated or non-mandated preventive services in accordance with all applicable regulatory requirements, net of federal reimbursement, subject to the child welfare threshold, performance or outcome based provisions for child preventive services, and the non-supplantation requirements. The amount of FFFS funds that an LDSS chooses to use in SFY 2009-10 for PINS/Prevention/Detention Diversion will not count toward the LDSS meeting its child welfare threshold. Those LDSS expenditures for PINS/Prevention/Detention Diversion services that become subject to 63.7 percent state reimbursement also will assist the state in meeting the maintenance of effort (MOE) for federal Title IV-B, Subpart 1 and 2 funds for child welfare services.

VII. Claiming Instructions

The \$9,799,519 in TANF funds in the SFY 2009-10 Budget aimed at preventing detention use and out-of-home placement for prospective or adjudicated PINS and JDs must be claimed as described below. Expenditures must be for the Purchase of Services (POS) or for eligible administrative activities beginning July 1, 2009, and ending June 30, 2010.

All administrative costs incurred by an LDSS should be coded to the F-17 function and carried through to the LDSS-3274 form entitled "Schedule D-17 Distribution of Allocated Costs to Other Reimbursable Programs." Administrative expenditures should be reported on the Schedule D-17 in a column labeled DET PREV TANF 09 on the appropriate lines.

These expenditures will support an LDSS-3922 "Reimbursement Claim for Special Projects," to be submitted electronically through the TANF Reporting and Control System (TRACS), using project label with DET PREV TANF 09. Costs should be reported in either the Non-Administration or the Administration columns, depending on the nature of expenditures. Contracts or Memoranda of Understanding (MOU) with private or public entities respectively can be used to provide detention prevention services using funds from this allocation. It is possible to pay the contractor or public entity, based on the terms of service contained in the contract or MOU, without the necessity of entering the served clients into WMS. An acceptable method of cost allocation and other sources of funding will be necessary if the contract includes services for other purposes or populations. If LDSS staff members working on this program are less than full-time, they must complete time studies to allocate their costs between the F-17 function and other function(s). LDSSs must be careful not to duplicate other client-specific funding with these funds. Expenditures must be made by June 30, 2010, and must be claimed by August 15, 2010.

The costs of this program are reimbursed at 100 percent with TANF funds, up to the LDSS's allocation. Unclaimed funds may also be reallocated to other LDSSs with eligible claims that exceed their allocation. Costs for this purpose may also be charged to the FFFS, if the LDSS chooses to dedicate a portion of its allocation for this purpose. Please refer to 09-OTDA-ADM-12, Section IV.A.5.c., PINS Prevention/Detention Diversion Services. Expenditures reimbursed through the FFFS are submitted via TRACS. Costs in excess of the Detention Prevention/PINS funds, which are not charged to the FFFS PINS Prevention/Detention Diversion Services, may be charged to the FFFS child welfare direct funds, TANF Transfer to Title XX (Title XX Below 200%) funds, and/or Title XX regular funds, to the extent the LDSS makes those funds available for child welfare services. Those costs for mandated and non-mandated preventive services that have been provided in accordance with all applicable regulatory requirements that are not reimbursed with federal funds are eligible for state reimbursement at the rate of 63.7 percent of costs after any federal reimbursement is received, subject to the child welfare threshold. These dollars exceeding the TANF allocation or the FFFS would be reported as Preventive Services costs on the LDSS-1372 "Schedule G Title XX Services for Recipients" and/or the LDSS-2347-B "Schedule D-2, Allocation for Claiming General Services Administration Expenditures," as applicable. There is no available state funding for A-87 costs.

Local districts may want to consider claiming costs in excess of their allocation as DET PREV TANF 09 in case there is a reallocation of any unspent funds. Once final claims are submitted and any reallocation is done, then LDSSs could opt to transfer any remaining claims over the allocation to another funding stream – e.g., FFFS – or leave as DET PREV TANF 09 and the excess will be factored into 63.7 percent Child Welfare Services state share reimbursement calculations provided the costs are for mandated or non-mandated preventive services that have been provided in accordance with all applicable regulatory requirements.

Instructions for claiming Purchase of Services expenditures, the form LDSS-3922, and the Schedule G can be found in the Fiscal Reference Manual, Volume 2, Chapter 3.

Instructions for completing the Schedule D-17 and Schedule D-2 can be found in the Fiscal Reference Manual, Volume 3 (Volume 4 for New York City), Chapter 18 and Chapter 9, respectively.

The LDSS must sign and retain the LDSS-3922 certification for audit purposes. It is not necessary to send a copy of the paper claim to OTDA.

VIII. Contact Information

Programmatic questions should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services:

BRO – Mary Miller (716) 847-3145 Mary.Miller@ocfs.state.ny.us

RRO – Linda Kurtz (585) 238-8201 Linda.Kurtz@ocfs.state.ny.us

SRO – Jack Klump (315) 423-1200 Jack.Klump@ocfs.state.ny.us

ARO – Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us

SVRO – Pat Sheehy (845) 708-2498 Patricia.Sheehy@ocfs.state.ny.us

NYCRO – Patricia Beresford (212) 383-1788 Patricia.Beresford@ocfs.state.ny.us

Questions pertaining to claiming should be directed to the Office of Temporary and Disability Assistance, Bureau of Financial Services:

Regions I - IV: James Carroll 1-800-343-8859, ext. 4-7549 or (518) 474-7549
James.Carroll@otda.state.ny.us

Region V: Michael Borenstein (631) 854-9704
Michael.Borenstein@otda.state.ny.us

Region VI: Marian Borenstein, (212)-961-8250
Marian.Borenstein@otda.state.ny.us

Issued By:

/s/ Nancy W. Martinez

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Title: Director
Division/Office: Strategic Planning and
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/s/ Thomas S. Tipple

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Title: Deputy Commissioner
Division: Administration

Attachment A: Comparable Groups

<u>Group 1</u>		<u>Group 2</u>
Albany	Broome	Orange
Erie	Cattaraugus	Oswego
Monroe	Chautauqua	Rensselaer
Nassau	Chemung	Saratoga
Onondaga	Dutchess	Schenectady
Suffolk	Jefferson	St Lawrence
Westchester	Niagara	Steuben
	Oneida	Ulster

<u>Group 3</u>		
Allegany	Hamilton	Schoharie
Cayuga	Herkimer	Schuyler
Chenango	Lewis	Seneca
Clinton	Livingston	Sullivan
Columbia	Madison	Tioga
Cortland	Montgomery	Tompkins
Delaware	Ontario	Warren
Essex	Orleans	Washington
Franklin	Otsego	Wayne
Fulton	Putnam	Wyoming
Genesee	Rockland	Yates
Greene		