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TRANSMITTAL: 92 INF-27

TO: Commissioners of
 Social Services

DIVISION: Family &
 Children
 Services

DATE: April 8, 1992

SUBJECT: JOBS-Related, Employment-Related and Transitional
 Child Care: Questions and Answers

SUGGESTED

DISTRIBUTION: Directors of Services
 Income Maintenance Supervisors
 Employment Coordinators
 WMS Coordinators
 Staff Development Coordinators

CONTACT PERSON: Child Care - Dee Woolley 1-800-342-3715, ext. 4-9324
 Income Maintenance - Maureen Standish ext. 3-6555

ATTACHMENTS: JOBS-Related, Employment-Related, and Transitional
 Child Care (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-27		369	390	MB-195	
90 ADM-31		404			
90 INF-64		415			

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The purpose of this release is to clarify Department policies relative to the provision of JOBS-Related, Employment-Related and Transitional Child Care (TCC). These questions have been raised frequently by social services districts over the past year.

If you have questions regarding this release, please call Dee Woolley, Bureau of Early Childhood Services at 1-800-342-3715, extension 4-9324, on-line userid #89A800 or Maureen Standish, Income Support Programs at extension 3-6555, on-line userid #AY9850.

Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

JOBS-Related, Employment-Related and
Transitional Child Care

Determining Legal Child Care Providers

1. Q: A woman brings her own two children to the home of a family with three children so that she may provide child care for all five children. Is this person a legal informal child care provider?

A: Yes. As long as all the children receiving care, (other than the in-home child care provider's own), reside in the home where care is being provided, the individual is providing legal informal child care.

2. Q: Child care is provided in a child's home by a legal informal provider. Can that same provider be reimbursed by the social services district to provide care for a second child who is neither a relative of the provider nor a resident of the household?

A: Reimbursement is available only for the child who is receiving care in his/her own home. Reimbursement is not available for the second child.

3. Q: How does registration affect the list of legal child care providers?

A: Under the statutory registration requirements, family day care homes, school-age programs (except those operated by and on the premises of public or private schools) and small day care centers (those serving 3-6 children) must be registered. Registered providers are regulated providers and may be offered by the district to families who are requesting assistance in locating child care.

In addition, the categories of approved child care provider and approved in-home child care provider have been eliminated by registration. Caregivers who had previously met the criteria of approved child care providers or approved in-home child care providers will be considered informal child care providers unless they choose to become registered.

4. Q: Can the social services district be held liable if something happens to a child while at the home of an informal child care provider?

A: It is unlikely that payment by a social services district for informal child care arranged for and monitored by a parent or caretaker relative would result in liability by the social services district. If the informal child care provider is not subject to licensure as defined by statute, the social services district has no duty to inspect or certify the provider. Parents electing to use informal providers should be informed that the monitoring of

such providers is solely their responsibility. Social services districts should establish procedures to carefully review the Approval of Informal Provider forms to ensure that reimbursement is authorized only for informal providers who are legally exempt from licensure.

5. Q: A social services district has knowledge that an in-home informal child care provider is required to be paid, but is not receiving, minimum wage. Can the social services district authorize child care payments in this situation?

A: No. Department of Labor standards require that when care is provided for more than four hours per day and more than four days a week the caregiver must receive minimum wage. Even when minimum wage requirements apply the social services district is responsible for payments only up to the limits established by the local market rates.

6. Q: Must a relative who is requesting child care payment and who is providing in-home informal child care be paid the minimum wage and benefits?

A: Yes. The Department of Labor applies the same rules regarding minimum wage and benefits to both relatives and non-relatives.

7. Q: 90 INF-64, Transitional Child Care Q & A, stated that payments for informal child care were to be denied if a social services district found that information given by the child care provider on the Approval of Informal Provider form was false or fraudulent. Does this mean a social services district closes the case only to reopen it when the situation is corrected?

A: No. Since the release of 90 INF-64, social services regulations have been amended to provide that if a Transitional Child Care case is opened and the social services district subsequently learns that the child care provider gave false or fraudulent information on the Approval of Informal Provider form, payment must be suspended immediately until the form is corrected or a new child care provider is selected by the parent. If the case is being opened and information on the Approval of Informal Provider form is known to be false or fraudulent, then payment is denied until the information is corrected or a new child care provider is selected.

The social services district must not violate rules of confidentiality found in SSL 422.4(a). The social services district cannot disclose information to a family concerning any reports of child abuse or maltreatment involving an informal child care provider. Furthermore, the social services district may not use knowledge about an informal child care provider to deny or suspend payment when such knowledge was obtained improperly.

General

8. Q: Can a social services district require a child whose care is subsidized by State Low Income Day Care or Title XX Child Care funds to vacate a slot in order to allow a child of a JOBS participant, Employment-Related Child Care recipient or Transitional Child Care recipient to utilize that slot?

A: There is no regulatory authority that would allow social services districts to displace children in order to vacate a slot for another child whose care is subsidized by a different funding stream.

9. Q: What does the market rate mean and how is it determined?

A: Market rates are the maximum rates upon which the State will reimburse social services districts for allowable payments made for providing child care. The market rate represents the 75th percentile of all rates for the particular type of care and age of the child.

Market rates were determined by surveying all regulated child care providers. Their rates were arrayed from least expensive to most expensive. For example, Center A has 15 slots at \$75. Center B has five slots at \$90. Center C has seven slots for \$95. To determine the market rate, add the total number of slots ($15 + 5 + 7 = 27$) and multiply by .75: ($27 \times .75 = 20.25$). This tells us that the 20th slot represents the market rate. The 20th slot is in Center B. Therefore, the market rate for this particular district is \$90.

10. Q: If child care is provided in a county other than the one maintaining the case, which county's market rate should be used?

A: The market rate for the county in which the child care is being provided should be used.

11. Q: If a social services district has been given a waiver prior to July 1, 1990 to pay a child care rate which exceeds the applicable market rate, at which rate are reimbursements made?

A: Social services districts that have received written Departmental approval of waivers to pay rates for State Low Income Day Care and Title XX Child Care that exceed the applicable market rates will continue to be reimbursed at the higher rates for child care payments for families eligible for State Low Income Day Care and Title XX Child Care. Such waivers will continue to be effective until the market rates are evaluated and adjusted as required by Section 415.6(e)(3) of Department regulations.

Approved waivers do not apply to payments made for the JOBS-Related, Employment-Related, Transitional, At Risk Low Income Child Care or Child Care and Development Block Grant programs. Such payments must not exceed the applicable market rates set forth in Section 415.9 of Department regulations.

12. Q: What is the Statewide maximum rate for children with special needs in part time care?

A: The full time weekly market rate for children with special needs is \$204 per week regardless of the age of the child or the type of child care provider used. The part-time market rate for children with special needs is \$136 per week (2/3 of the \$204) regardless of the age of the child or the type of child care provider used.

13. Q: Can a social services district pay for child care which is provided by extending the hours of a Head Start program?

A: Yes. Social services districts may collaborate with a Head Start program to extend the hours of its program operation to meet the needs of JOBS participants, employed public assistance recipients or income eligible families. Reimbursement is available for the actual cost of care up to the applicable market rate for the hours of care provided beyond the hours funded as Head Start by the federal government. 91 LCM-41, Child Care: Use of Community Resources addresses the issue of collaboration with Head Start programs.

14. Q: What rules apply when paying proprietary child care providers?

A: Market rates apply to both proprietary and not-for-profit child care providers. When a parent who is eligible for JOBS-Related, Employment-Related, Transitional, At Risk Low Income or Child Care and Development Block Grant services chooses a proprietary child care provider, social services districts need not request a waiver in order to pay for the care.

For child care provided under Title XX Child Care or State Low Income Day Care, social services districts must obtain a waiver from the Department prior to utilizing a proprietary provider.

15. Q: Child care payments are being made to an informal child care provider who was chosen by a parent. Is the social services district required to assign a vendor number?

A: Under the Benefits Issuance Control System (BICS), a vendor number must be issued whenever payments are made to the child care provider. When child care payments are made to the parent it is not necessary to issue a vendor number.

16. Q: Are child care providers required to submit a monthly billing in order for the caseworker to authorize child care payments?

A: Social services districts must monitor payment of child care providers. The social services districts may determine how often child care providers are required to submit bills. Such reporting requirements must be sufficient to provide the social services district with the information needed to make payments but must not provide an unreasonable hardship to child care providers.

17. Q: How are child care payments authorized when child care is provided by two different providers for two different periods in the month?

A: Payment for different providers may be authorized by writing a separate purchase of service line for each child care provider for the time which they are providing care.

JOBS and Employment-Related Child Care

18. Q: May child care benefits be paid for the care of children who reside with a PA family, but who are not eligible for PA?

A: Child care is guaranteed only for dependent children and for children who would be dependent children except for the receipt of SSI or IV-E foster care benefits. Therefore, child care under these provisions may be paid only for the care of children whose needs are included within the PA payment or for children who are excluded from the PA grant solely due to their receipt of SSI or IV-E foster care benefits. Child care subsidies for children who are not eligible for JOBS-Related or Employment-Related Child Care may be available through the Title XX or Child Care and Development Block Grant programs, provided that the family otherwise meets the programmatic and financial eligibility criteria for such programs.

19. Q: How can a social services district guarantee child care if slots are not available or if slots are not accessible to a family?

A: The child care guarantee is subject to the availability and accessibility of regulated child care providers. If social services districts cannot offer a JOBS participant at least two choices of regulated child care providers who have slots available and who are accessible to the family, the JOBS participant must be excused from participation in the JOBS activity.

Social services districts must periodically reassess whether child care is still needed to allow excused recipients to participate in JOBS activities. If child care is still needed, social services districts should continue to assist families in locating care.

20. Q: Can the amount of the child care supplement be added to the PA cash grant amount in calculating the amount of recoupment used to recover any PA overpayment?

A: No. The child care supplement may not be used to recover PA grant overpayments.

21. Q: Does the child care supplement apply only to former JOBS participants who have secured employment and who are still in receipt of PA?

A: No. Child care supplementation applies to all employed PA recipients who use legal child care arrangements regardless of whether they previously participated in the JOBS program.

22. Q: Is the child care supplement calculated for all program categories, ADC, ADC-U, HR, etc.?

A: Yes. All categories of public assistance are entitled to the child care supplement provided the family is using a legal child care provider, the caretaker relative is employed and the actual cost of care exceeds the child care disregard.

23. Q: Are suspended cases entitled to a child care supplement?

A: If otherwise eligible for a child care supplement, a suspended case is entitled to supplementation.

24. Q: Must an employed PA recipient request the child care supplement in order to be entitled to it?

A: No. An employed PA recipient need not make a formal request for a child care supplement. A child care supplement is automatically calculated, provided that the PA recipient has documented legal child care arrangements and the actual cost of care and is otherwise entitled to a supplement.

25. Q: Are PA recipients who use other than legal child care arrangements and who have documentation of actual costs, entitled to the child care disregards?

A: Yes. Such PA recipients are entitled to the child care disregard but not to the child care supplement.

26. Q: If the child care disregard is withheld due to a late report of earnings, is the child care supplement also withheld?

A: No. The amount of the child care supplement should be the difference between the disregard that would have been applied and the actual cost of care up to the applicable market rate.

27. Q: If the normal PA deficit is less than \$10, should the deficit be issued along with the child care supplement?

A: No. Only the child care supplement should be issued.

28. Q: If the child care supplement for a case is less than \$10, should it be issued?

A: Yes. There is no language in legislation to impose a minimum. Therefore, payments for child care supplements of less than \$10 should be issued.

29. Q: A JOBS participant is attending an educational program. Can child care be paid for study time as well as actual classroom time?

A: Reimbursement is not available for child care payments to allow study time for JOBS participants who are participating in educational programs. However, reimbursement is available for breaks between classes which occur during the course of the school day and for regularly scheduled and supervised study labs in which attendance counts towards the twenty (20) hour JOBS participations rate.

30. Q: Can a social services district require an individual in an education program to apply for a student loan to cover the cost of their child care?

A: No. Child care is an entitlement for JOBS participants enrolled in approved activities.

Transitional Child Care (TCC)

31. Q: The payee on a public assistance case is sanctioned. During the sanction period the case closes for earned income reasons. Is the family eligible for Transitional Child Care?

A: The family is eligible, assuming all other eligibility criteria are met.

32. Q: A client moves out of the county at the time of PA case closing. Is the social services district responsible for sending the "Notice of Potential Eligibility for Transitional Benefits?"

A: It is the responsibility of the social services district in which the PA case was maintained to make all clients aware of their potential eligibility for Transitional Child Care. The social services district should send the "Notice of Potential Eligibility for Transitional Benefits". The notice should direct the former recipient to apply for TCC benefits in the county in which they are currently residing.

33. Q: A person who is receiving Transitional Child Care benefits loses a job for good cause and subsequently finds another job. Is he or she eligible for Transitional Child Care benefits for the remaining portion of the 12 month eligibility period?

A: Social services districts must ascertain the reason for the loss of employment and then make a determination as to whether the reason meets the good cause criteria. If the employment was lost for good cause and, subsequent to securing new employment, the client applies for Transitional Child Care, he or she is eligible for Transitional Child Care benefits for the balance of the 12 month eligibility period as long as he or she is otherwise eligible.

34. Q: A family becomes ineligible for public assistance for earned income reasons. One parent is working and the second parent is involved in training or education. Is this family eligible for Transitional Child Care benefits?

A: Yes. In this circumstance the parent in training is not available to provide child care. Therefore, the family is eligible for TCC as needed to allow the employed parent to retain his/her job.

35. Q: When a family applies for Transitional Child Care, can the worker verify dates of birth against the PA case information?

A: Yes. It is not necessary to obtain new documentation for family members who were in the public assistance unit. However, it is necessary to obtain documentation for any individuals, such as a newborn child, who were not in the public assistance unit but who are now a part of the services family unit.

36. Q: Does the client complete a new DSS 2921/DSS 2921(NYC) at the six month redetermination of Transitional Child Care benefits?

A: No. Attachment H (90 ADM-31): Questionnaire for Redetermination of Eligibility and the appropriate Approval of Informal Child Care Provider form (if applicable) provides the information necessary to redetermine eligibility for Transitional Child Care.

37. Q: A Transitional Child Care recipient has a job that results in flexible income (e.g. a waitress or department store clerk). How is annual gross income determined for calculation of the parent fee? How often must the parent fee be recalculated?

A: According to 18 NYCRR 404.5(b)(2) & (3), determination of family monthly gross income is based on the average monthly income for a period of no less than one month and no more than three months with adjustments made for any change in income known or expected to occur during the period of authorization. If the income fluctuates significantly, the average monthly amount for flexible income must be computed based on income received during a period of not less than three nor more than six months.

The social services district must recalculate the parent fee whenever it redetermines a family's income and eligibility for continued child care benefits. Such redeterminations must occur as often as case circumstances warrant, but no less than once every six months.

38. Q: A household consists of a husband and wife and her two children. The wife's PA case is closed due to increased earnings. Her husband remains unemployed. Whose income is counted for Transitional Child Care purposes? Is the husband responsible for providing child care? What if the husband is seeking employment?

A: Social Services Law section 101-a stipulates that stepfathers are financially responsible for the children of their spouses. Therefore, in order to determine financial eligibility for Transitional Child Care, the social services district should consider all income of both the children's mother and their stepfather. If the stepfather is unavailable or unable to provide the child care necessary for the mother to maintain her employment, the family would be eligible for Transitional Child Care benefits, provided that they are otherwise eligible

39. Q: A household consists of a woman, her child, her husband and their child in common. Prior to her marriage, the woman and her child were receiving PA. The case was closed due to earnings prior to her marriage. Both parents are employed. Are both children eligible for Transitional Child Care?

A: Yes. Provided they are otherwise eligible, both children are eligible for Transitional Child Care to the extent that it is necessary to allow the mother to maintain her employment. However, coding of the authorization of the child care payments differs for the two children.

Because the father of the woman's child is absent from the home, the child care payments for this child are subject to federal financial participation. This child's care should be authorized

using a `J' suffix in the child care code. Since no deprivation factor exists for the common child, no federal reimbursement is available for child care payments for his/her care. Child care payments for the common child's care should be authorized using an `H' suffix in the child care code.

40. Q: The infant of a teen mother is the recipient of public assistance. Upon completion of high school, the teen mother secures a job and the child's PA case is closed due to the increased income of the mother. Is the family eligible for Transitional Child Care benefits?

A: Yes, assuming all other eligibility criteria are met.

41. Q: Can a social services district choose to require a minimum fee of any amount other than \$1.00 for Transitional Child Care?

A: No. Section 415.7(f)(3) of Department regulations requires that the minimum fee must be \$1.00 per week. Social services districts cannot elect to set a different minimum.

42. Q: Can a social services district establish parent fees for Transitional Child Care based on the type of child care provider selected by the parent? For example, can the parent fee for Transitional Child Care recipients selecting center day care be higher than the parent fee for such recipients selecting family day care?

A: No. The amount of parent fee to be paid by a Transitional Child Care recipient must be established using the Statewide fee formula. This formula does not factor in the type of child care provider selected by a parent. The Statewide fee formula is:

$$\frac{\text{Annual Gross Income} - \text{100\% Income Standards (based on Family Size)}}{52} \times \text{(district option 10-35 \%)} = \text{Weekly Fee}$$

The approval of fee schedules is required by Section 407 of Department regulations. New fee schedules, including ones developed for use for the Transitional Child Care program, must be submitted as part of the JOBS Plan and the Consolidated Services Plan. Approval of fee schedules is part of the plan approval processes. The same fee schedules must be used for all child care programs for which a fee is required.

43. Q: Are Transitional Child Care fees assessed on a per child or per family basis?

- A: The Transitional Child Care fees are assessed per family regardless of the number of children receiving subsidized child care. When more than one child in a family is receiving child care services, the social services district may choose to apply the parent fee evenly to each child's cost of care or may apply the entire fee to the cost of care for one of the children.
44. Q: A social services district determines that a PA case which was closed for reasons other than employment-related reasons could also have been closed for employment-related reasons. Must the closing code be changed before an applicant for Transitional Child Care can be determined to be eligible for Transitional Child Care benefits?
- A: The closing code does not have to be changed. However, in determining eligibility for Transitional Child Care, the social services district must document the reason for case closing in the case record. This documentation may be made on a comment sheet or by any other means the social services district deems appropriate.
45. Q: Can transportation expenses be paid from Transitional Child Care benefits?
- A: When the transportation expense is part of the child care rate charged by the provider, such cost is allowable. However, such cost may not be paid from Transitional Child Care funds as a separately incurred expense.
46. Q: A family has established eligibility for Transitional Child Care benefits. May Transitional Child Care benefits be paid for the care of children born after the family's Public Assistance case was closed?
- A: Yes. As siblings of other eligible children, such children would be included in the PA unit, if needy and otherwise eligible. Therefore, they would be eligible for Transitional Child Care benefits. In addition, other dependent children, as well as SSI and Title IV-E children, who return to or enter the home would be eligible for Transitional Child Care.
47. Q: Is a family eligible for Transitional Child Care benefits if a PA family member other than the caretaker relative becomes employed and the earnings cause the family to become ineligible for PA?
- A: Yes. Transitional Child Care benefits are available to permit an eligible member of a PA family to accept or retain employment when the family becomes ineligible for PA as the result of earned income. Social services districts must, of course, determine that the child care is necessary.

48. Q: An employed woman and her children are in receipt of PA. The stepfather who is not in the assistance unit, becomes employed. His income caused the family to become ineligible for PA. Is the family eligible for Transitional Child Care benefits?

A: TCC is available only to permit a PA-eligible family member to accept or retain employment. As the increased income comes from the stepfather's employment, not that of a qualifying individual, the family is not eligible for Transitional Child Care.

49. Q: Can a one-time child care application or registration fee be paid out of Transitional Child Care funds?

A: One time application costs are allowed as administrative costs. Payments for all Transitional Child Care fees would be from Title IV-A funds.

50. Q: Can an annual child care registration fee be paid for Transitional Child Care funds?

A: If a provider charges an annual registration fee, such costs should be considered part of the local market rates and be paid as part of the weekly child care rate.

51. Q: Must the caretaker relative and the child(ren) both have received PA in order to be eligible for Transitional Child Care?

A: Generally speaking, to be eligible for Transitional Child Care the caretaker relative must have been in receipt of PA. One exception is the case of a teenage parent who is the legal responsibility of his/her parents. In this situation, the child of the teen may be in receipt of PA while the teen parent is not. When the PA case of the teen's child is closed due to the earned income of the teen parent, the household is eligible for Transitional Child Care benefits.